

**MEMORANDUM OF  
UNDERSTANDING  
&  
OPERATING MANUAL**

**Effective November 2007**

**Revised July 2009**

**United States Department of Interior  
Bureau of Land Management**



**United States Department of Transportation  
Federal Highway Administration**



**State of Nevada Department of Transportation**



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## **MEMORANDUM OF UNDERSTANDING**

### **Concerning: Operating Procedures for Processing Federal-aid Highway Rights-of-way from BLM**

#### **I. BACKGROUND**

On July 1, 1982, the Bureau Land Management (BLM) and the Federal Highway Administration (FHWA) entered into an Interagency Agreement regarding Federal-aid highway right-of-way. On July 1, 1985, the BLM entered into a Memorandum of Understanding (MOU) with the State of Nevada Department of Transportation (NDOT) and the FHWA concerning highway right-of-way. These agreements define specific policies and guidelines for appropriating public lands from BLM for highway rights-of-way and sources of materials for Federal-aid Highways.

#### **II. PURPOSE**

The purpose of this MOU is to establish one uniform set of updated operating procedures and one environmental decision document that will be used by the BLM, FHWA, and the NDOT, for appropriating public lands from BLM for highway rights-of-way and sources of materials for new and amended Federal-aid highways. Specific items covered in this agreement include planning, design, environmental analysis and assessment, appropriation, material sites, and construction and maintenance of Federal-aid highway right-of-way projects delineated in the Operating Manual of 2007.

#### **III. AUTHORITY**

Authority for this MOU is the Economy Act of June 30, 1932, (41 United States Code (U.S.C.) §501–509, Public Law (P.L.) 95-224); Title IV of the Inter-Governmental Cooperative Act of 1968; the Taylor Grazing Act of June 28, 1934, (48 Stat. §1259, 43 U.S.C. §315, as amended); The Federal Land Policy and Management Act of 1976 (43 U.S.C. §1737, P.L. 94-579); Interstate and Defense Highways Act, the Federal-aid Highway Acts (23 U.S.C. §107 (d) and 317), P.L. 109-59 (SAFETEA-LU) and such other State of Nevada and/or Federal legislation and regulations as may apply.

#### **IV. AREAS OF COOPERATION**

The BLM, FHWA, and NDOT recognize the need to work together to develop coordinated action plans; to provide a basis for timely disposition of material issues or problems connected with the planning, design, construction and maintenance of public road Federal-aid highway systems in the State of Nevada; and to achieve maximum efficiency from their respective agencies.

## **V. RESPONSIBILITIES**

- A. The BLM is responsible for the administration and management of public lands. The BLM will participate as a cooperating agency in the National Environmental Policy Act (NEPA) process on public lands as defined in Federal Regulations. As a cooperating agency, BLM will use the final environmental decision document as a basis for future actions, and interests in public lands. The BLM Office will make existing baseline information available, as appropriate, during the scoping process.
- B. The FHWA is responsible for administration and management of the Federal-aid highway program and application for right-of-way appropriation consistent with 23 Code of Federal Regulations (CFR) 710.601, Subpart F. The FHWA is the lead Federal agency, and has the authority to administer and monitor the land transfer program involving Federal-aid highways under Title 23. The FHWA also is responsible for compliance with the NEPA, 4(f), section 106, and all other applicable environmental laws, regulations and executive orders consistent with 23 CFR 771, 772, 774, 777.
- C. The NDOT will work with FHWA on planning, designing, constructing, and maintenance of those portions of the established state highway system. In cooperation with FHWA, NDOT will work with FHWA and BLM to comply with the National Environmental Policy Act, the Endangered Species Act, Section 106 of the National Historic Preservation Act, and all other pertinent environmental protection laws, regulations, policies and executive orders for Federal-aid Highway Projects. The NDOT will coordinate in the scoping process with the BLM Offices where the lands proposed for appropriation are located. NDOT will coordinate with the U.S. Fish and Wildlife Service (USFWS), which is the final authority for issues/actions regarding threatened & endangered (T&E) species and migratory birds on lands requested for appropriation, and U.S. Army Corp of Engineers/Environmental Protection Agency (EPA) which is the final authority for issues/actions regarding Section 404 of the Clean Water Act.
- D. All parties to this agreement shall operate under the applicable Code of Federal Regulations.

## **VI. OPERATIONAL PROCEDURES**

The BLM, FHWA and NDOT have collectively developed the Operating Manual with written procedures on the functional interrelated work areas. The Operating Manual, is an Addendum to this Memorandum, and made a part hereof.

## **VII. ADMINISTRATION**

- A. This agreement in no way restricts the parties from participating with other public and private parties, organizations, and individuals, or from accepting contributions and donations for operation and maintenance activities of highway related facilities.
- B. Nothing in this agreement shall be construed as obligating any of the participant parties to expend funds, or as involving these entities in any obligation for future payment of money in excess of appropriations authorized by law and administratively allocated for these purposes except as specifically set forth herein.

- C. The Federal Government's liability shall be governed by the provisions of the Federal Tort Claims Act (28 U.S.C. 2671-80). The State of Nevada's liability shall be governed by the Nevada Revised Statutes. The parties shall operate in conformance with the Code of Federal Regulations and the United States Code.
- D. This MOU may be amended as necessary by the mutual consent of all parties, and the issuance of a written modification, signed and dated by all parties.
- E. The BLM, FHWA and NDOT will meet annually on a mutually agreed date to review and evaluate the implementation current conditions and trends concerning the intent and functioning of this MOU. This meeting will also serve as a coordination session to determine immediate and future programming of cooperative actions requiring coinciding appropriations.
- F. This MOU shall become effective upon signature by all participants and shall be in effect from the date of signature until updated by all or revoked by any party to this agreement.
- G. The participants shall comply with all Federal Statutes relating to nondiscrimination. These include but are not limited to: a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination on the basis of race, color, handicap, or national origin; b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §1681-16783, and §1685-1686), which prohibits discrimination on the basis of sex.
- H. Each and every provision herein is subject to the applicable laws and regulations of the United States, the State of Nevada, the regulations of the Secretary of the Interior, and the regulations of the Secretary of Transportation.
- I. Each agency party will fund its own activities while assisting the other agencies parties. However, if assistance involves a substantial commitment of personnel or other resources, the agencies parties may enter into a separate agreement.
- J. If disagreements emerge which cannot be resolved, they shall be elevated as follows:

**BLM:** Manager to Deputy State Director, Natural Resources, Lands and Planning, to State Director

**NDOT:** Right-of-Way Engineering Manager to Chief Right-of-Way Agent to Director

**FHWA:** Right-of-Way Manager to Assistant Division Administrator to Division Administrator

**VIII. APPROVALS**

This Memorandum of Understanding replaces and supersedes the Joint Memorandum signed July 1, 1985, along with any amendments thereto and becomes effective upon the last date of signature.

**FOR THE UNITED STATES DEPARTMENT OF THE INTERIOR**

By:   
Amy Lueders, Associate State Director,  
Bureau of Land Management, Nevada

Date: 11/26/07

**FOR THE UNITED STATES DEPARTMENT OF TRANSPORTATION**

By:   
Susan Klekar, Division Administrator,  
Federal Highway Administration  
Nevada Division

Date: 11/26/07

**FOR THE STATE OF NEVADA**

By:   
Susan Martinovich, Director  
Nevada State Department of Transportation

Date: 11/26/07

# Operating Manual



# **OPERATING MANUAL**

## **I. USER GUIDE**

The information that follows serves as a “how to use” guide for the Operating Manual, effective November 2007 and revised July 2009 for processing Federal-aid highway right-of-way proposals under 23 United States Code (U.S.C.).

The Operating Manual addresses six processes:

- Chapter 1 - Federal Highway Right-of-Way
- Chapter 2 - Highway Materials Sources
- Chapter 3 - Abandonment and Relinquishment
- Chapter 4 - National Environmental Policy Act (NEPA) Processes
- Chapter 5 - Cultural Resources Inventory Process
- Chapter 6 – Exploration Permit Process

The Operating Manual also contains acronyms, definitions and references to assist the user.

## **II. PRE-APPLICATION WORK**

- A. Nevada Department of Transportation (NDOT) representatives on behalf of Federal Highway Administration (FHWA) will contact Bureau of Land Management (BLM) representatives in the BLM office where the project is occurring. NDOT may have broad, early contact discussions with BLM prior to this point in processing.
- B. NDOT, on behalf of FHWA, will provide the following information:
  - 1. Applicability of Federal action (funding source).
  - 2. Type of project (e.g., new or amended right-of-way, highways, material sites, maintenance stations, rest areas, etc.)
  - 3. Timelines (if known) for required actions by all parties.
- C. BLM and NDOT personnel may conduct joint field reviews of the proposed project and alternatives. FHWA staff will be invited and may participate at their discretion. The joint review may entail the following:
  - 1. The joint field review will be used to identify project alternatives and issues needing further clarification. The joint field review checklist will be used for material site right-of-way reviews.
  - 2. The BLM/NDOT field review coordination provides the framework for the Special Stipulations.
  - 3. NDOT for FHWA will complete the data collection, survey needs, and compliance with environmental laws.

## **III. PREPARATION OF ENVIRONMENTAL DOCUMENTATION**

- A. NDOT, on behalf of FHWA, will prepare an administrative draft National Environmental Policy Act (NEPA) compliance document. This could be an Environmental Impact Statement (EIS), Environmental Assessment (EA) or Categorical Exclusion (CE) as defined in 23 CFR 771.

The NDOT and FHWA, with BLM input as needed, will agree to the following points:

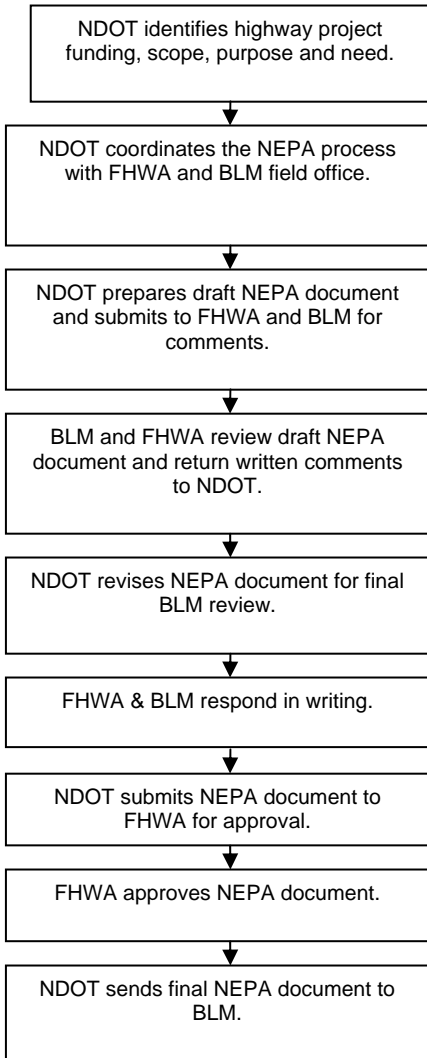
1. Level of NEPA documentation;
  2. Adequacy of public participation;
  3. Concurrence points, time frames, agreement on preliminary schedule, identification of participating/cooperating agencies, and methodologies;
  4. Review requirements needed for compliance with environmental laws.
- B. The FHWA and the appropriate BLM office personnel will review the administrative draft NEPA compliance document and respond to NDOT in writing.
- C. NDOT will review and respond to recommended revisions, if any, that BLM has suggested.
- D. The appropriate agency or agencies will complete the NEPA process.

#### **IV. REQUEST FOR RIGHTS-OF-WAY APPROPRIATION AND SPECIAL STIPULATIONS DEVELOPMENT**

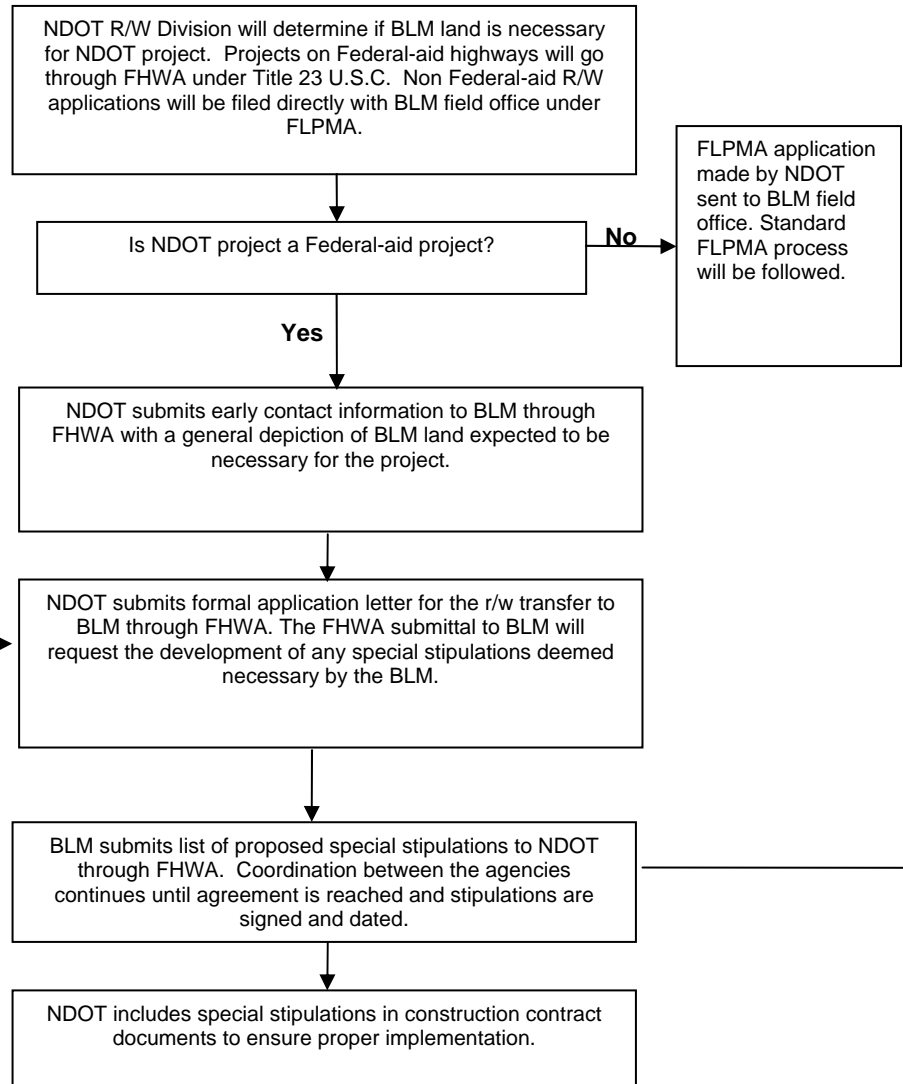
- A. After the environmental document clearance is complete, the FHWA will send the Request for Appropriation to the BLM Authorized Officer to jointly develop Special Stipulations. The 120-calendar day processing period begins on the date BLM receives the complete Request for Appropriation package. If BLM determines the package is incomplete or requests additional information, they should notify FHWA within 30 days and describe the missing elements.
- B. The formalized Special Stipulations will be an attachment to the Letter of Consent that BLM issues to FHWA.
- C. Upon receipt of BLM's letter of consent, FHWA will initiate the final steps to issue a Highway Easement Deed to NDOT. Specific procedures are included in Chapters 1 and 2.

# Highway Right-of-Way Flowchart

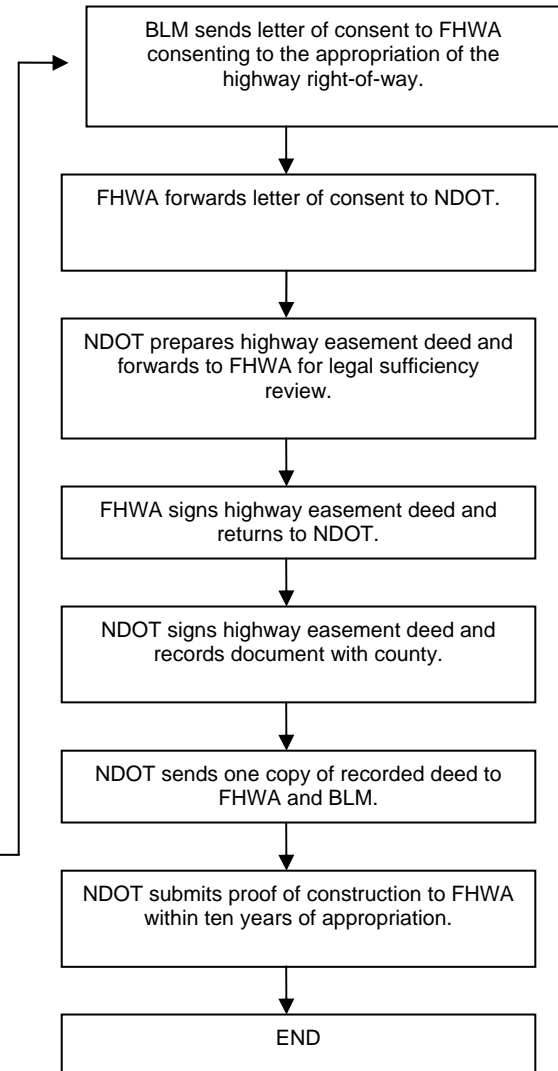
## NEPA ACTIVITIES



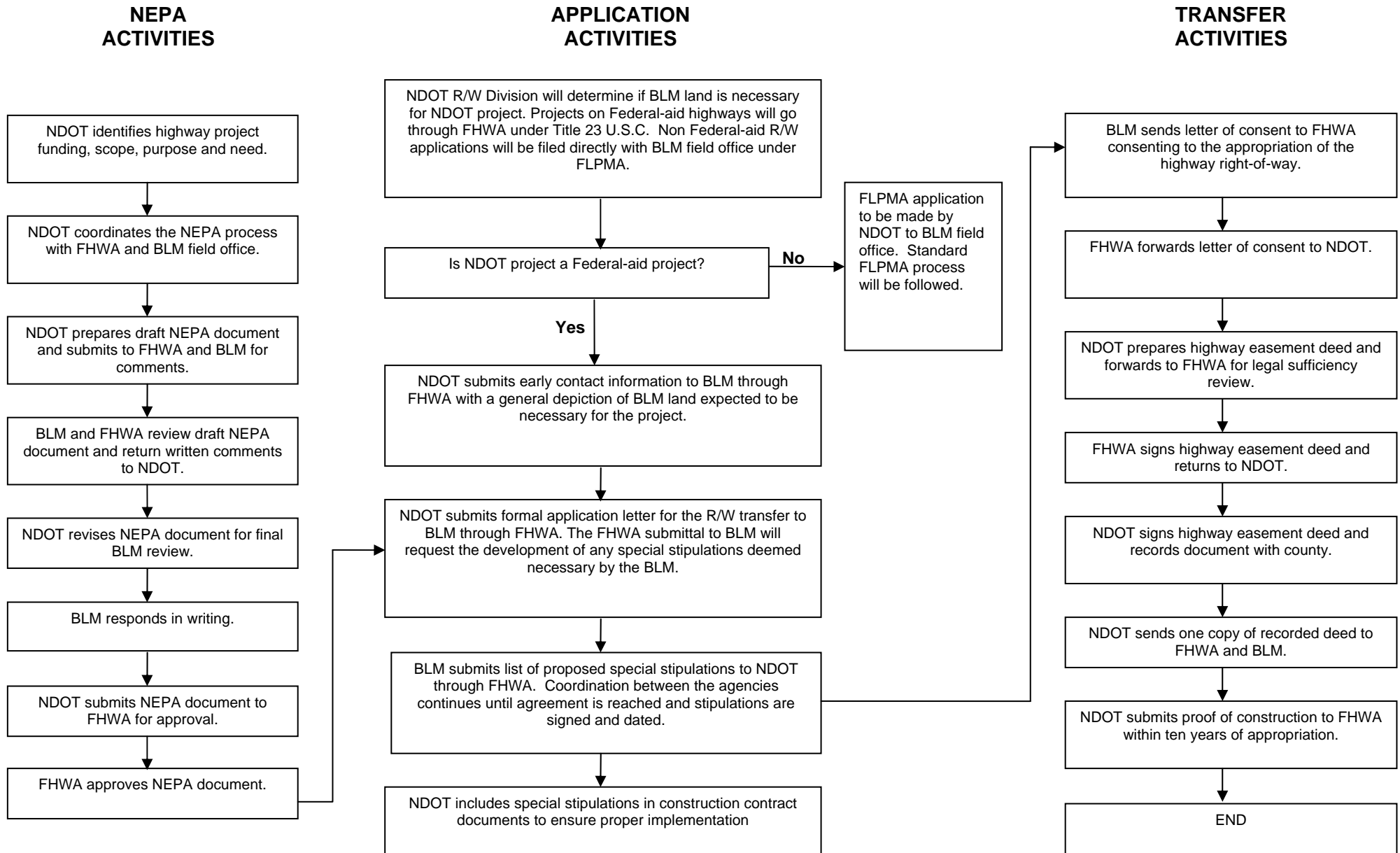
## APPLICATION ACTIVITIES



## TRANSFER ACTIVITIES



# Highway Material Sources Flowchart



# **CHAPTER 1**

## **HIGHWAY RIGHT-OF-WAY**

### **I. BACKGROUND**

The BLM-FHWA Interagency Agreement of 1982 became effective upon revocation of certain BLM regulations in 43 CFR §2820-Roads and Highways. With this action, FHWA is designated as the Lead Federal Agency, and has authority to administer and monitor the land transfer program involving Federal-aid highways under Title 23 U.S.C. This responsibility includes such aspects as: executing the Highway Easement Deed, monitoring compliance with the conditions contained in the deed (as well as the special stipulations included in the application), insuring compliance with all applicable laws including the NEPA and the Civil Rights Act, and implementing reversionary actions if the lands are not used for construction or they are no longer necessary for highway purposes. The BLM will work with FHWA to assure compliance with BLM land use plans and to correct non-compliance with the conditions of the transfer.

The following procedures will be used to assure sufficient lead time to process highway right-of-way transfer and provide for uniform document processing.

### **II. FEDERAL-AID HIGHWAYS**

- A. General - The majority of rights-of-way required for Federal-aid highways across lands under the jurisdiction of BLM will be transferred to NDOT by FHWA under the authorities contained in Title 23 U.S.C. Sections 107(d) and 317 (Title 23). These transfers will be in accordance with the BLM-FHWA Interagency Agreement (see Appendix A).
- B. Pre-application Work - Early project coordination is intended to provide for a maximum flow of information. An initial formal written contact will be made by FHWA on all projects where it is anticipated new or amended rights-of-way could be required from BLM. NDOT will make the follow-up contact and coordinate with the appropriate BLM office personnel for land status and availability of use. Unless waived by the BLM office, a joint field review will be conducted to evaluate all physical aspects and environmental considerations of the proposed project.
  1. The early project coordination contact will be made at the time the project is first initiated (when NDOT enters the project in their work program and FHWA authorizes preliminary engineering).
  2. The formal written notification will be made by FHWA to the BLM office.
  3. The notification will include:
    - a. Location of the project.
    - b. Anticipated environmental document (CE, EA, or EIS).
    - c. General description of the project.
    - d. Applicability of Federal action (funding source).
    - e. Type of project (new or amended right-of-way, highways, material sites, maintenance stations, rest areas, etc.).
    - f. Timelines (if known) for required actions by all parties.

4. Upon receipt of the notification, the BLM office will assign a case serial number and provide FHWA written advice of the serial number (with a copy to NDOT).
5. The NDOT will contact the appropriate BLM office for coordination and input in the environmental process (see Chapter 4).

C. Preparation of environmental documentation (See Chapter 4).

### **III. REQUESTS FOR RIGHTS-OF-WAY APPROPRIATIONS AND SPECIAL STIPULATIONS DEVELOPMENT**

- A. At this stage of project development, the environmental process has been completed and the decision document has been approved by FHWA and the identified mitigation measures have become a commitment of the project. While these measures are covered in general terms in the environmental document, special stipulations may need to be developed to assure proper implementation. When the proposed project has advanced to the Right-of-way appropriation stage, FHWA will formally ask BLM to initiate the process of identifying any required special stipulations (see Appendix J for format).
- B. The BLM has 120-calendar days to respond to the FHWA request beginning on the date BLM receives the complete Request for Appropriation package. If BLM determines the package is incomplete or requests additional information, they should notify FHWA as soon as practical and describe the missing elements.
- C. Special stipulations are those measures developed by BLM to actually accomplish the required mitigation “on the ground” or to address other issues needed for adequate land management. The special stipulations will not duplicate or contradict those stipulations already:
  1. Covered by the standard stipulations contained in the Highway Easement Deed;
  2. Covered in adequate detail in the environmental document;
  3. Contained in the Standard Specifications for Road and Bridge Construction (NDOT Silver Book) which NDOT is required to comply with, and is incorporated by reference into this Operating Manual;
  4. Required by Federal, State, or local statute, ordinance, or code.
- D. Special stipulations formalized - to assure that mutually acceptable special stipulations are incorporated into the project/contract, a third and final written pre-application contact will be made with BLM. This notification will be at the right-of-way acquisition stage of the project and will request that the special stipulations be formalized and submitted to FHWA. This resultant list will be included as an attachment to the application to BLM for the Letter of Consent to transfer.
- E. Rights-of-Way Transfer
  1. New Federal-aid Rights-of-Way – A transfer will be made by the Easement Deed process. Upon application, the BLM field office will issue a Letter of Consent (See Appendix H) to transfer the required land appropriation. The transfer document will be a Highway Easement Deed – Highways (See Appendix C) executed by FHWA to NDOT. The NDOT will send a copy of the executed deed to the BLM field office.  
NOTE: FLPMA regulations do not apply.

2. New Temporary Federal-aid Right-of-Way – Lands requiring short term occupancy will be transferred to NDOT by FHWA using the same procedures as in 1 above. Following the Letter of Consent, the transfer document is a Temporary Easement Deed – Highways (See Appendix D) executed by FHWA to NDOT. The Temporary Easement portion of the Letter of Consent will have a defined expiration date. NDOT will send a copy of the executed deed to the BLM field office.

F. Non-Federal-aid Right-of-Way Grant

FLPMA Right-of-Way – All permanent right-of-way required for non-Federal-aid highways across lands under the jurisdiction of BLM will be issued to the NDOT under the authority of Title V of the Federal Land Policy and Management Act. Upon application, the appropriate BLM office will issue a Right-of-Way Grant, granting use of the lands requested. Rights-of-way granted by this procedure will include, but not be limited to, access roads to maintenance sites and radio communication sites and will be negotiated directly between NDOT and the BLM.

**IV. EASEMENT DEED PROCESS FOR FEDERAL-AID HIGHWAY RIGHTS-OF-WAY**

The following list summarizes the process for Federal-aid highways.

- A. The NDOT applies to FHWA. Application package must include an NDOT application letter along with the following items:
  1. Three sets of right-of-way plans
  2. Three sets of parcel legal descriptions
  3. Approved NEPA document
- B. The FHWA applies to BLM. Application package includes:
  1. Two sets of right-of-way plans
  2. Two sets of parcel legal descriptions
  3. Approved NEPA document
  4. A copy of NDOT's application letter
- C. BLM sends Letter of Consent to FHWA
- D. FHWA sends Letter of Consent to NDOT, which provides for an NDOT Right of entry and allows NDOT to certify ROW for construction
- E. NDOT prepares Highway Easement Deed and sends to FHWA
- F. FHWA forwards deed to legal counsel for legal sufficiency review and approval
- G. FHWA Division Administrator executes Highway Easement Deed and returns deed to NDOT
- H. NDOT executes Deed acceptance and records the deed with the local county recorder's office. NDOT will forward a copy of recorded deed to FHWA
- I. FHWA sends copy of recorded Deed to BLM
- J. NDOT sends proof of construction to FHWA and BLM

## CHAPTER 2

### **HIGHWAY MATERIAL SOURCES**

#### **I. BACKGROUND**

The BLM-FHWA Interagency Agreement gives FHWA authority to administer and monitor the land transfer program, including material sources, for the construction and maintenance of Federal-aid highways. This responsibility includes such aspects as: executing the Highway Easement Deed (Material Site), monitoring compliance with the conditions contained in the deed (as well as the special stipulations), insuring compliance with applicable laws and regulations, and implementing reversionary actions if the sites are no longer necessary for highway purposes. The BLM will work with FHWA to assure compliance with BLM land use plans and to correct non-compliance with the conditions of the transfer.

The following procedures will be used to assure sufficient lead time to process highway right-of-way transfer and provide for uniform document process

#### **II. FEDERAL-AID HIGHWAYS**

- A. In general, material sites required for construction and long term maintenance of Federal-aid highways located on lands under the jurisdiction of BLM will be transferred under the authorities contained in Title 23 U.S.C. Sections 107(d) and 317 (Title 23). These transfers will be in accordance with the BLM-FHWA Interagency Agreement executed in 1982 (see Appendix B).
- B. Pre-application activities for materials sampling and testing are covered under the Mineral Materials Act of 1947 (43 CFR 3600) and are not included in Title 23 activities. Title 23 activities may begin when it is determined these sites are suitable for highway use and FHWA requests lands appropriation.
  1. Early project coordination - Generalized material source areas will be identified by NDOT. The NDOT will contact and coordinate with the appropriate BLM field office personnel for land status and availability of use. Unless waived by the BLM field office, a joint field review will be conducted to evaluate all physical aspects and environmental impacts of the proposed expansion of existing sites and new sites. The NDOT will evaluate those areas which appear to contain the best material sources and which will result in the least overall adverse impacts.
  2. Local planning and zoning - NDOT will ascertain if the proposed exploration areas conform to applicable local zoning and master plans before initiating environmental resource surveys.
  3. Sampling and testing - Before entering a proposed material site for sampling and testing, NDOT will obtain an Exploration Permit under the BLM Mineral Materials Disposal Regulations from the appropriate BLM office. (See Appendix B for Materials Permit Application Sample Letter and needed information, map, etc.) When the NEPA process is complete, BLM will authorize NDOT activities in writing. The authorization will require compliance with the mitigation determined through the NEPA process. The NDOT will be responsible for obtaining permits



required by other agencies. The NEPA process for sampling and testing is covered in more detail in Chapter 4.

C. Title 23 U.S.C. Federal Land Transfer - Application Activities

1. Obtaining a new material site or expanding an existing site – After sampling and testing, NDOT through FHWA will apply to obtain the rights for site use. The NDOT for FHWA will prepare a separate NEPA document for a new material site or expanding an existing site. As a Cooperating Agency, the appropriate BLM office will be contacted for input and coordination by NDOT during development of this NEPA document. The BLM will provide written concurrence with the NEPA document prior to FHWA approval. The FHWA will furnish the appropriate BLM office a copy of the final approved NEPA document. The NEPA process for obtaining a new material site or expanding an existing site is covered in more detail in Chapter 4.
2. Special stipulations development – Following environmental document approval, FHWA will request that BLM identify required special stipulations. The BLM and NDOT will informally coordinate to assure any special stipulations are mutually acceptable.
3. Special stipulations are those measures developed to accomplish the required mitigation on the ground or to address other issues needed for adequate land management. The special stipulations will not duplicate or contradict those stipulations already:
  - a. Covered by the standard stipulations contained in the Highway Easement Deed;
  - b. Covered in adequate detail in the environmental document;
  - c. Contained in the Standard Specifications for Road and Bridge Construction (NDOT Silver Book) which NDOT is required to comply with and is incorporated by reference into this Operating Manual;
  - d. Required by Federal, State, or local statute, ordinance, or code.NDOT will assure any special stipulations developed by BLM are included in NDOT contract documents. See example of special stipulations that may be placed in the Letter of Consent as shown in Appendix J.
4. The BLM has 120-calendar days to respond to the FHWA request. Time begins the date BLM receives the complete Request for Appropriation package. If BLM determines the package is incomplete or requests additional information, they should notify FHWA as soon as practical and describe the missing elements.
5. Material Site Transfer - The Easement Deed process will be used to transfer jurisdiction of the land. Upon application, the BLM office will issue a Letter of Consent (Materials) to FHWA authorizing the land appropriation. The transfer document from FHWA to NDOT will be a Highway Easement Deed-Material Site and will be executed by FHWA, see Appendix E.

### **III. EASEMENT DEED PROCESS FOR FEDERAL-AID HIGHWAYS MATERIAL SOURCES**

- A. NDOT will apply to FHWA. The application will include an application letter from NDOT and:
  1. Three sets of material site plats.
  2. Approved NEPA document.
  3. Draft legal description.

- B. FHWA will apply to BLM. The application will include:
  - 1. Two sets of material site plats.
  - 2. Two sets of draft legal descriptions.
  - 3. Approved NEPA document
  - 4. A copy of NDOT's application letter.
- C. BLM will send Letter of Consent to FHWA with special stipulations, if necessary.
- D. FHWA will send Letter of Consent to NDOT.
  - 1. NDOT is responsible for securing all necessary Federal, State, and local approvals prior to developing the material source.
  - 2. NDOT can now certify ROW for construction.
- E. NDOT will prepare the Highway Easement Deed and send to FHWA.
- F. FHWA forwards deed to legal counsel for legal sufficiency review and approval.
- G. FHWA Division Administrator will execute the Highway Easement Deed and return to NDOT.
- H. NDOT will execute the Deed and record the deed with the local county recorder's office. NDOT will forward a copy of the recorded deed to FHWA.
- I. FHWA will send a copy of recorded Deed to BLM.
- J. NDOT will send proof of use to FHWA and BLM.

**IV. AMENDING EXISTING PRE-1982 NDOT GRANTS** – Amending pre-1982 grants will no longer be done under the current interagency agreement. Amendments will be authorized by letter of consent or by FLPMA right-of-way from BLM. A FLPMA grant applies only to material site access roads.

**V. TEMPORARY SITES** – Jurisdiction of lands requiring temporary occupancy will be transferred to NDOT through FHWA under the same procedures discussed in Section II.C. Following the Letter of Consent, the transfer document will be a Temporary Highway Easement Deed - Material Site executed by FHWA to NDOT, see Appendix E. The Temporary Easement portion of the Letter of Consent will have a defined period of time. The NDOT will send a copy of the executed deed to the BLM field office.

## **CHAPTER 3**

### **ABANDONMENT-RELINQUISHMENT**

#### **OF**

### **HIGHWAY RIGHT-OF-WAY AND MATERIAL SITES**

#### **I. EASEMENT DEED**

For appropriated jurisdiction of lands transferred by easement deed from BLM through FHWA to NDOT, the NDOT and BLM will coordinate to meet all regulations affecting abandonment and agree on a restoration and rehabilitation plan. The NDOT will submit the proposed abandonment to FHWA for concurrence. After approval by Resolution by the NDOT Board of Directors, the NDOT will file maps depicting the area to be abandoned with FHWA. The FHWA will submit the proposal to BLM. The BLM will review the site to assure restoration and rehabilitation has been completed. When restoration and rehabilitation is accepted by the Federal agencies, NDOT will relinquish interest (quit claim deed or other formal document) in the lands to the United States. The NDOT will forward a recorded copy of the quit claim deed to FHWA and FHWA will forward a copy to BLM. The appropriate BLM field office will issue a decision accepting the abandonment-relinquishment to FHWA and inform NDOT.

#### **II. PRE-1982 GRANTS**

For pre-1982 grants (non easement deed), NDOT will work directly with BLM. The form in Appendix I will be used to accomplish the relinquishment. The NDOT will notarize and record the document relinquishing its interest in the land, only if the original granting document was recorded.

## **CHAPTER 4**

### **NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) PROCEDURES**

#### **I. HIGHWAY RIGHT-OF-WAY**

##### **A. Background**

NEPA requires Federal agencies to integrate environmental values into their decision making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions. To meet this requirement, federal agencies prepare a detailed statement known as a CE, EA, or EIS. It is beneficial to all parties for the NDOT to prepare the proper NEPA document for the FHWA, which is the lead agency and for the BLM to participate as a cooperating agency for the procurement of highway right-of-way. The BLM will not prepare a separate NEPA document.

The following procedures will be used to assure sufficient lead time to process highway right-of-way transfer and provide for uniform document processing.

##### **B. Agency Roles**

1. FHWA is the lead agency for NEPA documents for highway right-of-way and material site use, with BLM acting as a cooperating agency.
2. NDOT as a joint lead agency prepares the NEPA documents on behalf of FHWA.
3. BLM is responsible for compliance with Section 106 of the National Historic Preservation Act for highway projects and material sites on BLM rights-of-way. See Chapter 5.

##### **C. Type of NEPA Documentation**

The NDOT will develop the project scope, purpose and need statement, preliminary alternatives and determine, the level of NEPA documentation needed in coordination with the FHWA and the BLM. The NDOT will consider the comments and formalize the level of NEPA document.

1. CE - The NDOT will coordinate development of the CE document with the BLM and the FHWA and submit the draft document for comment. The NDOT will consider comments, finalize the CE and submit to the FHWA for approval. The FHWA will approve the CE and return the signed CE to the NDOT. The NDOT will send the final CE to the BLM.
2. EA - The NDOT will coordinate development of the EA document with the BLM and the FHWA and submit the administrative draft document for comment. The FHWA will approve the EA, and issue a Finding of No Significant Impact (FONSI) or an EIS if FHWA determines that the action is likely to have a significant impact on the environment. If a FONSI is issued, FHWA will return the FONSI to NDOT. If FHWA determines that an EIS is required, the EIS will be processed as described below.

3. EIS - The NDOT will coordinate development of the EIS document with the BLM and the FHWA and submit the administrative draft document for comment. The NDOT will consider comments, finalize the EIS and submit to the FHWA for approval. The FHWA will review and approve the EIS. Once the EIS is approved, FHWA will issue a Record of Decision (ROD) and return the ROD to the NDOT.

## **II. MATERIAL SITE**

### **A. Background**

1. In the event that sampling and testing for potential material sources under the Minerals Management Act of 1947 is needed, NDOT will prepare the NEPA document in coordination with BLM. As the lead federal agency, BLM will sign the decision document and issue the authorization for a field reconnaissance and exploration permit. At its option, FHWA may act as a cooperating agency.
2. If NDOT decides to pursue the material site for procurement as a highway material site under a Title 23 U.S.C. Federal Land Transfer authorization, the NDOT will prepare a second (separate) environmental NEPA document for the FHWA, as the lead agency. The BLM will participate as a cooperating agency and will not prepare a separate NEPA document.
3. BLM is responsible for compliance with Section 106 of the National Historic Preservation Act for highway projects and material sites on BLM right-of-way. See Chapters 5 and 6.

**NOTE:** The following provisions apply to preparing a CE or an EA. If an EIS is required, the time frames for preparation and review will be determined.

### **B. Material Site Assessment - A Material Site assessment will be initiated when one of the following occurs:**

1. NDOT Materials Division Request for Exploration and Testing: The NDOT Materials Division requests environmental clearance from the NDOT Environmental Services Division for testing existing and proposed material sites on BLM Land.
2. NDOT Right-of-Way Request for Clearance prior to acquisition: The NDOT Materials Division requests the NDOT Right-of-Way Division acquire right-of-way for use of a material site. NDOT Right-of-Way Division requests environmental clearance from the NDOT Environmental Services Division.
3. NDOT Right-of-Way Division Request for Use of an Existing Site: NDOT Materials Division recommends the use of a material site for a project to the NDOT Right-of-Way Division. The NDOT Right-of-Way Division requests environmental clearance for material site use from the NDOT Environmental Services Division. These sites may or may not have had previous clearances.
4. NDOT Materials Division Request for Use of an Existing Material Site: The NDOT Maintenance Crews request use of an authorized material site from the NDOT Right-of-Way Division. The NDOT Environmental Services Division ensures environmental clearances and permits are completed for material site use.

### C. Pre-application Activities

1. During early project coordination, the NDOT will contact and coordinate with the appropriate BLM office personnel for land status, land use planning, and availability for use. Unless waived by the BLM office, a joint field review will be conducted to evaluate physical aspects and environmental impacts of the proposed expansion of existing sites and new sites. The Proposed Materials Site Field Checklist (Appendix K) will be completed at this time.
2. The NDOT will complete sampling and testing for the environmental resource surveys. These surveys will be submitted to the appropriate BLM office with the application. The BLM will complete the NEPA process **only** for the sampling and testing. The NDOT will be responsible for obtaining permits required by other agencies.

### D. Title 23 U.S.C. Federal Land Transfer - Application Activities

1. When obtaining a new material site or expanding an existing site, the NDOT on behalf of FHWA will prepare a NEPA document for a new material site or expanding an existing site. The NDOT will contact the appropriate BLM office, as a Cooperating Agency for input and coordination during development of this NEPA document.
2. If site use requires consultation with regulatory agencies and/or permit acquisition, the NDOT Environmental Services Division will coordinate and obtain the necessary approvals from the regulatory agencies. The NDOT will obtain written BLM approval prior to doing the cultural resource survey. The NDOT will complete the surveys and forward the report to BLM. The BLM will process the document in accordance with the National Historic Preservation Act. BLM will notify the NDOT Archaeologist of the SHPO consultation results.
3. The NDOT will submit the draft NEPA document to BLM, who will provide written comments within 45 calendar days. The BLM will provide written concurrence with the NEPA document through NDOT prior to FHWA review and approval. The FHWA will review and submit changes to the document to the BLM and NDOT for final coordination. NDOT will finalize the NEPA document and forward to FHWA for approval. The FHWA will prepare the environmental decision document and forward to NDOT. The NDOT will furnish the appropriate BLM office a copy of the approved NEPA document and the decision document.

## **CHAPTER 5**

### **NATIONAL HISTORIC PRESERVATION ACT PROCEDURES**

#### **I. THE NDOT ARCHAEOLOGIST WILL:**

- A. Submit a BLM Fieldwork Authorization Request to BLM prior to conducting inventory within the District. NDOT must comply with special stipulations attached to the fieldwork authorization.
- B. Conduct background search for NDOT, Nevada State Historic Preservation Officer (SHPO) and BLM records for past surveys and sites. Obtain appropriate maps to satisfy BLM.
- C. Conduct a Class III or other appropriate level of inventory following BLM Guidelines.
- D. Notify BLM of cultural resources inventory results and consult on proposed mitigation recommendations.
- E. Complete cultural resources inventory report.
- F. Submit the report to BLM for review and concurrence.

#### **II. BLM WILL:**

- A. Determine eligibility of identified resources for National Register of Historic Places within 30 calendar days after receiving the cultural resources inventory report, per The State Protocol Agreement.
- B. Determine project-related effects and forward findings to the SHPO with copy to NDOT Environmental Services Division.
- C. Initiate Native American Consultations

#### **III. STATE PROTOCOL AGREEMENT**

All projects will be managed according to terms of the State Protocol Agreement between Nevada BLM and the Nevada SHPO.

#### **IV. NEVADA SHPO WILL:**

Concur in recommendations and return concurrence to BLM with a copy to NDOT Environmental Services Division.

#### **V. PROJECT APPROVAL**

After receipt of project approval and with the implementation of any necessary mitigation per terms of an approved Memorandum of Agreement, NDOT may proceed with the proposed project.

## **CHAPTER 6**

### **EXPLORATION PERMIT PROCESS**

#### **I. PRE-APPLICATION ACTIVITIES**

- A. NDOT Materials Division Geologists will conduct preliminary reconnaissance to locate potential aggregate sites and conduct a search of county records to determine ownership and encumbrance information. They will also prepare a legal description and map of the proposed area.
- B. NDOT Materials Division will submit a Preliminary Meeting and Opinion Request (NDOT form EBEN-020) with legal description and map to appropriate BLM Field Office.
- C. NDOT Materials Division will coordinate with BLM field personnel to obtain input and a preliminary decision of usability and concurrence to proceed with the exploration application process. BLM will review and make their recommendation.
- D. NDOT Materials Division will request an environmental clearance through NDOT Environmental Services Division.

#### **II. APPLICATION ACTIVITIES**

- A. NDOT Environmental Services Division Biologist will submit form SF-299, “Application for Transportation and Utility Systems and Facilities on Federal Lands” to BLM.
- B. Biological Resources Survey is performed by NDOT Environmental Services Division.
- C. Cultural Resource Survey is performed and report generated by NDOT Environmental Services Division. The report is then submitted to BLM for approval. (See Chapter 5).
- D. When the BLM Cultural Resource Report Approval is received by NDOT Environmental and all other surveys are complete, NDOT Environmental will send an Environmental Clearance Memo to NDOT Materials Division.
- E. NDOT Materials Division will submit an Application of Exploration permit to BLM.
- F. Upon receipt of the approved Exploration Permit from BLM, NDOT Materials Division can proceed with field exploration and sampling.



## **ACRONYMS**

**BLM** – Bureau of Land Management

**CE** – Categorical Exclusion, sometimes referred to by BLM as a CX

**CFR** – Code of Federal Regulations

**DR** – Decision Record

**EA** – Environmental Assessment

**EIS** – Environmental Impact Statement

**FHWA** – Federal Highway Administration

**FLPMA** – Federal Land Policy and Management Act of 1976

**FONSI** – Finding of No Significant Impact

**MOU** – Memorandum of Understanding

**NDOT** – Nevada Department of Transportation

**NEPA** – National Environmental Policy Act

**ROD** – Record of Decision

**R/W** – Right-of-Way

**SAFETEA-LU** – Safe, Accountable, Flexible, Efficient Transportation Equity Act: a Legacy for Users

**SHPO** – State Historic Preservation Office

**T & E** – Threatened and Endangered

**U.S.C.** – United States Code

**USCOE** – U.S. Corp of Engineers

**USEPA** – U.S. Environmental Protection Agency

**USFWS** – U.S. Fish and Wildlife Service

## **DEFINITIONS**

**Appropriated Lands** – Lands transferred from BLM to NDOT by FHWA under the authorities contained in 23 U.S.C. §§107(d) and 317 for Federal-aid highways and material sites.

**Authorized Officer** – The BLM District Manager or delegate who is authorized to approve Federal-aid highway appropriations. The BLM State Director who is also authorized to approve appropriations.

**Bureau of Land Management (BLM)** – The federal agency within the U.S. Department of the Interior that administers America's public lands, located primarily in the 12 Western States.

**Case Serial Number** – Assigned by the BLM. It officially opens the administration process regarding the appropriation of the right-of-way or material site.

**Categorical Exclusion (CE or CX)** – This is a NEPA term for categories of projects that do not individually or cumulatively have a significant effect of the natural, social, or economic environment and, do not require the preparation of an EA or EIS.

**Days** - Calendar days

**Decision Record (DR)** – This is issued after a FONSI and is the BLM term for the decision document indicating approval of the proposed action.

**Environmental Assessment (EA)** – This is a NEPA term for categories of projects where the significance of the natural, social or economic impacts is not clearly established or is deemed to be non-significant.

**Environmental Impact Statement (EIS)** – NEPA term for categories of projects where it is known the action will have a significant effect on the natural, social, or economic environment.

**Federal-aid Highways** – Highways on the National Highway System, the Interstate System, and all other public roads not classified as local roads or rural minor collectors.

**Federal Highway Administration (FHWA)** – The FHWA is responsible for administration and management of the Federal-aid highway program and application for right-of-way appropriation consistent with 23 CFR §710.601, Subpart F. The FHWA is the lead Federal agency, and has the authority to administer and monitor the land transfer program involving Federal-aid highways under Title 23.

**Finding of No Significant Impact (FONSI)** – A document by FHWA or BLM briefly presenting the reasons why an action, not otherwise excluded as a CE, will not have a significant effect on the human environment and for which an EIS therefore will not be prepared.

**Highway Easement Deed** – The instrument that transfers the right-of-way uses to the State; this instrument is recorded with the appropriate county.

**Intent to Study Letter** – Official NEPA start for Environmental Assessment. The letter is developed by NDOT and FHWA.

**Letter of Consent** – Document issued by the BLM that agrees and authorizes the appropriation of public lands for highway and material site purposes, which clearly states the conditions under which the agreement is given.

**Material Site** – Appropriated site required for construction and long term maintenance of Federal-aid highways located on lands under the jurisdiction of BLM and transferred under the authorities contained in 23 U.S.C. §§107(d) and 317.

**Nevada Department of Transportation (NDOT)** - The State of Nevada Department responsible for the planning, construction, operation and maintenance of highways and bridges which make up the state highway system.

**Notice of Intent (NOI)** – The official notice in the Federal Register to start an Environmental Impact Statement.

**Permanent Highway Easement Deed** – Document issued by the FHWA to the NDOT for the permanent right-of-way area and recorded by the NDOT in the appropriate County Clerk’s office. This deed is issued pursuant to the terms and conditions included in the Letter of Consent.

**Record of Decision (ROD)** – BLM and FHWA term for the decision document indicating approval of an EIS.

**Right-of-Way Grant** – Authorization issued under Title V of FLPMA permitting the use over, upon, under or through public lands. Grants are used to construct, maintain, and operate non-Federal-aid highway for the NDOT.

**R.S. 2477** – The Act of July 26, 1866, R.S. 2477 (formerly codified at 43 U.S.C. §932) provided: “The right-of-way for the construction of highways over public lands, not reserved for public uses, is hereby granted.” The construction of a public highway or unreserved public land must have occurred prior to October 21, 1976, for a R.S. 2477 grant to have taken place. Construction after this date is appropriately authorized under FLPMA.

**Scoping** – NEPA process where agencies and public are given an opportunity to express concerns and identify issues.

**Silver Book** – This is the official NDOT manual on Standard Specifications for Road and Bridge Construction.

**Special Stipulations** – Measures developed to accomplish the required mitigation on the ground or to address other issues needed for adequate land management.

**Temporary Construction Easement Deed** – Document issued by the FHWA to the NDOT for the temporary construction areas identified in the Letter of Consent and is not recorded in the county records.

## **REFERENCES**

BLM Manual 2805 – Federal Agencies

FLPMA – Federal Land Policy and Management Act of 1976

INTERAGENCY AGREEMENT – Bureau of Land Management and Federal Highway Administration, July 7, 1982

JOINT MEMORANDUM between Nevada Department of Transportation, Federal Highway Administration, and Bureau of Land Management, Nevada, July 1, 1985

Minerals Management Act - Under the authority of the Minerals Management Act of 1947, as amended, (30 U.S.C. §§601 & 602)

National Historic Preservation Act of 1966–16 U.S.C. §470

NEPA Handbook, BLM Handbook H-1790-1

Nevada Standard Specifications for Road and Bridge Construction –The Silver Book

SAFETEA-LU – P.L. 109-59 of 2005

Title 23 Code of Federal Regulations Part 771

Title 23 United States Code Sections 107 (d) and 317

Title 40 Code of Federal Regulations Sections 1500 – 1508

Title 42 United States Code Section 4341-4343

## APPENDIX A

### INTERAGENCY AGREEMENT

#### INTERAGENCY AGREEMENT

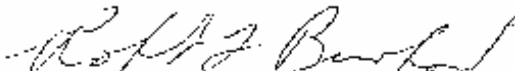
Bureau of Land Management  
and  
Federal highway Administration

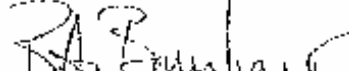
- I. Purpose. This Interagency Agreement provides procedures by which the Secretary of Transportation acting through the Federal Highway Administration (FHWA) may appropriate public lands for highway rights-of-way and sources of materials for the Federal-aid Highway System and those classes of highways provided for in Chapter 2, 23 U.S.C. The lands appropriated are for use by the States for highways and/or highway material purposes. The appropriation is subject to conditions the Secretary of the Interior acting through the Bureau of Land Management (BLM) may deem necessary for adequate protection and utilization of the public land and protection of the public interest.
- II. Authority
  - A. The Federal Land Policy and Management Act of 1976, 90 Stat. 2766, 43 U.S.C. 1737.
  - B. The Act of August 27, 1958, as amended) 23 U.S.C., §§ 107(d) and 317.
- III. Procedures BLM and FHWA recognize the need for streamlined procedures by which the FHWA may appropriate BLM-administered public lands for highway and highway materials for the Federal-aid System and those classes of highways provided for in Chapter 2, 23 U.S.C. To accelerate the appropriation process, FHWA and BLM agree to the following procedures:
  - A. FHWA will notify BLM, as far in advance as possible, of any highway project being contemplated and arrange a meeting with the BLM authorized officer and the participating State agency to discuss the proposed project to ascertain whether or not the appropriation of the lands for highway or highway materials is consistent with BLM resource management programs and develop a plan of action to complete the appropriation within a reasonable time.
  - B. It will be the responsibility of FHWA to comply with the National Environmental Policy Act and other legal requirements in arriving at its determination that the lands are necessary for the project.
  - C. FHWA shall submit to the authorized officer of BLM a written request for appropriation, accompanied by a map showing the location of lands it desires to appropriate, a statement of its determination that the lands are necessary for the project, a copy of the environmental assessment, and/or a copy of the environmental impact statement.

The authorized officer of the BLM, after receipt of the request and attachments, shall review the material and, within a period of four months, notify FHWA, in writing, either (a) that the appropriation would be contrary to the public interest or inconsistent with the purposes for which the public lands or materials are being managed or (b) that BLM is in agreement with the appropriation subject to conditions of adequate protection and utilization of the public lands. If within a period of four months, the Bureau of Land Management has not responded, in writing, to the request for appropriation, such lands

- A. may be considered appropriated by FHWA and transferred to the State for right-of-way purposes as requested.
- B. Disagreement to the appropriation will be in the form of a letter, from BLM to FHWA, clearly stating the reasons why such an appropriation would be contrary to the public interest or inconsistent with the purposes for which the public lands or materials are being managed.
- C. Agreement to the appropriation will be in the form of a 'Letter of Consent' which clearly states the conditions under which the agreement is given. These conditions involve the following:
  - 1. Resolution of existing valid claims and use authorizations.
  - 2. Granting authority to FHWA within the appropriation is limited to rights-of-way for the Federal-aid Highway System and those classes of highways provided for in Chapter 2, 23 U.S.C.
  - 3. BLM retains the authority to grant additional right-of-way uses within and across the appropriated highway or material site right-of-way. Such additional uses include, but are not limited to, transportation and utility systems for water, power, communications, oil and gas, or any other facilities which are in the public interest, are not directly associated with highway use, operation and related highway purposes, and are not inconsistent with Title 23 of the U.S. Code. The FEWA shall be consulted prior to the issuance of such authorizations.
  - 4. The appropriation will automatically terminate if construction is not started within ten (10) years or sooner if agreed upon.
  - 5. Conditions providing for development and use of the adjacent public lands, such as, reasonable access and signing.
  - 6. Conditions protecting the adjacent public lands from right-of-way construction and maintenance activities which may cause off right-of-way adverse effects, such as, wildfire, chemical control of vegetation and animals, runoff drainage and revegetation with non-native species.
- G. FHWA, when transferring the highway right-of-way or highway material appropriation to the State, will make it subject to BLM's conditions as contained in the "Letter of Consent". FHWA will administer these conditions. BLM will work with or through FHWA when they observe non-compliance to the appropriation "Letter of Consent" conditions.
- H. When the need for the appropriation no longer exists and the State has reasonably rehabilitated the area to protect the public and environment, FHWA will notify BLM in writing. Upon receipt of this notice and acceptance of the rehabilitation, the lands appropriated shall revert to the BLM.
- I. A copy of the right-of-way use document from FHWA to the respective State shall be furnished to the BLM authorized officer.
- J. Amendments to or modifications of this Interagency Agreement may be initiated by either party, but shall not become effective or binding until agreed upon by both parties.

IV. Tenure. This document shall become effective upon the revocation of 43 CFR 2820-Roads and Highways and shall remain in effect unless terminated by mutual agreement or one agency after giving the other agency thirty (30) days prior written notice.

  
Director, Bureau of Land Management

  
Administrator, Federal  
Highway Administration

7/1/82  
Date

JUL 27 1982  
Date

# JOINT MEMORANDUM

NEVADA-17  
DATE: June 27, 1985

## JOINT MEMORANDUM

### BETWEEN

United States  
Department of the Interior  
Bureau of Land Management  
Reno, Nevada

State of Nevada  
Department of Transportation  
Carson City, Nevada

Federal Highway Administration  
1050 East Williams Street, Suite 300  
Carson City, Nevada 89701

TO: All Personnel, Bureau of Land Management, Nevada  
All Personnel, Department of Transportation, Nevada  
All Personnel, Federal Highway Administration, Nevada

FROM: Edward F. Spang, State Director, Nevada  
A.E. Stone, Director, Nevada Department of Transportation  
A.J. Horner, Division Administrator, Federal Highway Administration,  
Nevada

SUBJECT: Procedures for Coordination of Interrelated Work Areas.  
This Joint Memorandum supersedes the Memorandum executed  
August 14, 1972 and the applicable appendices.

#### I. PURPOSE

This memorandum outlines policies and procedures for use by Bureau of Land Management (hereinafter referred to as BLM) personnel, more particularly identified in Part III, for working with the Nevada Department of Transportation (hereinafter referred to as NDOT) and for working with the Nevada Federal Highway Administration (hereinafter referred to as FHWA) in consultation with key employees at various levels in each organization. This memorandum is especially pointed toward:

A. Developing a better understanding of responsibilities of the BLM, NDOT and FHWA as they relate to work that is or may be interrelated; land and resource management practices on public lands on or contiguous to NDOT highways and NDOT Management practices on highways located on and/or public lands needed for transportation purposes.

B. Defining BLM, NDOT and FHWA organizational lines, and delineating relationships to facilitate the coordination of such work;

C. Identifying interrelated work areas, developing procedures and standardized methods for coordination; and

D. Minimizing duplication of work.

-1-



This memorandum provides for the coordination and integration of planning, programming and available budget to accomplish interrelated land and resource management and transportation management in order to assure that joint efforts will bring about purposeful actions toward completing BLM, NDOT and FHWA goals and objectives. Such coordination is subject to the respective authorities of each agency. The principal authorities are highlighted in Part II hereof. This coordinated approach is designed to eliminate duplication and divergent plans, to provide each agency sufficient lead time for proper sequential functions, to make more efficient use of available resources, and moreover, to develop and execute more responsive public action programs.

## II. AUTHORITIES

The broad authority for such coordinated work is cited below. Regulations for the administration of such authorities are cited where necessary in part V.- B. on each specific work area.

### A. Bureau of Land Management

#### 1. Legislation

- a. Taylor Grazing Act of June 28, 1934, as amended
- b. Federal Highway Acts of August 28, 1937, July 26, 1955; 1962
- c. Recreation and Public Purposes Act of June 14, 1926
- d. Right-of-Way Granting; act of March 4, 1911; Act of February 25, 1920, as amended by Acts of August 21, 1935 and August 12, 1953
- e. Material Act of July 31, 1947
- f. Antiquities Act of 1906
- g. Historic Sites Act
- h. Soil Conservation and Domestic Act of 1935
- i. Halogeton Glomeratus Control Act of 1952
- j. Water Pollution Control Act of July 9, 1956
- k. Water Quality Act of 1965
- l. Water Protection and Flood Prevention Act of 1954
- m. Protection Act of 1922
- n. Reciprocal Fire Protection Agreement Act of 1955
- o. National Environmental Policy Act of 1969
- p. F.L.P.M.A. (Federal Land Policy and Management Act of 1976)

### B. Nevada Department of Transportation

#### 1. Legislation

- a. Nevada Revised Statutes; Chapters 37 et seq, and 403 et seq.
  - b. United States Code, Title 23
  - c. Code of Federal Regulations, Title 15, Title 25, Title 43 and Title 2700
  - d. All applicable Federal Highway Acts - Concurrence of the FHWA is required during various stages on all federally funded projects.
  - e. Act of February 5, 1948; granting of right-of-way (Indian Lands)
  - f. Act of March 4, 1911 (Radio Sites)
  - g. Mineral Materials Act of July 23, 1955
  - h. Beautification Act of October 22, 1965
  - i. National Environmental Policy Act of 1969 & Clean Air Act of 1970
-

C. Federal Highway Administration

1. Legislation

- a. Pertinent to but not limited to those authorities listed in items A and B.
- b. BLM - FHWA Interagency Agreement executed in 1982.

III. ORGANIZATION AND WORK FLOW

A. BLM

1. BLM operates under a line-staff organization. BLM Manual Part 1203 as amended, provides specifics on lands and resource delegations and redelegations of authority among the different line levels of management in the BLM.

- a. There are generally four levels of line management; i.e., Area Manager, District Manager, State Director, and Director.
- b. There are also four levels of technical support for the aforementioned line managers. These are located in the Service Center, district, state, and Washington offices.

2. BLM district offices administering Nevada Public Lands are located in:

- a. Elko, Winnemucca, Carson City, Ely, Las Vegas, and Battle Mountain, Nevada;
- b. Susanville, California and Boise, Idaho. The District Managers in these offices administer Nevada public lands based on Memoranda of Understanding signed by the State Directors. Procedures developed herein apply to all public lands in Nevada.
- c. Detached resource area offices in Caliente and Tonapah.

3. The BLM's customary internal work flow is from the Area Manager to District Manager, District Manager to State Director, and State Director to Director. Generally, on external intergovernmental working relationships, the Area Manager, District Manager and their staffs work with local counterparts; the State Director and his staff work with State and regional offices; and the Director works with regional and national office levels.

B. The Nevada Department of Transportation operates through a line and staff organization.

1. In general, there are five levels of line authority: State Transportation Board of Directors, Director, Deputy Director, Asst. Deputy Directors; Administration Operations, Planning and Program Development, Engineering, Division Chiefs and District Engineers.

2. Providing administrative support and technical assistance at each level of line authority are staff positions. These staff organizations are located and provide service within the Department headquarters structure and at the local district level.

3. District offices responsible for local administration of the highway program are located in:

- a. Las Vegas (District One)
- b. Sparks (District Two)
- c. Elko (District Three)

C. Internal work flow normally proceeds in either of two ways.

1. An activity originates at the district level through some local request, proceeding from the District Engineer to the Asst. Deputy, or to the Deputy, and to the Director.

2. An activity originates at the Director's level though some request from outside the agency, proceeding to a Deputy or an Asst. Deputy, and to the appropriate Division Chief or District Engineer.

3. Work requests that originate at the district level also frequently are referred to divisions within headquarters by either an Asst. Deputy or Deputy Director.

D. External work flow, normally involving relationships with other governmental entities and agencies, provides for direct working contact between: (1) division or district personnel and their local counterparts; (2) the Deputies and Asst. Deputies, and Assistant Agency and Department Heads; and the State Director and Agency Directors at the state and regional levels.

E. A skeletonized organization chart and personnel roster for the BLM, NDOT and FHWA is attached hereto.

BLM Skeletonized Organization Chart	- Attach. 1
BLM Skeletonized Personnel Roster	- Attach. 2
NDOT Skeletonized Organization Chart	- Attach. 3
NDOT Skeletonized Personnel Roster	- Attach. 4
FHWA Skeletonized Organization Chart	- Attach. 5
FHWA Skeletonized Personnel Roster	- Attach. 6
BLM, NDOT and FHWA Administrative Areas	- Attach. 7

#### IV. RESPONSIBILITIES

##### A. BLM

BLM is responsible for multiple use management, development and service programs on about 48 million acres of public lands and/or other lands under its jurisdiction. These programs include lands, minerals, range, watershed, recreation, wildlife, timber, protection, cadastral survey, range improvement, roads and trails.

B. The NDOT has the responsibility for planning, designing, constructing, and maintaining those portions of the established state highway system under its jurisdiction. This responsibility includes the establishment and maintenance of effective working relationships with all other governmental entities and agencies interested in or affected by the state's highway program.

C. The FHWA has the responsibility to authorize, fund and audit those Federal Aid Highway projects for NDOT.

## V. PROCEDURES

Because of the complex nature of many of the BLM, NDOT and FHWA operations involving interrelated work, this part of the memorandum establishes a framework (1) to hold BLM, NDOT and FHWA local and state meetings to implement the intent of this agreement; (2) to identify, on a continuing basis, functional interrelated work areas, and (3) to jointly develop procedures in sufficient detail to guide operations of BLM, NDOT and FHWA in such work areas.

### A. Coordination Meetings - General Procedures

#### 1. Local Meetings

At least annually, a district meeting of the BLM District Manager and NDOT District Engineer and appropriate members of their staffs will be held. This will be done on a BLM, NDOT and FHWA district basis. The BLM Boise District Manager, when necessary, will attend the Elko meeting while the BLM Susanville District Manager will attend the Carson meeting. The meetings will be scheduled by joint action of the Nevada BLM District Managers and the NDOT District Engineers. Other groups, agencies and individuals may be invited to attend.

The purpose of the local meetings are:

- a. To exchange data, identify additional interrelated work areas, and to keep each agency informed.
- b. To review agency responsibilities, programs and priorities, including preliminary plans which may develop into future cooperative efforts. Full recognition will be given to agency annual work plans, short and long-range plans, and programming processes to provide adequate time for submission of budget requests. This, in turn, will allow simultaneous scheduling of programs and execution of such interrelated work.
- c. To identify unresolved areas that require the attention of the next level of management and/or should be included on the agenda for the State meeting.
- d. To work out exchanges of manpower, materials, and/or equipment on a temporary basis and on specific case interrelated work areas where such an arrangement would be to the mutual benefit of the BLM, NDOT and FHWA.

#### 2. State Meeting

As necessary, and preferably after concluding all the local meetings, a State meeting will be scheduled by joint action of the BLM State Director, NDOT Director and the FHWA Division Administrator. Agenda items and participants will be discussed as needed before the meeting.

The purposes of the State meeting are:

- a. To develop procedures designed to coordinate BLM, NDOT and FHWA District work on a statewide basis.
  - b. To assist BLM and NDOT District Offices in their interrelated work goals.
  - c. To review priorities and designate critical functional and/or geographical areas.
  - d. To conduct joint evaluations and review of plans and/or completed work.
  - e. To resolve conflicts.
-

B. Specific Functional Procedures on Interrelated Work Areas (See Attachment 8).

BLM, NDOT and FHWA shall collectively develop written procedures on functional interrelated work areas. Such procedures shall, by definition, become an addendum to this memorandum. Concurrence to add, delete and/or change such procedures shall be obtained through the exchange of correspondence between the BLM State Director, the NDOT Director and the FHWA Division Administrator.

Attachment 8 is a cataloging of the functional areas where procedures have been developed, identified as Appendices I through VII, inclusive, and are made a part hereof.

VI. APPROVAL

This joint memorandum replaces and supersedes the Joint Memorandum between Nevada BLM State Director and NDOT approved August 14, 1972 and the amendments thereto.

Effective this 1<sup>st</sup> day of July 1985.

STATE OF NEVADA  
DEPARTMENT OF TRANSPORTATION

By: [Signature]  
Director

UNITED STATES DEPARTMENT OF THE  
INTERIOR - BUREAU OF LAND MANAGEMENT

By: [Signature]  
State Director, Nevada

FEDERAL HIGHWAY ADMINISTRATION

BY: [Signature]  
Division Administrator

## **APPENDIX B**

### **MATERIALS PERMIT APPLICATION**

**Application must include the following minimum requirements:**

- General legal description of entire site to be sampled
- How many samples
- Type of equipment
- Dimension of sample test pit
- Method of access to each test pit
- Description of total amount of disturbance (acreage)
- Any measure to prevent unnecessary disturbance
- Intended method for reclamation
- Timeline for process – start to finish
- Notification to BLM when work is complete
- Map showing location of each test pit
- See following sample letter

# **MATERIALS PERMIT APPLICATION**

## **Sample Letter**

Date

FIELD MANAGER  
BUREAU OF LAND MANAGEMENT  
LAS VEGAS FIELD OFFICE  
4701 N TORREY PINES DRIVE  
LAS VEGAS NV 89130

Dear Mr. or Ms. Manager:

The Nevada Department of Transportation (NDOT) requests a Mineral Materials Exploration Permit for exploring and sampling mineral materials for use in future highway construction and maintenance. The area to be tested is approximately 40 acres, situated in NW1/4 SW1/4, Section 2, T. 22 S., R. 55 E., M.D.M.

The NDOT request is to take 16 samples. The test holes will be excavated using a track mounted excavator. The excavated material will be temporarily stockpiled next to the trench during sampling. After the sample is taken, the trench will be immediately backfilled with the excavated material and the site will be re-contoured with either the excavator or a small bulldozer.

Samples will be taken throughout the 40 acre parcel in a grid pattern (see enclosed map). The trenches will be spaced approximately 400 feet apart. Access to the site will be from SR-160 along an existing dirt road. Access to the sample sites will be by cross-country travel. Each sample site is expected to disturb about 0.04 of an acre. Cross-country travel is expected to cause an additional acre of disturbance, for a total disturbance of 1.64 acres.

A joint site visit with the BLM was completed on December 12, 2006, to determine any conflicts with the 1998 Las Vegas Resource Management Plan. No conflicts were identified. A cultural survey was completed for the site in March 2005. The site does not contain cultural resources (include NDOT cultural survey number). NDOT biologists surveyed the site for tortoise on February 6, 2006. No tortoise or indicators in the presence of tortoise were found on or near the site. A qualified biologist will survey the site prior to exploration activities and will assist with determining the exact sample locations and the travel line for the equipment. The NDOT biologist will mark all potential tortoise pallets or burrows, cacti and yucca. These will be avoided. The site will be kept clean of trash and debris to avoid attracting predators.

It is expected work will begin in March 2007, pending BLM approval. Work is expected to take two weeks. The BLM will be notified within 10 working days of when sampling and reclamation is complete.

Enclosure: Location map

# MATERIALS PERMIT APPLICATION

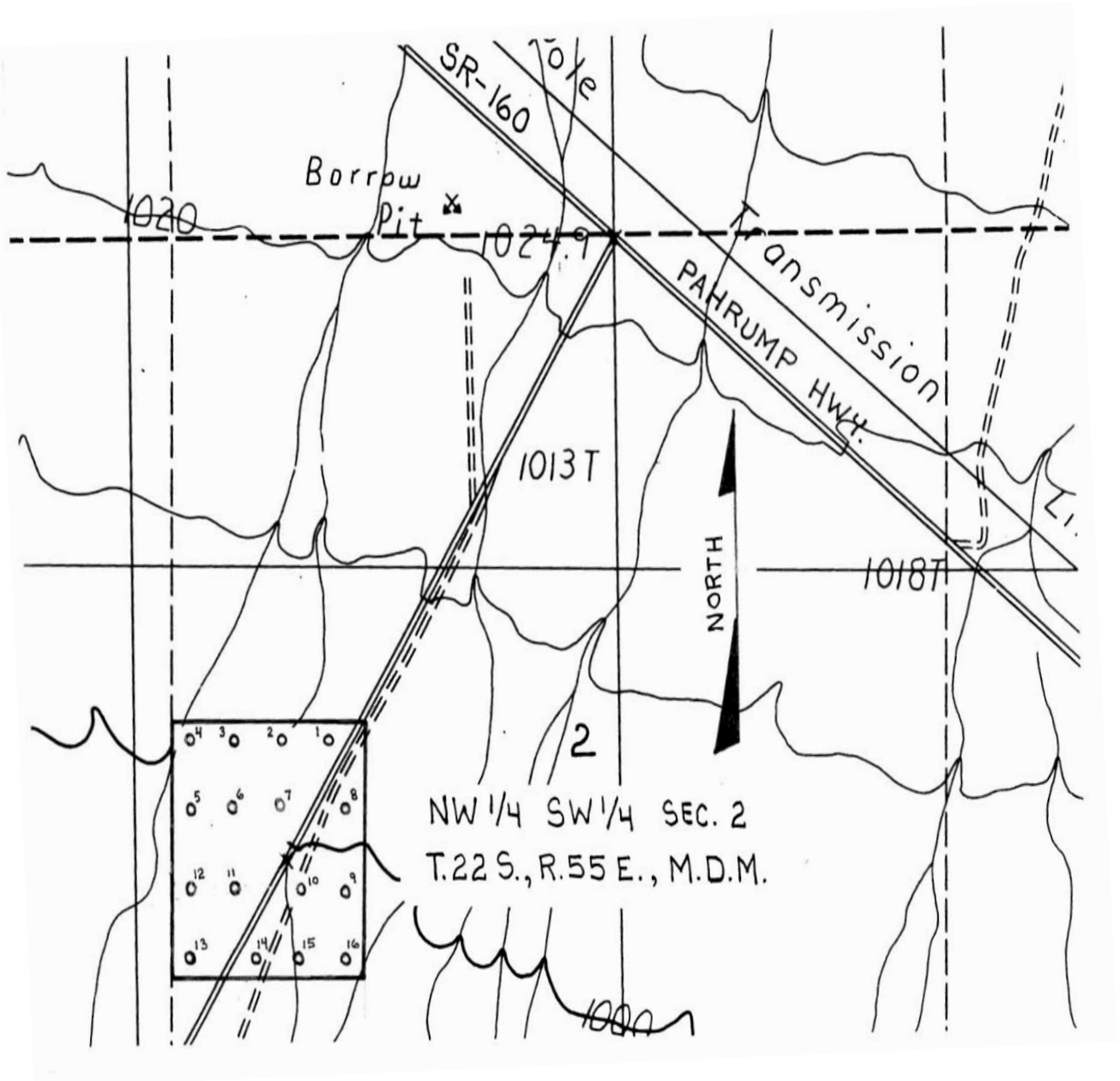
## Sample Location Map





# MATERIALS PERMIT APPLICATION

## Sample Site Map



**APPENDIX C**

**HIGHWAY EASEMENT DEED**

THIS DEED, made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the UNITED STATES OF AMERICA, acting by and through the Department of Transportation, Federal Highway Administration, hereinafter referred to as the DEPARTMENT, and the STATE OF NEVADA, DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the Grantee:

WITNESSETH:

WHEREAS, the Grantee has filed application under the provisions of the Act of Congress of August 27, 1958, as amended (23 U.S.C. Section 317 and/or Section 107), for the right-of-way of a highway over certain federal land located in the State of Nevada under the jurisdiction of the United States Department of the Interior - Bureau of Land Management, and

WHEREAS, the Federal Highway Administration Division Administrator, pursuant to delegation of authority from the United States Secretary of Transportation, has determined that an easement over the land covered by the application is reasonably necessary for a right-of-way for \_\_\_\_\_ and

WHEREAS, the United States Department of the Interior, acting by and through the United States Bureau of Land Management, in its consent to the appropriation of the federal land, has agreed to the transfer by the Department of an easement over the land to the Grantee; and

NOW THEREFORE, the Department, as authorized by law, and in compliance with all requirements imposed by or pursuant to Title 49 CFR, Department of Transportation, Sub-title A, Office of Secretary, Part 21, nondiscrimination in federally-assisted programs of the Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby grant to the Grantee an easement for a right-of-way for the construction, operation, and maintenance of a highway including control of access thereto from adjoining lands and use of the space above and below the established grade line of the highway pavement for highway purposes on, over, across, in, and upon the following described federal land within the City of \_\_\_\_ County of \_\_\_\_\_, State of Nevada;

Township \_\_\_\_ North South, Range \_\_\_\_\_ East, M.D.M.

SECTION

SUBDIVISION

more particularly described in Exhibit A attached hereto and made a part hereof, and as shown on the following described plats:

Drawing Nos.

Dated

Number of Drawing

marked Exhibit B attached hereto and made parts hereof, subject, however, to the following terms and conditions:

- (1) If outstanding valid claims exist on the date of this grant, the Grantee shall obtain such permission as may be necessary on account of any such claims.
- (2) Construction of the highway facility is to be undertaken by the Grantee in compliance with the National Historic Preservation Act of 1966, and related federal and state laws where applicable.
- (3) The easement herein granted shall terminate ten (10) years from the date of the execution of this deed by the United States of America in the event construction of a highway on the right-of-way is not started during such period.
- (4) The easement herein granted is limited to use of the described right-of-way and the space above and below the established grade line of the highway pavement for the purpose of construction, operation, and maintenance of a highway in accordance with the approved plans and does not include the grant of any rights for non-highway purposes or facilities: provided, that the right of the United States Bureau of Land Management to use or authorize the use of any portion of the right-of-way for non-highway purposes shall not be exercised when such use would be inconsistent with the provisions of Title 23 of the United States Code and of the Federal Highway Administration Regulations issued pursuant thereto or would interfere with the free flow of traffic or impair the full use and safety of the highway, and in any case the Department and the Grantee shall be consulted prior to the exercise of such rights: and provided, further that nothing herein shall preclude the United States Bureau of Land Management from locating Department of the Interior information signs on the portions of the right-of-way outside of construction clearing limits, except that such signs shall not be located on the right-of-way of an interstate system.
- (5) The design and construction of highway projects situated on this right-of-way will be in accord with the provisions of Title 23, United States Code - Highways, and amendments; the provisions of Title 23, Code of Federal Regulations; and the construction specifications of the state highway department as approved by the Federal Highway Administration for use on federal-aid projects.
- (6) Consistent with highway safety standards, the Grantee shall:
  - (a) Protect and preserve soil and vegetative cover and scenic and esthetic values on the right-of-way outside of construction limits.
  - (b) Provide for the prevention and control of soil erosion within the right-of-way and adjacent lands that might be affected by the construction, operation, or maintenance of the highway, and shall vegetate and keep vegetated with suitable species, all earth cut or fill slopes feasible for revegetation or other areas on which ground cover is destroyed. The Grantee shall maintain all terracing, waterbars, lead-off ditches, or other preventive works that may be required to accomplish this objective. This provision shall also apply to slopes that are reshaped following slides which occur during or after construction.
- (7) The Grantee shall:

- (a) Establish no borrow, sand, or gravel pits, stone quarry, or permanent storage areas, sites for highway operation and maintenance facilities, camps, supply depot or disposal areas within the right-of-way unless shown on approved construction plans without first obtaining approval.
  - (b) Maintain the right-of-way and highway facilities to acceptable standards of repair, orderliness, neatness, sanitation, and safety.
  - (c) Maintain the right-of-way clearing by means of chemicals only after specific written approval has been given by the Department after consultation with the United States Bureau of Land Management. Application for such approval must be in writing and specify the time, methods, chemicals, and the exact portion of the right-of-way to be chemically treated.
- (8) The Grantee, in consideration of the conveyance of said land, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns that
- (a) no person shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such land hereby conveyed,
  - (b) the Grantee shall use said land so conveyed in compliance with all requirements imposed by or pursuant to Title 49 CFR Part 21, Nondiscrimination in federally-assisted programs of the Department of Transportation, in effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended. In the event of breach of any of the above-mentioned nondiscrimination conditions, the Department shall have the right to re-enter said land and facilities on said land, and the above described land and facilities shall thereupon revert to and vest in and become the absolute property of the Department of Interior and its assigns, as such interest existing prior to this instrument.
- (9) When need for the easement herein granted shall no longer exist and the area has been reasonably rehabilitated to protect the public and environment, the Grantee shall give notice of that fact to the United States Secretary of Transportation and the rights herein agreed shall terminate and land shall immediately revert to the full control of the United States Secretary of the Department of the Interior or his assigns.

IN WITNESS WHEREOF, I, \_\_\_\_\_  
 Division Administrator (or acting in the official capacity thereof), pursuant to delegations of authority from the United States Secretary of Transportation and the Federal Highway Administrator, by virtue of authority in me vested by law, have hereunto subscribed my name as of the day and year first above written.

UNITED STATES OF AMERICA  
 DEPARTMENT OF TRANSPORTATION  
 FEDERAL HIGHWAY ADMINISTRATION

By \_\_\_\_\_  
 Division Administrator

STATE OF NEVADA )

CARSON CITY )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me, the undersigned, a Notary Public in and for Carson City, State of Nevada, \_\_\_\_\_ personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument upon which he acted, executed the instrument.

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IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_

In compliance with the conditions set forth in the foregoing deed, the State of Nevada, Department of Transportation, certifies, and by the acceptance of this deed, accepts the right-of-way over certain land herein described and agrees for itself, its successors and assigns forever to abide by the conditions set forth in said deed.

STATE OF NEVADA  
DEPARTMENT OF TRANSPORTATION

By \_\_\_\_\_  
Director Date

APPROVED AS TO LEGALITY AND FORM:

\_\_\_\_\_  
Deputy Attorney General Date

STATE OF NEVADA )  
CARSON CITY )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me, the undersigned, a Notary Public in and for Carson City, State of Nevada, \_\_\_\_\_ personally known (or proved) to me to be the \_\_\_\_\_ Director of the Department of Transportation of the State of Nevada who subscribed to the above instrument for the Nevada Department of Transportation under authorization of Nevada Revised Statutes, Chapter 408.205; that he affirms that the seal affixed to said instrument is the seal of said Department; and that said instrument was executed for the Nevada Department of Transportation freely and voluntarily and for the uses and purposes thereby mentioned.

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IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

By \_\_\_\_\_

**APPENDIX D**

**TEMPORARY CONSTRUCTION EASEMENT DEED**

THIS DEED, made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the UNITED STATES OF AMERICA, acting by and through the Department of Transportation, Federal Highway Administration, hereinafter referred to as the Department, and the STATE OF NEVADA, DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the Grantee:

WITNESSETH:

WHEREAS, the Grantee has filed application under the provisions of the Act of Congress of August 27, 1958, as amended (23 U.S.C. Section 317) and Section 107 (d), for temporary construction easement right-of-way over certain federal land under the jurisdiction of the United States Department of the Interior - Bureau of Land Management in the State of Nevada, and

WHEREAS, the Federal Highway Administration Division Administrator, pursuant to delegation of authority from the United States Secretary of Transportation, has determined that an easement over the land covered by the application is reasonably necessary for a right-of-way for \_\_\_\_\_ and

WHEREAS, the United States Department of the Interior, acting by and through the United States Bureau of Land Management, in its consent to the appropriation of the federal land, has agreed to the transfer by the Department of an easement over the land to the Grantee;

NOW THEREFORE, the Department, as authorized by law, and in compliance with all requirements imposed by or pursuant to Title 49 CFR, Department of Transportation, Subtitle A, Office of Secretary, Part 21, nondiscrimination in federally-assisted programs of the Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby grant to the Grantee a temporary construction easement right-of-way, for a ten-year term, unless sooner released, for construction purposes outside the highway right-of-way limits in, and upon the following described federal land within the City of \_\_\_\_\_, County of \_\_\_\_\_, State of Nevada:

Township \_\_\_\_ North South, Range \_\_\_\_\_ East, M.D.M.

SECTION

SUBDIVISION

more particularly delineated in Exhibit A attached hereto and made a part hereof, and as shown on the following described plats:

Drawing Nos.

Dated

Number of Drawings

marked Exhibit B attached hereto and made parts hereof, subject, however, to the following terms and conditions:

- (1) If outstanding valid claims exist on the date of this grant, the Grantee shall obtain such permission as may be necessary on account of any such claims.
- (2) Construction of the highway facility is to be undertaken by the Grantee in compliance with the Act entitled "An Act for the preservation of American antiquities" approved June 8, 1906 (34 Stat. 225, 16 U.S.C. 432-433), and state laws where applicable.
- (3) The easement herein granted shall terminate \_\_\_\_\_ ( ) years, which is not to exceed 10 years from the date of the execution of this deed by the United States of America in the event construction of a highway on the right-of-way is not started during such period.
- (4) The easement herein granted is limited to use of the described right-of-way and the space above and below the established grade line of the highway pavement for the purpose of construction, operation, and maintenance of a highway in accordance with the approved plans and does not include the grant of any rights for non-highway purposes or facilities: provided, that the right of the United States Bureau of Land Management to use or authorize the use of any portion of the right-of-way for non-highway purposes shall not be exercised when such use would be inconsistent with the provisions of Title 23 of the United States Code and of the Federal Highway Administration Regulations issued pursuant thereto or would interfere with the free flow of traffic or impair the full use and safety of the highway, and in any case the Department and the Grantee shall be consulted prior to the exercise of such rights: and provided, further that nothing herein shall preclude the United States Bureau of Land Management from locating United States Department of the Interior information signs on the portions of the right-of-way outside of construction clearing limits, except that such signs shall not be located on the right-of-way of an interstate system.
- (5) The design and construction of highway projects situated on this right-of-way will be in accord with the provisions of Title 23, United States Code - Highways, and amendments; the provisions of Title 23, Code of Federal Regulations; the construction specifications of the state highway department as approved by the Federal Highway Administration for use on federal-aid projects.
- (6) Consistent with highway safety standards, the Grantee shall:
  - (a) Protect and preserve soil and vegetative cover and scenic and esthetic values on the right-of-way outside of construction limits.
  - (b) Provide for the prevention and control of soil erosion within the right-of-way and adjacent lands that might be affected by the construction, operation, or maintenance of the highway, and shall vegetate and keep vegetated with suitable species, all earth cut or fill slopes feasible for revegetation or other areas on which ground cover is destroyed. The Grantee shall maintain all terracing, waterbars, lead-off ditches, or other preventive works that may be required to accomplish this objective. This provision shall also apply to slopes that are reshaped following slides which occur during or after construction.
- (7) The Grantee shall:

Establish no borrow, sand, or gravel pits, stone quarry, or permanent storage areas, sites for highway operation and maintenance facilities, camps, supply depot or disposal areas within the right-of-way unless shown on approved construction plans without first obtaining approval.

(8) The Grantee shall maintain the right-of-way and highway facilities to acceptable standards of repair, orderliness, neatness, sanitation, and safety.

(9) The Grantee shall maintain the right-of-way clearing by means of chemicals only after specific written approval has been given by the Department after consultation with the United States Bureau of Land Management. Application for such approval must be in writing and specify the time, methods, chemicals, and the exact portion of the right-of-way to be chemically treated.

(10) The Grantee, in consideration of the conveyance of said land, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns that (a) no person shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such land hereby conveyed, (b) the Grantee shall use said land so conveyed in compliance with all requirements imposed by or pursuant to Title 49 CFR Part 21, Nondiscrimination in federally-assisted programs of the Department of Transportation, in effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended. In the event of breach of any of the above-mentioned nondiscrimination conditions, the Department shall have the right to re-enter said land and facilities on said land, and the above described land and facilities shall thereupon revert to and vest in and become the absolute property of the Department of Interior and its assigns, as such interest existing prior to this instrument.

(11) When need for the easement herein granted shall no longer exist and the area has been reasonably rehabilitated to protect the public and environment, the Grantee shall give notice of that fact to the United States Secretary of Transportation and the rights herein granted shall terminate and land shall immediately revert to the full control of the United States Secretary of the Department of the Interior or his assigns.

IN WITNESS WHEREOF, I, \_\_\_\_\_  
Division Administrator (or acting in the official capacity thereof), pursuant to delegations of authority from the United States Secretary of Transportation and the Federal Highway Administrator, by virtue of authority in me vested by law, have hereunto subscribed my name as of the day and year first above written.

UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
FEDERAL HIGHWAY ADMINISTRATION

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Division Administrator

In compliance with the conditions set forth in the foregoing deed, the State of Nevada, Department of Transportation, certifies, and by the acceptance of this deed, accepts the right-of-way over certain land herein described and agrees for itself, its successors and assigns forever to abide by the conditions set forth in said deed.

STATE OF NEVADA  
DEPARTMENT OF TRANSPORTATION

\_\_\_\_\_  
DATE

By \_\_\_\_\_  
Director



APPROVED AS TO LEGALITY AND FORM:

\_\_\_\_\_  
Deputy Attorney General *Date*

TERMINATION AND RELEASE OF TEMPORARY HIGHWAY EASEMENT

The foregoing Temporary Highway Easement Deed dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, granting a temporary right-of-way for a material site, described in Exhibit \_\_\_\_, to the NEVADA DEPARTMENT OF TRANSPORTATION, Grantee, is hereby released and relinquished through DOT-FHWA to the United States Department of Interior - Bureau of Land Management.

STATE OF NEVADA  
DEPARTMENT OF TRANSPORTATION

\_\_\_\_\_  
DATE

By \_\_\_\_\_  
Director

APPROVED AS TO LEGALITY AND FORM:

\_\_\_\_\_  
Deputy Attorney General *Date*

Concurrence

The United States Department of Transportation, Federal Highway Administration concurs in the termination and release of this Temporary Highway Easement.

UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
FEDERAL HIGHWAY ADMINISTRATION

\_\_\_\_\_  
DATE

By \_\_\_\_\_  
Division Administrator

**APPENDIX E**

**HIGHWAY EASEMENT DEED - MATERIAL SITE**

THIS DEED, made this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between the UNITED STATES OF AMERICA, acting by and through the Department of Transportation, Federal Highway Administration, hereinafter referred to as the Department, and the STATE OF NEVADA, DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the Grantee:

WITNESSETH:

WHEREAS, the Grantee has filed application under the provisions of the Act of Congress of August 27, 1958, as amended (23 U.S.C. Section 317) for the right-of-way of a material site over certain federal land located in the State of Nevada under the jurisdiction of the United States Department of the Interior - Bureau of Land Management, and

WHEREAS, the Federal Highway Administration Division Administrator, pursuant to delegation of authority from the United States Secretary of Transportation, has determined that an easement over the land covered by the application is reasonably necessary for a right-of-way for a material site for construction and maintenance of federal-aid highways including Project \_\_\_\_\_ ; and

WHEREAS, the United States Department of the Interior, acting by and through the United States Bureau of Land Management, in its consent to the appropriation of the federal land, has agreed to the transfer by the Department of an easement over the land to the Grantee; and

NOW THEREFORE, the Department, as authorized by law, and in compliance with all requirements imposed by or pursuant to Title 49 CFR, Department of Transportation, Sub-title A, Office of Secretary, Part 21, nondiscrimination in federally-assisted programs of the Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby grant to the Grantee an easement for a right-of-way for the use of a material site on, over, across, in, and upon the following described federal land within the City of \_\_\_\_\_, County of \_\_\_\_\_, State of Nevada:

Township \_\_\_ North South, Range \_\_\_\_\_ East, M.D.M.

SECTION

SUBDIVISION

more particularly described in Exhibit A attached hereto and made a part hereof, and as shown on the following described plats:

Drawing Nos.

Dated

Number of Drawings

marked Exhibit B attached hereto and made parts hereof, subject, however, to the following terms and conditions:

- (1) If outstanding valid claims exist on the date of this grant, the Grantee shall obtain such permission as may be necessary on account of any such claims.
- (2) Use of the material site is to be undertaken by the Grantee in compliance with the Act entitled "An Act for the preservation of American antiquities" approved June 8, 1906 (34 Stat. 225, 16 U.S.C. 432-433), and state laws where applicable.
- (3) The easement herein granted shall terminate ten (10) years from the date of the execution of this deed by the United States of America in the event use of the material site is not started during such period.
- (4) The easement herein granted is limited to use of the described right-of-way for the purpose of a material site and or access road and does not include the grant of any rights for non-highway purposes or facilities: provided, that the right of the United States Bureau of Land Management to use or authorize the use of any portion of the right-of-way for non-highway purposes shall not be exercised when such use would be inconsistent with the provisions of Title 23 of the United States Code and of the Federal Highway Administration Regulations issued pursuant thereto, and in any case the Department and the Grantee shall be consulted prior to the exercise of such rights: and provided, further that nothing herein shall preclude the United States Bureau of Land Management from locating United States Department of the Interior information signs on the portions of the right-of-way outside of construction clearing limits.
- (5) Use of the material site situated on this right-of-way will be in accord with the provisions of Title 23, United States Code - Highways, and amendments; the provisions of Title 23, Code of Federal Regulations; and the construction specifications of the state highway department as approved by the Federal Highway Administration for use on federal-aid projects.
- (6) Consistent with highway safety standards, the Grantee shall:
  - (a) Protect and preserve soil and vegetative cover and scenic and esthetic values on the right-of-way outside of construction limits.
  - (b) Provide for the prevention and control of soil erosion within the right-of-way and adjacent lands that might be affected by construction of an access road or the use of the material site, and shall vegetate and keep vegetated with suitable species, all earth cut or fill slopes feasible for revegetation or other areas on which ground cover is destroyed. The Grantee shall maintain all terracing, waterbars, lead-off ditches, or other preventive works that may be required to accomplish this objective. This provision shall also apply to slopes that are reshaped following slides which occur during or after material extraction or access road construction.
- (7) Establish no sites for highway operation and maintenance facilities, camps, supply depots or disposal areas within the right-of-way, unless shown on approved construction plans, without first obtaining approval of the United States Bureau of Land Management authorized officer.
- (8) The Grantee shall maintain the right-of-way to acceptable standards of repair, orderliness, neatness, sanitation, and safety.

(9) The Grantee shall maintain the right-of-way clearing by means of chemicals, only after specific written approval has been given by the Department after consultation with the United States Bureau of Land Management. Application for such approval must be in writing and specify the time, methods, chemicals, and the exact portion of the right-of-way to be chemically treated.

(10) The Grantee, in consideration of the conveyance of said land, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns that (a) no person shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such land hereby conveyed, (b) the Grantee shall use said land so conveyed in compliance with all requirements imposed by or pursuant to Title 49 CFR Part 21, Nondiscrimination in federally-assisted programs of the Department of Transportation, in effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended. In the event of breach of any of the above-mentioned nondiscrimination conditions, the Department shall have the right to re-enter said land and facilities on said land, and the above described land and facilities shall thereupon revert to and vest in and become the absolute property of the Department of Interior and its assigns, as such interest existing prior to this instrument.

(11) When need for the easement herein granted shall no longer exist and the area has been reasonably rehabilitated to protect the public and environment, the Grantee shall give notice of that fact to the United States Secretary of Transportation and the rights herein granted shall terminate and land shall immediately revert to the full control of the United States Secretary of the Department of the Interior or his assigns.

IN WITNESS WHEREOF, I, \_\_\_\_\_ Division Administrator (or acting in the official capacity thereof), pursuant to delegations of authority from the United States Secretary of Transportation and the Federal Highway Administrator, by virtue of authority in me vested by law, have hereunto subscribed my name as of the day and year first above written.

UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
FEDERAL HIGHWAY ADMINISTRATION

By \_\_\_\_\_  
Division Administrator

STATE OF NEVADA )  
  
CARSON CITY )

On this \_\_ day of \_\_\_\_\_, 20\_\_\_, personally appeared before me, the undersigned, a Notary Public in and for Carson City, State of Nevada, \_\_\_\_\_ personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument upon which he acted, executed the instrument.

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IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

In compliance with the conditions set forth in the foregoing deed, the State of Nevada, Department of Transportation, certifies, and by the acceptance of this deed, accepts the right-of-way over certain land herein described and agrees for itself, its successors and assigns forever to abide by the conditions set forth in said deed.

STATE OF NEVADA  
DEPARTMENT OF TRANSPORTATION

By \_\_\_\_\_  
Director Date

APPROVED AS TO LEGALITY AND FORM:

\_\_\_\_\_  
Deputy Attorney General Date

STATE OF NEVADA )  
  
CARSON CITY )

On this \_\_ day of \_\_\_\_\_, 20\_\_, personally appeared before me, the undersigned, a Notary Public in and for Carson City, State of Nevada, \_\_\_\_\_ personally known (or proved) to me to be the \_\_\_\_\_ Director of the Department of Transportation of the State of Nevada who subscribed to the above instrument for the Nevada Department of Transportation under authorization of Nevada Revised Statutes, Chapter 408.205; that he affirms that the seal affixed to said instrument is the seal of said Department; and that said instrument was executed for the Nevada Department of Transportation freely and voluntarily and for the uses and purposes thereby mentioned.

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IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_

**APPENDIX F**

**TEMPORARY HIGHWAY EASEMENT DEED - MATERIAL SITE**

Application:  
Ptn. of A.P.N.  
Project  
E.A.  
Parcel

WHEN RECORDED RETURN TO:  
NEVADA DEPT OF TRANSPORTATION  
RIGHT-OF-WAY DIVISION  
1263 S. STEWART ST.  
CARSON CITY, NV 89712

THIS DEED, made this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between the UNITED STATES OF AMERICA, acting by and through the Department of Transportation, Federal Highway Administration, hereinafter referred to as the Department, and the STATE OF NEVADA, DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the Grantee:

WITNESSETH:

WHEREAS, the Grantee has filed application under the provisions of the Act of Congress of August 27, 1958, as amended (23 U.S.C. Section 317), for a temporary right-of-way for a material site on certain federal land located in the State of Nevada, under the jurisdiction of the United States Department of the Interior - Bureau of Land Management, and

WHEREAS, the Federal Highway Administration Division Administrator, pursuant to delegation of authority from the United States Secretary of Transportation, has determined that an easement over the land covered by the application is reasonably necessary for a material site for construction and maintenance of highways located on the Federal-aid System; and

WHEREAS, the United States Department of the Interior, acting by and through the United States Bureau of Land Management, in its consent to the appropriation of the federal land, has agreed to the transfer by the Department of an easement over the land to the Grantee; and

NOW THEREFORE, the Department, as authorized by law, and in compliance with all requirements imposed by or pursuant to Title 49 CFR, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, nondiscrimination in federally-assisted programs of the Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby grant to the Grantee a temporary easement for a right-of-way, for a \_\_\_\_\_ (\_\_\_) year term, unless sooner released, for the use of a material site on, over, across, in and upon the following described federal land within the City of \_\_\_\_\_, County of \_\_\_\_\_, State of Nevada:

Township \_\_\_ North South, Range \_\_\_\_\_ East, M.D.M.

**SECTION**

**SUBDIVISION**

more particularly delineated in Exhibit A attached hereto and made a part hereof, and as shown on the following described plats:

Drawing Nos.

Dated

Number of Drawings

marked Exhibit B attached hereto and made a part hereof, subject, however, to the following terms and conditions:

- (1) If outstanding valid claims exist on the date of this grant, the Grantee shall obtain such permission as may be necessary on account of any such claims.
- (2) Use of the material site is to be undertaken by the Grantee in compliance with the Act entitled "An Act for the preservation of American antiquities" approved June 8, 1906 (34 Stat. 225, 16 U.S.C. 432-433), and state laws where applicable.
- (3) The easement herein granted shall terminate \_\_\_\_\_ ( ) years from the date of the execution of this deed by the United States of America.
- (4) The easement herein granted is limited to use of the described right-of-way for the purpose of a material site and or access road and does not include the grant of any rights for nonhighway purposes or facilities: provided, that the right of the United States Bureau of Land Management to use or authorize the use of any portion of the right-of-way for nonhighway purposes shall not be exercised when such use would be inconsistent with the provisions of Title 23 of the United States Code and of the Federal Highway Administration Regulations issued pursuant thereto, and in any case the Department and the Grantee shall be consulted prior to the exercise of such rights: and provided, further that nothing herein shall preclude the United States Bureau of Land Management from locating United States Department of the Interior information signs on the portions of the right-of-way outside of construction clearing limits.
- (5) Use of the material site situated on this right-of-way will be in accord with the provisions of Title 23, United States Code - Highway, and amendments; the provisions of Title 23, Code of Federal Regulations; and the construction specifications of the state highway department as approved by the Federal Highway Administration for use on federal-aid projects.
- (6) Consistent with highway safety standards, the Grantee shall:
  - (a) Protect and preserve soil and vegetative cover and scenic and esthetic values on the right-of-way outside of construction limits.
  - (b) Provide for the prevention and control of soil erosion within the right-of-way and adjacent lands that might be affected by construction of an access road or the use of the material site, and shall vegetate and keep vegetated with suitable species, all earth cut or fill slopes feasible for revegetation or other areas on which ground cover is destroyed. The Grantee shall maintain all terracing, waterbars, lead-off ditches, or other preventive works that may be required to accomplish this objective. This provision shall also apply to slopes that are reshaped following slides which occur during or after material extraction or access road construction.
- (7) Establish no sites for highway operation and maintenance facilities, camps, supply depots or disposal areas within the right-of-way, unless shown on approved construction plans, without first obtaining approval of the United States Bureau of Land Management authorized officer.

(8) The Grantee shall maintain the right-of-way to acceptable standards of repair, orderliness, neatness, sanitation, and safety.

(9) The Grantee shall maintain the right-of-way clearing by means of chemicals only after specific written approval has been given by the Department after consultation with the United States Bureau of Land Management. Application for such approval must be in writing and specify the time, methods, chemicals, and the exact portion of the right-of-way to be chemically treated.

(10) The Grantee, in consideration of the conveyance of said land, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns that (a) no person shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such land hereby conveyed, (b) the Grantee shall use said land so conveyed in compliance with all requirements imposed by or pursuant to Title 49 CFR Part 21, Nondiscrimination in federally-assisted programs of the Department of Transportation, in effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended. In the event of breach of any of the above-mentioned nondiscrimination conditions, the Department shall have the right to re-enter said land and facilities on said land, and the above described land and facilities shall thereupon revert to and vest in and become the absolute property of the Department of Interior and its assigns, as such interest existing prior to this instrument.

(11) When need for the easement herein granted shall no longer exist and the area has been reasonably rehabilitated to protect the public and environment, the Grantee shall give notice of that fact to the United States Secretary of Transportation and the rights herein granted shall terminate and land shall immediately revert to the full control of the United States Secretary of the Department of the Interior or his assigns.

IN WITNESS WHEREOF, I, \_\_\_\_\_  
Division Administrator (or acting in the official capacity thereof), pursuant to delegations of authority from the United States Secretary of Transportation and the Federal Highway Administrator, by virtue of authority in me vested by law, have hereunto subscribed my name as of the day and year first above written.

UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
FEDERAL HIGHWAY ADMINISTRATION

\_\_\_\_\_  
DATE

By \_\_\_\_\_  
Division Administrator

In compliance with the conditions set forth in the foregoing deed, the State of Nevada, Department of Transportation, certifies, and by the acceptance of this deed, accepts the right-of-way over certain land herein described and agrees for itself, its successors and assigns forever to abide by the conditions set forth in said deed.



STATE OF NEVADA  
DEPARTMENT OF TRANSPORTATION

\_\_\_\_\_  
DATE

By \_\_\_\_\_  
Director

APPROVED AS TO LEGALITY AND FORM:

\_\_\_\_\_  
Deputy Attorney General *Date*

TERMINATION AND RELEASE OF TEMPORARY HIGHWAY EASEMENT

The foregoing Temporary Highway Easement Deed dated the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, granting a temporary right-of-way for a material site, described in Exhibit \_\_\_\_\_, to the NEVADA DEPARTMENT OF TRANSPORTATION, Grantee, is hereby released and relinquished through DOT-FHWA to the Department of Interior - Bureau of Land Management.

STATE OF NEVADA  
DEPARTMENT OF TRANSPORTATION

\_\_\_\_\_  
DATE

By \_\_\_\_\_  
Director

Concurrence

The Department of Transportation, Federal Highway Administration concurs in the termination and release of this Temporary Highway Easement.

DEPARTMENT OF TRANSPORTATION  
FEDERAL HIGHWAY ADMINISTRATION

\_\_\_\_\_  
DATE

By \_\_\_\_\_  
Division Administrator

## APPENDIX G



# United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
Las Vegas Field Office  
4701 N. Torrey Pines Drive  
Las Vegas, Nevada 89130-2301  
<http://www.blm.gov>



In Reply Refer To:  
CASE NUMBER  
SUBJECT CODE  
(NV-ORGANIZATION CODE)

## LETTER OF CONSENT - MATERIAL SOURCES

CERTIFIED MAIL NO.  
RETURN RECEIPT REQUESTED

Federal Highway Administration, Nevada Division  
XXXXXX XXXXXX, Division Administrator  
705 North Plaza Street, Suite 220  
Carson City, NV 89701

Dear XX XXXXXX,

A request has been received for the appropriation of public lands of the United States within the State of Nevada to issue a right-of-way use document to the Nevada Department of Transportation (NDOT) for maintenance and construction for Federal-aid highway purposes pursuant to the Act of August 27, 1958, as amended (23 U.S.C. Section 317).

The areas requested lie within:  
(LEGAL DESCRIPTION) as shown on the enclosed maps as approved by NDOT, Manager, Right-of-Way Engineering.

The Bureau of Land management (BLM) agrees to the appropriation and transfer of jurisdiction of the lands depicted on the enclosed maps subject to the conditions listed below (1-11) and also subject to the stipulations as outlined in the attached Exhibit A which must be included in the easement deed document issued to NDOT, agreed upon by the State, and enforced by the FHWA.

1. If outstanding valid claims exist on the date of this use authorization, NDOT shall obtain such permissions as may be necessary on account of such claims.
2. The provision of the Act entitled "An Act for the Preservation of American Antiquities" (16 U.S.C. 432-433) shall be compiled with.
3. The use right herein authorized shall terminate ten years, or sooner if agreed upon, from the date of execution of the transfer document by Federal Highway Administration (FHWA) to NDOT in the event construction of the highway has not been initiated during such period.

4. The use right herein authorized is limited to the described **appropriation of public lands** and the space above and below for highway purposes and does not include any use for non-highway purposes.
5. Retention of rights by BLM to use or authorize use on any portion of the right-of-way for non-highway purposes, provided such use would not interfere with the free flow of traffic, impair the full use and safety of the highway, or be consistent, or be inconsistent with the provisions of Title 23 of the United States Code and the FHWA regulations pursuant thereto, and the FHWA and **NDOT** concerned shall be consulted prior to exercising such rights.
6. Location by BLM of any Bureau information signs on the portion of the right-of-way outside of construction clearing limits except that such signs shall not be located on the right-of-way of an Interstate System.
7. Consistent with highway safety standards, **NDOT** shall:
  - a. Protect and preserve soil and vegetative cover and scenic aesthetic values on the right-of-way outside of construction limits.
  - b. Provide for the prevention and control of soil erosion within the right-of-way and adjacent lands that might be affected by construction, operation and maintenance of the highway.
  - c. Vegetate and keep vegetated with suitable species, all earth cut or fill slopes feasible for re-vegetation or other areas on which ground cover is destroyed where it is deemed necessary prior to completion of the highway and shall maintain terracing, water bars, leadoff ditches, or other preventive works that may be required to accomplish this objective. This provision shall also apply to slopes that are reshaped following slides which occur during or after construction.
8. Establish no sites for highway operation and maintenance facilities, camps, supply depot or disposal areas within the right-of-way, unless shown on approved construction plans, without first obtaining approval of the BLM authorized officer.
9. The grantee shall maintain the right-of-way to acceptable standards of repair, orderliness, neatness, sanitation, and safety.
10. Application of chemicals shall be pursuant to the National Environmental Policy Act and shall be approved by FHWA prior to application by the State.
11. Comply with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 242).

If you have any questions, please contact **GEOLOGISTS/REALTY SPECIALIST** at **(XXX) XXX-XXXX**.

Sincerely,

Signature  
BLM Title  
Office

Enclosures

1. **NDOT ROW Plan, Project Number XXXXXXXX**
2. **Special Stipulations** – Appendix L

cc: **NDOT**, Manager, Right-of-Way Engineering

## APPENDIX H



# United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
Las Vegas Field Office  
4701 N. Torrey Pines Drive  
Las Vegas, Nevada 89130-2301  
<http://www.blm.gov>



In Reply Refer To:  
CASE NUMBER  
SUBJECT CODE  
(NV-ORGANIZATION CODE)

### LETTER OF CONSENT - HIGHWAY

CERTIFIED MAIL NO.  
RETURN RECEIPT REQUESTED

Federal Highway Administration, Nevada Division  
XXXXXX XXXXXX, Division Administrator  
705 North Plaza Street, Suite 220  
Carson City, NV 89701

Dear XX XXXXXX,

A request has been received for the appropriation of public lands of the United States within the State of Nevada for the purposes of issuing a right-of-way use document to the Nevada Department of Transportation (NDOT) for highway purposes on **NDOT PROJECT NUMBER AND APPROVAL DATE**, pursuant to the Act of August 27, 1958, as amended (23 U.S.C. Section 317).

The areas requested lie within:

**(LEGAL DESCRIPTION MOUNT DIABLO MERIDIAN, Nevada, T. XX S., R. XX E., Sec. XX)** as shown on the enclosed maps designated as **(NDOT PROJECT NUMBER AND APPROVAL DATE: Sheet X of X and or through Sheet X of X, INCLUDE NDOT PARCEL ID'S Permanent Easement (PE) and Temporary Easement (TE))** and entitled R/W Plans, dated **(MMXXYYYY)**, as approved by **NDOT**, Manager, Right-of-Way Engineering.

In accordance with the provisions of the Interagency Agreement between the Bureau of Land Management (BLM) and the Federal Highway Administration (FHWA), the BLM agrees to the appropriation and transfer of the lands as depicted on the enclosed maps as referenced above for the foregoing purpose subject to the following conditions listed below and also subject to the stipulations as outlined in the attached Exhibit A which must be included in the **easement deed** document issued to NDOT, agreed upon by the State, and enforced by the FHWA.

1. If outstanding valid claims exist on the date of this use authorization, **NDOT** shall obtain such permissions as may be necessary on account of such claims.

2. The use right herein authorized shall terminate ten years, or sooner if agreed upon, from the date of execution of the transfer document by FHWA to **NDOT** in the event construction of the highway has not been initiated during such period.
3. The use right herein authorized is limited to the described **appropriation of public lands** and the space above and below for highway purposes and does not include any use for non-highway purposes.
4. Retention of rights by BLM to use or authorize use on any portion of the right-of-way for non-highway purposes, provided such use would not interfere with the free flow of traffic, impair the full use and safety of the highway, or be consistent, or be inconsistent with the provisions of Title 23 of the United States Code and the FHWA regulations pursuant thereto, and the FHWA and **NDOT** concerned shall be consulted prior to exercising such rights.
5. Location by BLM of any Bureau information signs on the portion of the right-of-way outside of construction clearing limits except that such signs shall not be located on the right-of-way of an Interstate System.
6. Consistent with highway safety standards, **NDOT** shall:
  - a. Protect and preserve soil and vegetative cover and scenic aesthetic values on the right-of-way outside of construction limits.
  - b. Provide for the prevention and control of soil erosion within the right-of-way and adjacent lands that might be affected by construction, operation and maintenance of the highway.
  - c. Vegetate and keep vegetated with suitable species, all earth cut or fill slopes feasible for re-vegetation or other areas on which ground cover is destroyed where it is deemed necessary prior to completion of the highway and shall maintain terracing, water bars, leadoff ditches, or other preventive works that may be required to accomplish this objective. This provision shall also apply to slopes that are reshaped following slides which occur during or after construction.
7. Establish no burrow, sand or gravel pits, stone quarry or permanent storage areas, sites for highway operation and maintenance facilities, camps, supply depot or disposal areas within the right-of-way, unless shown on approved construction plans, without first obtaining approval of the BLM authorized officer.
8. Application of chemicals shall be pursuant to the National Environmental Policy Act and shall be approved by FHWA prior to application by the State.
9. Comply with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 242).

If you have any questions, please contact **GEOLOGISTS/REALTY SPECIALIST** at **(XXX) XXX-XXXX**.

Sincerely,

Signature  
BLM Title  
Office

Enclosures

3. **NDOT ROW Plan, Project Number XXXXXXXX**
4. **Special Stipulations** – Appendix L

cc: **NDOT**, Manager, Right-of-Way Engineering

**APPENDIX I**

**RELINQUISHMENT OF BLM LAND USE AUTHORIZATION**

Serial Number \_\_\_\_\_

---

I HEREBY relinquish to the United States any and all rights and interests the Department of Transportation may have obtained by reason of the approval of the right-of-way grant by the Bureau of Land Management in the above identified case insofar as:

\_\_\_ all the lands described are concerned

\_\_\_ only the following described lands are concerned

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Section	/	Township	/	Range	/	Subdivision
---------	---	----------	---	-------	---	-------------

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Meridian	/	County	/	State	/	Acres
	/		/		/	

---

\_\_\_\_\_ Date

\_\_\_\_\_ Signature



## APPENDIX J

### SPECIAL STIPULATION EXAMPLES

Application No. \_\_\_\_\_

The Nevada Department of Transportation agrees to comply with the following:

1. An archaeological monitor shall be present during upgrading of the material site access road through archaeological site 26ES821 to ensure no damage is done to the site. NDOT shall notify BLM when the construction is to take place and a report documenting the results of the monitoring shall be submitted to the BLM within 30 days of monitoring completion.
2. Continued ingress and egress to adjacent public lands shall be provided either by allowing access through the pit area on the existing dirt road or relocation of the road. If relocation of the road is the preferred option, such action must be coordinated with the BLM - Elko office.
3. The marked gravesite in the southwest corner of the material site shall be fenced with six-foot chain link to prevent its obliteration.
4. Use and disposal of excess mineral materials for BLM land will be handled according to the following special stipulations.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

030/Office/Forms/Engr/Bssrw  
rev. 9/97

## APPENDIX K

### PROPOSED MATERIAL SITE FIELD CHECKLIST

BLM #: \_\_\_\_\_ NDOT #: \_\_\_\_\_ Date: \_\_\_\_\_

#### Areas of Impact

Mandatory Considerations	Yes	No	Information/Comment
Air Quality			
Area of Critical Environmental Concern (ACEC)			
Cultural Resources			
Environmental Justice			
Farm Lands (prime or unique)			
Floodplain			
Invasive, Non-native Species			
Native American Religious Concerns			
Threatened or Endangered Species			
Waste, Hazardous or Solid			
Water Quality			
Wetlands or Riparian Areas			
Wild and Scenic Rivers			
Wilderness			

Additional Considerations	Yes	No	Information/Comment
Forestry & Vegetation			
Grazing/Range			
Noise			
Recreation			
Social & Economic			
Visual			
Wild Horse & Burro			
Wildlife & Fisheries			
Other land uses (mining claims, leases, utilities)			
Other			

Land Status: \_\_\_\_\_ Land Use Plan: \_\_\_\_\_

Does the action conform to the land use plan: Yes No

Notes:

Signed:

\_\_\_\_\_

NDOT Representative

\_\_\_\_\_

BLM Representative

\_\_\_\_\_

Date

\_\_\_\_\_

Date