

**FACSIMILE**

**FROM:** U.S. Department of the Interior  
Bureau of Land Management  
Battle Mountain Field Office  
50 Bastian Road  
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**SENT BY:** Mary R. Craggett

\*\*\*\*\*

**SENT TO:** Dodie Moyle

**OFFICE:** Eureka County Office of Public Works

**FAX NUMBER:** 775-237-5708

**DATE:** February 21, 2001    **FILE CODE:** 2710    **# OF PAGES:** 14 w/cover

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**MESSAGE**

Dodie,

Here are some documents that might help you. The 7-page memo is my recommendation to management regarding the sale. The purpose of that memo was to outline for them that all of the necessary steps had been completed, so it might give you some background.

Then there is the serial register page, just 1 page.

The last thing is the letter to the Commissioners offering the land for sale and requesting money. However, the appraisal was done for 185 acres – the 145-acres sale proposal plus the 40-acre R&PP reversionary and mineral rights – so the value of the 2 parcels cannot be separated.

I checked and I do not have a copy of the appraisal here. If someone needs to see it, they should contact our State Office, as we discussed.

Hope this helps. Good to talk to you.

Mary

**UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT**

Battle Mountain Field Office  
50 Bastian Rd., P.O. Box 1420  
Battle Mountain, Nevada 89820

In reply refer to:  
N-60242  
NEV-061133  
2710  
(NV-063)

November 1, 1996

**Memorandum**

To: Assistant District Manager, Nonrenewable Resources

From: Realty Specialist

Subject: Eureka Land Sale N-60242 (145 acres) and Removal of R&PP Reversionary Clause from Patent #27-65-0255 (40 acres, NEV-061133)

**Eureka County Requests**

On August 28, 1995, the Board of Eureka County Commissioners formally requested the Bureau of Land Management (BLM) to offer land at the north end of the town of Eureka for sale. The County expressed interest in purchasing all of the available public land in the E½ of section 11, T. 19 N., R. 53 E., Mount Diablo Meridian, Nevada.

The town of Eureka is experiencing considerable growth in preparation for development of Homestake's Ruby Hill Project. Eureka County anticipates the growth will increase when the Environmental Impact Statement, now in preparation, is signed and the Plan of Operations is approved, allowing mining to commence.

A review of BLM records revealed that all of the land in question is encumbered with mining claims, all apparently controlled by Homestake Mining Company. I checked with a representative of Homestake, who confirmed that they, indeed, do control the claims. As we do not sell land encumbered with mining claims, the sale could not proceed unless Homestake was willing to consider relinquishing some of the claims.

Homestake expressed willingness to work with Eureka County and BLM toward a land sale, and said they would relinquish any claims they could on the land in question. Therefore, land sale case N-60242 was established on September 8, 1995. Lands not available for mining claim location or for inclusion in the sale proposal are:

- the 30-acre Eureka County Rodeo Ground, soon to be patented under the Recreation and Public Purposes Act;
- a 10-acre parcel withdrawn for the BLM Administrative Site and Fire Station;
- a 40-acre parcel patented to Eureka County in 1965; and

- a 10-acre parcel patented to Ed Melka in 1983.

At a meeting on November 28, 1995, between BLM representatives and Homestake personnel, the mining company agreed to review their geologic data and to develop a drilling program to determine which mining claims in the E $\frac{1}{2}$  of section 11, T. 19 N., R. 53 E., could be relinquished to make way for the proposed sale.

Homestake's condemnation drilling program was completed in the spring of 1996. On June 21, 1996, a letter was received from Homestake Mining Company stating where they could and could not relinquish claims. Accordingly, the sale proposal was refined to the following 145 acres:

Mount Diablo Meridian, Nevada

T. 19 N., R. 53 E.

sec. 11, NE $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ E $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ E $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ , W $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ .

Upon further review of BLM records, I found that the 40 acres of land patented to Eureka County in 1965 had been transferred under provisions of the Recreation and Public Purposes Act expressly for use as a sewage treatment facility (NEV-061133). The patent, #27-65-0255, includes a clause for title to revert to the United States if the approved development plan (for a sewage treatment facility) is not followed. This parcel has not been used for its intended purpose since 1979 or 1980, and title should have reverted years ago. Title did not revert, however, and the County has now expressed interest in acquiring full title to the parcel, legally described as:

Mount Diablo Meridian, Nevada

T. 19 N., R. 53 E.

sec. 11, SE $\frac{1}{4}$ NE $\frac{1}{4}$ .

This request is being processed concurrently with sale proposal N-60242.

### Background

The 145 acres of land proposed to be sold to Eureka County in sale case N-60242 were analyzed for sale in 1981, under serial number N-28829, when 280 acres of land in the E $\frac{1}{2}$  of section 11 were proposed for sale. Because of mining claim conflicts -- at that time the Notice of Realty Action did not segregate the land from mineral entry -- 150 acres of land were deleted from the proposal. Another 10-acre parcel was patented under the Color of Title act, leaving 120 acres to be offered for sale.

The remaining 120 acres, six parcels in the NE $\frac{1}{4}$  of the section, were offered for sale by competitive bidding at a public auction held in Eureka on March 31, 1982. Five days before the auction, the Windfall Mine had laid off two-thirds of its employees, and people were nervous about further layoffs. No bids were received. At the request of the State Director, an analysis of the sale was prepared; a copy of the analysis has been included in the new case file for reference.

Interest in the sale continued, however, and in 1988, the land was reappraised and offered for sale again. The acreage had decreased in the interim because of two actions affecting the original land sale area. The 30-acre Eureka Rodeo Ground had been authorized under an R&PP lease and 10

acres had been set aside for the new BLM Eureka Fire Station, leaving 80 acres available for sale. It was still divided into six parcels and offered for sale by competitive bidding procedures. Again, there were no bids. At the request of the County Commissioners, the six parcels were offered again in 1989, with the understanding that if no bids were received, the case would be closed. Case file N-28229 was closed on February 7, 1990.

Although the old sale case was closed, intermittent interest in the proposal continued. Now, with development of a large new mine expected in the near future, interest in a land sale at Eureka is once again very high.

Copies of the Notices of Realty Action (NORAs) for the previous sale offerings are included in this case file. The NORA published in 1982 included the appraisal values, but the 1988 NORA did not. Therefore, pertinent excerpts from the 1988 appraisal report have been incorporated in case file N-60242 for reference. Because the 1981 and 1988 appraisals dealt with small parcels -- the largest being only 40 acres -- they cannot be truly compared to the present appraisal, which addresses 185 acres. Nevertheless, it is interesting to note that the NE $\frac{1}{4}$ NE $\frac{1}{4}$  of section 11 appraised for \$66,500 in 1981, and for \$40,000 in 1988, values of \$1,662 and \$1,000 per acre, respectively. As noted in the 1982 sale analysis, the 1981 appraisal was done when mining development in the area was on the upswing.

#### **Present Proposal**

This proposal (see attached map) is for:

- a. the direct (non-competitive) sale of 145 acres of land to Eureka County to provide for community expansion (N-60242); and
- b. elimination of the reversionary clause in the 40-acre R&PP patent #27-65-0255 (NEV-061133).

A Notice of Realty Action (NORA) for each proposal was published in the *Federal Register* on July 13, 1996. The NORAs were published in the *Eureka Sentinel* on July 25, August 1, and August 8, 1996.

Two comments were received in response to publication of the NORAs. One, a letter from the Nevada State Clearinghouse, said that a mineral report should be done and brought out an inconsistency between the two NORAs. These issues have been resolved, as documented in a letter to the Clearinghouse, dated October 17, 1996.

The other was a protest to land sale N-60242, stating that classification of the land under the Taylor Grazing Act is still required prior to sale of the land. Research revealed that this comment had merit and the land was classified. A copy of the classification decision was sent to the person who filed the protest, and he subsequently withdrew his protest. This protest did not address Nev-061133, which was already classified for disposal.

The two actions were addressed together in the appraisal report approved on October 4, 1996. The appraisal estimated a Fair Market Value of \$1,700 per acre, which is \$315,000 for the entire 185 acres under consideration.

A Level I Contaminant Survey of the lands was conducted on April 4, 1996. No hazardous materials were found, but evidence was found that open dumping had occurred on part of the sale parcel. The report, which is in case file N-60242, recommended that the United States be indemnified from liability regarding the open dumping and any potential hazardous waste on the land.

A cultural resources survey of the subject land has been completed. The report, #BLM 6-(361-2), has been reviewed by the State Historic Preservation Office (SHPO). In order to expedite the proposed land sale, the SHPO concurred that loci of site CrNV-63-170 within the sale parcel are not eligible for the National Register of Historic Places. The SHPO did request, however, that BLM personnel periodically monitor the portion of site CrNV-63-170 outside of the sale area to ensure that significant disturbances do not occur. The portion of the Eureka Palisade Railroad Grade within the sale parcel was found to lack physical integrity and thus be ineligible for the National Register.

In 1988 the grazing permittees were issued Two Year Notices telling them that their grazing privileges (a total of 3 AUMs) on 80 acres of sale land in the NE $\frac{1}{4}$  of section 11 could be cancelled. The Notices did not include the 70 acres of land in the SE $\frac{1}{4}$  of the section, and the permittee is now being sent a Two Year Notice of the possible cancellation of 2 AUMs.

The Mineral Potential Report prepared in 1980 addressed all of the lands under sale proposal N-60242. This report with its supplements recommended that all minerals be transferred with the surface estate. The report has been reviewed and the recommendation to transfer the mineral estate was found to be appropriate for the 40-acre R&PP as well as for the 145-acre sale proposal (memorandum of October 30, 1996).

### **Recommendations**

#### FLPMA land sale

I recommend that the following described 145 acres of land, sale proposal N-60642, be offered to Eureka County by direct (non-competitive) sale, under authority of sections 203 and 209 of the Federal Land Policy and Management Act of 1976.

#### Mount Diablo Meridian, Nevada

T. 19 N., R. 53 E.,

section 11, NE $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ E $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
E $\frac{1}{2}$ E $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ , W $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ .

In accordance with the recommendation from the Mineral Report, all minerals should be transferred with the surface estate.

Patent, when issued, should include the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, (43 U.S.C. 945);
2. Right-of-way N-50249, for a water pipeline serving the Bureau of Land Management Eureka Administrative Site;

And be subject to:

1. Right-of-way grant NEV-04979, issued to the Nevada Department of Highways, its successors or assigns, under the Act of November 9, 1921, for highway purposes;
2. Right-of-way grant N-61091, issued to Nevada Bell, its successors or assigns, for a buried telephone line;
3. Right-of-way grant N-61092, issued to Nevada Bell, its successors and assigns, in perpetuity, for a buried telephone line; and
4. All other valid existing rights.

Right-of-way grants N-5638 and N-50847, both mentioned in the NORA, have been determined to be outside of the sale parcel. Right-of-way grants N-61091 and N-61092, both held by Nevada Bell in perpetuity, replace the portions of N-31970 and NEV-067106, respectively, that were affected by the proposed sale.

Upon patent issuance to Eureka County, rights to the portions of the following rights-of-way on the subject land will merge with the title. Should the purchaser be other than Eureka County, the patent would be subject to the following listed rights-of-way:

1. Right-of-way grant NEV-065179, for a buried sewer line, authorized under the Act of February 15, 1901;
2. Right-of-way grant N-46712, for a water pipeline, authorized under the Act of October 26, 1976; and
3. Right-of-way grant N-19823 for a buried sewer line, authorized under the Act of October 21, 1976.

Right-of-way grant N-48618, issued to Eureka County for a water pipeline, well house, and booster pump station, was referenced in the NORA and has since been determined to be outside of the sale parcel. Two authorizations listed in the preceding paragraphs, N-37190 and N-19823, were not specifically listed in the NORA, but were included under the purview of "other valid existing rights."

The purchaser should be required to indemnify the United States from liability regarding the open dumping and any potential hazardous waste on the land. The indemnification statement should be sent to the County when purchase money is requested, with the requirement that it be signed and returned with the purchase money.

Acceptance of the sale offer constitutes a request for conveyance of the available mineral interests -- in this case, the entire mineral estate. The sale proponent should be required to submit a \$50.00 nonrefundable filing fee for conveyance of the available mineral interests with the purchase price for the land. Failure to submit the nonrefundable fee for the mineral estate within the time frame specified by the authorized officer should result in cancellation of the sale.

In accordance with Bureau policy, Eureka County should be required to pay the cost of publishing the NORA in the Federal Register and in the Eureka Sentinel. Those costs are itemized below.

Should Eureka County not purchase the parcel, the public lands in this sale proposal should remain for sale, over the counter at no less than appraised fair market value, until the segregation terminates on April 27, 1997.

Elimination of the reversionary clause from R&PP patent #27-65-0255

I also recommend that a supplemental patent be issued to Eureka County, under authority of sections 203 and 209 of the Federal Land Policy and Management Act of 1976, for the following described 40-acre parcel, patented in 1965 under the R&PP Act (serial number NEV-061133):

Mount Diablo Meridian, Nevada

T. 19 N., R. 53 E.,  
section 11, SE $\frac{1}{4}$ NE $\frac{1}{4}$ .

The supplemental (corrected) patent should eliminate the reversionary clause from the patent and transfer the mineral estate to the patentee, as recommended by the geologist's memorandum dated October 30, 1996. Implicit in removing the reversionary clause is deleting the requirement that the patentee comply with the provisions of the approved plan of development, filed July 8, 1964. Also, the clause prohibiting transfer of the parcel without the concurrence of the Secretary of the Interior should be removed.

Because this parcel has been used for a sewage treatment facility, an indemnification statement should be required prior to issuance of a supplemental patent.

If the County were to decline the offer to eliminate the reversionary clause, they should be required to bring this parcel into compliance with terms of the existing R&PP patent.

The applicant should be required to submit a \$50.00 nonrefundable filing fee for conveyance of the mineral interests with the purchase price for the reversionary interest. In accordance with Bureau policy, Eureka County should be required to pay the cost of publishing the NORA in the Federal Register and in the Eureka Sentinel.

Publication costs for the two actions were as follows:

<u>Publication</u>	<u>Dates Published</u>	<u>Cost</u>	<u>Case Number</u>
<i>Federal Register</i>	July 31, 1996	\$300.00	N-60242
		\$200.00	Nev-061133
<i>Eureka Sentinel</i>	July 25, 1996		
	Aug 1, 1996		
	Aug 8, 1996	\$450.66	N-60242 & Nev-061133
<b>Total Publication Costs</b>		<b>\$950.66</b>	

**Rationale**

The proposed land sale has been administratively determined to need no further environmental analysis than that in environmental assessment NV-060-EA1-44, prepared for the original proposal.

An Administrative Determination Review (NV063-AD97-03) is attached for your review and signature as authorized officer. Issuance of a corrected patent and transfer of the mineral estate under the existing R&PP patent are categorically excluded from analysis under the national Environmental Policy Act. Categorical Exclusion Review NV063-CX97-12 is attached for your review and signature.

The proposed land sale is in the public interest, as it will allow for expansion of the community of Eureka, Nevada. A direct sale to the County is appropriate because it can be accomplished in a timely manner and it allows the local government flexibility in determining how, when, and if the land is divided up.

Giving Eureka County full title to the 40 acres now under R&PP patent #27-65-0255 is also in the public interest. Three sides of this parcel border the 145-acre FLPMA sale parcel, making it functionally a part of the sale parcel. If title to the R&PP parcel were to revert to the United State, in accordance with the patent, the parcel would be difficult and uneconomic for the United States to manage.

It is likely that Eureka County will divide the 185 acres of land into smaller portions and resell at least some of the land. If so, they can be expected to receive a higher purchase price per acre than the larger parcel commands at this time. This is the usual situation in real estate transactions; smaller parcels typically sell for a higher price per acre than larger parcels do. Furthermore, the county would be responsible for the expense of surveying portions of the parcel to be resold separately as well as for processing such sale transactions.

I concur/do not concur with the preceding recommendations and rationale.

\_\_\_\_\_  
Assistant District Manager  
Nonrenewable Resources

\_\_\_\_\_  
Date

3 Attachments:

- 1. Map
- 2. Administrative Determination Review NV063-AD97-03
- 3. Categorical Exclusion Review NV063-CX97-12

*Original signed papers in BXB State Offices - per Mary Craggett - 2-21-01*



**DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
CASE RECORDATION  
(LIVE) Serial Register Page**

RunDate/Time: 02/21/01 10:40 AM

Page 1 of 1

**01 10-21-1976;090STAT2757;43USC1719**  
**Case Type 272000: SALE-SEC 203 & 209 FLPMA**  
**Commodity 001: NONE**  
**Case Disposition: AUTHORIZED**

**Total Acres**  
145.000

**Serial Number**  
NVN--- - 060242

Name & Address	Serial Number: NVN--- - 060242	Int Rel	% Interest
EUREKA CNTY BOX 677 EUREKA NV 89316	PATENTEE		100.00000000

Max Twp	Rng	Sec	STYP	SNr	Suf	Subdivision	District/Resource	County	Mgmt Agency
21	0190N	0530E	011	ALIQ	0	NENE, NESE;	BATTLE MOUNTAIN FIELD	EUREKA	
21	0190N	0530E	011	MNR	1	E2E2NWNE, E2E2SWNE;	BATTLE MOUNTAIN FIELD	EUREKA	
21	0190N	0530E	011	MNR	2	W2SESWNE, E2E2NWSE;	BATTLE MOUNTAIN FIELD	EUREKA	
21	0190N	0530E	011	MNR	3	W2SESE, W2E2SESE;	BATTLE MOUNTAIN FIELD	EUREKA	

Act Date	Code	Action	Action Remarks	Serial Number: NVN--- - 060242
				Pending Office
09/08/1995	387	CASE ESTABLISHED		
07/15/1996	861	NORA ISSUED		
07/17/1996	133	APPR-REAPPR RQSTD		
07/31/1996	543	SEGREGATION (MINERAL)	LOC;	
07/31/1996	544	SEGREGATION (SURFACE)	ALL;	
07/31/1996	552	LAND SEGREGATED		
07/31/1996	610	PUBLISHED	61FR39980;	
09/14/1996	550	DETERMINED SUITABLE		
10/04/1996	132	APPRAISAL/REAPPR APPV	\$315000.00;	
12/20/1996	302	PURCHASE PRICE RECEIVED	\$24689.20;	
12/20/1996	392	MONIES RECEIVED	\$555.78; PUB COSTS	
02/13/1997	191	SALE HELD		
04/09/1997	302	PURCHASE PRICE RECEIVED	\$222202.70;	
04/27/1997	372	SEGREGATION TERMINATED		
06/18/1997	271	PATENT ISSUED	27-97-0028;	
06/23/1997	600	RECORDS NOTED		
06/24/1997	968	CASE ACTION COMPLETED		
08/25/1997	974	AUTOMATED RECORD VERIF		CJD
02/26/1998	600	RECORDS NOTED		

Line Nr	Remarks	Serial Number: NVN--- - 060242
0001	CROSS REFERENCE: N-28229 & NEV-061133	
0002	10/04/1996 APPRAISAL WAS FOR 185 ACRES, INCLUDING 40	
0003	FROM R&PP CASE NEV-061133	

# United States Department of the Interior

Bureau of Land Management  
Battle Mountain Field Office  
50 Bastian Road, P.O. Box 1420  
Battle Mountain, Nevada 89820

In Reply Refer To:  
N-60242  
NEV-061133  
2710  
(NV-063)

### **PERSONAL SERVICE**

Received by: \_\_\_\_\_  
Date: \_\_\_\_\_

### **NOTICE**

Eureka County Board of Commissioners : Direct Sale N-60~~242~~<sup>2</sup>  
P.O. Box 677 : Elimination of R&PP Reversionary Clause  
Eureka, Nevada 89316 : from Patent #27-65-0255

### **LAND OFFERED FOR SALE** **ELIMINATION OF REVERSIONARY CLAUSE OFFERED** **PURCHASE MONEY REQUESTED**

By a letter dated August 28, 1995, you requested that the Bureau of Land Management reoffer certain lands within section 11, T. 19 N., R. 53 E., Mount Diablo Meridian, for sale. All of the lands in question were encumbered by mining claims. The mining claimant agreed to relinquish claims on some of the land requested for purchase and the sale proposal was refined to a 145-acre parcel, totally within the E½ sec. 11, T. 19 N., R. 53 E., MDM.

By a letter dated July 22, 1996, you requested to receive full title to a parcel of land patented in 1965, under provisions of the Recreation and Public Purposes Act (R&PP), for use as a sewage treatment plant site. This parcel is also within the E½ sec. 11, T. 19 N., R. 53 E., MDM.

Both requests have been evaluated and approved.

Pursuant to Sections 203 and 209 of the Federal Land Policy and Management Act of October 21, 1976, the land described below has been identified as suitable for disposal. With this Notice, the land is hereby offered to you, by direct sale, in accordance with Title 43 Code of Federal Regulations 2711.3.