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m 2/27/04

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STATE OF NEVADA  
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Division of State Lands

MEMORANDUM

Shoshone

**DATE:** February 27, 2004

**TO:** Steve Robinson, Office of the Governor  
Mike Turnipseed, Dept. of Conservation and Natural Resources  
Michael Stafford, State Clearinghouse Coordinator  
Wayne Howle, Office of the Attorney General  
Sharrada James, Nevada Indian Commission  
Terry Crawford, Dept. of Wildlife  
Don Henderson, Dept. of Agriculture  
Catherine Cuccaro, Dept. of Transportation  
Alan Coyner, Division of Minerals  
Carl Dahlen, Economic Development Commission  
Alice Baldrice, State Historic Preservation Office  
Hugh Ricci, Division of Water Resources  
Cathy Barcomb, Wild Horse Commission  
Glenn Clemmer, Natural Heritage Program  
Pete Anderson, Division of Forestry

**FROM:** Skip Canfield, AICP, Senior Planner *Skip*

**RE:** Proposed Ely Shoshone Reservation Expansion

On January 20, 2004, Mike Del Grosso from this office sent you a memo informing you of the proposed Ely Shoshone Reservation Expansion. The Ely District BLM field office is currently evaluating this proposal and will be submitting a recommendation to the Secretary of Interior. This process is in its infancy and BLM estimates it will require a substantial amount of review and comment prior to any recommendation being forwarded to the Secretary.

In the interest of developing a consistent and unified State response to the proposal, an informational meeting at the Department of Conservation and Natural Resources was held on February 24, 2004. A good number of comments were provided to Jeff Weeks of the

Ely District BLM field office and the meeting was very productive. However, some State agencies were not in attendance.

- In an effort to obtain as much constructive input as possible, this memo is being sent to request that the attached information (provided at the February 24 meeting) be reviewed **and comments submitted to me at the Division of State Lands by March 12, 2004.**

A unified response, coordinated with the State Clearinghouse, will be sent to the Ely District BLM field office to be included in BLM's process to consider expansion of the reservation. As you can see from the attachments, there are a multitude of issues for BLM to consider and the BLM will be holding additional public meetings in the near future. The anticipated conclusion to this process is anticipated to be at least two years away with public and agency comments encouraged. As always, feel free to communicate directly with BLM. I would appreciate being copied your comments.

I appreciate your attention to this matter and look forward to your comments. If you have any questions, please feel free to call me at 775-687-4364, ex 235.

ATTACHMENTS

## Ely Shoshone Reservation Expansion Proposal

### Agenda:

1. Reservation expansion process
2. Ely Shoshone Tribe presentation
3. Issue identification
4. Questions & Answers

### Ground rules:

1. One person speaks at a time
2. No personal attacks
3. Allow for open discussion of the proposal
4. Provide reason for declared issue

### Background:

In the late 1990's the tribe came to BLM with a proposal for lands in the Mt. Grafton area. An internal review by BLM determined that this area would be too controversial and the tribe was asked to select a new area for consideration.

### Process:

1. Internal BLM review of proposal.
2. Public involvement to refine the proposal.
3. Tribes draft responses to issues identified by the public.
4. 2<sup>nd</sup> round of public meetings on responses to issues.
5. Presentation to the county commission.
6. BLM will consider county commission recommendations on proposal.
7. BLM will develop a draft report with a recommendation.
8. Draft report goes to Nevada State BLM Office, Washington BLM Director, Secretary of the Interior.
9. Report is presented to Congress who could pass legislation to transfer the land from BLM management to the Bureau of Indian Affairs in trust for the Ely Shoshone Tribe.

Issues verbalized during public meeting conducted Monday, Jan. 12, 2004:

1. Access: Would the public be guaranteed access to existing roads under the expansion proposal?
2. Water: How would the proposed expansion impact the water line to Ruth, Nev.? How would the proposed expansion impact Murray Springs? How would the proposed expansion affect water rights for livestock?
3. Traffic: Would the proposed expansion increase the density of motorists to and from existing subdivisions and, if so, by how much?
4. Under the proposed expansion, how would the BLM provide for mining, and oil and gas leasing interests?
5. Wildlife: How would the proposed expansion affect migration? What impact would there be to hunting opportunities? What is the depredation potential?
6. Recreation: How would the proposed expansion impact possible Off Highway Vehicle (OHV) events?
7. Wild Horses: A portion of the proposed expansion is in a Herd management Area. How would this affect BLM wild horse management?

Issues verbalized during public meeting conducted Monday, Jan. 26, 2004:

1. Zoning: the proposed expansion is on either side of U.S. Highway 93, south of the City of Ely and Ely Shoshone Colony. The east side of the highway is zoned residential. The west side of the highway is zoned commercial. How would the proposed expansion affect zoning regulations?
2. Statement of Need: Has the Ely Shoshone Tribe provided accurately the number of possible future residents? Has the Ely Shoshone Tribe provided to the BLM Ely Field Office sustainable population growth figures? Should the Ely Shoshone Tribe utilize a 1.8-percent figure to calculate sustainable population growth estimates?
3. What are the Ely Shoshone Tribe's intentions for the public lands on the west side of Ward Mountain?
4. Why does the BLM not open the land disposal process to competitive bid?
5. How many adults are members of the Ely Shoshone Tribe?
6. How many tribal members reside outside White Pine County? Does the Ely Shoshone Tribe provide services to members residing outside the county?

7. How many out-of-county tribal members would return to White Pine County, providing the expansion proposal is approved by Congress?
8. How would the Shoshone Tribe's proposed expansion affect the future economic growth of the City of Ely? Could the BLM Ely Field Office make available for disposal BLM-administered public lands elsewhere around the Ely community?
9. How does the Ely Shoshone Tribe determine tribal eligibility?
10. Has the BLM Ely Field Office met the legal requirements for public notification of a public meeting?
11. How does the Ely Shoshone Tribe propose providing water to potential future residents, e.g., the City of Ely or private wells?
12. Does the Ely Shoshone Tribe plan to test for water availability prior to initiating residential and/or commercial development?
13. Can the Ely Shoshone Tribe provide in detail to the public the planned-for uses for specific locations involved in the potential expansion? Also, will there be an opportunity for the public to dispute those uses?
14. How does the Ely Shoshone Tribe's expansion request tie in with development of the BLM Ely Field Office's Ely Resource Management Plan and Environmental Impact Statement (Ely RMP/EIS)?
15. Would the Ely Shoshone colony's expansion prevent area residents' access to their homes and/or property? Also, what tribe, or federal and/or state agency would have ownership and maintenance responsibilities for the roads?
16. Under the proposal, who would be responsible for maintaining a road that has already been constructed at the property owner's expense?
17. Would the BLM Ely Field Office consider providing to the Ely Shoshone Tribe their so-called ancestral lands instead of the public lands that the Ely community plans to use for future economic development?
18. Why did the Ely Shoshone Tribe request public lands on the west side of Ward Mountain?
19. Why does the Ely Shoshone Tribe want to plant a garden on the west side of Ward Mountain where residential development is not planned for?
20. Would the public still be provided access to hunting opportunities on public lands obtained by the Ely Shoshone Tribe?
21. How well does the Ely Shoshone Tribe's expansion proposal fit with White Pine County's master plan for development?

22. Can the Ely Shoshone Tribe provide in better detail its proposed uses for the public lands requested?
23. Is the Ely Shoshone Tribe National Environmental Policy Act (NEPA) exempt?
24. How would the Ely Shoshone Colony's expansion proposal affect my lifestyle, e.g., viewshed, hiking, etc.?
25. Are the majority of the Ely Shoshone Tribe's members in favor of the proposed expansion?
26. What assurances can the Ely Shoshone Tribe provide the public that is commercial ventures under the proposed expansion will be successful economically?
27. How can private individuals who are required to purchase public land compete with the Ely Shoshone Tribe, when the tribe obtains the public lands at no cost?
28. Can the Ely Shoshone Tribe make public its employee numbers, job descriptions and salaries?
29. Is there Native American support for the expansion proposal?
30. What is the deadline for written comments?
31. Do the Ely Shoshone Colony's development plans provide the City of Ely and White Pine County with additional revenue in the form of property and/or sales taxes?
32. Would the Ely Shoshone Tribe provide under its expansion plans adequate law enforcement?
33. Do state regulations apply on Native American-owned property?
34. Would the Ely Shoshone Tribe's development of neighboring property cause my property taxes to increase?
35. What court do I attend should I receive a citation on the segment of U.S. Highway 93 that is bounded on either side by the Ely Shoshone Colony?
36. Is the Ruby Valley Treaty of 1863 in any way connected to the expansion proposal?
37. Is the BLM obligated to provide to the Ely Shoshone Colony the requested public lands?
38. Why has the BLM not presented the expansion proposal to the Tri-County?
39. How many acres of public lands has the Duckwater Shoshone Tribe requested in its expansion proposal?

40. why was White Pine County turned down two years ago when it requested Section 33?
41. Could the expansion proposal be amended to allow for development/expansion over a period of time, as needed by the tribe?
42. Once the BLM Ely Field Office forwards the proposal to the Department of Interior, will the public lands involved be "locked up," or segregated to allow for no other use until the expansion proposal is acted upon?
43. How can interested publics best provide comment, and for what length of time?
44. How soon would the public lands be "locked up," or segregated?
45. Would the proposed expansion nullify existing rights, e.g., mineral entry, oil and gas entry, and/or water?
46. Will the BLM Ely Field Office and/or Ely Shoshone Tribe make public all information collected?
47. How would the proposed expansion affect my way of life?
48. Should the expansion be approved, would the federal government and/or Ely Shoshone Tribe provide White Pine County with funding similar to the Payment In Lieu of Taxes (P.I.L.T) payments it receives already for the public lands involved?
49. Could the Ely Shoshone Tribe make available for others in the community to purchase/develop some of the public lands currently requested?
50. could the Ely Shoshone Colony expand only on the east side (U.S. Highway 93/Ward Mountain)?
51. How many Animal Unit Months (AUMs) and resulting fees will the BLM relinquish under the proposed expansion?
52. Does the federal government typically attach pre-development covenants to such expansion proposals? If not, can the federal government do so?
53. Will the aforementioned issues be addressed and/or resolved at future public meetings – before the BLM Ely Field Office forwards its recommendation to the Department of Interior?
54. Would current Rights of Ways (ROWs) be honored if the expansion proposal is approved?
55. How would the proposed expansion affect the BLM Ely Field Office's proposed Ely Urban Interface Project?

56. Could the Ely Shoshone Tribe create within its development plans a buffer zone disallowing Native American development right up to the property line?

- end -



# ELY SHOSHONE TRIBAL LAND BASE EXPANSION PROPOSAL

## **Part 1 - Introduction**

This proposal is from the Ely Shoshone Tribe to the Bureau of Land Management to transfer public land into Trust Status under the United States government on behalf of the Ely Shoshone Tribe through legislative process in three separate parcels.

The Ely Shoshone Tribal Council has identified a great need to expand its reservation land base. The primary reasons for land expansion it to provide additional housing units for homeless tribal members; to exercise spiritual and cultural traditions; to further promote and develop education and recreation facilities; to establish tribal businesses and tribal enterprises; and to strengthen the overall economic and social conditions for its tribal members.

The proposal contains a description, need, and purpose of the proposed land to be withdrawn as identified as Parcels: A & B.

### **A. Ely Shoshone History**

Ely Shoshone Tribe is one of the nine bands of what is known as the Western Shoshone Nation. Ely Shoshone Tribe is a signatory of the Ruby Valley Treaty of 1863 entered into with the United States of America. The Treaty was ratified by the U.S. Senate on June 17, 1869 and proclaimed by the President of the United States on October 21, 1869.

Although the Treaty of Ruby Valley granted right of passage to U.S. citizens traveling through Western Shoshone ancestral land and allowed for the limited use of said land on a temporary basis, the Treaty of Ruby Valley did not cede any Western Shoshone Lands to the United States of America.

As a result of the Treaty, the Great Western Shoshone Nation was divided into nine bands. Ely Shoshone Tribal Reservation was created in 1934 under the Indian Reorganization Act. Ely Shoshone governs its Tribe by their Tribal Constitution with an effective body of Five Tribal Council Members known as the Ely Shoshone Tribal Council. The Ely Shoshone Tribal Council governs their Tribe with the focus of exercising their traditional and historical inherent sovereign powers.

Ely Shoshone Tribal Council hereby submits this proposal as an official request for Land Transfer for up to 21,760 acres of land.

## Statement of Need

In 1931, the Federal government purchased ten (10) acres of land near Ely, Nevada for the use by the Ely Tribal people. Although there were a minimum of very small homes located on this reservation, there were several families who occupied these homes. To date there is only one home located on the ten acre parcel. The housing development was inhibited as the location of the property was on a steep hill with a slope of 20 to 30 percent. Only 2 acres of the land is suitable for development.

In 1973, the Tribe entered into a 55 year lease with White Pine County for an additional parcel of eleven (11) acres for home site construction. (The Tribe purchased this land outright in 1992). This land is at its full capacity as it has 17 homes, an administration building, and a community park located on it.

In 1977, PL 95-191 conveyed to the Ely Shoshone an additional ninety (90) acre parcel of land adjoining the Ely city limits to the south. This The total land control of Ely Shoshone today is 111 acres, all within or near the town of Ely, Nevada. The Ely Shoshone Tribe currently has 45 homes located on this parcel. Thirty-Eight of these homes were built in 1985, and 5 were built in 1996, and two are privately owned modular homes. This parcel has a natural drainage swale running through it on the west side of the highway which prohibits the development of more homes. The 30 acre parcel is located on the east side of the Highway is primarily designated for economic development as it is on prime commercial highway frontage.

All three parcels are within one mile of one another. All three parcels are surrounded by development, and further growth for Housing and Economics development is impossible because there is no further room for development.

The present Tribal Membership of the Ely Shoshone Tribe is 488, plus a labor force of 302 people.

Ely Shoshone's population has increased over the years as example has grown from 132 in 1973, to 298 in 1999 to 488 today. This population growth has increased by 65% in a short period of time. One of the biggest contributing factors to the Enrollment increase is due to the Ely Shoshone Tribe's Constitutional change to eliminate the requirement for 1/4 degree blood to be eligible for enrollment.

The Housing Authority is at full occupancy with a current waiting list of sixteen families.

Using a compounding population growth rate of 2.9% over a 100 year period for a housing need of 7,900 homes. The average household size is 2.61 people in each home. Approximate acreage needed for housing is 2,000 acres plus.

The Ely Shoshone Tribal council is greatly concerned about the future growth of their Tribal Community. Their desire is to provide each and every Tribal Community member with an opportunity for social, spiritual, cultural, heritage, economic, and self-sufficiency well being.

By increasing the present land base from 111 to approximately 22,000 acres it will provide opportunities for the growing population of the Ely Shoshone Tribal Membership for Housing, Economic development, and cultural and heritage preservation. The additional land base will help the long-term goals of the Ely Shoshone Tribe for self-sufficiency for now and for the future generations.

### **Description of the lands involved**

The objectives of the Ely Shoshone Tribe is to transfer lands from BLM into Trust and restore a portion of the Ely Shoshone Tribes ancestral lands, including economically critical land.

Purpose: Cultural, Spiritual, Hunting and Gathering Purposes, Economic Development, Housing Development.

The following lands are located within the following areas (Maps of each area are attached as Parcel A & B):

Parcel A Property located south of the Ely Shoshone Reservation on the Great Basin Highway.

The ancestral lands of the Western Shoshone Nation have deep religious and cultural significance to the Western Shoshone Indians.

The land has always been utilized by Western Shoshones for gathering, hunting, cultural, and spiritual purposes. Cooperative agreements and temporary land use purposes shall only be authorized or entered into by designated officials.

### **Analysis and explanation Why a Right-of-Way Would Adequately Fulfill our Purpose**

Preservation and use of the land is the first priority of the Ely Shoshone Tribe. Negotiations will be made with individuals who have rights-of-way. Provisions will be put in place as to protect other owners who may have rights-of-way on the proposed sites. To reserve public access for current established roads will be included in the tribe's legislative proposal.

### **Statement Verifying There are no Other Alternatives**

The parcels of land proposed for withdrawal are the most appropriate areas and will fulfill the needs of the proposed projects which will take place. The following descriptions explain the planned use as defined as Parcel A, B.

Parcel A consists of approximately 2,560 acres. The location is one/tenth of a mile from the present Ely Shoshone Reservation. This parcel is in close proximity of Police, Schools, Hospital,

Municipality, and Administration building.

Parcel A is identified for the following uses:

- 1) Primarily for Housing and Economic Development. It's location is ideal for this purpose, due to the highway frontage.
- 2) Large community Park with running and exercising paths, and a play area for the children, play courts, group picnic areas, Horseshoe pits, and a Regulated Softball/Baseball complex.
- 3) Gravel pits will be explored for economic development ventures.
- 4) Incubation sites to promote Tribal Business development.

Parcel B consists of approximately 19,200 acres. Since this parcel is the largest, there are many possibilities for use.

Parcel B is identified for some of the following uses:

- 1) Spiritual and cultural use.
- 2) Developing Housing ranchette sites.
- 3) Recreational use for a campground, bike trails, lodge, cabins, and tee pees. This is a place where year-round amenities will be available (ie, tourists, hunters, family gatherings, site for future Fandango, and will be used for Traditional Gatherings).
- 4) Growing native forage to be transferred to the other proposed sites, including locations where the Ely Shoshone Tribe is in the preliminary stages of land reclamation.
- 5) Economic development, the frontage area will be utilized for economic development to further the tribe's self-sufficiency.
- 6) Acreage will be allocated for a Tribal Cemetery.
- 7) Community Garden.

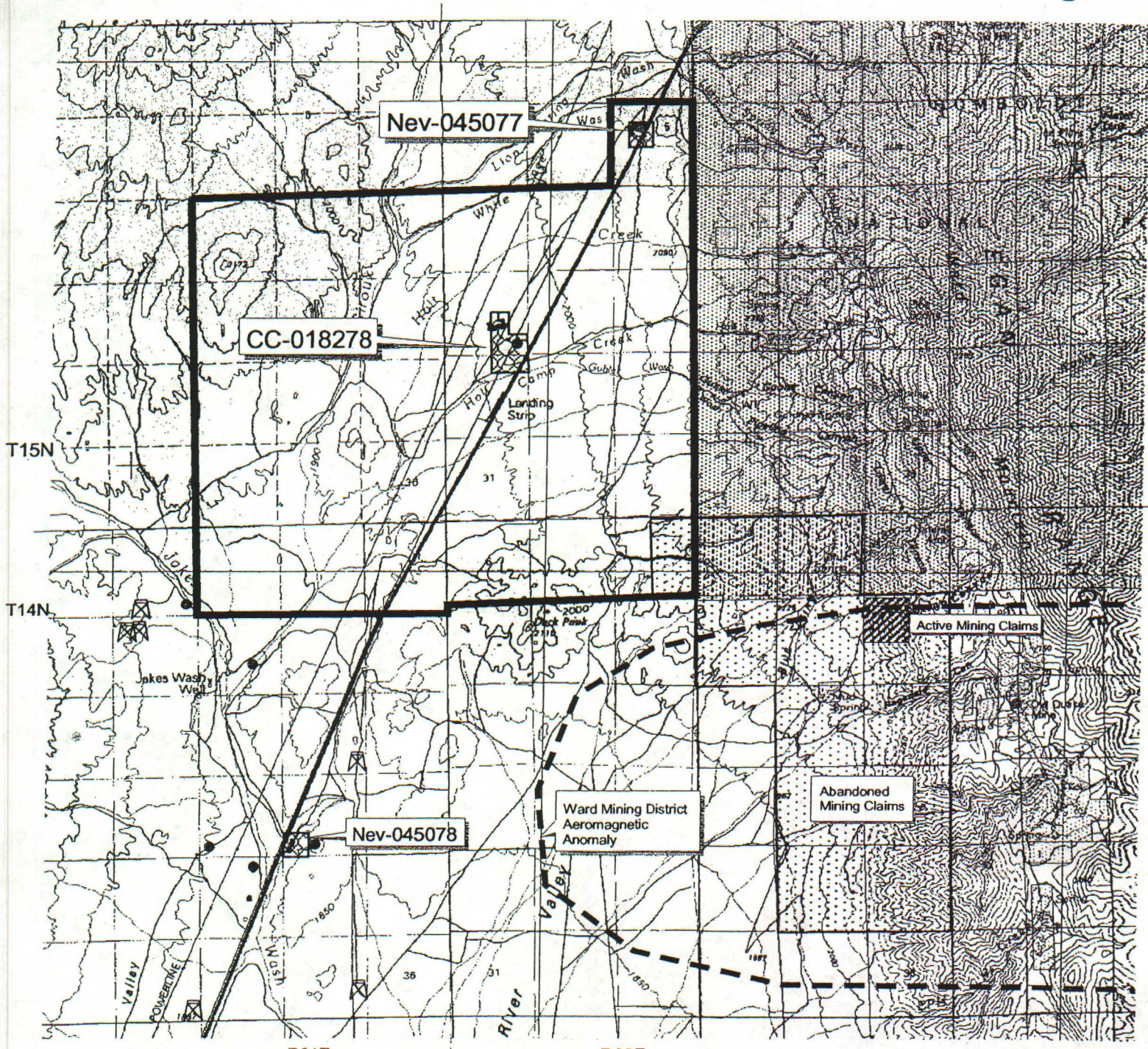
### **Water Needs**

Because of the project's nature on parcel A and the location, we are anticipating eventually connecting into the City of Ely's water system, if this is not possible wells and septic systems will be ventured.

The water will be mainly for habitat use. We are anticipating having self-contained projects.

# Ely Shoshone Proposal Gioroux Wash Portion

Ely District



Approx. 19,840 Acres

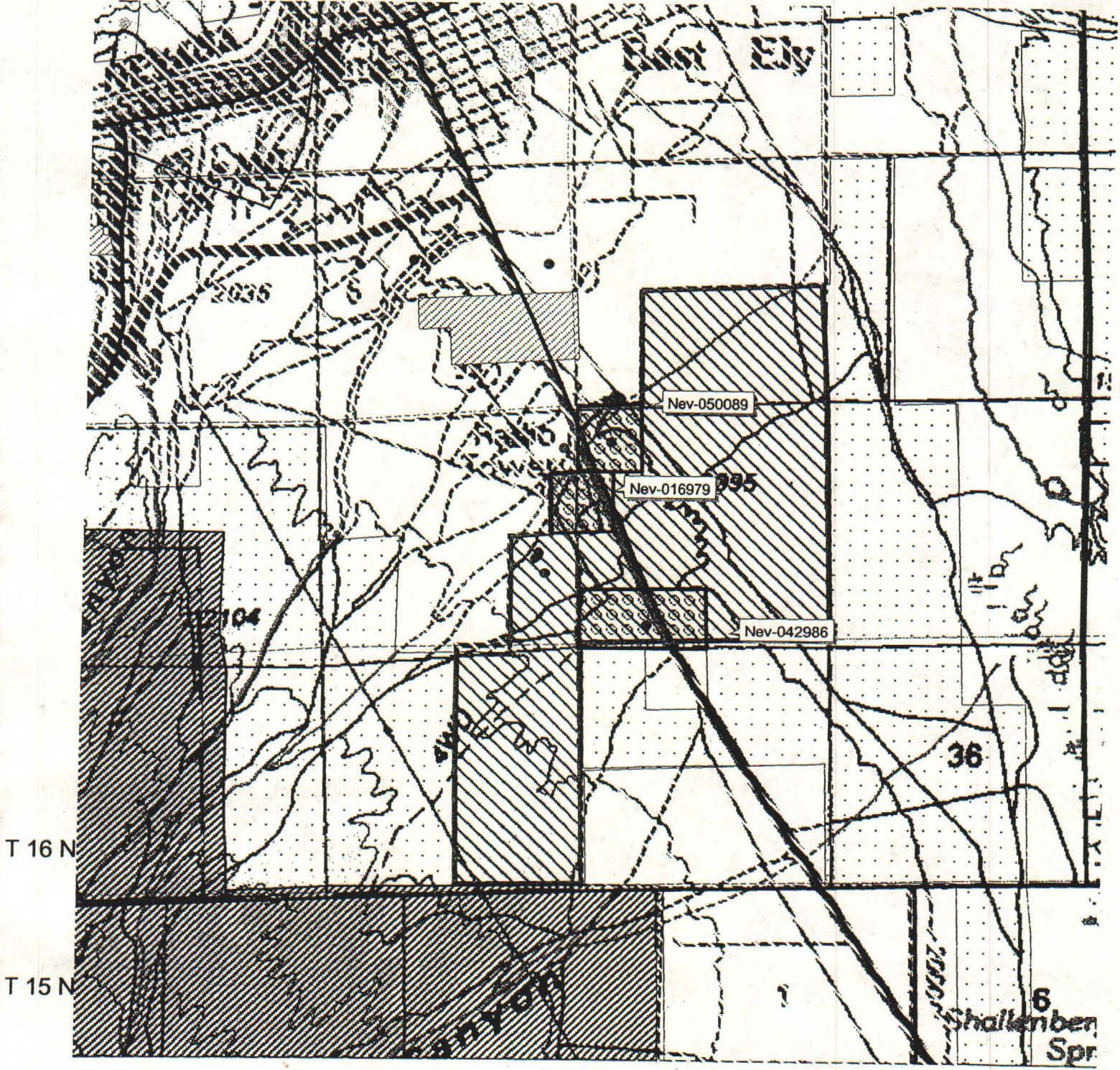
- NDOT Material Site
- Gravelpit
- Minesite
- Oil Well
- BLM
- USFS
- NAR
- PVT










No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual use or aggregate use with other data.

Bill Wilson  
8-18-03

# Ely Shoshone Disposal Steptoe Valley Portion



*Approx. 860 acres*

-  Ely Shoshone
-  NDOT Material Site
-  Gravelpit
-  Gravelpit
-  NAR
-  PVT
-  USFS



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