

**MEMORANDUM OF AGREEMENT BETWEEN THE
DEPARTMENT OF INTERIOR, BUREAU OF LAND MANAGEMENT
Ely District Office, Bristlecone Field Office
And
NEVADA STATE HISTORIC PRESERVATION OFFICER
Regarding the
KATHY SMITH DESERT LAND ENTRY
WHITE PINE COUNTY, NEVADA**

WHEREAS, the Bureau of Land Management (BLM) has determined that the decision to allow Kathy Smith, Tehama Creek Ranch (Smith), 302.5 acres of public land as a Desert Land Entry (DLE) for the installation of the complete irrigation system and the cultivation of hay by the applicant, as required to make proof for patent under the Desert Land Entry Act, 1877 in an undertaking subject to review under the National Historic Preservation Act (NHPA), Title 54 U.S.C. §306108, commonly known as Section 106 of the NHPA (Section 106), and its implementing regulations, 36 C.F.R. Part 800; and

WHEREAS, BLM has consulted with the Nevada State Historic Preservation Officer (SHPO) pursuant to Section 106 in regard to this undertaking; and

WHEREAS, BLM has defined the undertaking's Area of Potential Effect (APE) in T.22 N., R.64 E. within Section 22 and 27 (Figure 2); and

WHEREAS, BLM, in consultation with the SHPO, determined on December 14, 2015 that the undertaking will have an adverse effect on the 1913 Segment of the Lincoln Highway, a historic property described in *A Cultural Resources Inventory for the Tehama Ranch DLE Patent, White Pine County, Nevada*, BLM Report No. 8111-NV040-2008-1789 which is eligible under the Secretary's Significance Criteria A and C for listing in the National Register of Historic Places (NRHP) :and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), BLM has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination providing the specified documentation, and the ACHP has declined to participate in the consultation pursuant to 36 C.F.R. § 800.6(a)(1)(iii); and

WHEREAS, BLM, in consultation with the Ely Shoshone and Duckwater Shoshone Tribes (Tribes), determined that the proposed undertaking will not pose an effect to any historic property of religious and cultural importance to the Tribes; and

WHEREAS, to the best of BLM's knowledge and belief, no human remains, associated or unassociated funerary objects or sacred objects, or objects of cultural patrimony as defined in the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001), are expected to be encountered in the project location; and

NOW, THEREFORE, BLM and the SHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

The BLM shall ensure that the following stipulations are carried out:

I. TREATMENT OF HISTORIC PROPERTIES

The BLM shall publish photographic and electronic documentation of the Lincoln Highway to the BLM website and share the history of the Lincoln Highway that runs through the Ely District with the public by means of photographs and narrative information. In consultation with the SHPO, the website will also be published on the SHPO website.

- A. BLM shall ensure that it acquires any contemporary images necessary for the websites and submits them for review by the SHPO prior to the initiation of any-ground disturbing activities associated with the undertaking that would be visible in either the foreground or background of the images.
 1. BLM will submit the digital color photographs to the SHPO for review and comment. The SHPO will review the documentation for completeness within two (2) working days of receipt. The SHPO will send comments to BLM for action, if needed.
 2. Upon SHPO acceptance of the documentation described in Stipulation I.A.1, BLM may authorize the initiation of any part of the undertaking.
- B. Within one (1) year of the execution of the Memorandum of Agreement (MOA), BLM shall meet with the SHPO to finalize an outline for the contents of the website.
- C. Within two (2) years of the execution of the MOA, BLM shall submit the draft website to the SHPO for review. SHPO shall review the draft website within forty-five (45) days from receipt. BLM shall address any timely SHPO comments received in finalizing the website.

II. DURATION

This MOA will expire if its stipulations are not carried out within five (5) years from the date of its execution. At such time, and prior to work continuing on the undertaking, BLM shall execute a MOA pursuant to 36 C.F.R. § 800.6. Prior to such time, BLM may consult with the SHPO to reconsider the terms of the MOA and amend it in accordance with Stipulation IV below. BLM shall notify the SHPO as to the course of action it will pursue.

III. DISPUTE RESOLUTION

Should any signatory to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, BLM shall consult with such party to resolve the objection. If BLM determines that such objection cannot be resolved, BLM will comply with the Nevada State Protocol provision as stipulated under BLM-SHPO Dispute Resolution Section XIV.

The BLM is responsible to continue to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute.

IV. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

V. TERMINATION

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other party to attempt to develop an amendment per Stipulation IV, above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatory. Once the MOA is terminated, and prior to work continuing on the undertaking, BLM follow the steps outlined in Stipulation II above.

EXECUTION of this MOA by the BLM and the SHPO, and implementation of its terms, is evidence that the BLM has taken into account the effects of this undertaking on historic properties.

SIGNATORIES:

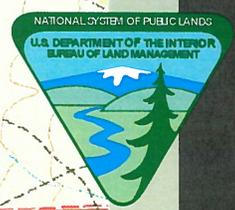
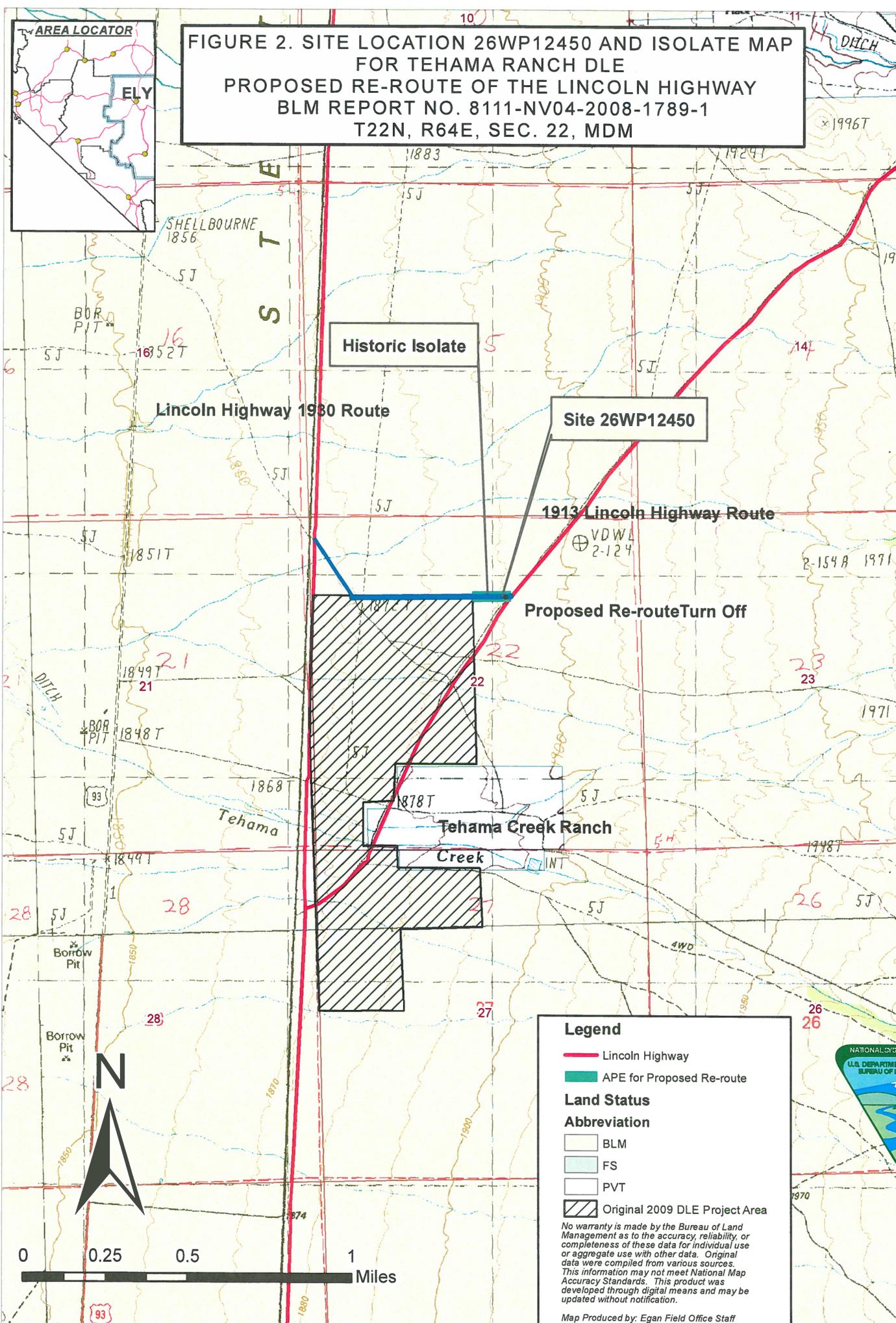
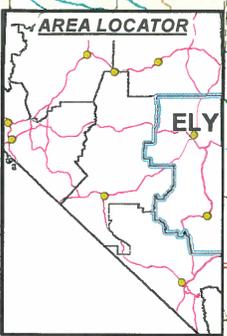


Jill A. Moore,
Field Manager, Bristlecone Field Office 12/2/16
DATE



Rebecca L. Palmer,
Nevada State Historic Preservation Officer 12/12/16
DATE

FIGURE 2. SITE LOCATION 26WP12450 AND ISOLATE MAP FOR TEHAMA RANCH DLE PROPOSED RE-ROUTE OF THE LINCOLN HIGHWAY BLM REPORT NO. 8111-NV04-2008-1789-1 T22N, R64E, SEC. 22, MDM



Legend

- Lincoln Highway
- APE for Proposed Re-route

Land Status

Abbreviation

- BLM
- FS
- PVT
- Original 2009 DLE Project Area

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Map Produced by: Egan Field Office Staff
3-25/2015

