

**PROGRAMMATIC AGREEMENT
BETWEEN
ELY DISTRICT OFFICE OF THE BUREAU OF LAND MANAGEMENT,
NEVADA DIVISION OF STATE LANDS, NEVADA DIVISION OF STATE PARKS,
NEVADA DEPARTMENT OF WILDLIFE
AND THE NEVADA STATE HISTORIC PRESERVATION OFFICER
REGARDING THE
CONVEYANCE OF 11,723 ACRES OF PUBLIC LAND TO THE STATE OF NEVADA
AS MANDATED BY
THE LINCOLN COUNTY CONSERVATION, RECREATION, AND DEVELOPMENT
ACT OF 2004
AND
THE WHITE PINE COUNTY CONSERVATION, RECREATION AND
DEVELOPMENT ACT OF 2006**

WHEREAS, the Ely District Office of the Bureau of Land Management (BLM) shall convey to the State of Nevada, Division of State Lands (“State Lands”), in conformance with NRS 321.001, for and on behalf of the Nevada Division of State Parks (“State Parks”) 4,784.1 acres of public lands to comply with the Lincoln County Conservation, Recreation, and Development Act of 2004 (LCCRDA), Public Law 108-424, Title V, Section 502 “Open Space Conveyance to the State of Nevada” (hereinafter referred to as “the Lincoln County conveyance”)(Appendix A); and

WHEREAS, the BLM shall convey to State Lands in conformance with NRS 321.001, for and on behalf of the State Parks, 658 acres of public lands and for and on the behalf of the Nevada Department of Wildlife (“NDOW”), 6,281 acres of public lands to comply with the White Pine County Conservation, Recreation, and Development Act of 2006 (WPCCRDA), Public Law 109-432, Title III, Section 351 “Conveyance to the State of Nevada” (hereinafter referred to as “the White Pine County conveyance”)(Appendix A); and

WHEREAS, the BLM shall lease to the State of Nevada on behalf of the State Parks 40 acres as authorized by the Recreation and Public Purposes Act (hereinafter referred to as “the R&PP Lease”) in the Ward Charcoal Ovens State Park; and

WHEREAS, the R&PP Lease, the White Pine County conveyance and the Lincoln County conveyance are collectively referred to hereinafter as the “Undertaking”; and

WHEREAS, the BLM, in consultation with Nevada State Historic Preservation Officer (SHPO), has determined that the Undertaking is an undertaking as defined in 36 CFR § 800.16[y]; and

WHEREAS, the BLM is responsible for ensuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA), 16 U.S.C. § 470f, and its implementing regulations, 36 CFR § 800 (Section 106) for the Undertaking; and

WHEREAS, the BLM has consulted with the State Lands, State Parks, and NDOW regarding the effects of the Undertaking on historic properties, their financial and legal responsibilities under this agreement, and has invited them to sign this Programmatic Agreement (“PA”) as Invited Signatories; and

WHEREAS, the 11,763 acres of public land identified in the Undertaking will be managed by State Lands, State Parks, and NDOW as either undeveloped open space for passive recreation, customary agricultural practices, wildlife protection, undeveloped open space, or for other public purposes in accordance with the LCCRDA and WPCCRDA public laws; and

WHEREAS, the BLM, in consultation with SHPO, has defined the Area of Potential Effect (APE) for the Undertaking as the 11,273 acres of public lands conveyed to the State of Nevada (Appendix B); and

WHEREAS, cultural resources eligible for inclusion on the National Register of Historic Places (NRHP), (hereinafter referred to as “historic properties”), may be present on the lands to be conveyed (Appendix C); and

WHEREAS, the BLM has determined that the Undertaking would adversely affect historic properties by conveying them out of federal management and has consulted with the SHPO pursuant to Section 106 of the NHPA; and

WHEREAS, portions of the Undertaking APE have not been subject to cultural resources field inventory, and it is not known whether historic properties are present on these lands; and

WHEREAS, effects to historic properties in the APE cannot be fully determined and the BLM, SHPO, State Lands, State Parks, and NDOW (hereinafter referred to as “Signatories”) desire to enter into this PA to set forth procedures to be followed in satisfaction of the BLM’s Section 106 responsibilities of the NHPA, for the Undertaking; and

WHEREAS, in accordance with 36 CFR § 800.14(b), the BLM has invited the Advisory Council on Historic Preservation (ACHP) to participate in the development and execution of this PA and the ACHP has declined to participate; and

WHEREAS, the BLM is responsible for conducting Tribal consultation on a government-to-government level and ensuring that it complies with the BLM manual 8120 and BLM Handbook, H-8120-1, guidelines for conducting Tribal consultation. Therefore, the BLM sent certified letters dated August 11, 2013 wherein the following Tribes were invited to consult on this Undertaking:

Battle Mountain Band Council,
Confederated Tribes of the Goshute Reservation, Nevada-Utah,
Duckwater Shoshone Tribe,
Elko Band Council,
Ely Shoshone Tribe of Nevada,
Kaibab Band of Paiute Indians of the Kaibab Indian Reservation,

Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony,
Moapa Band of Paiute Indians,
Paiute Indian Tribe of Utah: Cedar Band of Paiutes,
Paiute Indian Tribe of Utah: Indian Peaks Band of Paiutes,
Paiute Indian Tribe of Utah: Shivwits Band of Paiutes,
South Fork Band (Te-Moak Tribes of the Western Shoshone Indians of Nevada),
Te-Moak Tribes of the Western Shoshone Indians of Nevada,
Wells Indian Colony Band Council,
Yomba Shoshone Tribe; and

WHEREAS, the BLM received a letter from the Duckwater Shoshone Tribe stating that they concur with the transfer and that “the protection of the sites should be monitored more closely by the State Parks.”; and

WHEREAS, the BLM received no other responses from Tribes regarding the request to consult; and

WHEREAS, the Nevada Site Stewardship program (NSSP), administered by the SHPO (NRS 383.075), will assist in the coordination of both concerned citizen volunteers and employees of State Parks and NDOW to monitor historic properties located within the APE for the Undertaking; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(4) and 36 CFR § 800.14(b)(2)(ii), the BLM has notified the public of the Undertaking through public notices and letters to interested parties, and has held a public meeting to provide an opportunity for members of the public to express their views on the conveyances, the development of the PA, and the NHPA process. This process was accomplished when these land transfers were analyzed in the Environmental Impact Statement for the Ely District’s Resource Management Plan that was signed in August of 2008; and

WHEREAS, this PA covers all aspects of the planning, development, and implementation of future actions State Lands, State Parks, and NDOW may initiate or permit in the APE; and

WHEREAS, any other federal assistance or permits necessary for the completion of projects in the APE will require the responsible federal agency, if not a Signatory to this PA, to comply with NHPA, 16 U.S.C. § 470f, and its implementing regulations, 36 CFR § 800 for the project; and

NOW THEREFORE, the Signatories agree that implementation of this PA shall be administered in accordance with the following stipulations to ensure that adverse effects to historic properties will be avoided, or the effects minimized or mitigated to the extent practicable, and to satisfy the BLM’s NHPA responsibilities for all aspects of the Undertaking.

I. PURPOSE AND INTENT

Programmatic Agreement Regarding the Conveyance of 11,723 Acres of Public Land to the State of Nevada
as Mandated by The Lincoln County Conservation, Recreation, and Development Act of 2004
and the White Pine County Conservation, Recreation and Development Act of 2006

BLM will convey the public lands described above to the State of Nevada for public purposes in accordance with the public laws identified herein. These include, but are not limited to, the facilitation and enhancement of passive recreational use, construction and maintenance of trailhead facilities and trails, reduction of hazardous fuels, maintenance or reconstruction of structures, the designation of motorized vehicles routes and staging areas, and the maintenance of wildlife habitat. Some of the conveyed lands have been inventoried for cultural resources and contain historic properties, while some of those lands have not been inventoried and it is unknown whether historic properties are present. Future development and use of these lands may have an adverse effect on historic properties. The purpose of this PA is to establish procedures to be followed by SHPO, State Lands, State Parks, and NDOW to satisfy BLM responsibilities under NHPA.

II. ROLES AND RESPONSIBILITIES

- A. The Ely District Manager is the BLM Authorized Officer for the Undertaking. The District Manager, or designee, is the point of contact for BLM. The Ely District shall notify all Signatories of the name and title of the point of contact by January 31 of each year or whenever the assignment changes, whichever comes first.
- B. The Administrator of State Lands, or their designee, is the point of contact for State Lands. State Lands shall notify all Signatories of the name and title of the point of contact by January 31 of each year or whenever the assignment changes, whichever comes first.
- C. The Administrator of State Parks, or their designee, is the point of contact for State Parks. State Parks shall notify all Signatories of the name and title of the point of contact by January 31 of each year or whenever the assignment changes, whichever comes first.
- D. The Director of NDOW, or their designee, is the point of contact for NDOW. NDOW shall notify all Signatories of the name and title of the point of contact by January 31 of each year or whenever the assignment changes, whichever comes first.
- E. The State Historic Preservation Officer, or designee, is the point of contact for SHPO. The SHPO shall notify all Signatories of the name and title of the point of contact by January 31 of each year or whenever the assignment changes, whichever comes first.
- F. Pursuant to Nevada Revised Statute (NRS) 383.430, the State of Nevada shall be responsible for all expenses associated with carrying out the provisions of this PA, except for costs incurred by BLM or SHPO during fulfillment of the responsibilities assigned to them in this PA.
- G. Either State Lands, State Parks, or NDOW depending on which Division or Department is responsible for the proposed project or for the management of the land (hereinafter to be identified as the "Initiating Party") shall ensure that all Signatories are provided with an adequate opportunity to comment, in accordance with the following stipulations of this

PA, on all proposed development, rehabilitation, or maintenance activities on lands in the APE. The Initiating Party shall ensure that the process outlined in following stipulations is initiated early in the project's planning, so that a broad range of alternatives may be considered during the planning process for the project.

- H. To ensure the effectiveness of the monitoring required in Stipulation VIII.A., SHPO, through the NSSP, will provide training to both concerned citizen volunteers and employees of State Parks and NDOW consistent with that required for NSSP site steward certification. Unless a special training event is requested by a Signatory, SHPO will integrate newly-hired employees of State Parks and NDOW, or employees requiring a refresher lesson, into the existing NSSP training schedule. Upon the request of any Signatory, NSSP shall provide a list of trained State Parks or NDOW employees or trained concerned citizens who are either assigned to monitor historic properties in accord with Stipulation VIII.A.1 or who are available for such an assignment. The land managing Division or Department shall maintain an adequate number of trained monitors, either employees of State Parks and NDOW or concerned citizens, to ensure compliance with Stipulation VIII.A throughout the duration of the PA.
- I. The Initiating Party, in consultation with SHPO and BLM, shall ensure that all work undertaken to satisfy the terms of this PA meets the *Secretary of Interior's Standards and Guidelines for Archeology and Historic Preservation* (48 FR 44716-44742, September 23, 1983) (Standards) and takes into consideration the ACHP's *Recommended Approach for Consultation on Recovery of Significant Information from Archaeological Sites* (May 1999), the *BLM Nevada Guidelines and Standards for Archaeological Inventory, 5th edition* (BLM Guidelines) or any subsequent edition issued by BLM, the NRHP's *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (National Register Bulletin 38, 1989), and any other applicable guidelines or standards.
- J. The Initiating Party, in consultation with SHPO and BLM, shall ensure that ethnographic, historic, architectural, and archaeological work conducted pursuant to this PA is carried out by or under the direct supervision of persons meeting qualifications set forth in the *Secretary of the Interior's Professional Qualifications Standards* (currently available at http://www.nps.gov/history/local-law/arch_stnds_9.htm) and who have been permitted for such work, as necessary, by the BLM Nevada State Office.
- K. The Signatories agree that the *State Protocol Agreement between the Bureau of Land Management, Nevada and the Nevada State Historic Preservation Office for Implementing the National Historic Preservation Act, dated February 3, 2012* (Protocol), or any future edition, except as amended here, will be utilized for this PA. This Protocol is incorporated by reference.

III. IDENTIFICATION

- A. Prior to authorizing an activity with a potential to affect historic properties within the Undertaking APE, the Initiating Party shall consult in writing with SHPO to determine

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the project APE and the need for a cultural resources inventory. These projects shall include, but not be limited to those that result in ground disturbance of any kind or modification to any structure, object, building, or feature. The Initiating Party shall send concurrent notification of this consultation, including copies of maps and project APE description, to BLM and State Lands for their records, if this Division is not the Initiating Party.

- B. Concurrent with the consultation with SHPO described in Stipulation III.A above, the Initiating Party shall seek input from the Tribe(s) to identify properties of traditional religious or cultural importance. Procedures for seeking Tribal input are specified in Appendix D. Information on the location and nature of all cultural resources or information considered proprietary by the Tribe(s) will be held confidential by the Initiating Party, or their qualified consultant, to the extent provided by state law. Neither BLM nor the Initiating Party will disseminate this information beyond what is required to complete the Section 106 process as agreed to in this PA.
- C. SHPO shall notify the Initiating Party, BLM, and State Lands if this Division is not the Initiating Party of its determination, as to whether the project APE has been adequately inventoried or additional inventory is necessary within 30 days of SHPO receipt of the written request.
- D. If SHPO determines that additional inventory is necessary, the Initiating Party shall, in consultation with SHPO, ensure that the required identification activities are completed by the Initiating Party's consulting archaeologist, or other qualified individuals as necessary. Identification activities may include, but are not limited to, archival research, context development, informant interviews, and archaeological, historic, or ethnographic inventories. The Initiating Party shall ensure that all cultural resources are recorded in accordance with the BLM Guidelines or SHPO standards appropriate for the resource. Report submission and review shall follow the timeframes described in Stipulation VIII.B of this PA.

IV. ELIGIBILITY

- A. The Initiating Party, through its qualified consultant and in consultation with SHPO and other consulting parties as necessary, shall evaluate all cultural resources recorded under this PA for eligibility to the NRHP based on an existing approved historic context or one that will be prepared. The Initiating Party shall send concurrent notification of this consultation to BLM for their records.
- B. The Initiating Party shall seek input from the Tribe(s) that responded with concerns during the initial consultation efforts to evaluate the eligibility of properties of traditional religious and cultural importance within the project APE. Procedures for seeking Tribal input are specified in Appendix D. The Initiating Party shall provide the results of their request for Tribal input to SHPO for review and to BLM for their records.

- C. Following acceptance from SHPO, the Initiating Party shall provide final inventory and eligibility evaluation reports resulting from actions pursuant to this PA to SHPO, BLM, the land-managing Division or Department if they are not the Initiating Party, and the Tribe(s) or other interested parties as appropriate.

V. TREATMENT

- A. To the extent practicable, the Initiating Party shall, in consultation with SHPO, other Signatories, Tribe(s) and consulting parties as appropriate, ensure that project activities avoid adverse effects to historic properties through project design or redesign, relocation of activities, or by other means in a manner consistent with the Protocol. The SHPO shall determine the precise nature of effects to historic properties identified in the project APE, using the criteria of adverse effect found at 36 CFR § 800.5 and notify the Initiating Party, BLM, and State Lands if not the Initiating Party of their findings within 30 days of receipt of the final inventory and eligibility evaluation report.
- B. When avoidance is not feasible and data recovery or other mitigation is proposed to resolve project-related adverse effects to historic properties, the Initiating Party shall develop a Data Recovery/Treatment Plan (Plan) that is consistent with the *Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation* (48 FR 44716-37), *Treatment of Historic Properties: A Handbook* (Advisory Council on Historic Preservation 1980) and ACHP's *Recommended Approach for Consultation on the Recovery of Significant Information from Archaeological Sites* (June 17, 1999). The order and timing of steps for preparation of the Plan is as follows:
 - 1. During preparation of the Plan, the Initiating Party shall seek input from the Tribe(s) on appropriate treatment to avoid, minimize, or mitigate adverse effects to historic properties of traditional religious and cultural importance.
 - 2. The Initiating Party shall prepare a draft Plan and submit it to BLM for review.
 - 3. During review of the draft Plan, BLM shall contact the Tribe(s) to confirm that the Initiating Party has sought and considered its input, and to seek any further input.
 - 4. BLM shall provide comments on the Plan to the Initiating Party, and the Initiating Party shall revise the Plan to address BLM's comments within 30 days of receipt of comments.
 - 5. Once BLM approves a final Plan, BLM shall submit the Plan to SHPO and ask for concurrence. BLM shall concurrently provide a copy of the Plan to the Tribe(s) and interested parties, as appropriate.
 - 6. SHPO shall respond within 30 days of receipt or notify BLM that additional time is needed.

7. Upon concurrence from SHPO that the Plan is adequate to resolve the Adverse Effects of a project, the Plan may be implemented.

C. Preparation of reports of treatment activities:

1. Following implementation of the Plan, the Initiating Party shall provide BLM with a draft report of all treatment activities within nine months after completion of the fieldwork associated with the activities, unless otherwise negotiated.
2. BLM shall provide a copy of the draft report to SHPO and the Tribe(s) as appropriate for a 30-day review period.
3. Following the close of the 30-day SHPO and Tribe(s) review period as appropriate, BLM shall review and provide comments to the Initiating Party.
4. The Initiating Party shall submit a revised final report to the BLM within 30 days of receipt of BLM's comments.
5. Upon acceptance, BLM shall provide the final report to SHPO and the Tribe(s) as appropriate.

D. For properties eligible under NRHP criteria (a) through (c), mitigation other than data recovery may be considered in the Plan. Examples of this type of mitigation include Historic American Buildings Survey/Historic American Engineering Record recording, oral history, historic markers, exhibits, interpretive brochures or publications.

E. The Initiating Party shall maintain all records and materials resulting from treatment efforts until the final treatment report is complete. All materials collected will be maintained in accordance with 36 CFR § 79 or 43 CFR § 10, until the final treatment report is complete and collections are curated at the Nevada State Museum (NSM) and/or at a facility in Nevada certified by the American Alliance of Museums that the land managing Division or Department designates to maintain the collection. The Initiating Party, or their contractor, shall provide proof of a current curation agreement with NSM and/or a facility curation plan to BLM within two weeks of BLM acceptance of the final reports.

F. The Initiating Party shall provide all final archaeological reports resulting from actions pursuant to this PA to SHPO, BLM, and the Tribe(s) or other interested persons as appropriate. All such reports shall be consistent with contemporary professional standards and the *Secretary of Interior's Formal Standards for Final Reports of Data Recovery Programs* (48 FR 447716-44740). Final reports will be submitted in both paper and electronic copies and will include digital copies of all associated data (e.g. GPS files, GIS shapefiles, digital photographs, etc.) per BLM Guidelines.

VI. DURATION

This PA shall be effective on the date of the last Signatory signature below and shall remain in effect for a period of 30 years.

VII. POST-REVIEW DISCOVERY SITUATIONS

Stipulations of this PA and the Protocol are intended to identify and mitigate adverse effects to historic properties. Unplanned discoveries of buried cultural resources are not anticipated. In the case of an unplanned discovery of cultural resources or an unanticipated effect to an historic property, the Initiating Party, in consultation with SHPO, BLM, the land-managing Division or Department if not the Initiating Party, and the Tribe(s), shall ensure that provisions in Appendix D of this PA, the Protocol (Stipulation VI.B), and the following provisions are met.

Prior to initiating any ground disturbing activities within the project APE, the Initiating Party shall inform all employees, contractors, and subcontractors empowered to halt activities in a discovery situation about who to contact and under what time frame. At least one of these individuals will be present during any project field activities.

The Initiating Party shall halt activities within 100 meters of the discovery until SHPO provides written concurrence that the provisions of Appendix E have been met and activities can resume.

Any disputes or objections arising during a discovery or unanticipated impact situation will follow the procedures in Stipulation X.

VIII. MONITORING AND REPORTING

A. Monitoring

1. Both State Parks and NDOW shall ensure that all historic properties identified in the undertaking APE (Appendix C) on land the Division or Department manages are monitored annually by an appropriate professional (see Stipulation II.J above) or a certified Nevada Archaeological Site Steward (monitor) who is trained in accord with Stipulation II.H above.
2. Any Signatory may independently monitor actions carried out pursuant to this PA or monitor historic properties in the undertaking APE (Appendix C).
3. Annual historic property monitoring will consist of collecting data to determine any change in the property's integrity and the rate at which the change is occurring. SHPO will provide a standardized site report for archaeological resources (Intermountain Antiquities Computer Systems or IMACS form), or Architectural Resource Assessment (ARA) form for architectural resources, for monitors to use.

4. If SHPO notes any changes to the integrity of any historic property documented in any monitoring report submitted under VIII.B.7 below, SHPO shall inform the Signatories who shall consult to determine what, if any, mitigation is needed and the appropriate timeframe for this activity in accord with Stipulation V above.

B. Reporting

1. The Initiating Party shall ensure that a draft report of identification and evaluation efforts is completed within 60 days after the completion of fieldwork, unless otherwise negotiated with SHPO.
2. Prior to submission to SHPO or BLM, the Initiating Party shall review any report submitted by contractors within 30 calendar days of receipt to ensure it meets the standards described in Stipulations II.I V.B, and V.F of this PA.
3. Prior to SHPO consultation, the Initiating Party shall submit reports resulting from identification and evaluation efforts to the Tribe(s) for a 30-day review period.
4. After review by the Tribe(s), the Initiating Party shall submit reports resulting from identification and evaluation efforts, as well as any comments from the Tribe(s), to the SHPO for a 30-day review period.
5. If the Tribe(s), SHPO, or other interested person fails to respond to the Initiating Party within 30 days of their receipt of a report prepared in accord with Stipulations III-IV, the Initiating Party shall presume concurrence with the findings and recommendations as detailed in the submission and proceed accordingly.
6. Reporting requirements and timeframes for treatment efforts are described in Stipulation V of this PA.
7. Consulting professionals and/or monitors will submit monitoring reports in accord with Stipulation VIII.A.3 by December 31 of each year to NSSP. NSSP will summarize the monitoring reports and provide a copy of the summary document to all Signatories by March 1 of the following year.

IX. OTHER CONSIDERATIONS

- A. State Lands, State Parks, and NDOW shall direct all of its personnel, and all the personnel of its contractors and subcontractors, not to engage in the illegal collection of historic and prehistoric materials. Pursuant to NRS 383.435, State Lands, State Parks, and NDOW shall ensure that any person who knowingly and willfully removes, mutilates, defaces, excavates, injures or destroys a historic or prehistoric site or resource on land in the undertaking APE or who receives, traffics in or sells cultural property appropriated from land in the undertaking APE without a valid permit will be prosecuted to the fullest extent of the law.

- B. State Lands, NDOW, and State Parks shall ensure that human remains, and artifacts directly associated with burials, encountered on the conveyed lands are treated with the respect due such materials. State Lands, NDOW, and State Parks, in consultation with SHPO, shall ensure that all human remains and associated artifacts found on the conveyed lands will be handled according to the provisions of NRS 383.
- C. State Lands, NDOW, and State Parks agree to maintain the confidentiality of locational and other cultural resource information for the lands covered under this PA, and to design and implement procedures to ensure that such information is made available only to personnel with a need to know the information in order to design or conduct operations in a manner to avoid disturbance to known cultural resources. State Lands, NDOW, and State Parks shall keep cultural resources information in a secure location with access limited to necessary authorized representatives. Cultural resource information obtained by State Lands, NDOW, and/or State Parks under this PA will not be used for any purpose other than compliance with this PA and applicable laws. Any other use of this information by State Lands, NDOW, and State Parks, such as for educational or interpretive uses, must be prepared in consultation with SHPO.
- D. Information on the location and nature of cultural resources, and information considered proprietary by the Tribe(s), will be held confidential by State Lands, NDOW, and State Parks to the extent provided by Federal and State law.
- E. The Initiating Party shall ensure that materials collected in the course of archaeological investigation and treatment on conveyed lands will be donated to the NSM and/or a facility in the State of Nevada certified by the American Alliance of Museums that the land managing Division or Department designates to maintain the collection in accord with the facility curation plan (Stipulation V.E). The Initiating Party, or their contractor, shall maintain a curation agreement with the NSM and/or facility curation plan in order to meet this obligation.

X. DISPUTE RESOLUTION

If any Signatory, Concurring Party, or other consulting party (as defined at 36 CFR § 800.2) objects in writing to any activity proposed pursuant to the terms of this PA, the Signatories and Concurring Party shall consult to resolve the issue within 30 days of receiving such objection.

If initial consultation to resolve the issue is not successful, the matter shall be directed to the Authorized Officers for the Signatories and Concurring Party (BLM Ely District Manager, State Historic Preservation Officer, Division Administrator for State Parks, Division Administrator for State Lands, Director for the Nevada Department of Wildlife, and Tribe(s) Chairman), who shall consult to resolve the issue.

If the Signatories and Concurring Party cannot resolve the issue, the BLM Nevada State Director shall have the authority to make the final decision in such a dispute resolution.

The Initiating Party or any Signatory may continue all actions under this PA that are not in dispute.

XI. AMENDMENT

- A. Any Signatory to this PA may request that this PA be amended, whereupon the Signatories will consult to consider such amendment. The amendment will be effective on the date a copy signed by all of the Signatories is filed with the ACHP.
- B. SHPO shall add historic properties identified in the APE after the execution of this PA to Appendix C and provide all Signatories with a copy of the updated document by no later than December 1 of each year as necessary. Modifications to Appendix C will not require the Signatories to formally amend the PA in accord with this Stipulation.
- C. Any Signatory may provide updates for Tribal government contacts found in Appendix D to the other Signatories as needed. Modifications to Appendix D will not require the Signatories to formally amend the PA in accord with this Stipulation.

XII. TERMINATION

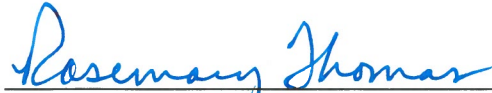
Any Signatory to this PA may terminate the PA by providing 30 days advance written notice with cause to the other Signatories, provided that the Signatories will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination.

Pursuant to the Lincoln County conveyance (Section 502.e) and the White Pine County conveyance (Section 351.e), if BLM or the Department of Interior determines that the land conveyed has been used in a manner that is inconsistent with the uses described in either the Lincoln County conveyance or the White Pine County conveyance (undeveloped open space, natural areas, fuels reduction, low impact recreation, existing improvement maintenance, customary agricultural practices, and other public purposes as described in the Acts) this PA will automatically terminate within 30 days of BLM notification to all Signatories and Concurring Parties.

EXECUTION of this PA and implementation of its terms evidence that the BLM has taken into account the effects of the Undertaking on historic properties and afforded the ACHP an opportunity to comment.

SIGNATORIES:

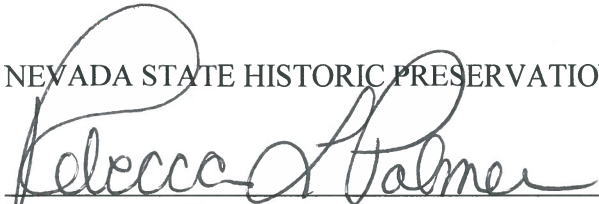
U.S. DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT



Rosemary Thomas, District Manager, Ely District Office

Date 5/9/14

NEVADA STATE HISTORIC PRESERVATION OFFICER




Rebecca Lynn Palmer, State Historic Preservation Officer

Date 5/15/14

INVITED SIGNATORIES:

NEVADA DIVISION OF STATE LANDS



Charles Donohue, Acting Administrator

Date 5/16/14

NEVADA DIVISION OF STATE PARKS



Eric Johnson, Administrator

Date 5/15/14

NEVADA DEPARTMENT OF WILDLIFE



Tony Wasley, Director

Date 5/16/14

APPENDIX A: LEGAL DESCRIPTION OF PARCELS COVERED

Parcels associated with Programmatic Agreement between Ely District Office of the Bureau of Land Management, Nevada Division of State Lands, Nevada Division of State Parks, Nevada Department of Wildlife and the Nevada State Historic Preservation Officer Regarding the Conveyance Of 11,723 Acres of Public Land to the State of Nevada as Mandated by the Lincoln County Conservation, Recreation, and Development Act of 2004 and the White Pine County Conservation, Recreation and Development Act of 2006

Lincoln County Conservation, Recreation, and Development Act of 2004

Beaver Dam State Park (3,187 Acres)

Mount Diablo Meridian

T. 5 S., R. 70 E.,

sec. 1, Lots 6, 8, 10, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;

sec. 12, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ N $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$.

T. 5 S., R. 71 E.,

sec. 6, Lots 5, 10, 11, W $\frac{1}{2}$ SW $\frac{1}{4}$

sec. 7, Lots 2, 4, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, S $\frac{1}{2}$;

sec. 18, all;

sec. 19, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$;

sec. 20, all;

sec. 21, SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$.

Cathedral Gorge State Park (166 Acres)

Mount Diablo Meridian

T. 1 S., R. 68 E.,

sec. 19, lots 10, 11, 14, 16, 18, 19, 22, 23;

SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$.

Kershaw Ryan State Park (1,431 Acres)

Mount Diablo Meridian

T. 4 S., R. 67 E.,

sec. 17, S $\frac{1}{2}$;

sec. 18, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;

sec. 19, Lot 4, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;

sec. 20, all.

**White Pine County Conservation, Recreation and Development Act of 2006
(PL-109-432)**

Step toe Valley Wildlife Management Area (6,281 Acres)

Mount Diablo Meridian

T. 16 N., R. 63 E.,

- sec. 24, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$;
- sec. 25, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$
- sec. 36, E $\frac{1}{2}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$.

T. 16 S., R. 64 E.,

- sec. 19, W $\frac{1}{2}$ W $\frac{1}{2}$;
- sec. 30, W $\frac{1}{2}$ W $\frac{1}{2}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$;
- sec. 31, All;
- sec. 32, SW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$.

T. 15 S., R. 64 E.,

- sec. 4, W $\frac{1}{2}$ W $\frac{1}{2}$;
- sec. 5, All;
- sec. 6, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$;
- sec. 7, E $\frac{1}{2}$;
- sec. 8, All;
- sec. 9, W $\frac{1}{2}$ W $\frac{1}{2}$;
- sec. 14, All;
- sec. 15, All;
- sec. 16, All;
- sec. 17, All;
- sec. 18, NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, within SW $\frac{1}{4}$ SE $\frac{1}{4}$,
within NE $\frac{1}{4}$ NW $\frac{1}{4}$, within SE $\frac{1}{4}$ NW $\frac{1}{4}$, within NE $\frac{1}{4}$ SW $\frac{1}{4}$,
- sec. 19, E $\frac{1}{2}$ E $\frac{1}{2}$, within NW $\frac{1}{4}$ NE $\frac{1}{4}$, within SW $\frac{1}{4}$ NE $\frac{1}{4}$, within NW $\frac{1}{4}$ SE $\frac{1}{4}$,
within SW $\frac{1}{4}$ SE $\frac{1}{4}$.
- sec. 20, All;
- sec. 21, All;
- sec. 28, All;
- sec. 29, All;
- sec. 30, NE $\frac{1}{4}$ NE $\frac{1}{4}$, within NW $\frac{1}{4}$ NE $\frac{1}{4}$, within SE $\frac{1}{4}$ NE $\frac{1}{4}$, within E $\frac{1}{2}$ SE $\frac{1}{4}$;
- sec. 31, within E $\frac{1}{2}$ E $\frac{1}{2}$;
- sec. 32, E $\frac{1}{2}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, within SW $\frac{1}{4}$ SW $\frac{1}{4}$;
- sec. 33, All;
- sec. 34, within W $\frac{1}{2}$ NW $\frac{1}{4}$, within NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, within S $\frac{1}{2}$ SW $\frac{1}{4}$.

Ward Charcoal Ovens State Park (658 Acres)

Mount Diablo Meridian

T. 14 N., R. 63 E.,

sec. 25, $W\frac{1}{2}SE\frac{1}{4}SE\frac{1}{4}$, $SW\frac{1}{4}SE\frac{1}{4}$, $S\frac{1}{2}SW\frac{1}{4}$.

sec. 26, $S\frac{1}{2}SE\frac{1}{4}$, Lot 1.

sec. 35, $NE\frac{1}{4}NE\frac{1}{4}$, $S\frac{1}{2}NE\frac{1}{4}$, $S\frac{1}{2}NW\frac{1}{4}$;

sec. 36, $W\frac{1}{2}NE\frac{1}{4}$, $W\frac{1}{2}NE\frac{1}{4}NE\frac{1}{4}$, $W\frac{1}{2}NW\frac{1}{4}$.

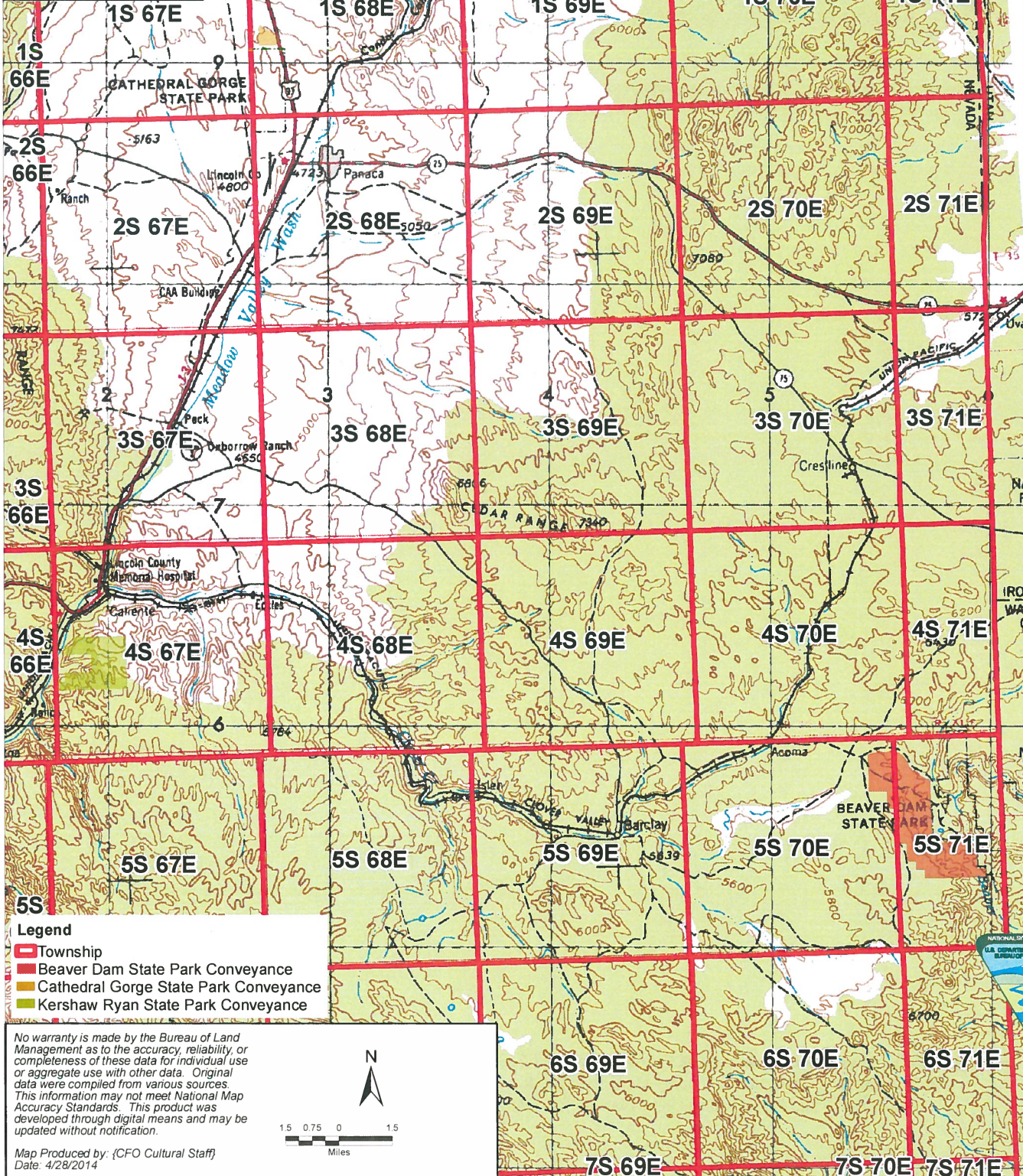
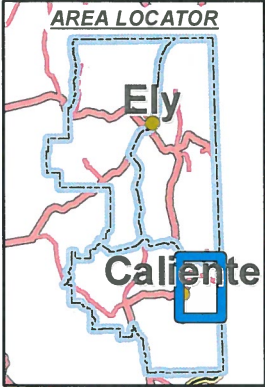
Recreation and Public Purposes Act Lease

Ward Charcoal Ovens State Park

Mount Diablo Meridian
T. 14 N., R. 63 E.,
sec. 35, NW $\frac{1}{4}$ NW $\frac{1}{4}$

APPENDIX B: MAP SET SHOWING AREA OF POTENTIAL EFFECT

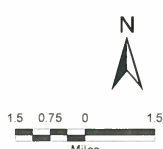
LCCRDA & WPPCCRDA BLM TO NEVADA STATE LANDS CONVEYANCES



- Legend**
- Township
 - Beaver Dam State Park Conveyance
 - Cathedral Gorge State Park Conveyance
 - Kershaw Ryan State Park Conveyance

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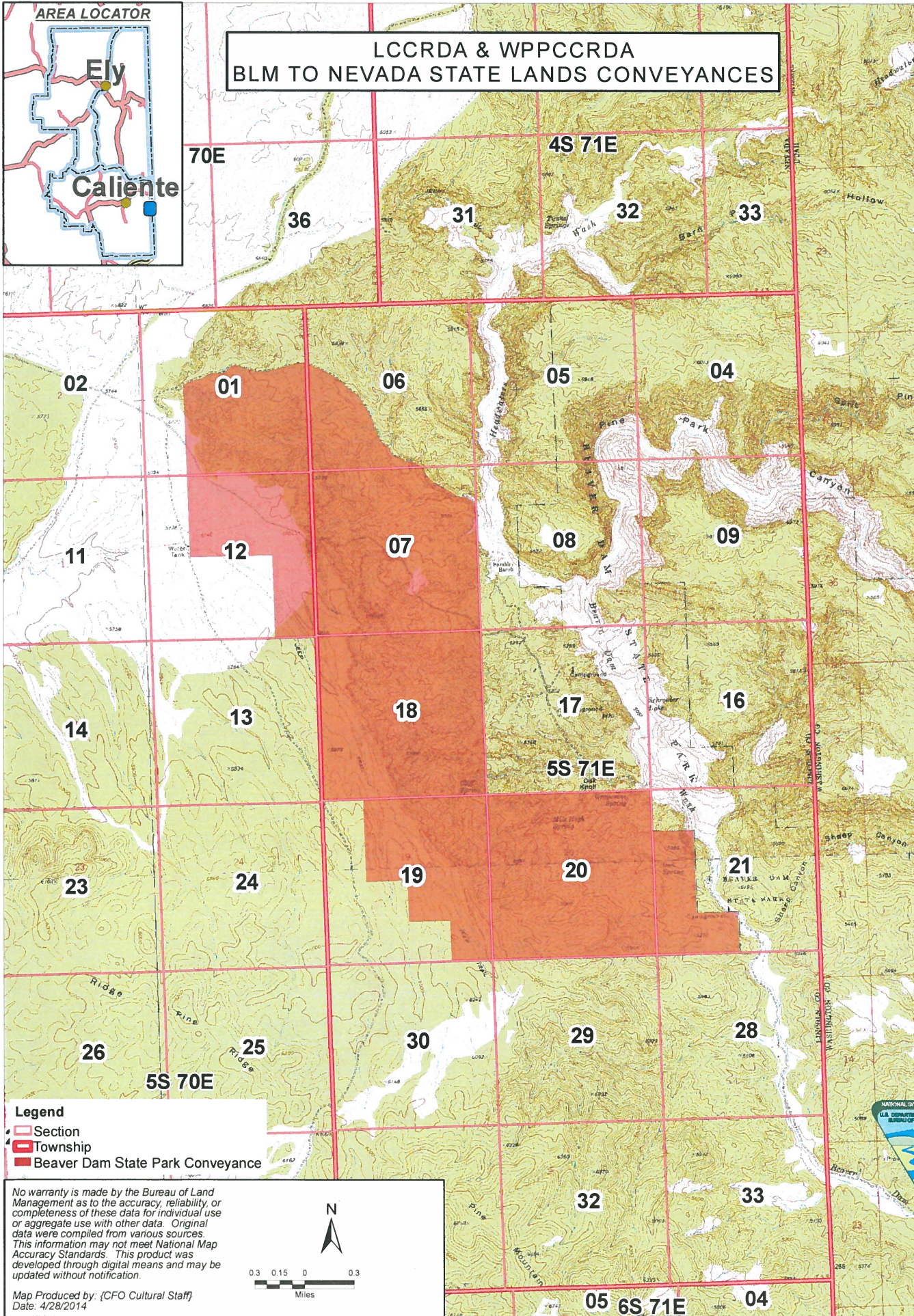
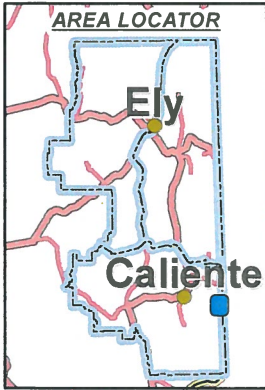
Map Produced by: (CFO Cultural Staff)
Date: 4/28/2014



Ely District Office

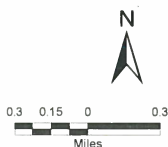


LCCRDA & WPPCCRDA BLM TO NEVADA STATE LANDS CONVEYANCES

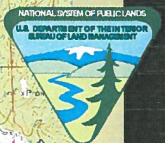


- Legend**
- Section
 - Township
 - Beaver Dam State Park Conveyance

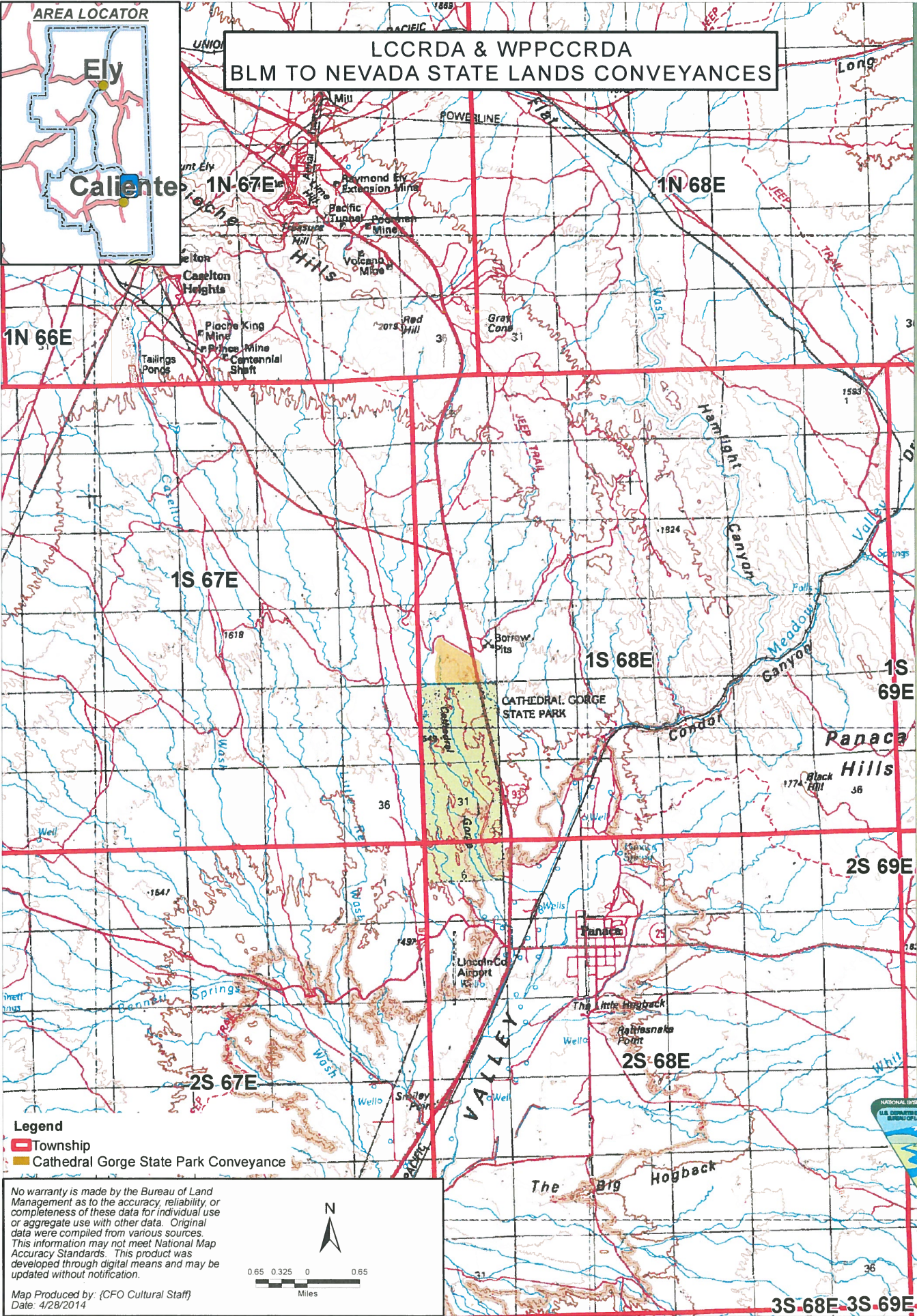
No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual use or aggregate use with other data. Original data were compiled from various sources. This information may not meet National Map Accuracy Standards. This product was developed through digital means and may be updated without notification.



Map Produced by: (CFO Cultural Staff)
Date: 4/28/2014

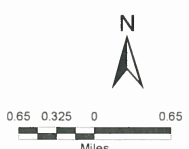


LCCRDA & WPPCCRDA BLM TO NEVADA STATE LANDS CONVEYANCES

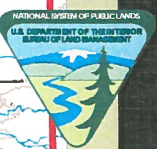


- Legend**
- Township
 - Cathedral Gorge State Park Conveyance

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. Original data were compiled from various sources. This information may not meet National Map Accuracy Standards. This product was developed through digital means and may be updated through notification.

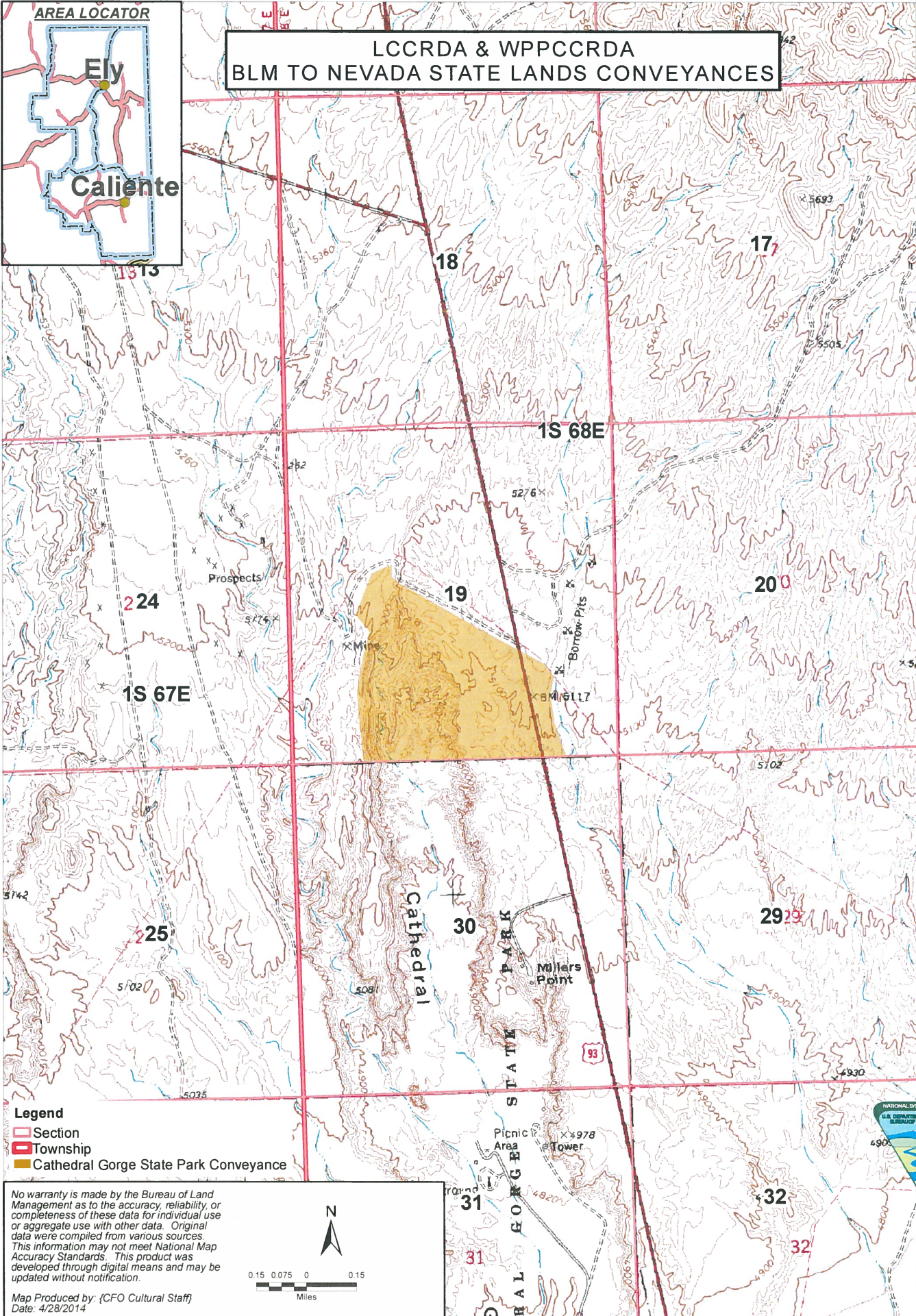
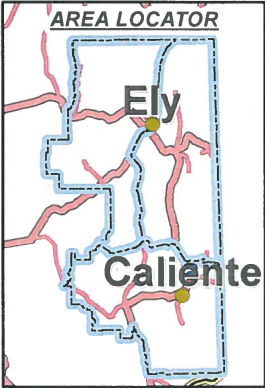


Map Produced by: (CFO Cultural Staff)
Date: 4/28/2014



3S-68E-3S-69E

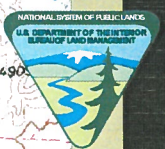
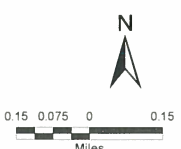
LCCRDA & WPPCCRDA BLM TO NEVADA STATE LANDS CONVEYANCES



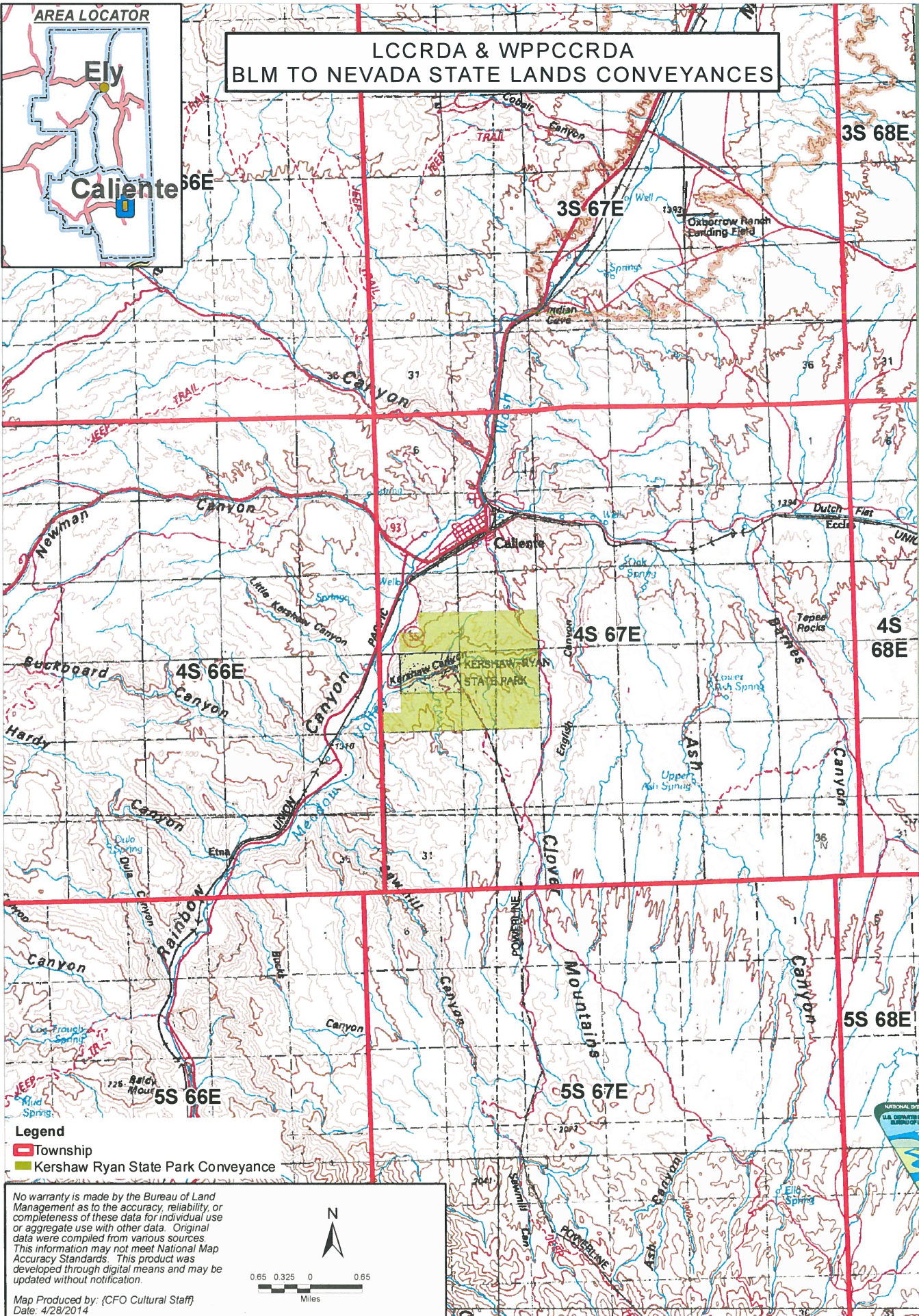
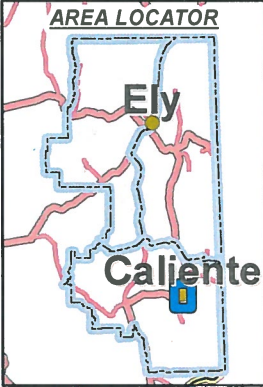
- Legend**
- Section
 - Township
 - Cathedral Gorge State Park Conveyance

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Map Produced by: (CFO Cultural Staff)
Date: 4/28/2014

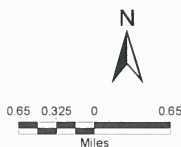


LCCRDA & WPPCCRDA BLM TO NEVADA STATE LANDS CONVEYANCES

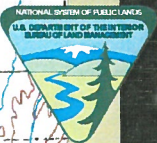


- Legend**
- Township
 - Kershaw Ryan State Park Conveyance

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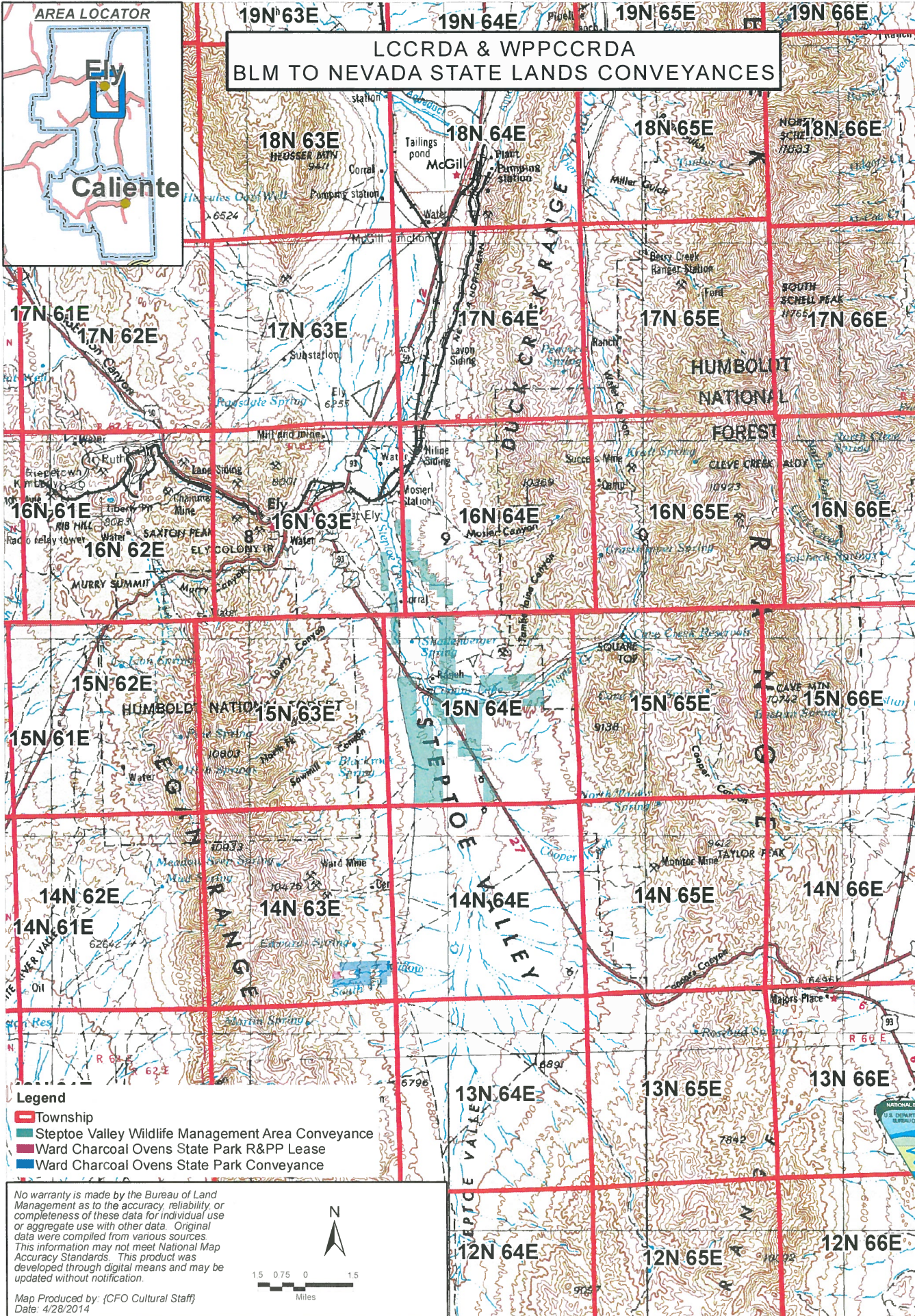


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Date: 4/28/2014





LCCRDA & WPPCCRDA
BLM TO NEVADA STATE LANDS CONVEYANCES



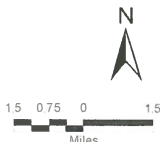
BLM

Ely District Office

Legend

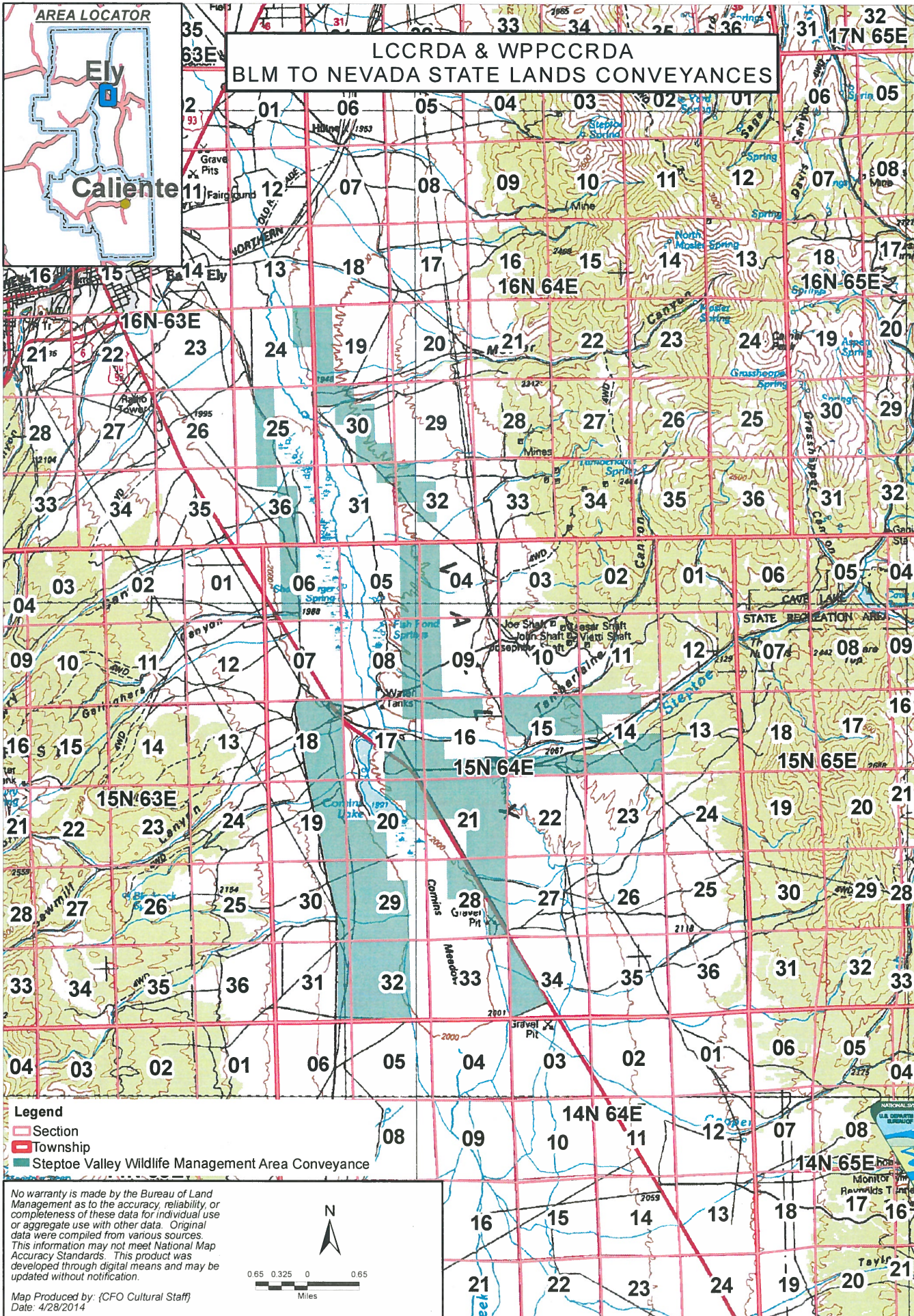
- ▭ Township
- ▭ Steptoe Valley Wildlife Management Area Conveyance
- ▭ Ward Charcoal Ovens State Park R&PP Lease
- ▭ Ward Charcoal Ovens State Park Conveyance

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Date: 4/28/2014

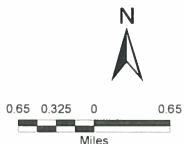




LCCRDA & WPPCCRDA
BLM TO NEVADA STATE LANDS CONVEYANCES

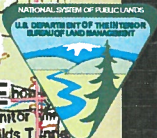
- Legend**
- Section
 - Township
 - Stepoe Valley Wildlife Management Area Conveyance

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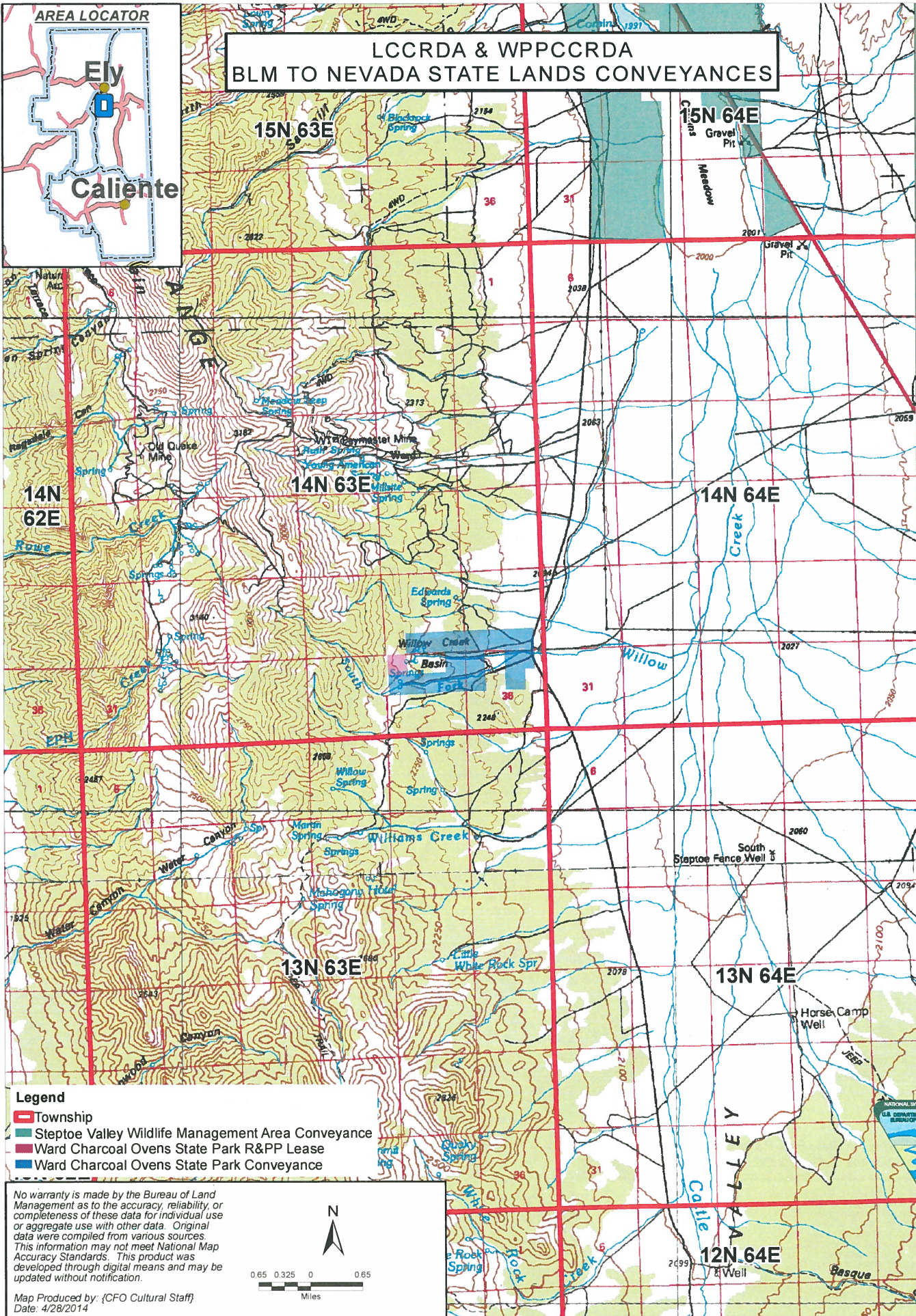
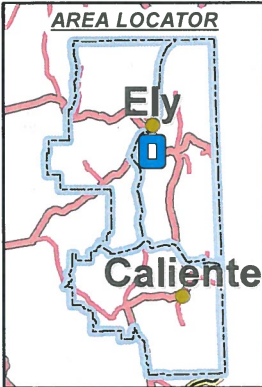


Map Produced by: (CFO Cultural Staff)
Date: 4/28/2014

Ely District Office



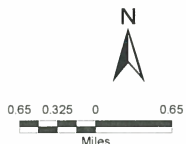
LCCRDA & WPPCCRDA BLM TO NEVADA STATE LANDS CONVEYANCES



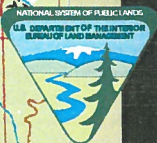
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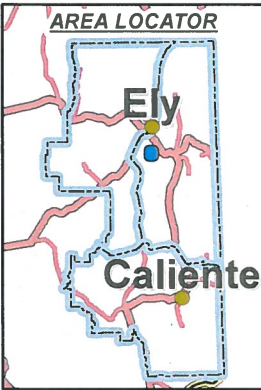
- Township
- Steptoe Valley Wildlife Management Area Conveyance
- Ward Charcoal Ovens State Park R&PP Lease
- Ward Charcoal Ovens State Park Conveyance

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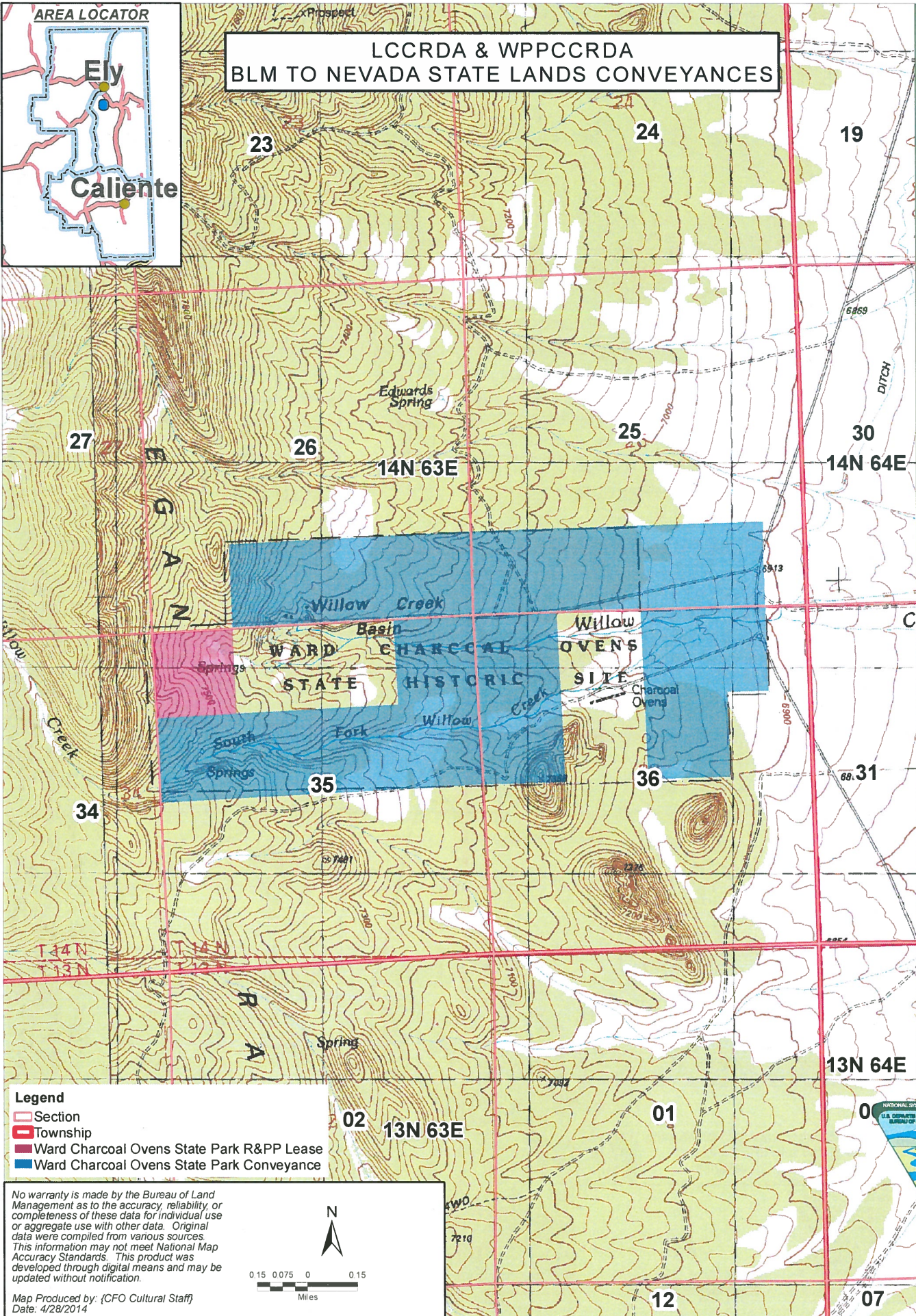


Map Produced by: (CFO Cultural Staff)
Date: 4/28/2014





LCCRDA & WPPCCRDA
BLM TO NEVADA STATE LANDS CONVEYANCES



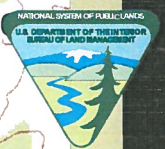
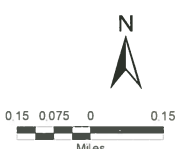
BLM

Ely District Office

- Legend**
- Section
 - Township
 - Ward Charcoal Ovens State Park R&PP Lease
 - Ward Charcoal Ovens State Park Conveyance

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Map Produced by: (CFO Cultural Staff)
Date: 4/28/2014



APPENDIX C: KNOWN HISTORIC PROPERTIES WITHIN THE APE**Beaver Dam State Park (3,187 Acres)**

Site Number	BLM Number	Site Info	Eligibility Status	Date last recorded
LN131	5-271	Lithic scatter	Unevaluated	1967

Cathedral Gorge State Park (166 Acres)

Site Number	BLM Number	Site Info	Eligibility Status	Date last recorded
LN6669		Prehistoric pottery scatter	Eligible	
LN6786		In-Process	Unevaluated	2012
LN6672		In-Process	Unevaluated	2012

Kershaw Ryan State Park (1,431 Acres)

Site Number	BLM Number	Site Info	Eligibility Status	Date last recorded
LN101	5-241	Lithic & ceramic scatter	Unevaluated	1967
LN102	5-242	Rockshelter with ceramics, groundstone & lithic scatter	Unevaluated	1967

Step toe Valley Wildlife Management Area (6,281 Acres)

Site Number	BLM Number	Site Info	Eligibility Status	Date last recorded
WP9415		Historic road	Unevaluated	2010
WP9420		Prehistoric lithic scatter	Unevaluated	2010
WP1559	46-2542	Historic trash scatter	Unevaluated	1982

Programmatic Agreement Regarding the Conveyance of 11,723 Acres of Public Land to the State of Nevada as Mandated by The Lincoln County Conservation, Recreation, and Development Act of 2004 and the White Pine County Conservation, Recreation and Development Act of 2006

Ward Charcoal Ovens State Park (658 Acres + 40 Acre R&PP Lease)

Site Number	BLM Number	Site Info	Eligibility Status	Date last recorded
WP667	46-197	Ward Charcoal Ovens Complex	Eligible	1992
WP4380	46-7139	Lithic & historic trash scatter	Unevaluated	1992
WP4381	46-7140	Historic dugout & associated artifact scatter	Eligible	1992
WP4382	46-7141	Prehistoric lithic, groundstone, ceramic scatter & 19th century debris locus	Eligible	1992
WP4383	46-7142	Lithic, groundstone, ceramic scatter	Unevaluated	1992
WP4385	46-7144	Lithic, ceramic, groundstone & historic artifact scatter with burned bone	Eligible	1992
WP4387	46-7146	Lithic scatter with several historic loci & Ethnohistoric pinyon pole cache	Eligible	1992
WP4388	46-7147	Historic artifact scatter	Eligible	1992
WP4391	46-7150	Lithic scatter with projectile points & ceramics	Unevaluated	1992
WP4393	46-7152	Intermountain Brownware drops, sparse Lithics, groundstone	Eligible	1992
WP4396	46-7155	Lithic scatter with possible ethnohistoric artifact	Unevaluated	1992
WP4400	46-7159	Lithic, ceramic, groundstone scatter with historic can scatter	Eligible	1992
WP4403	46-7162	Lithic scatter and temporary camp	Unevaluated	1992
WP4404	46-7163	Lithic, groundstone, ceramic scatter	Unevaluated	1992
WP4407	State Land	Historic Wood cutting site with unevaluated lithic scatter	Eligible	1992
WP4409	46-7132	Historic artifact scatter	Eligible	1992
WP4411	State Land	Lithic scatter with projectile points	Unevaluated	1992
WP4412	46-7135	Lithic, ceramic, groundstone scatter with historic debris scatter	Eligible	1992
WP4397	46-7153	Rock mound, possible roasting pit	Unevaluated	1992

APPENDIX D: RECOMMENDED PROCEDURES FOR SEEKING AND CONSIDERING TRIBAL INPUT

Tribal Consultation procedures should be carried out to ensure that Tribes have enough time to comment prior to project authorization. In order to facilitate this consultation effort the State of Nevada (State) should solicit Tribal input in accordance with the following guidelines.

INITIATION OF TRIBAL CONSULTATION

As early as possible in the planning process, the Initiating Party's Authorized Officer, or designee, shall prepare a letter to the Tribes with interest in the region regarding the proposed project. The letter will explain the proposed project in sufficient detail to allow the Tribes to determine its level of interest, if any. At a minimum, the letter should include the following information:

- The name of the Authorized Officer and their contact information; and
- The name of the Project Manager and their contact information; and
- The location of the project; and
- The purpose of the project ; and
- Details of the project including a proposed schedule for the project from planning through execution; and
- The dates of any planned field visits; and
- Any other significant activities associated with the project; and
- A date that responses are due.

This letter should include an invitation to provide comments on the project as well as any necessary instructions for the Tribes to request additional information or set up meetings with the Authorized Officer or Project Manager.

METHODS FOR SEEKING INPUT FROM THE TRIBES

The Authorized Officer or designee should follow-up the initial letter with telephone calls or e-mail, beginning 10 business days after the letters have been mailed. Any information obtained from a follow-up discussion should be documented and be filed as part of the project record. Efforts should be made to ensure that each Tribe received the information necessary for them to make a decision as to whether or not the proposed project will affect a Tribal interest. Tribes should also have enough information to understand the period necessary so that they have sufficient time to have their concerns taken into account.

PLANNED MEETINGS

Should any Tribe request additional information or to set up a meeting to discuss the proposed project the Authorized Officer or designee will contact the Tribal Chairman and/or designated tribal representatives as soon as possible to provide additional information or set up a meeting.

Any meetings should take place at an appropriate and mutually agreed-upon location in order to minimize costs to the State and tribal members and to facilitate participation. The State should

request from the Tribe a list of members that will be attending the meeting, as well as provide to the Tribes a list of State personnel that will be attending. Any meeting should be confirmed with the identified participants through either a formal letter or e-mail. This confirmation should include a clear purpose for the meeting, the meeting location and time, a proposed agenda and a list of attendees.

Meeting summaries should be prepared within five business days following the meeting and should be distributed to participants in draft for comment. Comments from participants should be incorporated as appropriate before finalizing the notes. Final meeting notes should be distributed within 10 business days following distribution of the draft notes.

CONCLUDING THE PROCESS

If ongoing discussions with Tribes are productive, the involved parties should make a determination and outline an appropriate process to continue any discussions in order to resolve any concerns the Tribe may have.

Should discussions become un-productive or no discussions are initiated the Authorized Officer, in consultation with the SHPO, shall determine the appropriate point of closure of the process of seeking and considering tribal input regarding the proposed project.

DOCUMENTING TRIBAL CONSULTATION EFFORTS

All efforts to consult with Tribal Governments should be documented and kept in a file with the project information so that it can be referred to if question arise. The easiest way to document these efforts is to develop a database or spreadsheet to document any communications with the Tribes.

Eastern Nevada Tribal Government Contacts as of March 2014

The BLM Ely District uses this list for all of their project coordination activities. The State should regularly update this mailing list to ensure that the correct people are receiving Tribal Consultation requests per Stipulation XI.C.

TRIBAL CHAIRPERSON CONTACT INFORMATION

Battle Mountain Band Council
 Joe Holley, Chairman
 37 Mountain View
 Battle Mountain, NV 89820
 Phone: (775) 635-2004
 Fax: (775) 635-8016

Confederated Tribes of the Goshute Indian
 Reservation, Nevada-Utah
 Ed Naranjo, Chairman
 P.O. Box 6104
 195 Tribal Center Road
 Irapah, Utah 84034
 Phone: 435-234-1138
 Fax: 435-234-1162

Duckwater Shoshone Tribe
 Virginia Sanchez, Chairwoman
 PO Box 140068
 Duckwater, NV 89314-0068
 Phone: (775) 863-0444

Elko Band Council
 Gerald Temoke, Chairman
 1745 Silver Eagle Drive
 Elko, Nevada 89801
 Phone: (775) 738-8889
 Fax: (775) 753-5439

Ely Shoshone Tribe of Nevada
 Sandra Barela, Chairperson
 16 Shoshone Circle
 Ely, Nevada 89301
 775-289-3013
 775-289-3833 Fax

Kaibab Band of Paiute Indians of the Kaibab
 Indian Reservation
 Manual Savala, Chairman

#1 North Pipe Spring Rd.
 Fredonia, AZ 86022
 Phone: 928-643-7245
 Fax: 888-939-3777

Las Vegas Tribe of Paiute Indians of the Las
 Vegas Indian Colony
 Benny Tso, Chairman
 1 Paiute Drive
 Las Vegas, NV 89106
 Phone: 702.386.3926
 Fax: 702.383.4019

Moapa Band of Paiute Indians
 William Anderson, Chairman
 1 Lincoln St
 P.O. Box 340
 Moapa, NV 89025
 Phone: (702) 865-2787

Paiute Indian Tribe of Utah
 Gari Lafferty, Chairman
 440 North Paiute Drive
 Cedar City UT 84721
 Phone: (435)-586-1112
 Fax: (435)-867-2659

Paiute Indian Tribe of Utah: Cedar Band of
 Paiutes
 Lora Tom, Chairwoman
 600 North 100 East
 P.O. Box 235
 Cedar City, Utah 84721
 Phone: (435)-586-9433
 Fax: (435)-586-5915

Paiute Indian Tribe of Utah: Indian Peaks
 Band of Paiutes
 Jeanine Borchardt, Chairwoman
 940 west 526 south
 Cedar City, Utah 84721

Paiute Indian Tribe of Utah: Kanosh Band
of Paiutes
Corrina Bow, Chairwoman
PO Box 116
Kanosh, Utah 84637
Phone: 435-383-3283

Wells Indian Colony Band Council
Michelle Cure, Chairwoman
P.O. Box 809
Wells, Nevada 89835
Phone: (775) 345-3086
Fax: (775) 752-2179

Paiute Indian Tribe of Utah: Koosharem
Band of Paiutes
Elliott Yazzi, Chairman
P.O. Box 205
Richfield, Utah 84701
Phone: (435)-893-8432
Fax: (435)-896-8607

Yomba Shoshone Tribe
Wayne K. Dyer, Chairman
HC 61 Box 6275
Austin, NV 89310
(775) 964-2463

Paiute Indian Tribe of Utah: Shivwits Band
of Paiutes
Jetta Wood, Chairwoman
6060 West 3650 North
Ivins, UT 84738
Phone: 435-656-9002
Fax: 435-656-8005

South Fork Band (Te-Moak Tribes of the
Western Shoshone Indians of Nevada)
Alice Tybo, Chairwoman
P.O. Box B-13
Lee, Nevada 89829
(775) 744-4273
Fax: (775) 738-0569

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APPENDIX E: DISCOVERY AND UNANTICIPATED IMPACTS PROCEDURES

In the event that previously unknown cultural resources are discovered within the area of potential effects, or that known resources are directly or indirectly impacted in an unanticipated manner, the following actions, at a minimum, would be initiated by the Initiating Party or the land managing Division or Department in consultation with the Signatories:

- I. All activities will halt in the immediate vicinity of the discovery and all actions will be directed away from an area at least 100 meters in all directions from the point of discovery.
 - A. The Initiating Party's Authorized Officer will be notified immediately by the contractors or Division or Department staff working on the project. The land managing Division or Department shall ensure that a consulting archaeologist, or other qualified individual with the proper expertise for the suspected resource type, is on-site as soon as possible.
 - B. The Initiating Party or the land managing Division or Department shall notify SHPO, the Tribes, and other consulting parties as appropriate, within one business day of being notified of the discovery or unanticipated impact, and consider their initial comments on the situation.
 - C. In the event that a consulting archaeologist or other qualified individual is not immediately available, the Initiating Party or the land managing Division or Department is required to cover and/or otherwise protect the resource until such time that the appropriate parties can be present for inspection and/or evaluation.
- II. The consulting archaeologist, or other qualified individual, shall assess the resource upon arriving at the site of the discovery. This assessment shall include, at a minimum, the:
 - A. The nature of the resource (e.g., number and kinds of artifacts, presence/absence of features). This may require screening of already disturbed deposits, photographs of the discovery, and/or other necessary documentation.
 - B. The spatial extent of the resource. This may require additional subsurface testing, mapping or inspection, as is appropriate to the resource.
 - C. The nature of deposition/exposure. This may require interviews with construction personnel, other persons having knowledge concerning the resource or, in rare instances, the expansion of existing disturbances to establish the characteristics of the deposits.
- III. Discoveries and unanticipated impacts to known resources will be managed according to the provisions of this PA. After consultation with the SHPO, the Initiating Party or the land managing Division or Department shall make a recommendation of eligibility, treatment, and effect. If necessary, the Initiating Party or the land managing Division or Department, in consultation with the SHPO, BLM, and the Tribes, shall ensure that a treatment plan is prepared following the guidance provided in this PA.

- IV. Any items covered by NRS 383, *Protection of Indian Burial Sites*, encountered in a discovery, or unanticipated impact situation, will be handled according to Nevada state laws, as appropriate.
- V. All project activities in the area of the discovery will remain halted until the Initiating Party or the land managing Division or Department documents that identification and treatment are complete and provides this record to all Signatories. The Signatories will have five business days to provide comment to the Initiating Party or the land managing Division or Department.
- VI. If the SHPO, Tribe, a Signatory or other consulting party as appropriate (as defined in 36 CFR 800.3(f)) objects to all or part of the completed treatment, the Initiating Party or land managing Division or Department shall attempt to resolve the objection pursuant to Stipulation X.