



Eureka, Nevada

April 6, 2010

**RESOLUTION OF THE BOARD OF EUREKA COUNTY  
COMMISSIONERS APPROVING THE  
2010 EUREKA COUNTY MASTER PLAN**

WHEREAS, NRS Chapter 278 requires the Eureka County Planning Commission to prepare, conduct hearings on, and adopt a comprehensive plan for the physical development and orderly management of the growth of Eureka County; and

WHEREAS, the Eureka County Planning Commission did, following a public hearing, adopt the 2010 Eureka County Master Plan containing these elements:

- 1.0 Introduction (13 pages)
  - 2.0 Historical and Current Perspective (17 pages)
  - 3.0 Growth Management (7 pages)
  - 4.0 Public Facilities and Services (43 pages)
  - 5.0 Economic Development (12 pages)
  - 6.0 Natural Resources and Federal or State Land Use (91 pages)
  - 7.0 Land Use (8 pages)
  - 8.0 Housing (14 pages)
  - 9.0 Water Resources (4 pages)
- with accompanying maps and figures; and

WHEREAS, the Eureka County Planning Commission recommends the Board of Eureka County Commissioners approve the 2010 Eureka County Master Plan; and



**RESOLUTION**

**OF THE EUREKA COUNTY PLANNING COMMISSION ADOPTING  
THE 2010 EUREKA COUNTY MASTER PLAN**

WHEREAS, NRS Chapter 278 requires the Eureka County Planning Commission to prepare, conduct hearings on, and adopt a comprehensive plan for the physical development and orderly management of the growth of Eureka County; and

WHEREAS, the Eureka County Planning Commission on March 23, 2010, conducted a public hearing on the proposed 2010 Eureka County Master Plan containing these elements:

- 1.0 Introduction (13 pages)
  - 2.0 Historical and Current Perspective (17 pages)
  - 3.0 Growth Management (7 pages)
  - 4.0 Public Facilities and Services (43 pages)
  - 5.0 Economic Development (12 pages)
  - 6.0 Natural Resources and Federal or State Land Use (91 pages)
  - 7.0 Land Use (8 pages)
  - 8.0 Housing (14 pages)
  - 9.0 Water Resources (4 pages)
- with accompanying maps and figures; and

WHEREAS, the Eureka County Planning Commission has reviewed the proposed 2010 Master Plan, considered comments from surveys, and public meetings and hearings, and has now completed its deliberations; and

WHEREAS, the Eureka County Planning Commission believes the proposed 2010 Master Plan is properly drafted to represent the long term interests of the residents of Eureka County; and

WHEREAS, the Eureka County Planning Commission finds that the 2010 Eureka County Master Plan promotes the health, safety and general welfare of the residents of Eureka County;

NOW THEREFORE BE IT RESOLVED that the 2010 Master Plan is hereby adopted and forwarded to the Board of Eureka County Commissioners for their consideration.

Adopted this 23<sup>rd</sup> day of March, 2010.

Ayes: Ron Rankin  
Hollon Mott  
Beverly Conley  
Anthony Rowley  
Cecil Wright  
Ellen Rand

Nays: 0  
\_\_\_\_\_  
\_\_\_\_\_

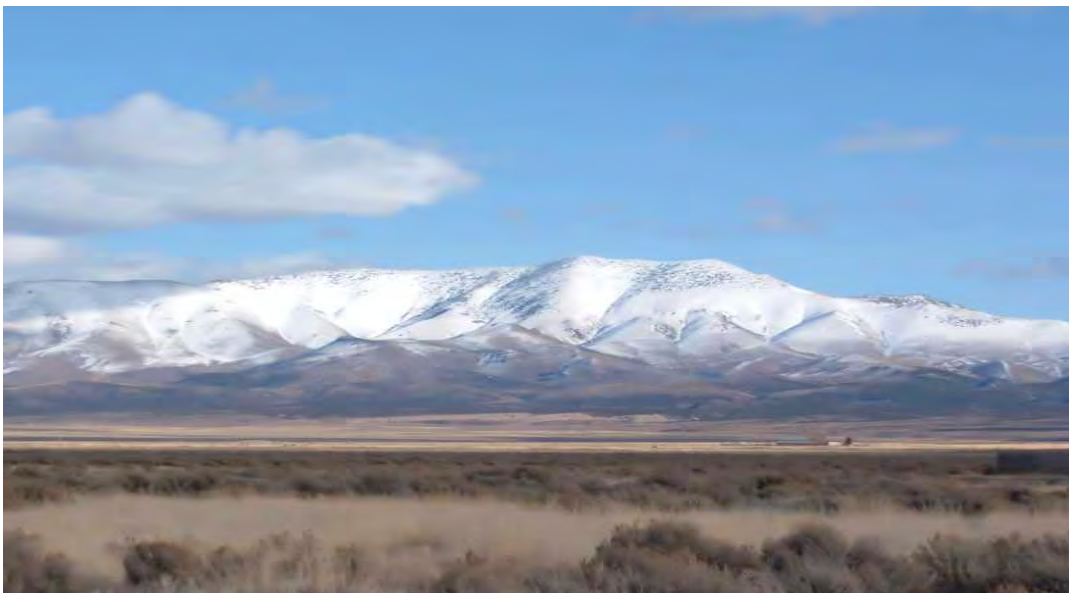
Attest:

Vera Baumann  
Secretary

# **EUREKA COUNTY**

## **MASTER PLAN**

**2010**



**Board of Eureka  
County Commissioners**  
Leonard Fiorenzi, Chairman  
Jim Ithurrealde, Vice-Chairman  
Mike Page, Member

**Eureka County  
Planning Commission**  
Ellen Rand, Chairwoman  
Ron Rankin, Vice Chairman  
Maxine Rebaleati  
Cecil Wright  
Bev Conley  
Phillip Brown  
Holon Moll  
Anthony Rowley

**EUREKA COUNTY MASTER PLAN  
2010**

**ELEMENT 1**

**INTRODUCTION**

**EUREKA COUNTY MASTER PLAN  
2010**

**ELEMENT 2**

**HISTORIC AND CURRENT PERSPECTIVE**

**EUREKA COUNTY MASTER PLAN  
2010**

**ELEMENT 3**

**GROWTH MANAGEMENT**



**EUREKA COUNTY MASTER PLAN  
2010**

**ELEMENT 4**

**PUBLIC FACILITIES AND SERVICES**

**EUREKA COUNTY MASTER PLAN  
2010**

**ELEMENT 5**

**ECONOMIC DEVELOPMENT**

**EUREKA COUNTY MASTER PLAN  
2010**

**ELEMENT 6**

**NATURAL RESOURCES  
AND  
FEDERAL OR STATE LAND USE**

**EUREKA COUNTY MASTER PLAN  
2010**

**ELEMENT 7**

**LAND USE**

**EUREKA COUNTY MASTER PLAN  
2010**

**ELEMENT 8**

**HOUSING**

**EUREKA COUNTY MASTER PLAN  
2010**

**ELEMENT 9**

**WATER RESOURCES**

## TABLE OF CONTENTS

	Page
County Commission Adoption Resolution(s)	
Planning Commission Adoption Resolution(s)	
List of Figures	
1.0 Introduction	
1.1 Justification and Need for the Master Plan . . . . .	1-1
1.2 Existing State and Local Laws Related to Planning. . . . .	1-2
1.3 Master Plan Development, Adoption, and Revision Process . . . . .	1-3
1.4 Public Input and Direction . . . . .	1-4
1.5 Master Plan Goals and Policies . . . . .	1-13
1.6 Specific Planning Areas . . . . .	1-13
2.0 Historic and Current Perspective	
2.1 Government Organization. . . . .	2-1
2.2 Current Land Use . . . . .	2-3
2.3 Population Trends . . . . .	2-7
2.4 Housing . . . . .	2-8
2.5 Economy . . . . .	2-9
2.6 Fiscal Conditions . . . . .	2-11
2.7 Public Facilities and Services . . . . .	2-16
3.0 Growth Management Element	
3.1 Introduction . . . . .	3-1
3.2 Timing, Location, and Financing of Growth . . . . .	3-1
3.3 Existing Mechanisms and Enforcement . . . . .	3-1
3.4 Alternative Growth Management Mechanisms . . . . .	3-4
3.5 Growth Management Goals and Policies . . . . .	3-5
4.0 Public Facilities and Services Element	
4.1 Introduction . . . . .	4-1
4.2 Purpose . . . . .	4-1
4.3 Planning for Public Services and Facilities . . . . .	4-2
4.4 Public Facilities and Service Assessment . . . . .	4-11
5.0 Economic Development Element	
5.1 Introduction . . . . .	5-1
5.2 Relationship to Other Plan Elements . . . . .	5-2
5.3 Existing Mechanisms . . . . .	5-2

	Page
5.4 Employment, Income, and Diversification Trends . . . . .	5-2
5.5 Strengths, Weaknesses, Opportunities, Constraints . . . . .	5-5
5.6 Economic Leakage . . . . .	5-7
5.7 Industry Retention . . . . .	5-8
5.8 Industry Attraction . . . . .	5-8
5.9 Economic Development Goals and Policies . . . . .	5-9
5.10 Implementation Strategy . . . . .	5-12
6.0 Natural Resources & Federal or State Land Use Element	
6.1 Introduction . . . . .	6-1
6.2 Goals, Objectives, Monitoring, and Evaluation by Topic . . . . .	6-7
6.2.1 Primary Resources: Soil, Vegetation, and Watersheds . . . . .	6-7
6.2.2 Forage and Livestock Grazing . . . . .	6-12
6.2.3 Water Quality, Riparian Areas, and Aquatic Habitats . . . . .	6-19
6.2.4 Wildlife and Wildlife Habitat . . . . .	6-21
6.2.5 Land Tenure . . . . .	6-26
6.2.6 Locatable Minerals, Fluid Minerals, and Mineral Materials . . . . .	6-28.
6.2.7 Cultural, Historic, and Paleontological Resources . . . . .	6-30
6.2.8 Woodland Resources . . . . .	6-31
6.2.9 Hunting, Fishing, and Outdoor Recreation . . . . .	6-33
6.2.10 Wilderness, Wilderness Study Areas (WSA), Areas of Critical Environmental Concern (ACEC) and Other Restrictive Land Use Classification . . . . .	6-35
6.2.11 Air Quality . . . . .	6-38
6.2.12 Standards of Conduct . . . . .	6-39
6.2.13 Law Enforcement . . . . .	6-43
6.3 Primary Planning Guidance . . . . .	6-47
6.4 Resource Specific Plans, Standards, and Guidelines . . . . .	6-67
6.5 Federal Laws, State Laws, and Other Legal Citations . . . . .	6-68
7.0 Land Use Element	
7.1 Introduction . . . . .	7-1
7.2 Land Use Issues . . . . .	7-2
7.3 Population . . . . .	7-3
7.4 Private Land Use . . . . .	7-6
8.0 Housing Element	
8.1 Housing Inventory and Conditions . . . . .	8-1
8.2 Demographic Factors Affecting Housing Demand and Need . . . . .	8-3
8.3 Housing Costs . . . . .	8-5
8.4 Housing Demand Projections . . . . .	8-6
8.5 Funding Sources . . . . .	8-7
8.6 Summary of Findings – Projects For	



	Page
Housing Development . . . . .	8-1
8.7 Housing Goals and Policies . . . . .	8-13
9.0 Water Resources Element	
9.1 Introduction . . . . .	9-1
9.2 Water Resource Issues . . . . .	9-1
9.3 Primary Planning Guidance . . . . .	9-3
10.0 Transportation Element (reserved)	
11.0 Conservation Element (reserved)	
12.0 Historic Preservation Element (reserved)	
13.0 Open Space Element (reserved)	
14.0 Public Finance Element (reserved)	
15.0 Specific Area Plans (reserved)	
15.1 Town of Eureka	
15.1.1 Key Issues	
15.1.2 Goals and Policies	
15.2 Town of Crescent Valley	
15.2.1 Key Issues	
15.2.2 Goals and Policies	
15.3 Diamond Valley	
15.3.1 Key Issues	
15.3.2 Goals and Policies	
15.4 Beowawe	
15.4.1 Key Issues	
15.4.2 Goals and Policies	
15.5 Balance of County	
15.5.1 Key Issues	
15.5.2 Goals and Policies	
16.0 Plan Implementation (reserved)	
16.1 Consolidated Development Code	
16.2 Design Guidelines	
16.3 Development Review Process	
16.4 General Land Use Designations	
16.5 Subdivision Regulations	
16.6 Land Division Regulations	
16.7 Minimum Service Standards	
16.8 Adequacy of Public Facilities and Services	
16.9 Development Agreements	

- 16.10 Enforcement
- 16.11 Intergovernmental Coordination
- 16.12 Growth Monitoring and Policy Review
- 16.13 Capital Improvements Program
- 16.14 Review of Master Plan
  - 16.14.1 Amendment Process
  - 16.14.2 On-Going Plan Review

## **LIST OF FIGURES**

- Figure 1-1 Eureka County Vicinity Map
- Figure 1-2 Eureka County Planning Areas
- Figure 2-1 Existing Mines In & Near Eureka County
- Figure 2-2 Eureka County Military Operating Areas (MOA)
- Figure 2-3 Eureka County, Nevada Land Use Map
- Figure 2-4 Eureka County, Nevada Land Status Map
- Figure 4-1 Eureka County Law Enforcement, Medical and Fire Protection Facilities
- Figure 4-2 Eureka County Education, Library & Community Services
- Figure 4-3 Eureka County Parks & Recreation Facilities
- Figure 4-4 Eureka County Road System
- Figure 7-1 Eureka County, Nevada Land Status Map
- Figure 7-2 Eureka County General Land Use Categories
- Figure 7-3 Eureka County, Nevada Land Use Map

## **1.0 INTRODUCTION**

Few areas of Nevada can boast the diversity of natural, historic, and economic resources which characterize Eureka County. From alpine mountain peaks to irrigated valley floors, County residents enjoy a diverse physiography which supports important natural resources and economic activities. Eureka County is one of few Nevada counties which are traversed by Interstate 80, U.S. Highway 50, and the mainline Union Pacific rail lines. Eureka County is rich in commercial quality geothermal, oil, and mineral resources. North America's largest gold mines are currently located in Eureka County. Figure 1-1 illustrates the strategic location of Eureka County within Nevada.

The growing demand for natural resources produced in the intermountain region of the United States has brought both prosperity and concern to Eureka County. The demand for energy and precious metals has bolstered economic activity related to production of oil and gold. In recent years, Eureka County has experienced significant levels of immigration by workers and their families. Population growth requires the County to consider efficient uses of land as well as provision of public facilities and services. At the same time, urbanization of the intermountain West has brought heightened interest about the management of federal or state administered lands and increased restriction of traditional uses such as domestic livestock grazing or mining. As a consequence, agriculture in Eureka County, long considered an important stabilizing factor, is facing escalating costs of operation and limitations in access to forage resources.

Collectively, these issues have galvanized residents and their elected representatives to seek mechanisms to manage growth and influence resource management. These actions are viewed as necessary to maintain and enhance local economic security and the rural quality of life which has typified Eureka County.

### **1.1 JUSTIFICATION AND NEED FOR THE MASTER PLAN**

In 1973, Eureka County developed and worked to implement a comprehensive County Master Plan. In the following 25 years, dramatic changes in many characteristics of the County occurred. From 1970 to 1995, the County's population increased by nearly 70 percent. The 1973 Eureka County Master Plan projected the population of the County in the year 2010 would be 1,400. In 1995 the Nevada State Demographer indicated that the County's population had already reached 1,580 persons and estimated that by the year 2010 it would grow to nearly 2,100 persons. Because of the changes in growth as well as other changes in the community, Eureka County developed and adopted a new Master Plan in 2000.

Beyond the practical need for Eureka County to appropriately respond to growth, Nevada state law requires the County to "prepare and adopt a comprehensive, long-term general plan for the physical development of the county." (NRS 278.150) The adopted plan is to serve as "a basis for the development of the county for such reasonable period of time" as can practically be included. (NRS 278.150)

## **1.2 EXISTING STATE AND LOCAL LAWS RELATING TO PLANNING**

State of Nevada laws relating to planning have been compiled by the Nevada Division of State Lands in a publication entitled “Laws Relating to Planning, 2008 Version”. The next version of this publication will become available in early 2010. Nevada Revised Statutes address common interest ownership (NRS 116), condominiums (NRS 117), powers and duties common to cities and towns incorporated under general or special laws (NRS 268), correction and vacation of plats (NRS 270), areas for economic development (NRS 274), planned development (NRS 278A), impact fees for new development (NRS 278B), rehabilitation of property in residential neighborhoods (NRS 279A), rehabilitation of abandoned residential property (NRS 279B), administration, control and transfer of State lands (NRS 321), historic districts (NRS 384), manufactured buildings (NRS 461), mobile homes and parks (NRS 461A), licensing and control of gaming (NRS 463), airport locations (NRS 497), and water planning (NRS 540).

NRS Chapter 278 specifically addresses planning. Among topics contained within Chapter 278 are regional planning, planning commissions, subdivision of land, parcel maps, division of land into large parcels, vacation or abandonment of streets, easements or maps, parks and playgrounds for residential developments, and inspection of structures, among others. NRS 278.150 requires the planning commission to prepare and adopt a comprehensive, long term general plan for the physical development of the county. NRS 278.160 lists topics which may, at the discretion of the county, be included within the master plan. Suggested plan elements include: community design, conservation plan, economic plan, historic preservation plan, housing plan, land use plan, population plan, public buildings plan, public services and facilities plan, recreation plan, school facilities plan, safety plan, rural neighborhood preservation plan (400,000 or greater in population), seismic safety plan (400,000 or greater in population), solid waste disposal plan, streets and highways plan, transit plan, and transportation plan. According to NRS 278.160 (2), planning commissions are free to include any subject within the scope of the master plan which it deems relates to the physical development of their respective counties.

The Eureka County Code contains a variety of codes which relate to aspects of planning including: Licenses, Fees and Taxes (Title 4), Health and Welfare (Title 6), Eureka County Economic Development Program (Title 7), Planning Commission (Title 8), Natural Resources and Land Use (Title 9), Television District (Title 10), Town of Eureka (Title 12), Town of Crescent Valley (Title 13), Devil’s Gate Water General Improvement District (Title 14), and Diamond Valley Districts (Title 15). Based on results of the Master Plan survey, the Master Plan reflects a philosophy of broad policies and general land use designations to regulate land use. Zoning has not been adopted within the County. Pursuant to NRS 278.030, the Board of Eureka County Commissioners (also referred to as the Eureka County Commission) has created the Eureka County Planning Commission. The Eureka County Planning Commission is required to prepare and adopt a comprehensive, long-term general plan for the physical development of the county (NRS 278.150) which may include recommendations for repeal, addition, or revisions to the Eureka County Code.

### **1.3 MASTER PLAN DEVELOPMENT, ADOPTION AND REVIEW PROCESS**

Preparation of the Eureka County Master Plan is governed by NRS 278.150 through 278.230 which direct each count to develop a comprehensive, long-term, general plan for the physical development of the County. The master plan is to be prepared so that all portions may be adopted by the Eureka County Commission as a basis for the development of the County into the foreseeable future.

According to NRS 278.160, the Eureka County Master Plan may address a wide variety of issues which are deemed appropriate to the development of the County. Topics recommended for consideration within NRS include: community design; conservation, development, and use of natural resources; economic plan; historical properties preservation plan; housing plan; land use plan; population plan; public buildings; public services and facilities; recreation; public safety; seismic safety; solid waste disposal; streets and highways; public transit; and transportation. The Eureka County Planning Commission is not prohibited from addressing any other subject within the master plan which the Commission determines to be related to the physical development of the County (NRS 278.160(2)). The master plan shall be a map, together with such charts, drawings, diagrams, schedules, reports, or other printed material, or any one or a combination of the foregoing as may be considered essential to the purposes of the administration of planning within Eureka County (NRS 278.200).

In preparing the master plan and subsequent revisions and amendments thereto, the Eureka County Planning Commission is required to notify school boards of planning initiatives involving community design and public buildings to ensure that adequate and properly located school sites are provided for (NRS 278.180). The Planning Commission is also required to promote public interest and understanding of the master plan and regulations relating thereto (NRS 278.190).

Prior to adoption of the master plan or any part thereof, or any substantial amendment, the Eureka County Planning Commission is required to hold at least one public hearing. Adoption of the master plan or any amendment thereto, shall be by resolution of the Commission approved by the affirmative votes of not less than two-thirds of the total membership of the Commission. (NRS 278.210) Following adoption by the Planning Commission, the Board of Eureka County Commissioners may adopt such parts thereof as may practicably be applied to the development of the County. Before adopting the master plan or any part thereof, the County Commission is required to hold at least one public hearing on the plan. The County Commission may not change or amend the master plan as adopted by the Planning Commission without first referring such proposed change to the Planning Commission for its input. (NRS 278.220) The Eureka County Commission shall, upon recommendation of the Eureka County Planning Commission, adopt reasonable and practical means for putting the master plan into effect. (NRS 278.230)

The Eureka County master plan is a living document designed to be amended and updated as

conditions and needs within the County evolve. Elements of the master plan have been developed and adopted over a period of time. Reserved sections or elements may be completed as the need arises.

## **1.4 PUBLIC INPUT AND DIRECTION**

Beyond the statutory requirement for public involvement in the planning process, Eureka County recognizes that an effective plan is one that reflects the values and desires of County residents for their communities. The preparation of this master plan has been based upon extensive input from residents and other landowners, local business interests, and representatives of state and local government. Input was sought to define planning issues or elements to be addressed within the plan, priorities for issue consideration, acceptance of varying degrees of regulation, specific geographic areas to be considered, and the timeframe to be addressed in the plan.

To enable effective public input, four master plan workshops were organized and held at the outset of the planning process for the 2010 Eureka County Master Plan Update. A Eureka County Master Plan Update survey was also developed in an attempt to gather as much public input as possible. To ensure that residents and other interested parties were adequately notified of the workshops and survey, the following public notification activities were undertaken:

- Notice of the Eureka County Master Plan Update workshop dates and times was posted on the Eureka County website.
- The Master Plan Update survey was placed on the Eureka County website.
- 906 Master Plan Update Surveys containing a cover letter, which gave workshop dates and times, were mailed to all post office box holders in Eureka County.
- Press releases regarding the Master Plan Update workshops and surveys were submitted to the *Eureka Sentinel* and the *Elko Daily Free Press*.
- Notice of Master Plan Update workshop dates and times was posted at the Eureka County Master Plan Update booth at the Eureka County Fair. Update information was discussed with fair goers and surveys were distributed.
- Meeting notices were posted at various Eureka locations.
- The Eureka County Master Plan Update was discussed and input taken at meetings of the following groups: Natural Resource Advisory Commission, Eureka County School Board, Wildlife Board, Eureka County Economic Development, Eureka County Television District, Eureka County Recreation Board, and Eureka County Conservation District.
- Input was also gathered from the Eureka County Sheriff Department, the Eureka County Emergency Service Coordinator, and the Eureka County Fire Department.

Table 1-1 provides a breakdown of attendance for each workshop.

Table 1-1  
Participation at Master Plan Workshops  
By Community Area

GEOGRAPHIC AREA OF RESIDENCE	NUMBER ATTENDING AUGUST 10, 2009 CRESCENT VALLEY WORKSHOP	NUMBER ATTENDING AUGUST 11, 2009 EUREKA WORKSHOP	NUMBER ATTENDING AUGUST 13, 2009 EUREKA WORKSHOP	NUMBER ATTENDING AUGUST 20, 2009 CRESCENT VALLEY WORKSHOP
Eureka	0	9	2	0
Diamond Valley	0	0	6	0
Crescent Valley	21	0	0	9
Beowawe	2	0	0	0
Total Attending	23	9	8	9

The workshop agenda is illustrated in Exhibit 1-1. Participants at each workshop were asked to complete a survey regarding planning issues.



Exhibit 1-1  
Agenda Utilized for  
Master Plan Workshops<sup>1</sup>

EUREKA COUNTY MASTER PLAN UPDATE  
2009  
PUBLIC WORKSHOP  
AGENDA

Welcome/Introductions

Master Plan Update Explained – Floyd Rathbun/Jeannette Dahl

What is the Eureka County Master Plan Update?

Why is an update needed?

What will the Plan do?

How do you use this Plan?

What are goals and policies?

What is the process for updating the Master Plan?

What are your needs and concerns? – Facilitated by Jim Evans

Comments recorded by Rathbun & Dahl

1.0 Introduction

2.0 Historic and Current Perspective

3.0 Growth Management Element

4.0 Public Facilities and Services Element

5.0 Economic Development Element

6.0 Natural Resources & Land Use Element (Updated 2006)

7.0 Housing Element

8.0 Water Element

9.0 Transportation Element

10.0 Conservation Element

11.0 Historic Preservation Element

12.0 Open Space Element

13.0 Public Finance Element

14.0 Specific Area Plans

15.0 Plan Implementation

Thank you for your participation

1. Similar agendas were used in the Eureka and Crescent Valley workshops.

Eureka Master Plan Update surveys were mailed to all Eureka County post office box holders. Of the 906 surveys mailed, eighty-six (9.5 percent) were completed and returned. Because surveys were mailed to households, many of these returned surveys may represent more than one person's opinion.

The Eureka County Master Plan Update Survey contained ten questions related to planning. Survey results produced information that was both county-wide and area specific.

Table 1-2  
 Master Plan Update Survey Participants Preference For A  
 County-wide Focus or an Area-specific Focus

	BEOVAWE %	CRESCENT VALLEY %	DIAMOND VALLEY %	EUREKA %	PINE VALLEY %	SOUTH COUNTY %	COUNTY WIDE %
County Wide Focus	50	43	42	38	67	50	43
Area Specific Focus	50	57	58	56	16.5	50	53
No Opinion	0	0	0	6	16.5	0	4

Eureka County does not use zoning to regulate land use. Survey participants reaffirmed the unacceptability of zoning as a means to control land use and growth.

Table 1-3  
Eureka County Master Plan Update Survey Participants Preference for how Eureka County Should Regulate Land Use

	BEOVAWE %	CRESCENT VALLEY %	DIAMOND VALLEY %	EUREKA %	PINE VALLEY %	SOUTH COUNTY %	COUNTY WIDE %
Strict policies and zoning	0	21.4	7.7	13.2	0	50	12.2
Broad policies and general land use categories	25	10.7	28.8	36.8	0	50	27.4
No zoning but general land use regulation	50	53.6	40.4	26.5	33.3	0	36
No land use regulation	25	14.3	23.1	8.8	50	0	17.4
No opinion	0	0	0	14.7	16.7	0	7

Table 1-4  
Eureka County Master Plan Update Survey Participant's Indication of  
The Importance of Historic Significance

	BEOAWAVE	CRESCENT VALLEY	DIAMOND VALLEY	EUREKA	PINE VALLEY	SOUTH COUNTY	COUONTY WIDE
	%	%	%	%	%	%	%
Very Important	50	57.1	46.2	52.9	83.3	50	53.5
Important	50	21.4	23.1	29.4	0	50	25.6
Neither important nor unimportant	0	14.3	23.1	11.9	16.7	0	15.1
Unimportant	0	0	3.8	0	0	0	1.2
Very unimportant	0	0	3.8	2.9	0	0	2.3
No Opinion	0	7.2	0	2.9	0	0	2.3

Table 1-5  
Eureka County Master Plan Update Survey Participants Sense Of How Strongly Historic  
Significance Should Affect Future Development

	BEOAWAVE	CRESCENT VALLEY	DIAMOND VALLEY	EUREKA	PINE VALLEY	SOUTH COUNTY	COUNTY WIDE
	%	%	%	%	%	%	%
Very Strongly	100	35.7	34.6	50	66.7	50	46.5
Strongly	0	35.7	26.9	23.5	0	50	24.4
Moderately	0	21.4	26.9	23.5	33.3	0	23.3
Weakly	0	0	11.6	3	0	0	4.7
Not at all	0	0	0	0	0	0	0
No Opinion	0	7.2	0	0	0	0	1.1

As reflected in Tables 1-6 and 1-8, survey participants were asked to rate strengths or weaknesses, with 1 being very strong, 2 being strong, 3 being moderate, 4 being weak, and 5 being very weak.

Table 1-6  
Eureka County Master Plan Update Survey Participants Rated  
Community Attributes As To Their Strengths Or Weakness

ATTRIBUTE	BEOVAWE	CRESCENT VALLEY	DIAMOND VALLEY	EUREKA	PINE VALLEY	SOUTH COUNTY	COUNTY WIDE
Residential Location	2	2.67	2.46	2.12	1.83	3	2.35
Convenient to Work	3	2.31	2.44	1.94	2.67	3	2.56
Recreational Opportunities	2.75	2.77	2.21	2.26	2.67	3	2.61
Sense of Community	2.50	2.54	2.50	2.50	2.83	1.50	2.40
Availability of Affordable Housing	3.75	3.31	3.77	3.58	3.67	3	3.22
Quality of the Natural Environment	1.50	2.46	2.08	2.15	2.17	1	1.89
Educational System	2.33	2.85	1.96	1.91	1.67	2	2.11
Character of the Community	2	2.69	2.42	2.12	2.50	1	2.12

In Table 1-7, survey participants were asked to rate issues as to importance with 1 being very important, 2 being important, 3 being of moderate importance, 4 being unimportant and 5 being very unimportant.

Table 1-7  
Eureka County Master Plan Update Survey Participants  
Rated Issues As To Their Importance

ISSUE	BEOVAWE	CRESCENT VALLEY	DIAMOND VALLEY	EUREKA	PINE VALLEY	SOUTH COUNTY	COUNTY WIDE
Growth Management	2	2	2.64	1.85	3.50	1	2.17
Public Facilities and Services	2.75	1.85	2.62	1.68	3	3	2.49
Economic Development	3	1.92	1.72	1.30	3.17	3.50	2.44
Land Use	1.50	1.54	2.12	1.64	2.17	1.50	1.75
Natural Resource Conservation	1.50	1.23	2.36	1.59	2.33	1.50	1.75
Outdoor Recreation	1.50	1.77	2.19	1.74	2.83	2.50	2.09
Recreation and Sports	1.75	2	2.62	2.09	3.33	0	2.36
Housing	2.75	2	2.08	1.74	3.33	3.50	2.57
Water	1.50	1.15	1.62	1.06	1	1	1.22
Transportation	1.75	2.23	2.42	2.12	2.67	2.30	2.25
Historic Preservation	1	1.54	2.40	1.71	3.17	1.50	1.89
Open Space	1.25	1.23	1.65	1.76	1.67	1	1.43

Table 1-8  
Eureka County Master Plan Survey Participants Rated  
Communication Services As To Their Strength and Weaknesses

SERVICE MEAN	BEOAWAVE	CRESCENT VALLEY	DIAMOND VALLEY	EUREKA	PINE VALLEY	SOUTH COUNTY	COUNTY WIDE
Telephone Service	3.50	2.62	2.15	1.97	1.17	5	2.74
Cellular Phone Service	3.50	3.92	2.74	4.38	4	3.50	3.67
Radio Service	2	3.46	3.92	3.82	3.67	4.50	3.56
Television Service	2.75	4	3.80	3.34	4.33	4	3.70

Recommendations for ranking of plan elements were developed based upon input from the Eureka Master Plan Update Survey, Master Plan Workshops and meetings attended. The input provided by community members lead to the adoption of the following list of elements to be included in the master plan, as well as the priorities for consideration. Tier 1 plan elements are to be addressed first, followed by Tier 2 elements, Tier 3 and Tier 4.

Tier 1  
Water  
Open Space

Tier 2  
Land Use  
Natural Resources  
Historic Preservation

Tier 3  
Recreation  
Growth Management  
Transportation

Tier 4  
Public Facilities and Services  
Economic Development  
Housing

Based upon the extensive input obtained through the Eureka County Master Plan Update Survey, workshops held in Eureka and Crescent Valley, and attendance at meetings the Planning Commission adopted the following recommendations regarding preparation of the Eureka County Master Plan:

1. Water and open space should be the first elements addressed through the planning process. The second set of element priorities should include land use, natural resources and historic preservation. Recreation, growth management and transportation should be the third set of elements addressed followed by public facilities, economic development and housing.
2. The Eureka County Master Plan should have an area specific focus. Candidates for specific area plans include the towns of Eureka and Crescent Valley,

Beowawe, Diamond Valley, and the balance of the County.

3. The Eureka County Master Plan should reflect a philosophy of broad policies and general land use designations to regulate land use.

The Board of Eureka County Commissioners, upon recommendation of the Planning Commission, also adopted the above mentioned guidelines for development of the Eureka County Master Plan.

## **1.5 MASTER PLAN GOALS AND POLICIES**

Throughout the planning process, the Board of Eureka County Planning Commission and the Eureka County Commission have articulated various goals pertaining to the Eureka County Master Plan. Each of these goals is necessary to maintain and enhance local economic viability and the rural quality of life which has typified Eureka. Over-arching goals include the following:

1. Empower the Planning Commission and County Commission to manage growth so as to balance continued economic development with maintenance or enhancement of quality of life, all done in a fiscally responsible manner;
2. Provide a long-term (through 2020) plan for the physical development of Eureka County, complete with viable implementation measures; and
3. Provide mechanisms to address immediate growth management issues.

Consideration of each planning element has occurred with each of these key goals in mind. In addition to the above stated broad goals, each element of the Master Plan includes specific goals and policies relating to the subjects addressed therein. These goals and policies serve as benchmarks against which the effectiveness of the Master Plan and its implementation are gauged. Implementation measures proposed and adopted by the Eureka County Planning Commission and Eureka County Commission are designed to ensure compliance with stated goals and policies.

## **1.6 SPECIFIC PLANNING AREAS**

The Eureka County Planning Commission and the Eureka County Commission identified specific areas of preferred growth as an important aspect of the Master Plan but recognize that private property rights are the most important consideration. Eureka County selected areas for future housing or urban growth as being within or in the immediate vicinity of the Town of Eureka, the Town of Crescent Valley, southern Diamond Valley, and Beowawe. Figure 1-2 depicts the locations of these preferred areas of growth. These recognized areas have been assigned the first priority for public funding of infrastructure and may each have special issues, goals, policies and implementation mechanisms now and in the future.



## **2.0 HISTORIC AND CURRENT PERSPECTIVE**

Eureka County is valued for its historical significance, mountain scenery, rich natural resources, and diverse recreational opportunities. The County's natural resources have attracted residents since the 1800's when prospectors sought the area's gold and silver. Today, mining, outdoor recreation and agriculture serve as a basis for the County's economy. The "boom or bust" nature of the mining industry has fostered periods of rapid growth and corresponding economic declines throughout the County. Eureka County has experienced these cyclical growth patterns which have, in some cases, resulted in reactive development to satisfy immediate needs.

### **2.1 GOVERNMENT ORGANIZATION**

Table 2-1 identifies elected offices, town boards, special districts and commissions in Eureka County.

Table 2-1  
Eureka County Government

<b>Elected Offices</b>	<b>Townships</b>	<b>Special Districts</b>	<b>Committees/ Representatives</b>	<b>Boards and Commissions</b>
Commissioner (3)	Eureka Township	Diamond Valley Rodent Control	Juvenile Probation Committee	Natural Resource Advisory Commission
Assessor	Beowawe Township	Diamond Valley Weed Control	Eureka Townsite Annexation Advisory Committee	Eureka County Planning Commission
Clerk/Treasurer		Eureka County T.V. District	Safety Committee	Wildlife Advisory Board
Recorder/Auditor		Eureka County School District	Airport Advisory Committee	Crescent Valley Town Board
Sheriff		Eureka Conservation District	Local Emergency Planning Committee	Senior Center Board
District Attorney		Devil's Gate General Improvement District	Nevada Works Representative	Economic Development Board
Justice of the Peace (2)			Boulder Valley Monitoring Representative	Insurance POOL/PACT Board
			Central Nevada Regional Water Authority Representative	Debt Management Board
			Eureka County Health Insurance Committee	Board of Equalization
			Nevada Association of Counties Representative	Recreation Board
			State Land Use Planning Advisory Commission Representative	Television Board
				District 15 Fair Board
				Liquor Board
				Eureka Conservation District Board
				Humboldt River Basin Authority Board
				Regional Transportation Board

Eureka County was established in 1873 and expanded twice, shortly thereafter, to encompass its present territory. Its lands were derived from the existing political units of Elko, Lander and White Pine counties. The Town of Eureka, first settled in 1865, was designated the County Seat, in 1873.

Administrative services funded by the County include:

- \* Civil Defense
- \* TV District
- \* Justice Department
- \* Library
- \* Swimming Pool
- \* Public Health Doctor
- \* Roads
- \* Emergency Medical
- \* Cooperative Extension
- \* Juvenile Probation
- \* Law Enforcement
- \* Rodent/Weed Control
- \* Fire Protection
- \* Public Works
- \* Economic Development
- \* Devil's Gate Water Fund
- \* Eureka Airport
- \* Eureka Museum
- \* Medical Center
- \* Fair Grounds
- \* Ball Parks
- \* Senior Centers

## **2.2 CURRENT LAND USE**

Eureka County contains an area of approximately 4,179.96 square miles. The population is concentrated in three unincorporated communities, Eureka Town, Crescent Valley, and Beowawe.

### **2.2.1 Generalized Land Use**

Approximately 79 percent of the 2,668,251 acres of land in Eureka County is managed by federal agencies (Bureau of Land Management and U.S. Forest Service). This land is primarily used for livestock grazing, mining, geothermal energy production, and outdoor recreation. Land Management and ownership in Eureka County are shown in Table 2-2.

Eureka County has not adopted a zoning ordinance. Existing land use patterns within the County have evolved from economic activity such as mining and agriculture. Locations of limited private land resources have also served to influence land use patterns.

The single greatest land use within the County is open space agricultural, comprised of a series of designated grazing allotments. Approximately 2.4 million acres (90 percent of Eureka county land) is used for cattle and sheep grazing and pasture, and for crops such as hay or grass. Also interspersed throughout the County is all or part of 23 mining districts. Mining represents the next-largest land use within the County. Existing mines located in or near Eureka County are shown in Figure 2-1. Superimposed over these

allotments and mining districts, the U.S. Department of Defense has designated certain areas within the County as special use airspace for military training (Figure 2-2).

The Eureka County Master Plan provides an overall designation for existing land uses in Eureka County (Figure 2-3). The Master Plan process recognized principally six land use categories which include: Urbanizing Areas; Permanent Open Space; Open Space and Appropriate Associated Uses; Agriculture, Mining, Limited Housing; Agriculture, Mining, and Very Limited Housing; and Agriculture Only, Associated Housing. Current land status and ownership in Eureka County is depicted in Figure 2-4.

Table 2-2  
Eureka County  
Land Management and Ownership

MANAGEMENT	2009 ACREAGE	2009 PERCENT
Bureau of Land Management	1,969,762	74
U.S. Forest Service	142,923	5
Private Ownership	554,506	21
State of Nevada	19	.000007
Eureka County	1041	.00039
Total	2,668,251	

Source: Eureka County Assessor's Office 2009

Changes in land uses have occurred since the adoption of the County's last master plan in 2000, but the distribution of land ownership has remained relatively constant. Mining activity has increased in both precious metals, and saleable minerals. Geothermal energy and oil or gas exploration and development have also increased.

Agriculture production is the principle land use within the private lands of Eureka County, including both intensive farming practices on irrigated lands and ranching with dispersed livestock grazing from non-irrigated rangelands. According to the 2007 Census of Agriculture there were 57 irrigated farms producing 144,135 tons of alfalfa hay or grass hay from 35,391 acres of land. The Nevada Agricultural Statistics, 2007-2008, Nevada Department of Agriculture, reported that the cattle and calf inventory increased from 13,000 head in 1993 to a reported 19,000 head in 2004. Numbers then decreased to 15,000 head in 2008. This most recent decline coincided with an extended drought period, falling cattle prices, and increased government regulation of livestock operators.

Since 2000 there has been an increase in the number of housing units corresponding to the increase in population growth. The overall composition of the housing inventory has changed due to the increasing use of mobile homes as the primary housing unit in the County. In 1970 approximately 26 percent of the housing units were mobile homes compared to approximately 60 percent in 1995. In 2009, mobile homes accounted for 67.3 percent of the total housing stock in Eureka County. The percentage of mobile home inventory in Eureka County has decreased from 2000 (69.8 percent) to 2009 (67.3 percent), however, the total number of mobile homes has remained much the same.

During the same time period, the numbers of single family attached units have decreased in number and in percentage, while single family detached and multi-family units have increased both in number and in percentage.

### **2.2.2 Land Use Within and Around the Town of Eureka**

U.S. Highway 50 bisects the core of the town of Eureka. The Township currently contains approximately 520 acres. A variety of land uses occur within Eureka Town boundaries. The core commercial area of Eureka is located primarily along U.S. Highway 50. Other commercial and industrial land uses are found to the north of Eureka near the U.S. Highway 50 and State Route 278 intersection. Development to the south and east of Town is geographically limited due to steep slopes and hillsides.

The Town of Eureka contains mixed land uses throughout. Of principal significance within the Town of Eureka are a number of historic buildings including residential homes, and there has been significant restoration throughout the community. The terrain in Eureka also makes large scale development difficult, for that reason future development and expansion would likely occur to the north of Eureka.

Outside the Eureka townsite limits, the area is primarily open space with limited private land holdings. Eureka Moly proposes to develop the Mt. Hope molybdenum mining operations north of Eureka. They are also proposing the development of a subdivision north of Eureka and east of Highway 50.

### **2.2.3 Diamond Valley Area**

Diamond Valley contains numerous agricultural operations that rely upon groundwater to irrigate the area's principal crop of alfalfa, timothy and grass mix hays . The area is sparsely populated with most residents being associated with agricultural activity. Land use in this area is dominated by open space and agricultural uses, public land and livestock grazing, mining, and outdoor recreation. There are few commercial or industrial uses in Diamond Valley, with most activity occurring along the Highway 50 corridor towards the southern end of the Valley.

### **2.2.4 Crescent Valley**

The unincorporated town of Crescent Valley is located in west-central Eureka County, south of Interstate 80, within Crescent Valley. A variety of land uses occur in Crescent Valley including, residential, agricultural, mining, and limited commercial and industrial use. Growth and development tends to fluctuate with mining activity in the area.

The Town of Crescent Valley is dominated by residential uses, primarily mobile homes and modular units. There are some commercial land uses dispersed throughout the community. Growth in the area has been spurred by mining development to the south of Crescent Valley. Outside the town of Crescent Valley the area is sparsely populated. The Town is somewhat unique in that it lies adjacent to the eastern border of Lander

County, and as mining activity increases, growth and development also occur on lands in Lander County next to the Town of Crescent Valley.

### **2.2.5 Beowawe**

Further to the north, Beowawe is located within the Humboldt River corridor south of Interstate 80. The primary land uses in Beowawe include, residential, agriculture, and industrial. The mainline Union Pacific Railroad passes through the area. There is potential to develop geothermal resources near the community of Beowawe. West of Beowawe in Lander County, the NV Energy Company operates a geothermal power plant with a production capacity of 17.70 mega watts (January 2009, Nevada State Department of Energy). To the north of Beowawe are primarily private land holdings in Whirlwind Valley. The mainline railroad bisects the Valley heading north to Dunphy. Surrounding both Crescent Valley and Beowawe is a checker board pattern of public and private lands.

### **2.2.6 Balance of County**

The balance of Eureka County is open space used for agriculture, mining, and recreation. The area is sparsely populated. Most of the residential development is associated with agricultural uses and ranching operations. Lands north of Interstate 80 encompass approximately 530 square miles. Boulder Valley is one of the largest blocks of privately owned land in the County. Lands in this area are primarily used for agriculture, livestock grazing, mining and outdoor recreation. Two of the largest gold mining operations in North America, Barrick Gold Corporation (operating the Goldstrike, and Cortez mines) and Newmont Mining Corporation (operating the Carlin Trend), are located in this area. Ruby Hill Mine, operated by Barrick Gold Corporation, is located in the southern end of the county. Other major private land holdings in the outlying County occur south of Palisade at the northern end of Pine Valley.

The majority of lands in the outlying area of the County fall under the management authority of the Bureau of Land Management and the U.S. Forest Service. A variety of land uses occur on these lands. There are two wilderness study areas (WSA) including Simpson Park (49,670 acres) and Roberts Mountain (15,090 acres). At this time neither WSA has been recommended for designation as a wilderness area by the Bureau of Land Management. Mineral, geothermal, oil and gas development potential exist on these lands. Oil production occurs on wells in the Pine Valley area. Livestock grazing, mining and recreational activities occur on these public lands.

### **2.2.7 Development Constraints**

Eureka County faces several development constraints including water availability, remoteness, and shopping.

## 2.2.8 Management of Public Lands

Like most other counties in Nevada and the West, public land management is an issue that affects Eureka County. According to the Eureka County Assessor's office, the Bureau of Land Management manages 1,969,762 acres of the total of 2,668,251 acres of land that makes up Eureka County, while the U.S. Forest Service manages 142,923 acres. Approximately 79 percent of the County is land currently managed by federal agencies. In 1993, the Eureka County Commissioners created the Eureka County Natural Resources Advisory Commission (NRAC) and appointed a nine member board to serve on that commission. NRAC makes recommendations to the County Commission on issues regarding public lands including air space, wild horses, wildlife, grazing allotments, mining and recreation. Eureka County was the first county in the State of Nevada to hire a Natural Resource Manager.

## 2.3 POPULATION TRENDS

### 2.3.1 Current and Historic Population

The population of Eureka County is concentrated in four areas: Eureka, Diamond Valley, Crescent Valley, and Beowawe (Figure 2-4). The majority of the County's population lives in and around the Town of Eureka. Population growth has and will likely continue to be influenced by the mining industry. Table 2-3 shows historic, recent and estimated population growth in Eureka County. As indicated, in 1995 population increased by 11 percent but in 2000 decreased by 4 percent. In 2005, population decreased by 10 percent but then showed an estimated increase of 8 percent for 2010. This is an example of population changes that might be expected in a community with a mining based economy.

Table 2-3  
Population Growth  
Eureka County  
1990 to 2010

EUREKA COUNTY	POPULATION	PERCENTAGE OF CHANGE
1990	1,547	
1995	1,717	11
2000	1,651	-4
2005	1,485	-10
2010	1,608	8

Source: Nevada State Demographer's Office

As shown in Table 2-4, the age of the population in Eureka County is some what similar to the State of Nevada. However, with increased mining growth and activity in Crescent Valley and Eureka more family and married couple households can be anticipated.

Table 2-4  
Population by Age Groupings  
2008

AGE GROUP	EUREKA NUMBER	EUREKA PERCENT	NEVADA NUMBER	NEVADA PERCENT
0-4	100	6.4	204,686	7.2
5-19	365	23.5	587,542	20.7
20-44	493	31.7	1,033,885	36.4
45-64	403	26.0	693,862	24.4
65 and over	193	12.4	324,149	11.4
Total	1554	100	2,844,124	100

Source: Nevada State Demographer

### 2.3.2 Future Population Growth

According to projections prepared by the Nevada State Demographer, (Table 2-5) Eureka County population could remain fairly stable over the next several years. Directly and indirectly, mining activity will be the primary cause for increased or decreased growth within the County. In addition to mining related growth, smaller gains could occur as a result of migration to the County for retirement, and the quality of life.

The mining population will also influence certain demographic trends found elsewhere throughout the State. Mining households are generally of working age, and have more married couple families with children as compared to the existing population. These factors will tend to influence public services by placing greater demands on schools, and recreational facilities and services.

Table 2-5  
2008 Population Forecasts  
Eureka County

EUREKA COUNTY	POPULATION	PERCENTAGE OF CHANGE
2007	1,458	
2014	1,694	14
2021	1,872	9
2028	1,792	-4

Source: Nevada State Demographer

## 2.4 HOUSING

### 2.4.1 Housing Characteristics

In 2009, mobile homes accounted for 67.3 percent of the total housing stock in Eureka County, as seen in Table 2-6. The percentage of Mobile home inventory in Eureka County has decreased from 2000 to 2009, however the total number of mobile homes have remained much the same. During the same time period, the numbers of single



family attached units have decreased in number and in percentage, while single family detached and multi-family units have increased both in number and in percentage.

Table 2-6  
Housing Inventory  
Units by Type of Structure  
Eureka County 2009

TYPE OF HOUSING	2009	PERCENT	2005	PERCENT	2000	PERCENT
Single Family Detached	268	27.3	242	27.2	239	25.3
Single Family Attached	28	2.9	20	2.3	30	3.2
Multi-Family	25	2.5	16	1.8	16	1.7
Mobile Homes	660	67.3	610	68.7	660	69.8
<b>TOTAL</b>	<b>981</b>		<b>888</b>		<b>945</b>	

Source: Eureka County Assessor, 2009

Eureka County ranks among the highest of counties in the United States for the proportion of total housing stock comprised of mobile homes. The median value of an owner-occupied home in Eureka County in 2000 was \$ 65,600 as reported by the 2000 U.S. Census. The 2000 median monthly contract rent was \$362.

## 2.5 ECONOMY

The economic fortunes of Eureka County and its residents have been tied to mining since the discovery of silver-lead mineralization near the present site of the Town of Eureka. According to the Eureka County, Nevada Mineral Assessment Report, October 2007, Eureka County was producing about 36 percent of all Nevada gold in 2007. Between the years 1997 and 2003, Eureka County mines annually produced between \$865 million and \$1.08 billion of gold and silver. As seen in Table 2-7, mining employment dropped slightly in 2003 and 2004, but rose again in 2009. By March of 2009, there were 4,100 jobs in mining in Eureka County. Mining pays the highest annual wage of all industries in Eureka County as well as the State of Nevada. The two largest gold producers in Nevada, Barrick Gold Company and Newmont Mining Corporation are located in northern Eureka County. Most of the mining services supporting these mines, and most of the employees of these mines, are based outside of Eureka County primarily in nearby Elko County.

Government is the second-largest employment category in the county, with 250 jobs reported in March of 2009. Government employment dropped over the four-year period, shown in Table 2-7, from 204 government jobs in 2002 to 192 in 2004 but by March of 2009, increased to 250 jobs.

Table 2-7  
Eureka County Industrial Employment  
2002-2009

	2002	2003	2004	2009
All Other	41	66	71	–
Other Services except public administration	-	8	7	–
Trade Transportation and Utilities	33	32	32	140
Professional and Business Services	–	–	–	10
Accommodation, Food Service, Leisure and Hospitality	25	25	38	40
Government	204	188	192	250
Mining	3,307	3,180	3,211	4,100

Note: To maintain employer confidentiality some individual industry data are suppressed, but are still part of the total. These numbers are included in “All Other”. Owner/Operator statistics are not included.

Source: Nevada Department of Employment Training and Rehabilitation, Nevada Workplace Informer “Quarterly Employment and Wages”, Eureka County 2002-2004 and March 2009 Nevada Small County Industrial Employment Summary.

Agriculture plays an important role in the local economy. Over the years agriculture has provided a stable employment and income base in Eureka County. To maintain the agriculture base, Eureka County must protect the water resource within the County. The 2007 Census of Agriculture reports that the market value of products sold in 2002 was \$12,659,000. The majority of these revenues were generated by the sale of hay and livestock. Eureka County produced 144,135 tons of hay from 34,940 acres of land.

Many livestock producers in the County are cow/calf operations which use range lands managed by the Bureau of Land Management and other federal land management agencies for a part of their grazing needs. Range reform efforts by the U.S. Department of Interior continue to place economic pressures on livestock producers. The 2008 Eureka County cattle and calves inventory is reported to be 15,000 head, down 4,000 head from the 2004 inventory of 19,000. (Nevada Agricultural Statistics, 2007-2008, Nevada Department of Agriculture).

Agriculture in Eureka County is an export industry. Because most products are sold outside the County (exported), income flows back (imported) into the area. High quality products are produced in Eureka County.

Most commercial activity in the County is currently located in the Town of Eureka.

## **2.6 FISCAL CONDITIONS**

Table 2-8 shows the overall Eureka County budget and ending fund balances for 2008. The General Fund is the general operating fund of the County.

Table 2-8  
Statement of Revenues, Expenditures, and Changes in Fund Balances  
Governmental Funds For The Year Ended June 30, 2008

	GENERAL	FUTURE RESERVE FUND	ROAD FUND	BUILDING OPERATION AND MAINTENANCE RESERVE	REGIONAL TRANSPORTATION FUND	OTHER GOVERNMENTAL FUNDS	TOTAL GOVERNMENTAL FUNDS
<b>REVENUES</b>	\$	\$	\$	\$	\$	\$	\$
Taxes	5,501,104	-	1,256,149	-	468,928	1,619,621	8,845,802
Licenses/Permits	9,268	-	-	-	-	3,664	12,932
Intergovernmental revenues	6,718,083	-	1,053,700	-	-	3,489,238	11,261,021
Charges for Services	858,042	-	-	-	-	713,606	1,571,648
Fines and Forfeits	102,324	-	-	-	-	-	102,324
Miscellaneous	836,306	465,653	71,966	366,307	234,884	726,602	2,701,718
<b>Total Revenues</b>	<b>14,025,127</b>	<b>465,653</b>	<b>2,381,815</b>	<b>366,307</b>	<b>703,812</b>	<b>6,552,731</b>	<b>24,495,445</b>
<b>EXPENDITURES</b>							
Current							
General Government	2,655,991	-	-	2,444,994	-	1,800,921	6,901,906
Public Safety	2,295,530	-	-	,	-	324,819	2,620,349
Judicial	996,484	-	-	,	-	101,856	1,098,340
Public Works	497,781	-	1,583,413	,	2,372,913	704,401	5,158,508
Health and Sanitation	699,315	-	-	,	-	363,338	1,062,653
Culture and Recreation	918,807	-	-	,	-	167,486	1,086,293
Community Support	384,553	-	-	,	-	-	384,553
Intergovernmental	3,130,000	-	-	,	-	26,243	3,156,243
<b>Total Expenditures</b>	<b>11,578,461</b>	<b>-</b>	<b>1,583,413</b>	<b>2,444,994</b>	<b>2,372,913</b>	<b>3,489,064</b>	<b>21,468,845</b>

Table 2-8  
Statement of Revenues, Expenditures, and Changes in Fund Balances  
Governmental Funds For The Year Ended June 30, 2008  
(Continued)

	GENERAL	FUTURE RESERVE FUND	ROAD FUND	BUILDING OPERATION AND MAINTENANCE RESERVE	REGIONAL TRANSPORTATION FUND	OTHER GOVERNMENTAL FUNDS	TOTAL GOVERNMENTAL FUNDS
Excess (Deficiency) of Revenues Over Expenditures	2,446,666	465,653	789,402	(2,078,687)	(1,669,101)	3,063,667	3,026,600
OTHER FINANCING SOURCES (USES)							
Transfers in	-	-	-	3,500,000	5,000,000	580,000	9,080,000
Transfers out	(9,080,000)	-	-	-	-	-	(9,080,000)
Proceeds From Sale of Capital Assets	15,000	-	-	-	-	-	15,000
Total Other Financing Sources (Uses)	(9,065,000)	-	-	3,500,000	5,000,000	580,000	15,000
Net Change in Fund Balances	(6,618,334)	465,653	798,402	1,421,313	3,330,899	3,643,667	3,041,600
FUND BALANCES, July 1	17,068,570	8,474,149	1,238,800	6,552,930	979,421	12,237,199	46,551,069
FUND BALANCES, June 30	10,450,236	8,939,802	2,037,202	7,974,243	4,310,320	15,880,866	49,592,669

Source: Eureka County Recorder/Auditor

Table 2-9 lists revenues and expenditures for the County's General Fund. In 2008 Intergovernmental Revenues accounted for 47.9 percent of total General Fund revenues, 18.1 percent less than the 1995 Intergovernmental Revenues of 66 percent. Taxes accounted for 39.2 percent of revenues in 2008 but only 20 percent in 1995. As a result of revenues generated directly or indirectly by mining, Eureka County had a sizable General Fund ending balance in excess of \$11.5 million in 2008.

In 2008, General Government functions (22.9 percent) and Public Safety (19.8 percent) accounted for a combined total of 42.7 percent of expenditures, just under the 1995 report of 50 percent of expenditures in these areas. When comparing 2008 with 1995 expenditures, during the last thirteen years there have been relatively few changes in the percentage of expenditures for Public Safety, Judicial, Health and Sanitation, Culture and Recreation, and Community Support.

The primary source of revenues is derived from the mining industry. Tax revenues are generated primarily in the form of property tax including net proceeds of mines, and sales and use tax. A majority of sales tax in the County is also generated by mining related activity.

Much of the existing infrastructure (public facilities) in the County accommodates a relatively small population base. Operating expenditures may increase in the future as Eureka County responds to possible population growth and service demands in Crescent Valley and the Town of Eureka.

Table 2-9  
Eureka County  
General Fund  
Comparison of Revenues/Expenditures  
1995 and 2008

	1995	PERCENT OF TOTAL	2008	PERCENT OF TOTAL
REVENUES	\$	%	\$	%
Taxes	1,315,618	20.0	5,501,104	39.2
License & Permits	8,548	0.1	9,268	0.1
Intergovernmental Revenues	4,335,411	66.0	6,718,083	47.9
Charges for Service	461,474	7.0	858,042	6.1
Fines and Fees	71,518	1.1	102,324	0.7
Misc. Revenues	378,934	5.8	836,306	6.0
<b>Total Revenues</b>	<b>6,571,503</b>	<b>100</b>	<b>14,025,127</b>	<b>100</b>
<b>EXPENDITURES</b>				
General Government	2,275,565	36.7	2,655,991	22.9
Public Safety	1,253,712	20.2	2,295,530	19.8
Judicial	464,590	7.5	996,484	8.6
Public Works	-	-	497,781	4.3
Health & Sanitation	420,736	6.8	699,315	6.0
Culture & Recreation	548,157	8.8	918,807	7.9
Community Support	206,594	3.3	384,553	3.3
Intergovernmental-Grants Out	1,030,000	16.6	3,130,000	27.2
Contingency	-	-	-	-
<b>Total Expenditures</b>	<b>6,199,354</b>	<b>100</b>	<b>11,578,461</b>	<b>100</b>
	372,149			
Excess (Deficiency) of Revenues Over Expenditures			2,446,666	
<b>OTHER FINANCING SOURCE (USES)</b>				
Transfers out			(9,080,000)	
Proceeds from sale of capital assets			15,000	
Total Other Financing Sources			(9,065,000)	
Net Change in Fund Balance			(6,618,334)	
Fund Balances July 1	6,410,529		17,068,570	
Fund Balances June 30	6,782,678		10,450,236	

Source: Eureka County Audit, 1995 and 2008

## **2.7 PUBLIC FACILITIES AND SERVICES**

Within Eureka County, public facilities and services are located predominately in the communities of Eureka and Crescent Valley, the two primary population centers in the County. Table 2-10 summarizes public facilities and services by location within Eureka County.

There are two medical clinics in the County which are located in the town of Eureka and the town of Crescent Valley and provide many services to the residents. Eureka County provides schools in the town of Eureka for students attending kindergarten through twelfth grade. Crescent Valley and Beowawe students attend kindergarten through sixth grade in Crescent Valley, while high school students attend school in Battle Mountain. Pine Valley students attend Carlin, Nevada schools.



Table 2-10  
Public Facilities in Eureka County

<b>Facilities</b>	<b>Eureka</b>	<b>Crescent Valley</b>	<b>Beowawe</b>	<b>Diamond Valley</b>	<b>Balance of County</b>
<b>Public Safety</b>					
Jail	X	X			
Sheriff's Office	X	X			
Ambulance	X	X	X		
Fire Station	X	X	X	X	(2)
Emergency Medical	X	X	X		
<b>Utilities</b>					
Sewer	X				
Water	X	X		X	
Landfill	X				
<b>Recreation</b>					
Athletic Fields	X	X	X		
Pool	X				
Park	X	X			
Fair Grounds/Arenas	X	X			
<b>Community Center</b>		X			
<b>Administration Bldg</b>	X	X			
Justice Court	X	X			
Airport	X	X			
Schools	X	X			
Museum	X				
Library	X	X	X		
Medical Clinic	X	X			
Senior Center	X	X			

### **3.0 GROWTH MANAGEMENT ELEMENT**

#### **3.1 INTRODUCTION**

The State of Nevada required Eureka County to implement tools, such as water right dedication, to keep development within the existing infrastructure and maintain quality of life.

This element of the Eureka County Master Plan presents a growth management system which has been designed to influence the characteristics of growth and to achieve community goals, objectives, and policies. Element 1.0 describes how public input for the 2010 Eureka County Master Plan Update regarding growth management was obtained.

As was shown in Table 1-3 of the Introduction to the Eureka County Master Plan, residents of Eureka County's principal communities share differing views as to preferences for County regulation of land use.

Based upon public input received, it is apparent that growth management systems adopted by Eureka County will: 1) influence growth while not unduly restricting existing property rights and 2) recognize differences between preferences in levels of growth management.

#### **3.2 TIMING, LOCATION, AND FINANCING OF GROWTH**

Growth management systems most often respond to local government needs to influence the timing, location, and financing of growth. From a timing perspective, Eureka County's ability to provide public services depends upon the existence of adequate demand for the service or the project will not result in sufficient tax dollars or utility revenues to fund construction or maintenance of public improvements. Inefficient use of public services can result in higher taxes, fees and/or utility rates. Efforts to match facility availability and capacity with resident demand can serve to encourage efficient and cost effective delivery of services.

#### **3.3 EXISTING MECHANISMS AND ENFORCEMENT**

As described within the Eureka County Code, various mechanisms are available to support management of growth in the County.

##### Title 4, Chapter 10

Establishes a special category of real property for tax purposes to be defined as “open space real property.” Persons whose property fits within the definition of open space use and otherwise meet the requirements of this chapter, may secure reduced property tax assessment on such land during the period of time that such use is continued.

##### Title 4, Chapter 20

Establishes a motor vehicle fuel tax and Regional Transportation Commission ordinance.

Title 4, Chapter 40

Establishes a tax upon all retailers for the privilege of selling tangible personal property at retail in the County.

Title 4, Chapter 40

Establishes an excise tax on the storage, use, or consumption in the County on tangible personal property purchased from any retailer for storage, use, or other consumption in the County.

Title 4, Chapter 50

Establishes a County room tax on every person operating, conducting or engaging in a rental business within the County.

Title 6, Chapter 80

Allows the County to adopt by ordinance, procedures to demolish dangerous structures to protect the public health, safety, and welfare of the residents of the County.

Title 7, Chapter 10

Creates the Eureka County Economic Development Program and defines the power of the Program to receive grants, donation, and revenues, and to expend the same to promote and enhance the economic growth of Eureka County with the assistance of the Eureka County Economic Development Program Advisory Board.

Title 8, Chapter 20

The purpose of this Title is to safeguard the public health, safety, convenience and general welfare and to bring about an orderly, coordinated, and economic development of the area, by establishing minimum standards of design and improvement for any land divided in the County.

Title 8, Chapter 40

Establishes procedures for the review and approval of tentative maps.

Title 8, Chapter 50

Establishes design requirements for subdivisions within the County.

Title 8, Chapter 60

Establishes procedures for the review and approval of final maps.

Title 8, Chapter 70

Requires the owner of the parcel to be subdivided, at the owner's expense, to install and complete improvements that were conditions of tentative map approval.

Title 8, Chapter 80

Establishes requirements for completion and inspection of all improvements and final map procedures.

Title 8, Chapter 90

Establishes procedures for the filing, reviewing, and approval of parcel maps within Eureka County.

Title 8, Chapter 100

Establishes procedures for the division of land into large parcels of forty (40) acres or more in Eureka County.

Title 8, Chapter 110

Provides a basis and framework for planned unit developments within Eureka County.

Title 8, Chapter 120

Establishes enforcement procedure and penalties regarding any building or structure erected or maintained, or any use of property contrary to Title provisions declared to be unlawful and a public nuisance.

Title 8, Chapter 130

Establishes the planning and management within the designated flood plains.

Title 8, Chapter 140

Establishes the requirements for the placement of mobile homes and recreational vehicles on land outside mobile home and recreational vehicle parks.

Title 8, Chapter 150

Requires applicant requesting any tentative subdivision, planned unit development, parcel map or division of land into large parcels which create additional parcels within the County, to submit a written and binding statement of intent to dedicate to Eureka County, at the time of application approval, the type and amount of water rights necessary to serve each parcel created.

Title 9, Chapter 10

Establishes a Eureka County Natural Resources Advisory Commission representing ranching, farming, mining, wildlife, business, and recreation to advise the Board of County Commissioners regarding the goals and policies established in the Eureka County Public Lands Use Plan and other natural resources and public lands issues.

Title 9, Chapter 30

The purpose of this chapter is to (1) guide County policy with respect to natural resource issues facing Eureka County, (2) provide a framework to guide federal agencies in land-use planning on federal lands, and (3) safeguard property rights and other customary usage rights of the citizens of Eureka County.

Title 9, Chapter 40

Adopts procedures to ensure that there is full and complete disclosure and cooperation by federal entities to the County regarding decisions affecting federal lands located within the County and that the federal entities be made aware of the impact of their actions and

decision-making on the interrelated heritage of cultural, environmental and economic well-being and stability of the County.

Title 9, Chapter 50

Declares that the County holds in trust for the public, title to all public roads, trails, pathways, traces, highways, byways, and similar public travel corridors situated in the County except for State and federal highways.

Title 9, Chapter 60

Establishes County policy with regards to management of public lands, including the privatization of certain lands for commercial, residential, industrial and agricultural uses.

Title 12, Chapter 10

Ratifies the existence and boundaries of the townsite of the unincorporated town of Eureka.

Title 12, Chapter 20

Establishes procedures regarding the Eureka town water system.

Title 12, Chapter 30

Establishes procedures regarding the Eureka town sewer system.

Title 13, Chapter 10

Ratifies the existence and boundaries of the townsite of the unincorporated town of Crescent Valley.

Title 13, Chapter 20

Establishes the Crescent Valley Advisory Board.

Title 13, Chapter 30

Establishes procedures regarding the Crescent Valley town water system.

As the foregoing listing implies, Eureka County has adopted a variety of mechanisms for managing the timing, location, and public cost of growth. Methods employed by the County include tax assessments, privatization of non-patented lands, flood hazard identification, development standards for subdivision and planned unit development, dedication of land, and development agreements. In addition, the County has developed an annual capital improvements plan.

### **3.4 ALTERNATIVE GROWTH MANAGEMENT MECHANISMS**

In addition to the methods currently available to Eureka County by ordinance, or as otherwise used to manage growth, the following alternative mechanisms are applicable for use in the County.

### **3.4.1 Adequate Public Facilities**

Require new development to comply with minimum design standards in regard to subdivisions and planned unit development.

### **3.4.2 Urban Growth Areas**

To ensure orderly development and maximize the efficient use of public infrastructure investments, Eureka County will encourage Urban Growth Areas (UGA) around those locales (Town of Eureka, Town of Crescent Valley, Devils Gate General Improvement District,) where County-financed infrastructure is in place. Eureka County will restrict County investments in new water and sewer infrastructure to Urban Growth Areas, as may be included within the Capital Improvements Plan. As a consequence, development of land within Urban Growth Areas will tend to be more feasible relative to lands outside UGA's.

### **3.4.3 General Land Use Categories**

General land use categories are intended to minimize conflicts between existing and potential uses of land. Eureka County will adopt a general land use map as a component of the Land Use Element of the Eureka County Master Plan. Individual developments will be encouraged to fit into the overall development pattern described by the pattern of land use designations. Conforming uses (i.e. agriculture, industrial, commercial, residential, community facilities) will be described for each land use designated on the map.

### **3.4.4 Master Plan Amendment Process**

Amendments may be considered during the master plan review process once each year. A process for requesting amendment of the Master Plan will be developed and adopted by Eureka County.

## **3.5 GROWTH MANAGEMENT GOALS AND POLICIES**

Community workshops and surveys relating to development of this master plan have made clear the desire of Eureka County residents to avoid the establishment of growth management goals, policies, and procedures which are either wasteful government activity or a threat to individual property rights. Rather, growth management is envisioned as a means to encourage new development in a manner which is consistent with the high quality of life and environmental attributes which currently characterize Eureka County. Adoption and implementation by Eureka County of the following goals and policies is intended to enable Eureka County decision-makers to effectively manage the timing, location, and cost of growth.

**Goal 3.1 - Encourage new development in Eureka County in a planned and orderly manner consistent with maintenance of existing quality of life, environmental attributes, and fiscal resource limits of the County.**

Policy 3.1.1 - Support balanced community development across Eureka County and within individual planning areas

Policy 3.1.2. - Eureka County may plan land uses and encourage development of more area than is needed to accommodate the desired 2020 population and employment to ensure market choice and flexibility

Policy 3.1.3 - Eureka County may manage the timing and location of development to accomplish the County's goals concerning natural resources, economic development, community character, and provision of public services

Policy 3.1.4 - Eureka County may seek to maintain the overall character of existing residential areas by discouraging incompatible adjacent land uses

Policy 3.1.5 - Eureka County may adopt general land use maps as a means to discourage incompatible adjacent land uses

Policy 3.1.6 - Eureka County encourages development which minimizes impacts to sensitive environmental areas

**Goal 3.2 - Encourage new development to areas in or proximate to existing communities where public infrastructure can be efficiently provided and a sense of community can be established or improved**

Policy 3.2.1 - Eureka County encourages development of infill parcels of vacant land within existing service areas whenever and wherever feasible, prior to extension of infrastructure

**Goal 3.3 - Encourage a diversity of land uses including combinations of residential densities and building types, employment centers, recreational, and educational facilities**

Policy 3.3.1 - Eureka County may encourage the sale and development of vacant Eureka Townsite lands in a manner which provide an appropriate mix of land uses and maximizes efficient use of existing public infrastructure

**Goal 3.4 - Accommodate new development at a rate which can be adequately served by available community facilities and services**

Policy 3.4.1 - Eureka County may define adequate levels of service for major public services through the Capital Improvement Planning process. Adequate levels of service may vary between urban and rural development.

Policy 3.4.2- Eureka County may pursue acquisition of water rights needed to serve demands within or adjacent to urban growth areas through the year 2020

Policy 3.4.3 - Developers shall be required to dedicate to the County or State in reserve for the County, water rights in sufficient quantity to serve the proposed developments within or proximate to such areas

**Goal 3.5 - Ensure that development and use of land occurs in a manner which promotes the health, safety, and welfare of Eureka County residents**

Policy 3.5.1 - Eureka County will evaluate methods to ensure that agreed to adequate public facilities are in place before recordation of final subdivision maps.

Policy 3.5.2 - Eureka County may facilitate a review of the County Code to identify provisions for acceptability and enforceability

**Goal 3.6 - Provide for adequate review of development proposals by all interested parties through procedures which are clearly defined and applied consistently, and are designed to achieve the goals of the Master Plan**

Policy 3.6.1 - Eureka County may establish specific criteria for the use of development agreements and standard provisions to be included in development agreements.



## **4.0 PUBLIC FACILITIES AND SERVICES ELEMENT**

### **4.1 INTRODUCTION**

The provision of public facilities and services is a vital element of urban life. People choose to live either in a rural setting or an urban one depending upon their desire for certain public services and facilities. The services most often provided by counties for their citizens include fire protection, police protection, schools, libraries, sanitary sewer services, water services, recreation-related services, and health care services.

Public facilities and services are both conveniences and necessities that ensure the health and safety of Eureka County's residents. Strategies for the provision of public services can have crucial impacts on environmental systems, public safety, education, recreation, and welfare. The phasing of essential public services has a large influence on the shape of the County and its individual communities. The purpose of the Public Facilities and Services Element is to ensure that services provided by both public and private purveyors will be supportive of the Master Plan and be available to support growth and development as it occurs during the term of this plan.

The provision of public facilities and services must be managed to coincide with growth so that the capacities of our highways, sewage systems, waste facilities, water systems, public safety, school, and library facilities are fully adequate to serve growth as it occurs. The Public Facilities and Services Element has been developed to be consistent with the other elements of the Master Plan, such as the Land Use, and Growth Management Elements, to establish the overall growth strategy for Eureka County. The need for public facilities and services is roughly proportional to population, once an initial threshold of need is established. The system design and timing for extensions of services should promote the land use pattern and policies proposed in the Land Use, Economic Development, and Growth Management Elements.

The level of service standards established for public services determines the capital facilities cost and revenue analysis in the Public Facilities and Service Plan and provides a critical perspective on land use patterns that will be included in the Land Use Element. This Element will describe the County's approach to the promotion of health, safety, and welfare of residents, and to protect sensitive environmental systems such as wetlands, steep slopes, and surface water systems. These policies will further guide location and mitigation techniques for placement of utilities and infrastructure.

### **4.2 PURPOSE**

The Public Facilities and Services Plan is a plan for capital improvements that support the County's current and future population and economy. One of the principal criteria for identifying needed capital improvements are standards for "Levels of Service" (LOS). The Public Facilities and Services Plan contains a method for developing LOS standards for each public facility and requires that new development be served by adequate facilities. The plan also contains Eureka County Commission goals and specific policies that guide and implement the provisions of adequate facilities. Collectively, these policies help insure growth will not burden the ability of the County, the service providers, or the public to pay for adequate public facilities.

The Capital Improvements Program (CIP) is the program that implements the Public Facilities and Services Plan. The Public Facilities and Services Plan determines general financial feasibility as a part of setting levels of service and is reviewed annually. The CIP is an integral part of the annual budget process that specifically identifies projects and allocates funding to accomplish those projects. The CIP provides budget authority to begin design and construction of a public facility identified as needed in the Public Facilities and Services Plan. In general, the Public Facilities and Services Plan and the CIP assume the County will find reasonable ways to provide for public improvements.

#### **4.3 PLANNING FOR PUBLIC FACILITIES AND SERVICES**

The Public Facilities and Services Plan contents support the Master Plan by:

- a) Providing capital facilities for land development that is envisioned and authorized by other elements of the Master Plan.
- b) Maintaining the quality of life for existing and future development by establishing and maintaining standards for the level of service of capital facilities.
- c) Coordinating and providing consistency among the many plans for capital improvements, including:
  - 1) other elements of the Master Plan (i.e., Transportation)
  - 2) other plans for Eureka County, towns and improvement districts, and
  - 3) the plans for capital facilities of state and federal agencies.
- d) Insuring the timely provisions of adequate facilities.
- e) Documenting all capital projects and their financing mechanisms.

The Public Facilities and Services Plan is the element that sets forth the infrastructure requirements and services to implement the Master Plan. The requirement to fully finance the Public Services and Facilities Plan provides a basis for evaluation on the long term vision set forth in the Master Plan. The capacity of public facilities that are provided through Public Facilities and Services element also affect the size and configuration and extent of the urban growth area, as well as potential improvements in the rural areas.

##### **4.3.1 Effective Management of Public Facilities and Services**

Planning for major capital facilities and their costs enables Eureka County to:

- a) calculate the need for facilities and the needed revenues to pay for them;
- b) estimate future operation/maintenance costs of new facilities that will impact the annual budget;

- c) take advantage of sources of revenue that require a CIP in order to qualify for the revenue; and
- d) obtain better ratings on bond issues when the County borrows money for capital facilities.

#### **4.3.2 Financing for Public Facilities and Services Planning (CIP)**

Depending on the level of service standards, the correction of deficiencies could be a general County-wide funding obligation and impose greater burdens on the County to address deficiencies. In most cases, LOS standards could be set at a level equal to or above the existing level of service standard.

Forms of financing such as utility connection fees or charges, user fees, dedication (i.e. water rights) and fees in-lieu of mandatory dedication may be employed to meet local infrastructure needs. For example, exactions (dedication and money in-lieu of dedication) may be imposed as a condition of development approval and authorize local government to require: dedication sites for public or common facilities; construction and dedication of public or common facilities; payments to defray cost of land, facilities, vehicles, and equipment in connection with the provision of public off-site facilities; or provision of other specifically agreed upon public amenities. In contrast, user fees are charges imposed by local government for the provision of a particular service to users: these fees are generally employed solely to generate revenues to fund facilities and services used by such development. User fees have been traditionally used in the areas of water and sewer, but many states have extended the use in financing roads and drainage projects. Utility connection fees or charges are adjunct to the provisions of utility service. These fees/charges are levied for the one-time connection to the service. Financing by special assessments or benefit districts is yet another potential financing method. Special assessments apportion the costs of public improvement projects on the basis of benefits received by the property. The key to special assessments is that the assessment accurately reflects benefit received.

#### **4.3.3 Level of Service (LOS) Method for Analyzing Capital Facilities**

##### **Explanation of Level of Service**

Levels of service are usually quantifiable measures of the amount of public facilities that are provided by the community. Levels of service may also measure the quality of some public facilities. In order to make use of the level of service method, the County selects the way in which it will measure each facility (i.e. capacity, vehicles, personnel, etc.), and then provides input as to the adequacy of current facilities.

## Methods for Using Levels of Service

In many cases, the current level of service will equal the proposed level of service standards so that the 2020 requirements will simply equal the current staffing, number of vehicles, etc. increased by the predicted percent increase in population. The percentage used depends on whether the facility is a county wide (i.e. Sheriff's Department) or local (i.e. schools) service.

The State Demographer has predicted a 13.4 percent increase in Eureka County's population from 2000 to 2021.

Table 4-1  
Eureka County  
Population Projections: 2000-2028

	2000	2007	2014	2021	2028
Eureka County	1,651	1,458	1,694	1,872	1,792

Source: Nevada State Demographer, 2008 projection and 2000 U.S. Census

This growth has been further broken down in Table 4-2 based on predicted growth areas. This information was derived from the Nevada State Demographer projections, the 2000 U.S. Census and projections from Table 4-1 of the 2000 Eureka County Master Plan. Eureka, Diamond Valley, and 2/3 of the "other" areas was used for the Eureka Schools while a weighted average of Crescent Valley, Beowawe, and 1/3 of the "other" areas was used for the Crescent Valley.

Table 4-2  
 Eureka County Population Projections Distributed  
 Between Community Areas  
 (Low, Medium, High Growth Scenarios)

	Eureka	Diamond Valley	Crescent Valley	Beowawe	Other	Total
2000	545	330	396	33	347	1651
% Increase From 2000	2%	2%	2%	2%	2%	2%
2021 Low	556	337	404	34	354	1684
% Increase From 2000	13.4%	13.4%	13.4%	13.4%	13.4%	13.4%
2021 Med.	618	374	449	37	394	1872
% Increase From 2000	20%	20%	20%	20%	20%	20%
2021 High	654	396	475	40	416	1981

Source: Nevada State Demographer, 2008 projection and 2000 U.S. Census

In order to determine the number of public facilities that will be required by 2020 this percentage increase is multiplied by the proposed level of service standards. The result is the total amount of public facilities that are needed, regardless of the amount of facilities that are already in place and being used by the public.

This requirement is then subtracted from the current quantity of available facilities resulting in the net surplus of public facilities or the net deficiency that must be eliminated by additional facilities before December 2020. If the net deficiency exists, it represents the combined needs of existing development and anticipated new development. Detailed analysis will reveal the portion of the net deficiency that is attributable to current development compared to the portion needed for new development.

The county must determine the financial feasibility of tentative or proposed standards of service. The preliminary answers use “average costs” of facilities, rather than specific project costs. This approach avoids the problem of developing detailed projects and costs that would be unusable if the standard proved to be financially unfeasible. If the standards are feasible at the preliminary level, detailed projects are prepared for the final answer to financial feasibility. If however, the preliminary answer indicates that a standard of service is not financially feasible, six options are available to the County:

1. Reduce the standard of service, which will reduce the cost, but may also reduce the quality of life in the County; or
2. Increase revenues to pay for the proposed standard of service (higher rates for existing revenues, and/or new sources of revenue); or

3. Reduce the average cost of the public facility (i.e. alternative technology or alternative ownership or financing), thus reducing the total cost, and possible the quality; or
4. Reduce the demand by restricting population (i.e. revise the land use element or amount of development allowed); or
5. Reduce the demand by reducing the consumption (i.e. transportation demand techniques, recycling solid waste, water conservation, increase minimum lot size when wells and septic tanks are installed, require dedication of water rights for access to public utilities, etc.) which may cost more initially, but may save money later; or
6. Any combination of options 1-5.

The final demonstration of financial feasibility uses detailed costs of specific capital projects in lieu of the “average” costs of facilities used in the preliminary answer. The “final” answer validates the financial feasibility of the standards of levels of service that are used for each public facility in the plan and in other elements of the Master Plan. The financially feasible standards for levels of service and the resulting capital improvements projects are used as the basis for policies and implementation programs and the final Public Facilities and Services Plan.

#### **4.3.4 Setting the Standards for Level of Service**

Because the need for capital facilities is largely determined by the levels of service that are adopted, the key to the Public Facilities and Services Plan is the selection of the level of service standards. Level of service standards are one measure of the quality of life in the county. The standards should be based on the County’s vision of its future and its.

The Planning Commission and Board of County Commissioners implement the level of service standards through reflecting the County’s vision. Their decision should be influenced by recommendations from providers of public facilities, advisory groups, and the general public through individual citizens, and community and business organizations.

The approach to developing the level of service standards provides the community and decision makers with an understanding of the outcomes of various levels of service for each type of public facility. This approach reduces the tendency for decisions to be controlled by expert staff or consultants and opens up the decisions before the Planning Commission or the Board of County Commissioners.

The standards for levels of service are adopted as part of the Capital Improvements Plan in the annual budget process. The adopted standards determine the need for capital improvements and are the benchmarks for testing the adequacy of public facilities for each proposed development.

#### **4.3.5 Levels of Service – Goals and Policies**

##### **Goal 4.1 – To provide levels of services for its residents to maintain, at a minimum, the current quality of life for the County’s citizens.**

Policy 4.1.1 – The County may determine public facility level of service standards and select specific capital improvements needed to achieve and maintain the standards for existing and future population, and to repair or replace existing public facilities. The County may be willing to extend funding to areas outside the existing public facility areas only after goals have been met inside the existing public facility areas.

Policy 4.1.2 – The County may establish an approach to fund needed capital facility improvements and associated operating and maintenance costs so as to achieve and maintain the adequacy of the County’s public facilities. If the total cost of needed public facilities cannot reasonably be funded, then the County may adjust levels of service, growth, rates, required facility, or other factors to create a financially feasible alternative.

Policy 4.1.3 – Adequate public facilities may be provided by constructing needed capital improvements which 1) repair or replace outdated facilities, 2) eliminate existing deficiencies, and 3) meet the needs of future development and redevelopment. The County’s ability to provide needed improvements may be demonstrated by maintaining a financially feasible schedule of capital improvements.

Policy 4.1.4 – The County may encourage development on a determination that there is sufficient capacity of public facilities to meet the standards for levels of service for existing development and the impacts of the proposed development coincide with the proposed development.

Policy 4.1.5 – The County may enact necessary ordinances and take other steps to ensure that the goals and policies established in this plan are achieved or exceeded and that required capital improvements are constructed.

#### **4.3.6 Capital Improvement Plan – Existing and Proposed**

The following includes the current five year Eureka County Capital Improvement Plan Budget projects as well as the proposed Capital Improvement Plan Budget projects. The Capital Improvement Plan is based on NRS 354.5945 and is a living document which may be altered by the Eureka County Commission. The highest priority ranking of expenditure of funds is to maintain the adopted level of service for existing and approved development. The ability to accommodate growth depends on the capacity of the County to fund capital facilities and to fund operation and maintenance requirements for these facilities.

The current General Fund projects includes the following:

- Assessor Vehicles
- Eureka Airport
- Senior Center Equipment Upgrades
- Computer/Network Upgrades
- Public Works Equipment Upgrades
- Ambulance Equipment Upgrades
- Defibulators 12 lead
- Fire Equipment
- Swimming Pool Upgrades
- Public Park Improvements
- County Fair Ground Improvements
- Fire Apparatus and Equipment
- Fire Equipment-Water Tender in Dunphy

The proposed General Fund projects includes the following:

- Eureka Airport
- Computer/Network Upgrades
- Ambulance Equipment Upgrades
- Fire Equipment
- Public Park Improvements
- County Fairground Improvements
- Museum Building
- Fairground 40x70 Multi-Use Barn

The current Road Fund projects include the following:

- JD Ranch Bridge
- Equipment Replacements

The current RTC Fund projects include the following:

- Road Improvements – Two Culverts
- Overall Road Maintenance Program

The current and proposed Agricultural Extension projects include the following:

- Equipment Replacement

The current Building Maintenance Fund projects include the following:

- Eureka Fire House
- Various Building Repairs and Miscellaneous Remodels
- Justice Facility Dispatch Center Remodel

The proposed Building Maintenance Fund Projects include the following:

- Various Building Repairs and Miscellaneous Remodels



The current Capital Improvement Fund projects include the following:

- County Car Pool
- Sheriff Vehicle Replacements and other Public Safety C.O.
- Radio Repeater Upgrades
- Data Processing Equipment
- General Equipment Replacement
- Ruby Hill Sidewalk Project
- Flood Abatement

The proposed Capital Improvement Fund Projects include the following:

- County Car Pool
- Sheriff Vehicle Replacements and other Public Safety C.O.
- Ambulance
- Fire Equipment
- Data Processing Equipment
- General Equipment Replacement

The current and proposed Yucca Mountain Funds projects include the following:

- Yucca Mountain Capital Projects

The current and proposed Landfill Fund projects include the following:

- Landfill Capital Projects

The current and proposed Assessor Technology Fund projects include the following:

- Technology Upgrades

The current and proposed Recorder Technology Fund projects include the following:

- Recording Equipment Upgrades

The current and proposed Justice Court Administration Assessment projects include the following:

- Equipment Upgrades and Replacement

The current and proposed Justice Court Assessment projects include the following:

- Equipment Upgrades and Replacement

The current and proposed Justice Court Facility Fund projects include the following:

- Beowawe Court Facility Improvements
- Eureka Court Facility Improvements

The current Eureka Town Fund projects include the following:

- Water Supply/Storage Project - includes tank, booster, telemetry, generator
- Main Street Water and Sewer Line Project
- Ruby Hill Sewer Line Replacement
- Eureka Water-Spring Refurbishment and Line Extension
- Eureka Town Outfall Sewer Main Upsize
- Sewer Pond Expansion
- Fire Equipment
- Street Lighting

The proposed Eureka Town Fund projects include the following:

- Flood Abatement Program
- Fire Equipment

The current Crescent Valley Town projects include the following:

- Public Parks
- Water System Arsenic Treatment Project
- Fire Equipment

The proposed Crescent Valley Town projects include the following:

- Public Parks
- Sewer Project
- Fire Equipment
- General Water System Improvements

The current and proposed Eureka TV District projects include the following:

- Digital Conversion – Equipment Upgrades

The current Diamond Valley Weed projects include the following:

- General Improvements

The proposed Diamond Valley Weed projects include the following:

- GPS Control System

The current Devil's Gate Water Fund projects include the following:

- Water System Arsenic Treatment Project

The proposed Devil's Gate Water Fund projects include the following:

- Devil's Gate GID Water System Improvements

#### **4.3.7 Capital Improvement Plan – Goals and Policies**

**Goal 4.2 – To provide for the organized planning, funding, construction, and maintenance of infrastructure at locations consistent with planned land uses and with capacities which are adequate to meet the needs of these planned land uses.**

Policy 4.2.1 – Eureka County may establish a process for developing a 5-year Capital Improvements Program (CIP) which is updated annually, provide public participation in its review and provide for the services necessary to implement this Master Plan.

Policy 4.2.2 – Eureka County may only include capital projects in the CIP when they are consistent or do not conflict with the Master Plan and all its elements.

Policy 4.2.3 – Eureka County may include in the CIP, a description of each project including its location, estimated construction cost and schedule, funding source, estimated life-cycle cost (including operation and maintenance costs), and effect on the County’s ability to achieve the goals and policies of the Master Plan.

Policy 4.2.4 – Eureka County may evaluate potential capital projects according to an established set of criteria to determine their importance in implementing the goals and policies of the Master Plan. Priorities in the CIP may be based on the importance of the projects to the Master Plan implementation.

Policy 4.2.5 – Eureka County may use its CIP to provide facilities needed to correct existing deficiencies in public services and facilities provided by the County.

Policy 4.2.6 – Eureka County may identify funding and established programs to operate and maintain public facilities required for adequate levels of service, which are not otherwise provided, operated, and maintained by another public entity.

Policy 4.2.7 – Eureka County may cooperate with other service providers to encourage the use of common improvement standards, and to coordinate the timing of capital projects.

#### **4.4 PUBLIC FACILITIES AND SERVICES ASSESSMENT**

Within each of the facilities and service selections and other elements noted, levels of service standards are suggested for incorporation into the Capital Improvements Plan (CIP), which is a separate document from the Master Plan. The actual level of service standard is a function of the CIP and is adopted annually with the CIP.

As detailed in the Public Services and Facilities element of the Master Plan, the highest priority ranking of expenditure of funds is to maintain the adopted level of service for existing and approved development. The ability to accommodate growth depends on the capacity of the County to fund capital facilities and to fund operation and maintenance requirements for these facilities. Eureka County owned facilities are listed in Table 4-3.

Table 4-3  
Eureka County Owned Facilities

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**Southern Region**

Courthouse  
 Opera House  
 Sentinel Building  
 Criminal Justice Center  
 Ambulance Bay  
 Fire Station  
 Senior Center  
 Road Shop  
 Medical Clinic  
 Administration Facility  
 Rodeo Grounds and Fair Building  
 County Warehouse  
 Dog Pound  
 Little League Ball Field  
 Vandal Ballpark  
 Swimming Pool

Fire Station – Diamond Valley

**Northern Region**

Fire Station – Beowawe  
 Road Shop – Beowawe  
 Library – Beowawe

Administration Facility – Crescent Valley  
 Senior Center – Crescent Valley  
 Rodeo Grounds – Crescent Valley  
 Fire Station – Crescent Valley  
 Medical Clinic – Crescent Valley  
 Community Center – Crescent Valley

Fire Station – Pine Valley

Fire Station – Dunphy

#### **4.4.1 PUBLIC SAFETY**

Law enforcement and fire protection, as well as other public safety services, are essential to maintaining and promoting community health, safety, and welfare. As Eureka County continues to grow, increased pressure on existing facilities will dictate the need for both expansion and improvement of public safety services.

Law enforcement protection provides a sense of personal safety and community security. As the County continues to develop, more urbanized law enforcement will need to be extended to developing areas. Emergency medical service is also essential to the residents of the county. As with law enforcement and fire services, the appropriate response time differs for each area of county. The policies of the region are designed to provide adequate service, appropriate to an area's development, with coordinated planning and service provisions throughout the County.

In order to provide adequate fire protection services, two critical elements are required. Fire fighting facilities, including fire stations, fire equipment and personnel, are the first essential component. These facilities need to be located such that response times to all areas are minimized. The second element is an adequate water supply with sufficient pressure to meet water flow standards. These standards are based on delivering the proper amount of water to a specific building and the equipment needed to deliver the water.

Eureka County Safety Committee is active and works to target safety issues within Eureka County. The Local Emergency Planning Committee is also active and is in compliance with federal laws.

##### **4.4.1.1 Law Enforcement**

###### **Current Facilities**

The current inventory of the Eureka County law enforcement facilities consists of administrative space, patrol and investigation, and a jail. The central administration offices include Administration and Patrol/Investigation for the entire County and are located in the Town of Eureka. There is a substation located in Crescent Valley. Table 4-4 lists the facilities, current staff, and location of law enforcement facilities within Eureka County. Figure 4-1 depicts the distribution of law enforcement facilities within Eureka County.

Table 4-4  
Eureka County Sheriff Department  
Law Enforcement Facilities and Staffing Inventory

	STAFFING	Facility Location
Central Administrative Office		
Administration	2	Eureka
Dispatch	5	Eureka
Sheriff	1	Eureka
Sergeant	1	Eureka
Patrol	4	Eureka
Jail	4	Eureka
Crescent Valley Substation		
Patrol	2	Crescent Valley
Under Sheriff	1	Crescent Valley
Total Staff	20	

Source: Eureka County Sheriff's Office 2009

The department staff totals twenty; one sheriff, one under-sheriff, one Sergeant, six patrol officers, five dispatchers, four jailers, and two administrative personnel. The current staffing does not allow continuous 7-day per week, round the clock patrol, but officers are on call during non-patrolled hours and are available to back-up the officers on duty if needed.

### Jail Facilities

The Criminal Justice Center was built in Eureka in 1989. Included in this facility are the administrative offices, dispatch, and detention facilities. The detention area of the jail consists of 3 cell blocks with 20 beds and 1 holding cell for incoming and outgoing prisoners prior to admission and release. There are 4 beds designated for female inmates. The maximum capacity of the jail is 20 inmates.

The average occupancy of the jail facility is between two and three prisoners on a daily basis. The Sheriff's Office handles dispatch for all public safety functions in the southern portion of the county, including the Nevada State Highway Patrol, emergency medical and fire suppression activities.

At this time, the Criminal Justice Center is undergoing remodeling of the dispatch area and the addition of a booking area.

There are no available jail facilities in Crescent Valley, so transportation of prisoners to Eureka is necessary. Because juvenile detention facilities are located in Elko it is required that transportation services be provided for all juvenile prisoners as well.

### Eureka Patrol

The South Division is made up of a Sergeant and three deputies as well as an investigator that also assists with patrol duties.

The South Division is responsible for the patrol and calls for service from Lander County on the west to White Pine County on the east and north to J.D. Ranch Road on SR 278.

Routine investigations are handled by individual Deputies who are responsible for initial contact of suspects, victims and witnesses.

The Deputy assigned to Investigations is responsible for gathering and developing evidence and intelligence relating to narcotic activity within the County.

The Sheriff's Office also contracts with Washoe County Sheriff's Office to help and assist with major crimes that arise from time to time within the County. These services include crime scene investigations, collection of evidence and forensic science examination in Reno, Nevada.

#### Crescent Valley Patrol

The North Division of Eureka County Sheriff Department is staffed with one Sergeant and one Deputy, both of whom are resident positions and work out of the Crescent Valley Sub Station. These positions differ from the South Area Command in that they are more flexible in regards to not having any set shift times. Both officers work a total of ten hours a day and fourteen hours on call, where standby pay is applied. They work four days on and four days off.

The Undersheriff is also stationed in Crescent Valley and is in charge of the Administration duties for the North Area. The North Division is responsible for responding to all calls for service in the area as well as traffic enforcement on Interstate 80, State Routes 306, 278 and 766. All three positions are Deputy Coroners for the area and are responsible for conducting all death investigations that may arise.

The towns and areas which are within the north area are Crescent Valley, approximately twenty miles south of I-80, Beowawe, approximately six miles south of I-80 and Pine Valley, extending approximately to JD Road south of Carlin. The North area also has two of Nevada's largest gold mines, so the North Division assists mining security with criminal investigations and routinely conduct traffic enforcement on SR766 leading to the mines. Lander County and Eureka County work closely with each other and assist one another with mutual aid since response times for both Counties can be delayed for various reasons to certain areas in each county.

The Sheriff's Office Administration supports its employees in joining the Volunteer Fire and EMT units throughout the County.

#### Animal Control Facility

The Eureka County Animal Control Facility is located on the edge of the Town of Eureka adjacent to the rodeo grounds. The animals occupying this facility are retrieved from the Town of Eureka and Diamond Valley areas and kept there until the owners are able to claim them. The pound itself consists of 3 stalls, approximately 6 feet by 8 feet and a run approximately 15 feet long. The maximum occupancy of this facility is three dogs, with the provision of requesting

other agencies to shelter and transport additional animals. The staff consists of one part-time (19 hours per week) animal control person, who serves as a dog catcher for the facility. The animal control person also feeds and cares for these animals until they are retrieved by their owners.

## **Law Enforcement – Goals and Policies**

### **Goal 4.3 – Provide efficient and effective law enforcement throughout Eureka County.**

Policy 4.3.1 – Provide urban-level police protection to the Town of Eureka and Crescent Valley residents and businesses as development occurs.

## **Law Enforcement – Recommendations**

### **Immediate**

Information may be collected and presented to the County by Law Enforcement which would include an analysis and assessment of the following:

1. Total number of criminal investigations in the past three years.
2. The percent increase or decrease in the above.
3. Description of the present physical conditions of structures and property devoted to law enforcement.
4. The number of full and part-time people employed in the area.

### **Future**

Should an increase in Eureka County population occur, additional facilities may be required by or before the year 2020.

#### **4.4.1.2 Emergency Medical Facilities**

##### **Current Facilities**

Emergency medical facilities for the County are provided by Eureka County. These services are funded through fees collected by the various medical services as well as by County funding.

Eureka County currently has two medical clinics. The medical clinic located in the town of Eureka is staffed by one physician, one physician assistant, a medical assistant, and an office manager. The clinic is open during normal working hours Monday through Friday, with on-call coverage services after hours and on Saturdays, Sundays, and Holidays.

The second medical clinic is located in Crescent Valley and is open Monday and Wednesday of each week. This clinic is under the administration of the Nevada Health Center located in Carlin, Nevada. It is staffed on a part-time basis by one physician, a medical assistant and an office manager. A telemedicine option is proposed for the Crescent Valley clinic. A medical assistant has been hired and will be trained on telemedicine software.



Ambulance service is available in three locations throughout Eureka County. Eureka has two ambulances, Diamond Valley (substation) has one ambulance and Crescent Valley has two ambulances. All ambulance services are dispatched from the sheriff's office in the town of Eureka.

The Eureka County also maintains two shelter trailers that are equipped to stock fifty bed shelters. One shelter trailer is stationed in Eureka and the other in Crescent Valley.

The ambulance services in Eureka County are coordinated by one paid employee. The Eureka Station volunteers make up the staff that includes twelve technicians consisting of eight intermediate EMT's and four basic EMT's. There are usually two to three EMT's on call at all times. This facility has direct communication with Northeastern Nevada Regional Hospital in Elko, as well as W.B. Ririe Hospital in Ely, allowing them to inform the hospital of incoming emergencies. Elko is the closest emergency facility in response time, to the Town of Eureka. There have been 95 calls requested this year to date in Eureka and Diamond Valley Substation. While response time is usually within 5 to 15 minutes to the scene, depending upon the location, total run time averages 4.5 to 5 hours round trip.

The second ambulance station, housing two ambulances, is located in Crescent Valley. The emergency medical services in Crescent Valley consist of six total volunteer emergency medical technicians and two first responder drivers. There are at least 2 EMT's on call to serve the Crescent Valley area. There have been 49 calls this year to date. The average round trip time per call is 2.5 to 3 hours. All emergencies are transported to Elko, the closest emergency facility to the Crescent Valley area. Figure 4-1 shows locations of emergency medical facilities within Eureka County.

## **Emergency Medical Facility Recommendations**

### **Immediate**

Continue to encourage and support volunteerism in regard to emergency medical services.

### **Future**

Between now and the year 2020, one additional part time EMT for the day shift may be needed in Eureka and one part-time casual employee in Crescent Valley .

If there is an increase in population, additional staff and equipment may be needed.

### **4.4.1.3 Fire Protection**

#### **Current Facilities**

The Eureka County Volunteer Fire Department provides fire suppression in and around the County of Eureka. There are approximately 24 volunteer fire fighters in Eureka, 20 in Diamond Valley, 13 in Crescent Valley, 17 in Pine Valley, 10 in Dunphy, and 10 in Beowawe. These volunteers are called only if needed, and there are no full-time employees. Each fire department has its own facility, allowing for the departments to have access to their equipment at any given time. In conjunction with the Nevada Division of Forestry, each of the departments maintains a series of mutual aid agreements to expand the capacities of any given department. Eureka County supports the Nevada Division of Forestry by providing funds for its fire suppression activities.

The department in the Town of Eureka is equipped with eight pieces of rolling equipment which includes one main pumper truck for structure protection, two additional pumper trucks, one rescue truck, an initial attack truck, two heavy brush trucks and 3,500 gallon water tender.

The department in Diamond Valley is equipped with four pieces of rolling equipment. This equipment includes one 3,500 gallon water tender, one brush truck, one heavy brush truck and one rescue truck.

The Crescent Valley Volunteer Fire Department is equipped with four rolling pieces of equipment. The equipment included in this department consists of one Type 6 wild lands truck with extrication, one Type 1 structure truck, one Type 3 wild lands truck and one Type 2 tender.

The department in Beowawe is equipped with four pieces of rolling equipment. This equipment includes one Type 2 tender, one Type 3 wild lands truck, one Type 6 wild lands truck with extrication and one support vehicle.

The Dunphy Fire Department is equipped with a brush truck, 1,500 gallon water tender and an engine.

The department in Pine Valley is equipped with six pieces of rolling equipment, including a pumper, two heavy brush trucks, a water tender, and two regular brush trucks (one of which is held in cooperation with the Nevada Department of Forestry).

Figure 4-1 illustrates the locations of fire protection facilities in Eureka County. Table 4-5 lists the number of volunteers and pieces of equipment associated with each fire department located within Eureka County.

Table 4-5  
 Current Inventory of Volunteers and Equipment  
 Among Various Eureka County Fire Departments

	<u>Location</u>	<u># of Volunteers</u>	<u>Equipment</u>
A.	Eureka	24	8
B.	Diamond Valley	20	4
C.	Crescent Valley	13	4
D.	Beowawe	10	4
E.	Dunphy	10	3
F.	Pine Valley	17	6
		94 Total	29 Total

Eureka County and the Bureau of Land Management, state wide, have developed a cooperative agreement for emergency wildland fire protection. Eureka County provides equipment when needed for initial attack on wildland fire emergencies in Eureka County if available and only when local contractors are unavailable. The Bureau of Land Management reimburses the County for actual costs incurred for equipment associated with an incident. Table 4-6 indicates Eureka County equipment that may be used for wildland fire protection. The Nevada Division of Forestry administers the fire district.

Table 4-6  
 Eureka County Equipment  
 That May Be Used For  
 Emergency Wildland Fire Protection

EQUIPMENT	DESCRIPTION
Dozer	Lights, Angle Blade, Rippers
Transport Tractor	
Transport Trailer	2 Axle
Tractor	3 Axle used to pull Water Trailer
Water Trailer	7000 gallons, self loading w/spray bar and fittings
Motor Grader	16' moldboard, rippers
Motor Grader	14' moldboard, rippers
Motor Grader	14' moldboard
Motor Grader	14' moldboard
Motor Grader	14" moldboard
Pickup	Supervisor with Cell Phone
Pickup	Support Truck
Pickup	Fuel and Lube Truck
Pickup	Fuel and Lube Truck
Pickup	Supervisor with Cell Phone
Pickup	Grader Support Truck
Pickup	Grader Support Truck
Pickup	Grader Support Truck
Water Truck	4,000 gallons, self-loading w/spray bar and fittings
Motor Grader	16' moldboard, rippers
Motor Grader	14' moldboard, rippers
Motor Grader	14' moldboard, rippers
Pickup	Grader Support Truck
Pickup	Grader Support Truck
Pickup	Grader Support Truck
Pickup	
Pickup	
Water Truck	3,500 gallons, self-loading w/spray bar and fittings
Transport Trailer	
Transport Tractor	

## **Fire Protection – Goals and Policies**

### **Goal 4.4 – Provide efficient fire protection throughout Eureka County**

Policy 4.4.1 – Provide fire protection to Eureka County residents and businesses as development occurs.

## **Fire Protection Recommendations**

### **Immediate**

1. Consider attention to the Crescent Valley Fire Department building as needed.
2. Consider the mitigation of communication dead areas south of the JD area and in the central portion of the County to improve safety

### **Future**

1. By the year 2020 Eureka County may need additional equipment and associated storage space and facilities should there be an increase in population.

## **4.4.2 EDUCATION, LIBRARIES, AND COMMUNITY SERVICES**

The quality of education is important to community character, image, and the attraction of future development. Educational facilities are not only defined as schools, but also support facilities such as libraries and community services. Therefore, it is important to coordinate growth and development with the provisions of school facilities and related services to expand the function of land and facilities.

School sites are usually coordinated with neighborhood and community park facilities to encourage and promote neighborhood identity and commitment. As the community expands, school sites and facilities will be needed to provide adequate service throughout the County.

Library facilities offer support to schools and can also serve as community meeting centers. The coordination of school site location and library facilities make the most efficient use of land and enhance the service capacities of both. Figure 4-2 depicts the distribution of schools, libraries, and senior centers within Eureka County.

### **4.4.2.1 Schools**

#### **Current Facilities**

The Eureka County School District serves all of Eureka County. Currently, the District has two Elementary Schools and one Junior/Senior High School, with one elementary school and one high school located within the Town of Eureka. The second Elementary School is located in Crescent Valley.

The Eureka County School District administration office is located in the Town of Eureka. According to the Eureka County School District, the district employs a staff of 66, including 29 teachers, 3 principals, and a superintendent. Additional staff provide administrative services, operate the hot lunch program, the District's transportation department and the maintenance department.

Total District enrollment for the 2009/2010 school year is 260 students, a decrease from the 1999/2000 enrollment of 366 students. Enrollment at Eureka Elementary School has decreased from 135 students in 1999/2000 to 109 students in the 2009/2010 school year., The number of students in the Junior/Senior High School has decreased from 141 students for the 1999/2000 school year to 125 students for the 2009/2010 school year. Enrollment at Crescent Valley Elementary School has also decreased from the 1999/2000 enrollment of 90 students to the 2009/2010 enrollment of 26 students. Population of Eureka County was 1,652 in 2000 and the current population will be determined by the 2010 Census.

Due to geographic distances between communities, school districts in Nevada often serve students who live in rural areas outside the District's boundaries. Six students from White Pine County, two students from Lander County and five students from Nye County currently attend school in Eureka. Thirty-four students, mainly Junior/Senior high school students from Eureka County, are attending school in Battle Mountain, Lander County.

The Eureka Elementary school has a physical design capacity of about 300 students. The Junior/Senior High School has an optimum capacity of 140 students with a maximum capacity of 160 students. The Crescent Valley Elementary School has a capacity of 120 to 140 students, pre-kindergarten to the 6<sup>th</sup> grade.

There may be a need for the County to dedicate land for schools, bus stops, etc. if an increase in population is anticipated. Land requirement for a high school is 40 acres, a middle school is 30 acres and an elementary school is 10 acres. Table 4-7 provides projections of needed school facilities under low, medium, and high growth scenarios in the year 2010.

## **Education – Goals and Policies**

### **GOAL 4.5 – Provide high-quality, convenient public schools, libraries, and community centers at adequate levels, to meet demand for Eureka County.**

Policy 4.5.1 – Site conveniently located, adequately sized and staff schools to serve all students including those in the adjacent communities of Eureka County.

## **Education Recommendations**

### **Immediate**

1. Continue to work with Eureka County School District to locate school sites, including bus stops, which work for the citizens of Eureka County in terms of facility size and proximity to housing and related public infrastructure..
2. Consider setting aside land to be used for future school sites should there be an increase in population.
3. Consider County development of a community/recreation center to help eliminate crowding of school facilities and conflict of school and community activity schedules.
4. Recommend to the school district that the multiple uses of schools sited for library and recreational purposes be programmed into new school design.
5. All future expansions and modifications will require extensive public input.

### **Future**

1. Eureka schools may need to be expanded or new schools constructed should an increase in population occur.
2. Crescent Valley Elementary School may need to be expanded should an increase in population occur.
3. Crescent Valley may need to construct a Jr/Sr High School or continue to export students to Battle Mountain to attend school should a population increase occur.

Table 4-7  
 Current Facilities Inventory  
 Eureka County Schools – Growth Projection

Low Growth Scenario	Existing Capacity	2000 school year student enrollment	2021 Capacity Required	Excess or (Deficiency)
Eureka Elementary	300	135	138	162
Crescent Valley Elem.	140	90	92	48
Eureka Jr./Sr. High	160	141	144	16
Crescent Valley Jr./Sr. High	0	36	37	(37)
Medium Growth Scenario	Existing Capacity	2000 school year student enrollment	2021 Capacity Required	Excess or (Deficiency)
Eureka Elementary	300	135	153	147
Crescent Valley Elem.	140	90	102	38
Eureka Jr./Sr. High	160	141	160	(0)
Crescent Valley Jr./Sr. High	0	36	41	(41)
High Growth Scenario	Existing Capacity	2000 school year student enrollment	2021 Capacity Required	Excess or (Deficiency)
Eureka Elementary	300	135	303	(3)
Crescent Valley Elem.	140	90	108	32
Eureka Jr./Sr. High	160	141	169	(9)
Crescent Valley Jr./Sr. High	0	36	43	(43)

Growth Projection based on Table 4-2



#### **4.4.2.2 Library**

##### **Current Facilities**

The Eureka Branch Library is a part of the Elko-Lander-Eureka County Library System. Eureka County contracts with Elko County to provide a full-time librarian to operate the library located in the Eureka townsite. The library is open 21 hours a week, Monday through Friday. The building housing Eureka's library was built in 1982 and totals 1,500 square feet of main library space. A wide selection of approximately 15,000 books and periodicals are available, with additional materials available through interlibrary loan accessed through a statewide computer database. A total of 4,900 checkouts were made during the 2008/2009 year. The Eureka Branch provides a computer for public use and had 1,081 uses during the 2008/2009 year.

The Beowawe Library and the Crescent Valley Library are also contracted with the Elko County Library system. Currently, these libraries are staffed by one part-time librarian who works for approximately 9 hours a week, Mondays and Thursdays in the Beowawe Library and 9 hours a week, Tuesdays and Wednesdays in the Crescent Valley Library.

The Beowawe Library is currently located in the old courthouse, which was built in 1874 and has a capacity of approximately 3,000 books. There were 592 checkouts in 2008/2009. The computer provided for public use at the library had 26 users in 2008/2009. More users are expected in 2009/2010 since Beowawe received the computer late in 2008/2009.

The Crescent Valley Library is located in the Crescent Valley Administration Building. The library has a capacity of 2,500 books. There were 1,287 book check outs in 2008/2009 and 604 uses of the public computer in the same period. These libraries operate on an inner-library system, which allows for the staff to supply the community with the books they want.

Required areas and number of volumes are based on a level of service of 5 volumes per capita and 1 square foot of library space per capita. Table 4-8 provides estimates of the need for new library facilities in the year 2021.

##### **Libraries – Goals and Policies**

###### **GOAL 4.6 Encourage the use of libraries by Eureka County citizens as a means of continuing and supplementing education, entertainment and economic advancement.**

Policy 4.6.1 – Provide conveniently located libraries throughout Eureka County with space provided in an amount consistent with the Eureka County Library System.

Policy 4.6.2 – Encourage the inclusion of public library space in new schools.

## Library Recommendations

### Future

1. The current library facilities in Eureka County are sufficient for the current population, but may require expansion by the year 2020 should there be a population increase. Hours of operation may need to be extended commensurate with population growth in these areas. In order to support this growth, volunteers or part time staff may have to be enlisted to allow for the adoption of longer hours of operation.
2. Due to the estimated computer life of five to six years, computers may have to be replaced before the year 2020.
3. Due to the condition of the Beowawe Library Branch building, repairs may be needed or consolidation with the Crescent Valley Library may need to take place by 2020.

Table 4-8  
Current Facilities Inventory  
Library Projections

Low Growth Scenario	Existing Area	2021 Area Req'd (sq.ft.)	Excess or (Deficiency)	Existing Volumes	2021 Volumes Required	Excess or (Deficiency)
Eureka	1,500	1,129	371	15,000	5,645	936
Crescent Valley	638	507	131	2,500	120	2,380
Beowawe	920	49	871	3,000	2,535	465

Medium Growth Scenario	Existing Area	2021 Area Req'd. (sq.ft.)	Excess or (Deficiency)	Existing Volumes	2021 Volumes Required	Excess or (Deficiency)
Eureka	1,500	1,255	245	15,000	6,275	8,725
Crescent Valley	638	563	75	2,500	2,815	315
Beowawe	920	54	866	3,000	270	2,730
High Growth Scenario	Existing Area	2021 Area Req'd. (sq.ft.)	Excess or (Deficiency)	Existing Volumes	2021 Volumes Required	Excess or (Deficiency)
Eureka	1,500	1,328	172	15,000	6,640	8,360
Crescent Valley	638	595	43	2,500	2975	(475)
Beowawe	920	58	862	3,000	290	2,710

### **4.4.2.3 Senior Citizens Center**

Eureka County has two senior centers to support the senior citizens of the communities. The Eureka Senior Center, located in a historic building in downtown Eureka, was recently cleaned, painted, and new flooring installed. The Center currently has one director, two full-time employees, two part-time employees with benefits and two casual employees.

Eureka's Senior Center serves an average of 1,010 meals per month while the Crescent Valley Senior Center serves an average of 716 meals per month. Meals are also delivered to seniors of the community through the Meal on Wheels Program. Currently the Meals on Wheels program serves seniors within the Eureka townsite, and the Diamond Valley area.

The Senior Center also qualifies applicants for the County Food Pantry, the Emergency Food Program and the Temporary Food Assistance Program. The center distributes commodities through those services to approximately 53-55 families in the entire County. Other services provided by the Center include assisted transportation services, housekeeping services, Medicare/Medicaid, ICA representation, and the TLC Hospice Service. The TLC program supplies Hospice support to clients and their families in Eureka County.

Transportation services are provided for Senior Citizens in the area within a five (5) mile radius of the Center. Transportation is also provided once a month to Elko for shopping and doctor appointments. The Eureka Senior Center also provides numerous educational, social and interactive activities for the seniors of Eureka area.,

The Senior Center in Crescent Valley offers the same types of services and programs as previously mentioned regarding the Eureka Senior Center.

The Crescent Valley and Eureka Senior Centers are considered adequate for the County's current demands and have the ability to provide adequate services for future growth of both communities through 2020.

## **4.4.3 PUBLIC FACILITIES AND SERVICES**

### **4.4.3.1 Solid Waste Management**

#### **Current Facilities**

The Eureka County Public Works Department operates a landfill located on the west end of the Town of Eureka and a transfer site located near the Town of Crescent Valley. Under a private hauling contract, waste from Crescent Valley is now disposed of in the Eureka Landfill. Residents of the County may purchase a household waste permit for \$25 a quarter or \$100 a year.

Eureka County has proposed to acquire eighty acres from the Bureau of Land Management for the expansion of the Eureka Landfill. The expansion may include a drying bed for septic waste.

## **Solid Waste and Materials – Goals and Policies**

### **GOAL 4.7 – To provide solid waste and hazardous waste management to meet the needs of planned land uses, with systems that are cost-effective and environmentally sound.**

Policy 4.7.1 – The County may seek to implement solid waste management processes that reduce the waste, promote recycling, and provide for the separation of waste prior to incineration or land filling.

Policy 4.7.2 – The County may seek to create a recycling program to include commercial recycling in addition to single-family and multi-family recycling.

Policy 4.7.3 – The County may seek to implement additional waste diversion programs, such as plastics recycling and yard waste collection for composting.

#### **4.4.3.2 Water and Wastewater Systems**

This section establishes policies which address key County-wide water and wastewater systems infrastructure and service issues. Potable water, for domestic and commercial use, is a critical service for development; the collection, treatment, and disposal of wastewater is a second service requiring significant investments in infrastructure and operations. These two services, provided by Eureka County are needed for expansion and growth of the County’s communities. By locating more intensive land uses in areas with existing water and sewer systems, service can be provided more efficiently and at lower cost than for development in areas requiring significant new extensions. For these reasons, the County Master Plan seeks to coordinate land use planning with provisions of these services. It uses the designation of the land use map as a guide to identify geographic areas where particular levels of service will be needed during the planning period. It enables the concept of “adequate public facilities” as one factor in the planning, review, and approval of development projects. Adequate public facilities are required to be constructed and timed so that when a development is completed and occupied, the facilities will be available and will have enough capacity to serve residents and businesses. Future demand on water and wastewater facilities is based on the annual population growth rate.

##### **4.4.3.2.1 Water Systems**

###### **Current Facilities**

The Eureka County Public Works Department manages three water systems in Eureka County. The water systems include the Town of Eureka, Devils Gate (District #1 and #2) and Crescent Valley. The Town of Eureka water system serves 280 customers, both residential and commercial. The Devil’s Gate General Improvement District’s water system serves 78

residential and commercial customers who are located in Diamond Valley. The Crescent Valley water system serves 180 residential and commercial customers.

The Town of Eureka water system includes two wells, pumping 950 gallons per minute (gpm) and 500 gpm, respectively, located in Diamond Valley, and springs south of Eureka that are gravity fed. Water produced by the wells is pumped into three storage tanks with a combined storage capacity of 2,350,000 gallons. Table 4-9 compares existing Eureka water system capacities and demands, and those projected for the year 2021.

Devil's Gate water system is made up of two wells, a water storage tank, a booster pump station, and the Devil's Gate Water Transmission Inter-tie Project pipeline. Water delivery to households and property that have requested the service was developed as Devil's Gate General Improvement District #1 and Devil's Gate GID #2, which are now interconnected along with a 250,000 gallon storage tank. Water is produced from two wells with discharge rates of 70 gpm and 60 gpm respectively, (130 gpm or 187,200 gallons per day) according to Eureka Public Works Department records; however, page 26 of the Eureka Water and Sewer System Master Plan reports the current well capacity to be 275 gpm or 396,000 gallons per day. Water is delivered to customers via a pressurized system with no gravity delivery of the water. There are 164 lots identified within the area served by Devil's Gate GID #1 and GID #2. Water is presently delivered to 78 customers. Average Daily Demand listed in the Eureka Water and Sewer System Master Plan, October 2007, for GID #1 was 4,944 gallons and the Maximum Daily Demand was 14,382 gallons during 2006. The same document reports that in 2006, the GID #2 Average Daily Demand was 20,088 gallons and the Maximum Daily Demand was 60,264 gallons. Table 4-10 compares existing water system capacities and demands as well as projections that include a possible "100% buildout" with all lots occupied.

The town of Crescent Valley's water system originates from two wells 250gpm, and 300 gpm. A total of 672,000 gallons of water is stored in three tanks (150,000 gallons, 200,000 gallons and 322,000 gallons) and supply the gravity fed system. Pilot tests for arsenic treatment of the water in Crescent Valley have been completed. Table 4-11 compares existing Crescent Valley water system capacities and demands and those projected for the year 2021.

Detailed information regarding water quantity, water quality, and facilities or infrastructure as found in the following Eureka County documents, are included in the Eureka County Master Plan by reference:

- 1) Eureka County Water and Sewer System Master Plan, October 2007
- 2) Eureka County Joint Water Conservation Plan for the Town of Eureka Water System, Devil's Gate GID District #1 and District #2, and Crescent Valley Town Water System
- 3) 2008 Annual Drinking Water Quality Report for Town of Eureka
- 4) 2008 Annual Drinking Water Quality Report for Devil's Gate GID District #1
- 5) 2008 Annual Drinking Water Quality Report for Devil's Gate GID District #2
- 6) 2007 Annual Drinking Water Quality Report for Town of Crescent Valley
- 7) Resolution of the Eureka County Planning Commission dated June 1, 2000 and accepted by the Eureka County Board of Commissioners on July 6, 2000, entitled: *Resolution Adopting the Amended Water Resources Plan Into the Eureka County Master Plan.*

8) Resolution of the Eureka County Board of Commissioners dated March 6, 2009, entitled *Resolution Restating the Eureka County Board of Commissioners Position on Water Resources in Eureka County*.

### **System Standards**

- Minimum pumping capacity should equal the maximum daily demand (3 times average day demand) with the largest well out of service.
- Minimum storage capacity should equal the average daily demand, fire flow requirements and 25% emergency storage.

### **Water System Recommendations**

#### **Future**

1. Eureka County water systems may require additional water storage and pumping capacity, should there be an increase in population.
2. Additional water rights may be obtained now to assure that water for existing county water systems and facilities will be available for county residents in the future, should a population increase occur.

### **Public Water Supply – Goals and Policies**

#### **GOAL 4.8 – Provide potable water as necessary to meet demands of planned land use, with cost-effective and environmentally sound systems.**

Policy 4.8.1 – The County may develop and implement a plan for water supply and wastewater systems serving all urban areas of the county, consistent with planned land uses (public and private).

Policy 4.8.2 – The County may identify specific areas of groundwater recharge (i.e. watershed), and develop policy regarding protection of those specific areas and their recharge levels.

Policy 4.8.3 – The County may require water supply and treatment facilities concurrent with development of land uses (public and private) generating demand for those facilities.

Policy 4.8.4 – The County may establish consistent policies regarding water use, conservation, and metering for areas with centralized water supply systems.

Table 4-9  
**Current Facilities Inventory**  
**Water Projections – Eureka**  
 Flow rate of water needed to maintain storage levels.

Low Growth Scenario	Existing System	Existing Demand	2021 Demand	Excess or (Deffic.)
Pumping Capacity	1450 gpm	Max.Day: 239 gpm Avg. Day: 164 gpm	Max. Day: 243 gpm Avg. Day: 167 gpm	1207 gpm
Storage	2,350,000 gal			
Medium Growth Scenario	Existing System	Existing Demand	2021 Demand	Excess or (Deffic.)
Pumping Capacity	1450 gpm	Max.Day: 239 gpm Avg. Day: 164 gpm	Max. Day: 271 gpm Avg. Day: 185 gpm	1179 gpm
Storage	2,350,000 gal			
High Growth Scenario	Existing System	Existing Demand	2021 Demand	Excess or (Deffic.)
Pumping Capacity	1450 gpm	Max.Day: 239 gpm Avg. Day: 164 gpm	Max. Day: 286 gpm Avg. Day: 196 gpm	1164 gpm
Storage	2,350,000 gal			

“gpm” is gallons per minute; “gal” is gallons

Table 4-10  
**Current Facilities Inventory**  
**Water Projections – Devil’s Gate**  
 Flow rate of water needed to maintain storage levels.

Low Growth Scenario	Existing System	Existing Demand	2021 Demand	Excess or (Deffic.)
Pumping Capacity	130 gpm	Max.Day: 52 gpm Avg. Day: 18 gpm	Max. Day: 53.3 gpm Avg. Day: 18.3 gpm	77 gpm
Storage	250,000gal			
Medium Growth Scenario	Existing System	Existing Demand	2021 Demand	Excess or (Deffic.)
Pumping Capacity	130 gpm	Max.Day: 52 gpm Avg. Day: 18 gpm	Max. Day: 59.3 gpm Avg. Day: 20.3 gpm	71 gpm
Storage	250,000 gal			
High Growth Scenario	Existing System	Existing Demand	2021 Demand	Excess or (Deffic.)
Pumping Capacity	130 gpm	Max.Day: 52 gpm Avg. Day: 18 gpm	Max. Day: 356 gpm Avg. Day: 119 gpm	(224) gpm
Storage	250,000 gal			

“gpm” is gallons per minute; “gal” is gallons  
 2021 High Growth Scenario demand is from the  
 Eureka Water and Sewer System Master Plan, October 2007



Table 4-11  
**Current Facilities Inventory**  
**Water Projections – Crescent Valley**  
 Flow rate of water needed to maintain storage levels.

Low Growth Scenario	Existing System	Existing Demand	2021 Demand	Excess or (Deffic.)
Pumping Capacity, gpm	550 gpm	Max.Day: 232 gpm Avg. Day: 136 gpm	Max. Day: 238 gpm Avg. Day: 139 gpm	312 gpm
Storage	672,000 gal			
Medium Growth Scenario	Existing System	Existing Demand	2021 Demand	Excess or (Deffic.)
Pumping Capacity, gpm	550 gpm	Max.Day: 232 gpm Avg. Day: 136 gpm	Max. Day: 265 gpm Avg. Day: 154 gpm	285 gpm
Storage	672,000 gal			
High Growth Scenario	Existing System	Existing Demand	2021 Demand	Excess or (Deffic.)
Pumping Capacity, gpm	550 gpm	Max.Day: 232 gpm Avg. Day: 136 gpm	Max. Day: 280 gpm Avg. Day: 163 gpm	270 gpm
Storage	672,000 gal			

“gpm” is gallons per minute; “gal” is gallons

#### 4.4.3.2.2 Wastewater System

##### Current Facilities

The Eureka Wastewater Treatment Facility’s (WWTF) domestic (sanitary) wastewater is treated biologically in two clay-lined evaporation/percolation ponds (#5 and #6). Pond #3 and #4 are used as primary facultative ponds. Pond #2 was lined with clay and converted to a primary facultative treatment pond. Ponds #1 and #2 provide primary facultative stabilization, solids settling, nutrient consumption and evaporation. Ponds #5 and #6 provide secondary facultative polishing, evaporation and percolation. The treatment facility’s headworks include a battery-powered (solar-cell recharged) ultrasonic flow meter in a transfer manhole. The manhole splits the flow between the two facultative treatment ponds (#1 and #2) when the influent flow exceeds 60,000 gpd. Eureka's WWTF is permitted by Nevada Department of Environmental Protection (NDEP) for a maximum daily discharge rate of 0.1 mgd (100,000 gpd) under the groundwater

discharge permit. The facility serves approximately 280 connections. All wastewater influent flow from Eureka is received via gravity flow.

Crescent Valley, Beowawe, Diamond Valley and all rural areas are sewerred by septic systems. In order to determine when an area needs to begin studying the need for a central sewer system, the Nevada Department of Environmental Protection divides the state into hydraulic drainage basins, each of which has a limit to the number of septic systems per square mile. After this point is reached either a sewer system or denitrification of septic systems is recommended. Crescent Valley is located in hydraulic basin #54 which allows up to 104 septic systems per square mile. It was estimated that 210 septic systems were operating in the town of Crescent Valley. Beowawe is located in hydraulic basin #60 which allows up to 102 septic systems per square mile. Devil's Gate is located in hydraulic basin # 153 which allows up to 200 septic systems per square mile.

### **Wastewater Supply – Goals and Policies**

#### **GOAL 4.9 – Urban Service Areas will be served by public wastewater facilities.**

Policy 4.9.1 – Areas with high septic system densities should be monitored for signs of groundwater contamination. Standards should be developed for determining when an area will need to be connected to a public wastewater treatment facility.

### **Wastewater System Recommendations**

#### **Immediate**

1. Crescent Valley currently may have more septic systems within the square mile that make up the town limits than the number at which a central sewer system or septic system denitrification should be considered. The necessity for improvements should be determined based on a study of groundwater and soil conditions.

#### **Future**

1. Eureka's sewage treatment facility may require further expansion should population increase.

#### **4.4.3.3 Utilities**

##### **Electrical Utilities**

Mt. Wheeler Power Company supplies power to the Town of Eureka and Diamond Valley with a total of 595 residential accounts, 204 irrigation accounts, and 208 commercial accounts. Within the town of Eureka there are 323 residential accounts, 2 irrigation accounts, and 127 commercial accounts. Within Diamond Valley there are 272 residential accounts, 202 irrigation accounts and 75 commercial accounts. This entire service area currently uses a total of 18 megawatts of power and Mt. Wheeler Power could distribute additional megawatts to the area should an increase in population occur.

Wells Rural Electric Company supplies power to Pine Valley, Grass Valley, Emigrant Pass, and Palisade. Power is supplied to a total of 48 residential, 34 commercial, 10 stock water, and 9 irrigation connections. The company's ability to serve these areas is considered to be adequate. NV Energy supplies the power to Crescent Valley and Beowawe. No current statistics are available regarding number and type of accounts due as NV Energy declined to release that information. Crescent Valley residents indicate that a portion of the area is without electricity due to the cost of bringing it to their individual sites. There is also residential concern that Crescent Valley has experienced power outages which have lasted up to three days.

In general, the power supply to all of these areas is considered to be adequate for the areas serviced. If there was to be an increase in demand for service, it would be possible for each power company to accommodate growth of these service areas.

### **Communications**

The Eureka Sentinel, the County's only weekly newspaper, is published by Stephens Media LLC. It has a circulation of 500 newspapers per week. The Elko Daily Free Press, Battle Mountain Bugle, High Desert Advocate, Ely Daily Times, Reno Gazette-Journal, and Carlin Express also serve residents in Eureka County. The Eureka Sentinel and Elko Free Press are the County's newspapers of record for legal notices.

Eureka does not have a local broadcasting radio station, however, AM and FM stations from Elko, Ely, and Reno are received and transmitted locally. National Public Radio from Reno is heard in Eureka and Crescent Valley on transmitters. Eureka County residents have access to national television stations. Cable television is also available within the town of Eureka. In Crescent Valley, limited television reception is available. Some residents in the outlying areas have satellite dishes. The Eureka TV District is in the process of a digital upgrade so as to provide better reception for the residents of Eureka County. At this time, television reception is inconsistent.

A fiber optic line extends north/south through the county providing high-speed communications on the Internet to the Eureka County administrative and school district offices only. Although very inconsistent, cellular phone coverage is also available across some of the county. ALLTEL Communications provide the majority of cellular telephone service in Eureka County.

### **Utilities – Goals and Policies**

#### **GOAL 4.10 – To achieve the efficient use of utilities in the County land use pattern, transportation systems, building forms, and consumption patterns.**

Policy 4.10.1 – The County must work closely with all utility providers so that utility services conform to adopted plans, services are on line when needed and utility extensions are not used to create a different land use pattern.

## **Utility System Recommendations**

1. Utility improvements which may be necessary in the future should be planned to be consistent with proposed land use patterns of this plan.
2. Crescent Valley residents indicate a need for more power availability at reasonable costs for hookups.
3. Continue coordinating with cellular telephone providers to improve cellular reception in Eureka County.
4. Continue to move forward in the attempt to provide better television reception for the residents of Eureka County.

### **4.4.3.4 Administration**

#### **Eureka County Administration Facilities**

##### **Eureka County Administration Facility**

The Eureka County Administration Facility was completed in 1996. Offices located in the Administration facility include the Public Works Department, the Natural Resource Department, the District Attorney's office, the Justice Court, the Juvenile Probation office and the University of Nevada Cooperative Extension office. This facility is considered to be adequate for future projected needs of the County.

##### **Eureka County Courthouse**

The Eureka County Courthouse was built in 1880. Following the recent renovation, the County Commission meeting room, the Assessor, the Recorder, the Auditor, and the Treasurer offices returned to the Historic County Courthouse. The Department of Motor Vehicle office shares facilities with the Assessor's office.

##### **Eureka County Opera House**

The Eureka County Opera House was built in the late 1880's and was renovated in 1991. The Opera House, which is located in the Town of Eureka, is used for many local events, such as town meetings and stage programs. The facility is also used to host such events as political party meetings and is often rented out for private use. The facility has one full-time manager, one full-time assistant and in the summer, one part-time assistant.

##### **Eureka County Warehouse**

The Eureka County Warehouse is used as the County storage facility. This facility is used for the storage of large shipments, office supplies, and furniture for all of the County offices and facilities. The building is located adjacent to the road shop in the Town of Eureka.

### **Sentinel Building**

The Historic Sentinel Building was built in 1879 and is where the *Eureka Sentinel*, the local newspaper, was first printed. This building is adjacent to the County Courthouse and is now used for the Eureka County Museum.

### **4.4.3.4 Parks and Recreation**

The Eureka County Parks and Recreation facilities provide many important benefits to the community, giving residents a place for both active and passive recreation. They provide a quiet setting for picnics and relaxation, and include unique features or open space areas for outdoor recreation. Facilities for special activities or interests benefit not only community residents, but provide opportunities for community involvement and participation.

In addition to the benefits gained by individual residents who use the parks and recreation facilities, the trails and open space facilities also enhance the community, reduce crime, provide a community focal point, have environmental benefits, and assist economic development efforts by attracting business. The primary objective of parks and recreation areas is to improve the quality of life for residents within the community.

### **Current Park Inventory**

Eureka County has numerous recreational opportunities for its residents and tourists to enjoy. The following discussion of facilities is limited to those run by the County and include: an indoor swimming pool, ball fields and playgrounds, and some activity programs that are funded by Eureka County. Figure 4-3 shows the locations of County-owned park and recreation facilities within Eureka County.

The Town of Eureka has an enclosed community swimming pool, which is considered adequate for current use, even with the summer usage.

The Eureka County School District maintains the indoor gymnasium, a running track, and football field complex in the Town of Eureka. Although school-sponsored events and activities have preference at these facilities, they also support community recreation.

The Eureka County Rodeo Grounds and Fair Building are located in the Town of Eureka. This facility consists of a pavilion with a stage, fairground building with restrooms, concession stands, large and small arenas, and an announcer's stand. Although the arenas are not used on a regular basis, various rodeos takes place at these facilities, as well as local horse shows, and a Junior Rodeo which includes such events as roping and barrel racing. The arena is available for the use of local individuals at almost anytime. The facility has no capacity limit because it is an open arena. The County does bring in bleachers for the events, but there is parking that allows for people to see from their automobiles. There is no regular staff for this facility, but during the summer the County hires staff for grounds maintenance. The maintenance includes lawn mowing, watering grass and bushes, and taking care of the cleanup of the arena.

The rodeo grounds in Crescent Valley are located at the north end of town and are used by members of the community on a regular basis. This facility consists of an announcers' booth, an arena with stalls around it, and includes restroom facilities and showers. The arena is rented out for local events, activities, and horse shows. The Community Center is located on the same property as the rodeo grounds. The property on which the rodeo grounds and Community Center are located belongs to Eureka County.

The County has two ball fields, both maintained by the County, as well as the Town Park, Children's Park, and a park at the Eureka County Fairgrounds. The Town of Crescent Valley includes a park with basketball and tennis courts, a picnic area, a ball field, and a playground.

<b>Desired Facilities</b>	<b><u>Eureka</u></b>	<b><u>Crescent Valley</u></b>
	Community/Recreation Center	Youth Center/Pool
	Covered Arena at Fairgrounds	Additional Park

**Level of Service Standards**

Traditionally 10 acres per 1000 people is the accepted standard for parks; however, each community is unique in their desires and needs so this LOS should be modified as necessary.

**Park and Recreation Facility Recommendations**

**Immediate**

1. Determine the number of acres of park land and show the parks on the land use base map. Describe each facility.
2. Estimate how often parks are used and by how many people.
3. Determine further needs based on the above recommendations and the proposed Level of Service standard of 10 acres per 1000 people.

**Future**

1. Consider recreation area for 4 wheelers and quads.

**4.4.4 TRANSPORTATION SERVICES AND FACILITIES**

An adequate transportation system is among the most essential public services to the region. One of the goals of this planning effort is the provision of a transportation system capable of providing adequate service to the County as it grows. This goal contains several important concepts which are reflected in policies. Transportation system components include major streets and highways, airports, public transit, railways, bicycle trails and sidewalks. The definition of adequacy, as it relates to transportation, is an important standard for the County to establish. The Level of Service selected will affect the size and type of roadways and other transportation infrastructure needed by the County, and will directly determine the capital investment needed.

In order to achieve adequate services for the future, any needed expansions must be made during the planning period in order to keep up with the demands for growth. Policies in the Master Plan must ensure that these expansions are timed so the necessary capacity is available when new developments are occupied and generating travel demands.

In addition to these concepts, the transportation system should be designed to serve those residents with special needs such as the elderly, those with physical handicaps, and those with lower incomes who rely on assisted transportation as their only form of transportation. These special services must also be included in an adequate transportation system.

Many entities are involved in some aspect of the transportation system because of their planning roles, their acquisitions of land for future facilities, construction of roadways, operation of transit vehicles, or system maintenance. Coordination and cooperation are critical to successfully implementing the County's desired transportation system. The institutional agreements defined in this Plan will assist the County by establishing clear roles and responsibilities for the agencies involved in transportation planning or operation. The Plan also establishes the means for coordination between jurisdictions. Figure 4-4 shows the extensive network of highways, streets, roads, railways, and airports in Eureka County.

### **Transportation System – Goals and Policies**

**GOAL 4.11 – To build and maintain a transportation system which combines a mix of transportation modes and transportation system management techniques, and which is designed to meet the needs of the County's Land Use plan while minimizing the transportation systems' impacts on air quality, the environment, and adjacent development.**

Policy 4.11.1 – Construction of local and regional transportation facilities may coincide with development of planned land uses generating demand for those facilities.

Policy 4.11.2 – Design and construction of transportation facilities may minimize impacts on the environment and surrounding development through encouraging corridor and center patterns of growth.

Policy 4.11.3 – Adoption of the Street and Highway Circulation System Map, with amendments as needed based on consistency with the County Land Use Plan, the County Street and Highway Map and Public Transportation System Map.

#### **4.4.4.1 Transit Services**

The residents of Eureka County indicate that a Transit Service to supply transportation from Eureka to Elko, Ely and even Reno is needed. This service would benefit the entire community allowing residents to visit the larger surrounding areas on a more regular basis. This will also

allow for citizens to make trips to surrounding areas for such reasons as shopping and/or medical visits.

## **Transit Services – Goals and Policies**

### **GOAL 4.12 – To provide a vehicular circulation system of streets and highways for the safe, efficient movement of people, goods and services that foster community linkages.**

Policy 4.12.1 – Eureka County may develop a functional classification and system of street types to address community wide transportation needs and services.

Policy 4.12.2 – Eureka County may encourage a balance of and relationship between streets, highways, and adjacent land use activities.

Policy 4.12.3 – Eureka County may consider development of a traffic operation management system to ensure and maintain vehicular and pedestrian traffic safety.

Policy 4.12.4 – Eureka County may establish a system for monitoring the use, condition of and maintenance of streets and highways.

Policy 4.12.5 – Eureka County may consider alternative transportation systems to meet the mobility needs of all residents.

Policy 4.12.6 – Eureka County may seek to include public transportation as an integral component of the regional transportation system.  
This supports local tourism development initiatives.

Policy 4.12.8 – Eureka County may seek to ensure that public transportation systems meet the needs of identified special populations.

Policy 4.12.9 – Eureka County may evaluate local transit service needs and alternatives every five years, to determine requirements for dial-a-ride or fixed route transit service.

#### **4.4.4.2 Streets and Highways**

##### **Current Facilities**

Two major east-west highways traverse Eureka County. Interstate 80 crosses through the northern part of the County; U.S. Highway 50 connects the Town of Eureka with Ely and continues through Carson City to Sacramento. Nevada State Route 278 is the primary north-south link in the County, intersecting U.S. 50 at Eureka and I-80 at Carlin. Nevada 306 connects Crescent Valley to I-80 through Beowawe in the northern part of the County.



The Eureka County Road Department maintains over 800 miles of main and general county roads including snow removal, with bus routes as the highest priority. The Eureka Road Department crew is made up of nine employees. There is a substation located in Crescent Valley with a crew of four. The road Department also maintains all county vehicles and equipment. Figure 4-4 illustrates the status of streets and highways in Eureka County.

### **Planned Facilities**

Eureka County has a yearly paving program in which existing county roads are paved and repaired in accordance with the program criteria. Approval has been given to pave various Crescent Valley roads in the near future.

Eureka County has started the process of transferring ownership of State Route 780 in Eureka, known as Ruby Hill Avenue, to Eureka County ownership.

### **Streets and Highways – Goals and Policies**

**GOAL 4.13 – To plan, build, and maintain a system of major roadways which provides adequate service to the County’s planned land uses, integrates automobile use and the other modes of transportation, and minimizes environmental impacts.**

Policy 4.13.1 – Roadway facilities may be designed to meet the needs of planned developments.

Policy 4.13.2 – The investment in the transportation system may be preserved by following a maintenance program which maximizes the useful life of county streets and highways.

### **Streets and Highways Recommendations**

#### **Immediate**

1. Continuation of the Road repairs and the paving projects to improve unpaved Roads in the county.

#### **Future**

1. Develop a long term paving and road repair program which will provide for current traffic patterns and encourage orderly growth.

#### **4.4.4.3 Airport**

##### **Current Facilities**

Eureka County supports two airports which provide access to air transportation for the communities of Eureka and Crescent Valley, respectively. Naval Air Station Fallon and Nellis Air Force Range both control Military Operations Areas that include portions of Eureka County. There are also established Military Air Training Routes for Visual Flight Rules (VFR), Instrument Flight Rules (IFR), and supersonic flights that extend over portions of Eureka County. At this time there are no known conflicts between Military training flights and either of the Eureka County airports.

The general aviation airport is located on 800 acres, eight miles north of Eureka, off State Highway 278 at the elevation of 5,946 feet. The runway is paved and lighted and is 7,400 feet long and 60 feet wide. During 1996, a hanger and shop, apartment for a fixed base operator and/or caretaker, and fuel tanks were constructed. Eureka County has retained a fixed-base operator. The Eureka Airport Runway Rehabilitation and Paving Project is underway at this time.

There is one unpaved runway at the Crescent Valley Airport, which is used for public use only. The airport is located at an elevation of 4,787 feet and is a tenth of a mile from the town of Crescent Valley. Runway 5/23 is 5,423 feet long and 62 feet wide. This airport is owned by the County but the land on which it is located is managed by the Bureau of Land Management.

##### **Airport Recommendations**

###### **Future**

1. Improvements to the Eureka and Crescent Valley airports may be desirable should population increase occur.
2. Transfer lands on which Crescent Valley airport is located from Bureau of Land Management to ownership of Eureka County.

#### **4.4.4.4 Rail**

Eureka County is serviced by the Union Pacific railroad that runs along Interstate 80 through Beowawe.

#### **4.4.4.5 Bicycle Traffic**

There are many paths and trails in Eureka County open to bicycle traffic. Two main trails go directly through the County. The first route starts in the western part of the state and follows Highway 50 through Eureka. The other route follows Interstate 80. Any roadway controlled by the Nevada Department of Transportation can also be used as an open bicycle trail.

## **Bicycle Traffic – Goals and Policies**

**GOAL 4.14 – Adopt and implement a safe, comprehensive bikeway plan that provides opportunity for non-motorized transportation within the County that meets both recreational and commuter needs.**

Policy 4.14.1 – Eureka County may encourage the need for providing a network of safe bicycle routes within the County.

Policy 4.14.2 – Construction of safe bicycle routes along Highway 50 and I-80 should be incorporated and funded by the Nevada Department of Transportation.

### **4.4.4.6 Pedestrian Traffic**

#### **Current Facilities**

The existing sidewalks are located in the Town of Eureka. As part of the Downtown Revitalization Project, sidewalk were added to both sides of Main Street. At this time the Ruby Hill Sidewalk Project is under way.

#### **Pedestrian Traffic – Goals and Policies**

**GOAL 4.15 – Adopt and implement a safe comprehensive pedestrian plan that provides opportunity for non-motorized transportation within the County that meets both recreational and commuter needs.**

Policy 4.15.1 – Eureka County may evaluate the need to provide or encourage the provision of pedestrian routes within the community areas.

#### **Pedestrian Traffic Recommendations**

1. Sidewalks, where practical, should be considered as a means to inter-connect public buildings, recreational areas, shops and schools.

## **5.0 ECONOMIC DEVELOPMENT ELEMENT**

### **5.1 INTRODUCTION**

As host to North America's largest gold mines, Eureka County would appear positioned to enjoy a strong economy. While mining has produced important fiscal benefits (tax revenues) for the County, mining related employment and income opportunities have accrued largely to residents of neighboring counties, principally Elko and Lander. Agriculture, long a stabilizing force of the County economy, has been buffeted by volatile commodity prices and rising costs of production. Irrigated agriculture has faced ever-rising costs of pumping groundwater. The range livestock sector has declined due to unpredictable regulatory restrictions imposed by federal agencies which have limited access to annually available forage. By some estimates the County has seen a decline of over 80 percent of the livestock numbers that were owned by county residents as recently as 1980. Wildlife populations including mule deer and sage grouse have also declined during the last part of the 20th Century, with a corresponding loss of recreation related business within Eureka County. Restoration of the livestock numbers represents a substantial opportunity to increase jobs, retail sales, and the tax base of Eureka County. Similarly, restoration of mule deer and sage grouse populations would provide a highly desired increase in recreational expenditures within the County. Loss of retail business, jobs, and taxes that have resulted from this loss of livestock numbers have been obscured by the substantial increase in mine production during the same period of time.

With its economy largely defined by the mining and agriculture sectors, lack of diversification also places the Eureka County economy at risk. The consequences of severe downturns to either of these leading sectors could translate into economic and fiscal adversity. Further, mining represents economic activity based upon non-renewable resources. As such, there is no question that mining will diminish as ore reserves are exhausted. What is not known is how long it will be before the combination of commodity prices, technology, and the finite nature of the mineral deposits will result in an end to mining in Eureka County. Mining has been an important component of Eureka County's economy since the late 19<sup>th</sup> century. Estimates extend the lives of currently active mines within the County to at least 2020.

To enable Eureka County residents and their dependents to have the opportunity to continue to work and live in the communities of their choice, Eureka County is confronted with the obvious need to diversify and expand its economy. Failure to pursue creation of local employment and income opportunities may result in economic stagnation and fiscal deficiencies. This economic element to the master plan is intended to provide a framework within which diversification and expansion of the Eureka County economy can occur.

## **5.2 RELATIONSHIP TO OTHER PLAN ELEMENTS**

Economic development within Eureka County can influence and be influenced by other master plan elements. Before implementing each element of the plan, it is important to understand associated relationships. For example, growth management measures might discourage industrial development by limiting population growth. Alternatively, the public facilities and services element might encourage industrial growth by providing for development of one or more industrial parks. Natural resource policies of Eureka County are designed to ensure long term health and productivity of plants, water quality in streams, and abundant wildlife and livestock forages, which in turn create jobs and stimulates business. Careful thought is needed concerning timing and location of Economic Development projects so as not to interfere with natural resource benefits. Decisions to implement each element of the Eureka County Master Plan should be preceded by asking the question, “How will implementation of this initiative affect other adopted elements of the master plan?”

## **5.3 EXISTING MECHANISMS**

At a local level, the Eureka County Economic Development Program has been appointed by the Eureka County Commission to lead economic diversification activities. The Program executive director is responsible for day to day management of local economic development initiatives. The Eureka County Economic Development Program encourages tourism and business promotion activities throughout Eureka County. Funding for Program activities include both public and private resources.

The State of Nevada Commission on Economic Development (CED) conducts statewide and targeted industry recruitment programs. These initiatives produce industry location leads which are provided to local development groups. In addition, CED provides funding to local economic development bodies, including the Eureka County Economic Development Program. The Small Business Development Center (SBDC) and the Center for Economic Development at the University of Nevada Reno are also available to assist with economic expansion activities.

## **5.4 EMPLOYMENT, INCOME, AND DIVERSIFICATION TRENDS**

The 1996 U.S. Census revealed the unemployment rate of Eureka County to be 6.1 percent. The 2000 census shows the total civilian labor force in Eureka County was 750 with 720 people employed, indicating an unemployment rate of 4 percent. As of September 2009, according to Nevada State Department of Employment, Training and Rehabilitation, the total labor force in Eureka County was 905 with 821 people employed indicating an unemployment rate of 9.3 percent. Despite this relatively high unemployment rate for Eureka County, the rate remains lower than the Nevada statewide unemployment rate of 13.3 percent, as of September 2009.

According to the 2000 U.S. Census, Eureka County had only 712 resident workers, but supplied 2,243 jobs denoting that Eureka County had three times more jobs as it had workers.

The Bureau of Economic Analysis Total Employment by Industry for year 2001 shows that 83.6 percent of all employment in Eureka County was in mining. Because of Eureka County’s strong mining industry, workers from neighboring counties are being attracted to the available jobs within the county. Unfortunately, mines located in the northern portion of Eureka County are too far from county community areas to enable residents to work at these locations. Rather, employees are transported by bus to their jobs at mines in Eureka County from neighboring areas. Due to shortages in housing and under-developed commercial sectors in Eureka County, workers choose to live in nearby towns in other counties with their available housing and associated commercial sectors.

According to the 2003 United States Census Bureau, only 630 (28 percent) of the 2,243 people working in Eureka County lived within county lines (see Table 5.1). More than twice that number, 1,488 (66 percent), commuted from Elko County. Eureka County (52 percent) and Storey County (51 percent) are the only counties in Nevada that have more incommuting workers than resident workers.

Table 5-1  
Eureka County Workers’ Place of Residence

RESIDENCE COUNTY	WORKPLACE COUNTY	COUNT	PERCENT
Elko Co. NV	Eureka Co. NV	1,488	66.34
Eureka Co. NV	Eureka Co. NV	630	28.09
Lander Co. NV	Eureka Co. NV	54	2.41
White Pine Co. NV	Eureka Co. NV	36	1.60
Other NV	Eureka Co. NV	33	1.47
Other	Eureka Co. NV	2	0.09
		2,243	100.00
	In commuters	1,613	71.91

Source: United States Census Bureau, 2003.

The number of out-commuting in Eureka County is relatively low. This is primarily due to its lack of residents and the strong mining industry (see Table 5.2). Only 82 of Eureka County’s 712 (12 percent) resident workers leave the county to commute to work.

Table 5-2  
Eureka County Resident's Place of Work

RESIDENCE COUNTY	WORKPLACE COUNTY	COUNT	%
Eureka Co. NV	Eureka Co. NV	630	88.48
Eureka Co. NV	Elko Co. NV	50	7.02
Eureka Co. NV	Lander Co. NV	9	1.26
Eureka Co. NV	Other NV	13	1.83
Eureka Co. NV	Other	10	1.40
		712	100
	Out commuters	82	11.52

Source: United States Census Bureau, 2003.

Nevada Department of Employment, Training and Rehabilitation indicate that in March 2009, Mining was Eureka County's largest employer while Government was the second largest with 250 employees in local, state and federal governmental positions (Table 5.3). Agriculture, long a stabilizing force of the County economy, has been buffeted by volatile commodity prices and rising costs of production. Irrigated agriculture faces ever-rising costs of pumping groundwater. The range livestock sector has been encumbered by federal regulations which have limited access to forage resources.

Eureka County's economy is highly dependent upon mining and not well diversified. Collectively, these conditions have induced increased unemployment rates.

Table 5-3  
Eureka County Industrial Employment  
2002-2009

	2002	2003	2004	2009
All Other	41	66	71	–
Other Services except public administration	-	8	7	–
Trade Transportation and Utilities	33	32	32	140
Professional and Business Services	–	–	–	10
Accommodation, Food Service, Leisure and Hospitality	25	25	38	40
Government	204	188	192	250
Mining	3,307	3,180	3,211	4,100

Note: In order to maintain employer confidentiality some individual industry data are suppressed, but are still part of the total. These numbers are included in “All Other”. Owner/Operator statistics are not included.

Source: Nevada Department of Employment Training and Rehabilitation, Nevada Workplace Informer, Data Analysis, “Quarterly Employment and Wages”, Eureka County 2002-2004 and March 2009 Nevada Small County Industrial Employment Summary.

## 5.5 STRENGTHS, WEAKNESSES, OPPORTUNITIES, CONSTRAINTS

As part of the Eureka County Master Plan Update, surveys were mailed to each post office box holder in Eureka County. Surveys were also distributed at four workshops and at meetings of various organizations, boards, committees, and commissions.

One of the questions asked in the survey was for participants to rank characteristics of their community as to strengths or weaknesses. As shown in Table 1-6 of the Introduction to this master plan, most participants rated quality of the natural environment as one of the greatest strengths of Eureka County. The educational system and character of the community were also rated as relative strengths. Availability of affordable housing was viewed as less of a strength and more of a weakness. Collectively, these perceptions can be helpful in gauging strengths and weaknesses for economic development purposes. For example, without available affordable housing, certain industries may be reluctant to move into the area for fear that their employees will be unable to arrange for suitable dwellings.

Table 5-4 provides a listing of other strengths and weaknesses. Efforts to diversify and expand Eureka County’s economy will be best served by initiatives which capitalize upon



strengths and eliminate weaknesses. Implementation of the master plan should seek to avoid diminishing strengths while being used to overcome weaknesses.

Table 5-4  
Strengths and Weaknesses of Eureka County  
From An Economic Development Perspective

STRENGTHS	WEAKNESSES
Abundant Natural Resources (i.e. geothermal, forage, oil, wildlife, land)	Geographic Isolation (proximity to markets)
Rail and Highway Infrastructure	Little Surface Water
Available Energy Supplies (electrical, natural gas)	Lack of Available Labor Force
Modest Development Regulatory Constraints	Lack of Developed Industrial Sites
Excellent Work Ethic Among Laborers	Lack of Available Affordable Housing
Relatively Low Cost of Living	Limited Selection of Local Services and Shopping Opportunities
Low Crime Rates	Limited Access to Cultural Amenities
Rural Lifestyle, Quality of Life	Lack of Community Infrastructure in North
Local Financial Incentives for Business	Limited Medical Services
Abundant Mine De-Watered Water for Non-Consumptive Uses	Lack of area-wide cell phone reception
High Speed Data Transmission Capabilities	

The most obvious opportunities to strengthen the economy of Eureka County are associated with the mining industry. Initiatives focused at stimulating economic development within the County through the purchase of goods and services by mining companies would likely yield beneficial results. In addition, efforts to increase the number of residents employed at area mines would also likely meet with success. Mine related industrial development (i.e. service industries and suppliers) may also be successfully attracted to Eureka County.

Beyond mining, enhancement of the area's tourism and agricultural sectors show promise. Actively seeking to restore the numbers of livestock owned by local producers and grazing on federal or state lands would generate jobs, sales of products and services, and tax revenue, as well as sustain the custom and culture of Eureka County. The Town of Eureka's well preserved western motif could help attract visitors to the community. Coupled with other existing and potential activities (i.e. sporting clays, mine tours, theater and musical events at the Opera House), small conventions and bus tours might be

drawn to the area. Proposals to develop a recreational reservoir near Eureka would add dimension to recreational opportunities for area visitors. Availability of lodging may however be a limiting constraint. Reportedly, only about 89 rooms are available within Eureka.

Table 5-5  
Economic Development Opportunities  
Within Eureka County

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Identified in the Eureka County Economic Development Program

Revolving loan fund  
Tourism expansion (marketing of Eureka)  
Add motel/hotel rooms  
Recreational opportunities

Additional Ideas

Mine related procurement and labor participation outreach  
Identify and develop industrial sites  
Identify mining industry induced industrial investment opportunities  
Water export fee to finance economic development initiatives  
Tourism

- Mine tours
- Mining institute (bring in domestic and international guests)

Expand agricultural production using mine de-watered water  
Geothermal development (greenhouses, aquaculture, etc.)  
Oil related development  
Industrial park at Dunphy

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**5.6 ECONOMIC LEAKAGE**

Due to the limited availability of retail and service establishments in Eureka County, significant amounts of purchases are believed to be “leaking” from the local economy. Leakage is particularly prevalent in Crescent Valley where few retail and service outlets exist in proportion to the size of the population and income. Failure to have locally earned dollars circulate through the economy serves to weaken local economic conditions. In addition, exporting of retail sales to other counties (i.e. Elko, White Pine, Washoe) causes Eureka County to lose what would otherwise be available sale tax revenues. Reduction of goods and service related leakage can provide both economic and fiscal benefits to Eureka County. Residents typically choose to shop outside the local area because of limited local selection, often higher local prices, and as a means to “get away” for a day. Often shopping out of the area occurs in conjunction with travel to attend to medical or business activities. Small business financing and availability of

affordable commercial space are important prerequisites to increasing the availability of retail goods and services. The University of Nevada Reno Small Business Development Center could be a particularly important resource for help in seeking to reduce economic leakage.

Beyond retail and service leakage, industrial leakage results as mining companies make purchases outside the County. In the case of mining, leakage may approach tens of millions of dollars per mine.

## **5.7 INDUSTRY RETENTION**

Mining, agriculture, trade, finance, and service sectors of the Eureka County economy are each represented by locally operating businesses. Each potential business which closes or relocates out of the County serves to erode slightly the economic strength of the area. The County, then, is best served by efforts to retain, as viable operating establishments, each business in the area. Factors which can influence business closure include the high cost of capital, lack of local demand for products, heightened government regulation and related compliance costs, and access limitations to needed public and private natural resources (i.e. water, forage, minerals, oil, land, etc.), among other possibilities. Effective industry retention initiatives typically monitor existing businesses to provide early warning of the presence of undesirable factors. Eureka County can also evaluate its actions related to implementation of this master plan to determine whether and to what extent threats to existing business may be induced.

## **5.8 INDUSTRY ATTRACTION**

Attraction of new industry to Eureka County can serve to both strengthen and diversify the local economy. In addition, location of new business can produce additional public revenues for use in providing necessary public services and facilities. Industries such as mines are not typically the target of industry attraction initiatives. Rather, it is those industries which can locate at one of several sites (perhaps among differing states or counties) to which industry attraction efforts tend to be focused. The most effective industry attraction campaigns attract select industries for which the attracting locale has been determined to have some comparative advantage over other possible sites. Examples for Eureka County might be industries dependent upon supplies of high quality alfalfa hay (i.e. the dairy industry) or servicing mines (i.e. chemical distribution industry). Other possible targets for Eureka County might include geothermal industries, oil-field services, and aircraft maintenance. Abundant supplies of mine de-watered water might also prove applicable to aquaculture or pasture-fed livestock industries.

A prerequisite to implementation of a successful industry attraction program is the establishment of a local environment conducive to the citing of the desired industry. Examples of factors to be considered include government regulations, developed industrial sites, financial incentives, and housing for employees. Industry attraction also requires a local commitment to aggressive marketing activities.

An alternative to outright industry attraction involves the purchase by local interests of a desired industry and relocation of it to the County. Such initiatives are often undertaken by locally organized community development corporations. Shareholders in such corporations are typically local individual and corporate investors interested in strengthening and/or diversifying the area's economy.

## **5.9 ECONOMIC DEVELOPMENT GOALS AND POLICIES**

In order to capitalize upon area strengths and opportunities, and encourage the elimination of constraints and weaknesses relating to expansion and diversification of the local economy, Eureka County has embraced the following goals and initiatives.

### **Goal 5.1 - Attract new industry and business**

- Policy 5.1.1 Eureka County may offer incentives that will encourage business and industrial development.
- Policy 5.1.2 Eureka County may promote any advantages for new business development in the County.
- Policy 5.1.3 Eureka County may encourage new agriculture related businesses to locate in the County.
- Policy 5.1.4 Eureka County may encourage diversification and broadening of agricultural industries, including the processing of local and regional products.
- Policy 5.1.5 Eureka County may promote increased local purchases and hiring by area mines.
- Policy 5.1.6 Eureka County may identify and pursue mining industry induced industrial investment opportunities.
- Policy 5.1.7 Eureka County may identify, develop, and market industrial sites where appropriate.
- Policy 5.1.8 Eureka County may encourage industrial use of geothermal, wind, and solar energy resources in the County.
- Policy 5.1.9 Eureka County may encourage expansion and investment in oil production activities in the County.

Policy 5.1.10 Eureka County may encourage local, temporary beneficial secondary uses of mine de-watered water produced in the County.

**Goal 5.2 - Secure Alternative Sources of Local Financing for Business**

Policy 5.2.1 Eureka County may encourage bank compliance with local investment requirements of the Community Reinvestment Act (CRA).

Policy 5.2.2 Eureka County may encourage the exploration of Rural Nevada Development Corporation (RNDC) and the Small Business Administration (SBA) opportunities as alternative sources of local financing for business.

**Goal 5.3 - Promote Tourism and Recreation**

Policy 5.3.1 Eureka County may encourage the development of additional hotel/motel rooms in Eureka and Crescent Valley.

Policy 5.3.2 Eureka County may encourage development of one or more recreational reservoirs within the County.

Policy 5.3.3 Eureka County may encourage development of improved recreation area on lands now administered by the federal government.

Policy 5.3.4 Eureka County may keep the Eureka Self-Guided Walking Tour updated.

Policy 5.3.5 Eureka County may support the Volunteer Fire Department Static Display.

Policy 5.3.6 Eureka County may host the annual Car Show and Highway 50 Yard Sale.

Policy 5.3.7 Eureka County may support future development of the Fair Grounds and associated projects.

Policy 5.3.8 Eureka County may encourage recreational opportunities.

**Goal 5.4 - Retain and Expand Existing Business and Industry**

Policy 5.4.1 Eureka County may encourage existing business retention and expansion by seeking to reduce current threats to local business and industry.

## **Goal 5.5 - Diversify and Expand the Eureka County Economy**

- Policy 5.5.1 Eureka County will encourage diversification of the economy away from non-renewable resource based industries.
- Policy 5.5.2 Eureka County may seek to increase public sources of funding available to support local economic development initiatives.
- Policy 5.5.3 Eureka County may encourage greater private financial support for local economic development initiatives.
- Policy 5.5.4 Eureka County may seek to increase the acreage of land owned by local government and privately owned land within the County.
- Policy 5.5.5 Eureka County may continue pursuit of the I-80 Interchange for access onto the freeway at the junction with Highway 278.
- Policy 5.5.6 Eureka County will encourage maintaining the integrity of the Historic Downtown Eureka business district.
- Policy 5.5.7 Eureka County may, per Eureka County Goal 22, explore potential sources of funding for local business expansion.
- Policy 5.5.8 Eureka County may keep the Eureka County business directory updated in both print and web.
- Policy 5.5.9 Eureka County may explore possible properties with the Eureka County Planning Commission for a Land Buy to facilitate a potential industrial park.
- Policy 5.5.10 Eureka County will encourage local cell phone providers to improve cell phone coverage for Eureka County.
- Policy 5.5.11 Eureka County may encourage the productivity of existing “Building Blocks” beginning with such assets as work force and natural resources including water, minerals, livestock forage, and wildlife.
- Policy 5.5.12 Eureka County will protect the private property interests and other assets of existing farms, ranches, and businesses in order to sustain legitimate economic productivity far into the future.

## **5.10 IMPLEMENTATION**

Implementation of the goals, policies and initiatives outlined within the Economic Development Element will occur through the following process.

1. The Eureka County Commission shall encourage the Eureka County Economic Development Program (EDP) to prioritize master plan goals and policies for implementation.
2. The Eureka County Commission shall direct the EDP to assist in identifying initiatives for implementation of master plan goals and policies.
3. The Eureka County Commission shall direct the EDP to establish estimated costs (where appropriate) for completion of high-priority goals, policies, and initiatives.
4. The EDP shall present recommendations for economic development element implementation priorities and funding of implementation initiatives to the Eureka County Commission for review and concurrence.
5. Subject to availability of funding, the Eureka County Commission shall allocate funding, as necessary, to implement agreed upon high priority goals, policies, and initiatives of the economic development element to the master plan.

## **6.0 NATURAL RESOURCES & FEDERAL OR STATE LAND USE**

### **6.1. INTRODUCTION**

The Natural Resources & Federal or State Land Use Element of the Eureka County Master Plan (hereafter, Natural Resource and Land Use Plan) is an executable policy for natural resource management and land use on federal and state administered lands in Eureka County. This Natural Resource and Land Use Plan provides a scientifically and culturally sound framework for establishing community planning goals; and provides details of goals and actionable objectives for a number of high-priority issues. This chapter is not intended to regulate or otherwise reduce private property rights, as Eureka County seeks to protect the full exercise of property rights. Protection of private property such as water rights, rights-of-way, easements, forage rights, mineral rights, and other property within lands administered by federal or state agencies, requires that the Natural Resource and Land Use Plan discuss and propose actions that may indirectly affect private property rights. This Natural Resource and Land Use Plan has been developed, in part, because regulatory decisions that diminish the value of private property or deprive citizens of access to natural resources are likely to have substantial effects on the culture and economy of Eureka County.

As detailed in Eureka County Master Plan Element 1, Introduction, development of the Eureka County Master Plan began in 1973. The Master Plan and this Natural Resource and Land Use Plan was expanded in the late 1990's in response to legislative direction commonly known as SB40 which is codified within Nevada Revised Statute 321 (NRS 321). Each element of the Master Plan, including Element 6, has included extensive public meetings and public input to seek the views and concerns of Eureka County citizens. In completion of the 2010 Master Plan update over 900 households received notices of this update along with surveys seeking direction from County citizens, and comments were obtained during a number of local meetings. Also in 2009 the Eureka/UNR Cooperative Extension completed a similar survey of local interests and needs. In general, most respondents favored local and private management of natural resources, an increase in the area of private lands, and the continuation of traditional agricultural production at the same time that mining or other industrial enterprises increase.



This Natural Resource and Land Use Plan is designed to: (1) protect the human and natural environment of Eureka County, (2) facilitate federal agency efforts to resolve inconsistencies between federal land use decisions and County policy, (3) enable federal and state agency officials to coordinate their efforts with Eureka County, and (4) provide strategies, procedures, and policies for progressive land and resource management. Reference material is quoted within the text of various sections and Chapter 6.5 includes detailed reference to laws, court cases, and written documents that provide the basis for statements within the text.

The natural and human environment of Eureka County includes renewable natural resources such as air, water, soil, plants, fish, wildlife, and livestock including those referred to as domestic animals in the Federal Land Policy and Management Act (FLPMA). Non-renewable natural resources found in Eureka County include minerals, precious metals, sand or gravel, geothermal and oil. Eureka County citizens place great importance on features of the human environment that shape their community, its custom and its culture. These features include, but are not limited to:

- Economic stability, security and growth that contributes to a diverse economy including business and industry, crop and livestock production, mining, recreation and tourism;
- Social stability as demonstrated by a civic-minded populace whose involvement and well-being are essential for successful functioning of the community;
- Business owners who invest their capital back into the community and provide jobs for the people of Eureka County;
- Private property as a component of a free market economy and as a tax base that supports County services;
- Local and private management of resources for profit based on the community's traditional sense of responsibility, stewardship and sustainability for future generations;
- Continued outdoor recreational opportunities including hunting and fishing;
- Transportation and utility infrastructure necessary for business and recreational activity;
- Easements and rights of way that support this infrastructure;
- Access for residents and visitors alike in order to enjoy and use the natural resources of the federal and state managed areas.

### **6.1.1 Background**

Since 1973, few changes in the distribution of land ownership and administration among private, federal, state, and local entities have occurred in the County. Public agencies continue to administer approximately 79% of land in the County; the majority of that non-patented land is administered by the United States Department of Interior, Bureau of Land Management (BLM) with a lesser amount

of acreage administered by the United States Department of Agriculture Forest Service (FS). Intensively managed private land holdings continue to be concentrated in valley bottoms and used for agriculture, industrial, or urban purposes. Former railroad lands (“checkerboard”) in the northern reaches of the County remain mostly undeveloped; throughout Eureka County there are scattered patented mines, state selected school lands, and homesteads.

Passage of Assembly Bill 413 (A.B.413) in 1979 supported, among other issues, the allegation that Nevada was denied acceptance into the Union on an “equal footing” with other states in violation of the United States Constitution. A.B.413 is codified in NRS321.596 through NRS321.599. Nevada Revised Statutes 321 and NRS 328, as well as the federal laws, recognize the pre-existing property rights that had been established prior to the formation of the BLM or FS, and clearly explain that the non-patented lands are administered by federal agencies as proprietary interest that lack civil and criminal jurisdiction. NRS 328 further indicates that no cession of jurisdiction has been made to federal authorities for lands within Eureka County. Related topics include: definition of public land, territorial and subject matter jurisdiction, territorial nature of federal law, authority of federal magistrate, sovereignty, definition of “state”, possessory interests, pre-existing rights, and the absence of a Constitutional grant of police powers to Congress. Detailed discussion of these issues is included in documents listed within Chapter 6.5 and on file at the Eureka County Natural Resource Office.<sup>1</sup>

Substantial changes have occurred within Eureka County during the past twenty or more years that have benefitted the economic base of the County. Oil and gas leases, expanding mining operations, ground water development and distribution, proposed electrical generation utilizing geothermal, wind, and solar technologies, transmission lines, and other industrial land and natural resource uses have all seen an increase, and occasionally conflict with traditional irrigated agriculture, livestock grazing, and recreational activities. Eureka County expects each of these enterprises to contribute to the economic diversity of Eureka County and do not see them as mutually exclusive. There are also federal and state regulatory actions that have been detrimental to the local economy and demand Eureka County’s attention. Onerous changes in federal and state regulations or laws have substantially increased the regulatory burden on economic activities within Eureka County.

Economic contributions of mining, tourism, outdoor recreation, business, industry, irrigated agriculture and livestock production are discussed in detail

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<sup>1</sup> Ramona Morrison, January 21, 2009, Notice of default and verification of admissions by Department of Interior and Department of Justice, Document #436988 Recorder Office for Lyon County Nevada; Daniel Martinez, June 29, 2008, “Where Are the Federal Lands In Nevada?”; Dana R. Bennett, 1995, Nevada Legislative Counsel Bureau Background Paper BP95-07, “State Sovereignty”

within the Master Plan. Even though mining and tourism have increased and brought substantial economic activity to Eureka County, the agricultural sector of the economy has decreased. Recent studies have shown the direct correlation between reductions of livestock numbers and the loss of jobs and business throughout the area. Livestock numbers in Eureka County have decreased as a result of several factors including federal regulations. For example, as discussed in Chapter 6.2.2 “Forage and Livestock Grazing,” cattle numbers dropped from 41,000 head in 1982 to 13,000 cattle in 1995 with about 22,000 cattle in Eureka County in 2008. This means there has been a direct impact of the loss of millions of dollars<sup>1</sup> that would be circulating within the Eureka County economy every year if those cattle and sheep numbers were present. Wealth produced from every form of nonrenewable and renewable natural resource is necessary for the long-term economic stability of Eureka County, and is among the goals and objectives identified in this natural resource strategy.

### **6.1.2 Authority**

Authority for the Eureka County Master Plan is found in NRS 278.150 through 278.220. Additional authority is derived from passage of SB40 by the Nevada Legislature in 1983 and the resulting portions of NRS 321, particularly NRS 321.640 through NRS 321.770. Nevada law directs counties to develop plans and strategies for resources that occur within lands managed by federal and state agencies. Eureka County Master Plan, including Element 6: *Natural Resources & Federal or State Land Use Element* allows federal agencies to fully comply with the intent of Congress as specified in the various federal laws referenced herein, by coordinating their proposals with the policies of Eureka County, incorporating the policies of Eureka County into agency documents and activities, and resolving inconsistencies between federal proposals and County plans. This Natural Resource & Federal or State Land Use Element, together with Title 9 of the Eureka County Code (contained herein at 6.3), satisfies the requirements of NRS 278.243 and NRS 278.246 regarding local determination.

### **6.1.3 Natural Resource and Land Use Planning as a continuing process**

A plan is variously defined as "a detailed and systematic formulation of a large scale program" and "an orderly arrangement of parts in terms of an overall design or objective."

The Board of Eureka County Commissioners and the Eureka County Natural Resource Advisory Commission recognize that formulating planning for a community is a continuing process. As Eureka County's effort continues,

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<sup>1</sup> Annual costs of over \$350 per cow, the cash spent each year for each head of cattle within the Eureka County area are reported by Dr. Tony Lesperance, 2007, “*Economic Importance of Livestock in Nevada’s Cow Counties*” and UNR Cooperative Extension Fact Sheet 05-39, “*Eureka County Cow-Calf Production Costs and Returns, 2004*”. At this time there are about 20,000 fewer cattle in Eureka County than in 1982.

scientific studies and reports, empirical data, expertise offered by committee members and consultants, reports of subcommittees tasked with review and research of specific issues, team evaluations, and other information will be compiled and added to this document. When approved by the Board of Eureka County Commissioners, this information will be used to support a growing county presence in state and federal decision making.

Eureka County expects that all decisions regarding natural resource management and land-use and all goals and objectives incorporated into this plan and, by extension, into state and federal agency plans, will be realistic and attainable. Solutions to problems and recognition of opportunities require factual and dependable information, which is a key part of this plan. Personal opinions, feelings, visions, and hunches may form a basis to justify more intensive and objective study but will rarely, if ever, be acceptable as a basis for establishing a policy or deciding a course of regulatory action. Analysis and interpretation of facts is an important part of the process; so important that the U.S. Office of Management and Budget (OMB) has issued an instruction to all federal agencies specifying the minimum standards for acceptable peer review of data or publications.<sup>1</sup> Eureka County expects every federal employee to adhere to the OMB standards for Peer Review. Interpretation of facts allows citizens to choose a successful course of action, specify a strategy to be followed until a need for more specific action arises, or to evaluate the success of actions already completed.

Analysis of technical information requires that managers, elected officials and community members have adequate council and practical experience at their disposal. The present document reflects such an analysis, drawing on numerous outside experts but always vetting expert recommendations back through the local community. The end result is a strong and resilient vision of Eureka County's relationship with its natural resources and publicly-managed lands.

Finally, successful implementation of this Plan requires that the Eureka County Natural Resource Advisory Commission and the Board of Eureka County Commissioners stay involved with analysis and evaluation through all stages of federal, state and local planning efforts. County involvement may include: review of data for scientific and factual soundness, plan development, implementation, monitoring, and evaluation of plan implementation.

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<sup>1</sup> Office of Management and Budget (OMB); December 16, 2004; M-05-03; "Final Information Quality Bulletin for Peer Review"; (45 pages)

#### **6.1.4 Adoption and Implementation of the Eureka County Natural Resource and Land Use Plan**

*[See Eureka County Code 9.30.030.A and .B]*

In 2005 the Board of County Commissioners directed the Natural Resources Advisory Commission and the Natural Resources staff to expand the 1998 Land Use Plan. In 2010 the Eureka County Planning Commission updated the Eureka County Master Plan including this Natural Resource and Federal or State Land Use Element. This plan will provide policy direction and where appropriate, specific management objectives, as the basis for County-preferred land uses and management practice on federal and state administered lands.

Through the adoption of this Natural Resource and Land Use Plan as a chapter of the Master Plan in accordance with NRS 278.020 and NRS 278.150-220, the Board of Eureka County Commissioners hereby records its intention to engage in decision making that pertains to any and all non-patented publicly managed lands and natural resources within its jurisdiction, as provided for under the law. The statement of purpose includes the recognition of the duties of state and federal agencies to comply with plans adopted under the concept of a local comprehensive plan; this also facilitates the coordination of state and federal planning efforts with the local planning efforts of Eureka County.

Per this plan, it is the policy of Eureka County that Federal and State programs make progress towards improved resource quality, greater multiple uses of the federal lands, preservation of custom, culture and economic stability of Eureka County, and protection of the rights of its citizens. Eureka County will continue to urge state and federal employees to participate in this effort to coordinate in order to resolve inconsistencies between federal proposals and County policy. Should hesitance on the part of federal or state agencies substantially interfere with this progress, then Eureka County may seek judicial intervention to compel agencies to obey the mandates of Congress.

This Natural Resource and Land Use Plan of the Eureka County Master Plan will be implemented as follows:

- The plan will be provided to each federal agency as a formal notice that the plan exists and is available for reference by the respective agencies. This is necessary to enable the agencies to formally coordinate and seek consistency with the policies of Eureka County when proposing management or regulation of resources.
- When agency plans and documents are presented to the Board of Eureka County Commissioners, the material will be read or reviewed first by the Eureka County Natural Resource Advisory Commission. This Commission will provide comments and recommendations to the Board of Eureka County Commissioners. Agencies may deliver their material directly to the Eureka County Natural Resource Advisory Commission, through the Eureka County

Natural Resource Manager, knowing that the Board of Eureka County Commissioners will not consider their proposal without a prior review by the Eureka County Natural Resource Advisory Commission.

Successful implementation of this Plan requires that the Eureka County Natural Resource Advisory Commission and the Board of Eureka County Commissioners stay involved with analysis and evaluation through all stages of federal, state and local planning efforts. County involvement must include, at minimum, review of data for scientific and factual soundness, plan development, implementation, monitoring, and evaluation of plan implementation.

This procedure may, from time to time, impose substantial burden on members of the Eureka County Natural Resource Advisory Commission and other county advisory boards. To promote adequate and timely review of land use plans and to obtain current information needed for sound decisions, the Board of Eureka County Commissioners will, as necessary and within reasonable limits, provide financial support for the implementation of this plan.

## **6.2 GOALS, OBJECTIVES, MONITORING, AND EVALUATION BY TOPIC**

### **6.2.1 Primary Resources: Soil, Vegetation, and Watersheds**

GOAL: To maintain or improve the soil, vegetation and watershed resources in a manner that perpetuates and sustains a diversity of uses while fully supporting the custom, culture, economic stability and viability of Eureka County and its individual citizens.

#### PRIMARY PLANNING GUIDANCE ADDRESSED:

- ◆ Private Property and Property Rights, Eureka County Code 9.30.060.A
- ◆ Water Resources, Eureka County Code 9.30.060.C
- ◆ Air Resources, Eureka County Code 9.30.060.D
- ◆ Mining, Eureka County Code 9.30.060.E
- ◆ Agriculture, Eureka County Code 9.30.060.F
- ◆ Wildlife, Eureka County Code 9.30.060.G
- ◆ Recreation, Eureka County Code 9.30.060.H
- ◆ Riparian Habitat, Eureka County Code 9.30.060.K
- ◆ Wilderness, Wilderness Study Areas, Parks and Refuges, Eureka County Code 9.30.060.L
- ◆ Wild Horses and Burros, Eureka County Code 9.30.060.M
- ◆ Pinyon and Juniper Control, Eureka County Code 9.30.060.O
- ◆ Wildfire, Eureka County Code 9.30.060.P

## GUIDANCE:

The BLM and Forest Service must comply with the multiple use goals and objectives of the Congress as stated in the various statutory laws, such as: Taylor Grazing Act, Federal Lands Policy & Management Act, Public Rangelands Improvement Act, Forest and Rangelands Renewable Resources Act, Mining Laws of 1866 and 1872, Mining & Mineral Policy Act of 1970, National Materials and Minerals Policy, Research & Development Act of 1980, and other related federal and state laws concerning recreational and other multiple use of natural resources which impact the soils, vegetation, and watersheds. The National Environmental Policy Act requires consideration of all environmental actions on the culture, heritage and custom of local government (16 U.S.C. sec. 4331 (a) (4)).

Development of Allotment Management Plans (AMPs), as an objective, will include completion of technically sound inventories; ecological status inventory (ESI) is a minimum, with other techniques as appropriate such as use pattern mapping as a measure of animal distribution, actual use records, detailed weather records, stream channel morphology, woodland features including age structure and density of trees, and other studies using standardized techniques. So-called “rapid assessment” techniques are permitted and in fact encouraged in Eureka County as a way to identify specific technical studies that are needed. Rapid assessment includes such techniques as the DOI Rangeland Health approach and the Riparian Functional Condition.

Goals and objectives will be set relative to the ecological potential of each location and will include descriptions of future ecological status, desired plant communities, livestock productivity and health, wildlife habitat attributes, wildlife population levels, acceptable levels of soil erosion, stream channel stability, and additional items specific to various land uses. Rangeland Health ratings, Riparian Functional Condition ratings, stubble height, and utilization levels are not suitable for goals or objectives that measure management success<sup>1</sup>. Completion of each of these limited techniques as a precursor to design of additional studies is a reasonable objective within an AMP.

Wild fire and the period of time for recovery from fires has become a regulatory issue in Eureka County that has caused unreasonable economic hardship to Eureka County livestock producers. Properly managed grazing provides a substantial advantage for native plant recovery following fire. Prohibition of grazing following wildfire is not necessary for the recovery of rangeland vegetation. Managed grazing is beneficial in

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<sup>1</sup> J. Wayne Burkhardt published “Grazing Utilization Limits: An Ineffective Management Tool” June 1997 in *Rangelands* (2 pages), explaining that utilization figures do not provide technically sound management goals. Following publication of the 2004 University of Idaho *Stubble Height Study Team report*, both the Forest Service (Regional Forester Jack Troyer) and the BLM (Deputy State Director for Idaho, Susan Giannettino) stated that utilization, stubble height, and similar monitoring techniques would no longer be used as management objectives (at the Society for Range Management Plenary Session, February 2007).

preventing excessive damage to plants by wildfire and prohibition of grazing prior to a fire results in unnecessary damage to the plants<sup>1</sup>.

Selection of the proper inventory or monitoring techniques and interpretation of the data will only be acceptable when performed by people whose judgment is the result of successful experience and well developed skills. Technical guidance as found within peer reviewed scientific publications and various agency or interagency handbooks and manuals serves as reference material and may be incorporated into this document upon approval by the Board of Eureka County Commissioners. Suitable reference material is included as attachments to this plan or by reference within the text. Reference material includes, for example: the *Nevada Best Management Practices*, USDA Natural Resource Conservation Service *Range and Pasture Handbook*, *Nevada Rangeland Monitoring Handbook* (1984 First Edition or 2006 Second Edition), *Standards and Guidelines for Grazing Administration* as written by the Association of Rangeland Consultants, March 12, 1996, *Standards and Guidelines* as written by the Northeast Great Basin Resource Advisory Council. Section 6.4 is reserved for a Water Quality Strategy, Endangered or Threatened Species Strategy and similar documents as directed by the Board of Eureka County Commissioners. Section 6.5 includes reference material citations, extracted portions of texts, and summaries of cited references.

#### OBJECTIVES:

- 1) Develop a systematic procedure to coordinate all federal and state land use inventory, planning, and management activities with Eureka County, to assure that consideration is given to the County natural resource strategies and the County land use plans, and to assure that agency land use plans are consistent with the Eureka County Natural Resource and Land Use Plan of the Master Plan to the extent required by Federal law.
- 2) Develop and implement Allotment Management Plans (AMP's) as follows: Within five (5) years on all "I" category, high priority allotments that do not already have current AMPs; within eight (8) years on all "I" category medium priority allotments; within ten (10) years on all other allotments.
- 3) Review and adjust livestock (grazing) stocking levels only in accordance with developed AMPs and/or trend in ecological status. Monitoring data, as obtained through the use of standardized rangeland studies such as ecological status inventory and frequency/trend monitoring completed at five (5) year intervals following implementation of AMPs, will be required for stocking level adjustments. Other studies such as Rangeland Health evaluation, Riparian Functional condition, stubble height, and

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<sup>1</sup> The Gund Ranch Agricultural Experiment Station in Eureka County demonstrated in 2007 that prohibition of grazing for two years following a wildfire is not necessary in most situations and should be abandoned. Tony Svejcar, Kirk Davies, and Jon Bates completed a 14 year study in 2009 near Burns, Oregon and demonstrated that moderate grazing levels correspond with less cheatgrass or medusahead invasion following fire while ungrazed areas had much greater invasive plant increase following fire.



livestock utilization may be useful as indicators of the need for additional examination and objective monitoring techniques.

4) Assure that adjudicated grazing preference held by permittees is authorized according to the governing Federal statutes and that Temporary Non Renewable use is authorized in a manner that allows for use of excess forage when available.

5) Develop prescribed fire and wildfire management plans to re-establish historic fire frequencies for appropriate vegetation types and include in such plans livestock grazing techniques as a tool for fire fuel management related to both wildfires and prescribed fires.

6) Include with fire line and site rehabilitation plans, identification, utility and limitations of native or exotic vegetation capable of supporting watershed function and habitat for wildlife and livestock.

7) Develop grazing management plans following wild or prescribed fire through careful and considered consultation, coordination and cooperation with all affected permittees and affected landowners to provide for use of grazing animal management to enhance recovery.

8) Develop and implement an aggressive pinyon pine, juniper, and shrub abatement and control plan for all sites where invasion and/or senescence due to age of a stand is adversely affecting desirable vegetation and/or wildlife. Development of such plans will include technical references to Woodland or Rangeland Ecological Sites and other appropriate interpretations of specific soil series within a Soil Survey. Whenever possible, plans to reduce the density of Pinyon or Juniper will emphasize removal and use of the material for firewood, posts, or commercial products including chips for energy production. This item depends on continued access to all areas that are subject to future woodland manipulations.

9) Develop surface disturbance mitigation plans on soils with a high or very high erosion hazard rating within plans for multiple recreation use, road building, timber harvest, mechanical range treatments, prescribed fires, range improvements and vegetation manipulation.

10) Manage wildlife at levels (population numbers) that preclude adverse impacts to soil, water and vegetation until monitoring studies and allotment evaluations demonstrate that population adjustments are warranted by changing resource conditions. Seek to restore mule deer and sage grouse population numbers to the levels observed in the mid-1900s

11) Manage wild horse and burro populations within Herd Management Areas (HMAs) at levels (population numbers) that preclude adverse impacts to soil, water and vegetation until monitoring studies and allotment evaluations demonstrate that population adjustments are warranted by changing resource conditions.

12) Integrate recreational uses into all planning efforts to preclude adverse impacts to soil, water and vegetation.

13) Prevent the introduction, invasion or expansion of undesirable plants and noxious weeds into native rangelands and improve the ecological status of sites that are currently invaded by undesirable plants or noxious weeds by integrating, through consultation with the Eureka County Weed District and Eureka County Department of Natural Resources, appropriate control methods into all planning efforts. Prescriptions for control of undesirable plants and noxious weeds may include, but are not limited to burning, grazing, mechanical, manual, biological and chemical methods.

#### Monitoring:

- Cooperative Monitoring completed by permittees is fully endorsed by Eureka County, monitoring completed by agency officials should always include the participation of the permittee.
- Document ecological status and trend data obtained through rangeland studies supplemented with actual use, utilization (use pattern mapping), and climatic data in accordance with the Nevada *Rangeland Monitoring Handbook*.
- Document ecological sites or forage suitability groups, and ecological similarity index as defined by NRCS *National Range and Pasture Handbook*, with specific reference to ecological status and trend data and “State and Transition” interpretations of ecological status.
- Document progress in the development and implementation of Allotment Management Plans.
- Document the development and implementation of Pinyon pine, juniper, and shrub abatement, control, or harvest plan(s).
- Document the development and implementation of Management Plan(s) for control of noxious weeds and other undesirable species.
- Inspect mining activities and other significant surface disturbing activities for compliance with statutory law and relevant reclamation plan.
- Annually review and document wild horse herd population inventories, and conduct inventories when necessary, including reports of wild horse movement, grazing habits, numbers and other data provided by permittees, lessees and landowners.

#### Evaluation:

- Determine whether documentation shows that AMP's and other activity plans are being developed and implemented as necessary to achieve objectives and make adjustments in priorities as required.
- Determine the degree to which monitoring, including trend data, indicates Desired Plant Community features have been attained, or significant progress is being made towards that goal (i.e., high seral plant communities are remaining stable, lower seral communities are improving, etc.). Review and modify management plans as necessary.

- Determine the degree to which surface disturbing activities are occurring and their response to reclamation actions.
- Determine the degree to which wild horse, livestock and/or wildlife use is impacting soil and vegetation resources and modify management plans accordingly.

### **6.2.2 Forage and Livestock Grazing**

Substantial changes have occurred in Eureka County's economic base as a result of market fluctuation, increasing costs of production, and regulatory actions against livestock grazing on federal lands. At a time when the community should benefit from the combined wealth created by all sectors of the economy, decreases in the economic contribution from the livestock industry have been egregious. Data reported annually in the Nevada Agricultural Statistics indicate that cattle numbers in Eureka County rose from 30,000 in 1971 to 41,000 in 1982, then declined to 13,000 head by 1995 (from T. Lesperance, 1996, *Cowboys, Bureaucrats and the Long Rope of Justice*, 12 p.). The 2001 *Nevada Grazing Statistics Report and Economic Analysis for Federal Lands in Nevada* confirms this gross decline in livestock numbers. More recently Nevada Agricultural Statistics report some 22,000 cattle (including calves) in Eureka County in 2008. UNR Cooperative Extension Fact Sheet 03-62, "*Economic Development; 2002 Eureka County Agricultural Statistics*" reports the combined cattle and calf numbers in Eureka County was 22,000 in 2002 as well as 13,000 sheep and lambs. Loss of some 68% of the cattle production within the County represented a loss of tax base within the County of \$84,000,000 by the year 2000, based on appraised values of \$3,000 per animal unit. Lesperance reported that the average expenditure per cow was \$350 per year for the operation of a ranch, including purchase of supplies, equipment, labor, etc. The direct impacts to the Eureka County is a reduction (loss) of cash circulating within the local economy of some \$6,000,000 to \$9,800,000 every year, more when multiplier effects are applied. UNR Cooperative Extension Fact Sheet 05-39, "Eureka County Cow-Calf Production Costs and Returns, 2004" reports the annual operating cost per head is \$376.51 which corresponds with the Lesperance figure of \$350 per head.

As discussed below (Section 6.2.4 "Wildlife and Wildlife Habitat"), losses to Eureka County natural resources include the loss of benefits to wildlife populations and wildlife habitat that had previously been provided as a result of livestock grazing practices and predator controls. During the mid 1900's, hunting for mule deer and sage grouse provided important benefits to the Eureka County economy, but income from hunting and other outdoor recreation has declined during the same period of livestock removal.

With over 20,000 fewer cattle and thousands fewer sheep producing marketable products, Eureka County jobs have been lost, economic activity has been reduced by millions of dollars of cash purchases each year, and substantial reductions of tax revenues have affected Eureka County's long term ability to meet the obligations of the County.

## GOAL:

Provide for landscape vegetation maintenance and improvement that will: 1) support restoration of suspended AUMs; 2) support allocation of continuously available temporary non-renewable use as active preference; 3) support allocation of forage produced in excess of the original adjudicated amounts where greater amounts of forage are demonstrated to be present; 4) restore livestock numbers of individual ranches to at least the full levels at the time of grazing allotment adjudications; and 5) restore wildlife populations to those peak levels of the mid-1990's.

## PRIMARY PLANNING GUIDANCE ADDRESSED:

- ◆ Private Property and Property Rights, Eureka County Code 9.30.060.A
- ◆ Tax Base, Eureka County Code 9.30.060.B
- ◆ Water Resources, Eureka County Code 9.30.060.C
- ◆ Agriculture, Eureka County Code 9.30.060.F
- ◆ Wildlife, Eureka County Code 9.30.060.G
- ◆ Riparian Habitat, Eureka County Code 9.30.060.K
- ◆ Wild Horses and Burros, Eureka County Code 9.30.060.M
- ◆ Pinyon and Juniper Control, Eureka County Code 9.30.060.O
- ◆ Wildfire, Eureka County Code 9.30.060.P

## GUIDANCE:

Congress mandates stabilization of the local livestock industry in such laws as the Taylor Grazing Act (TGA) and the Forest Service Organic Act (FSOA) by providing for the orderly use, improvement, and development of the range in a manner which adequately safeguards property rights including rights-of-way, easements, vested grazing and water rights. Regulation under these laws will not impair the value of the grazing unit of the permittee when such unit is pledged as debt security by the permittee.

Public Rangeland Improvement Act (PRIA) provides that the Bureau of Land Management administered lands be managed in accordance with the Taylor Grazing Act. PRIA further provides that the range should be made "as productive as feasible" in accordance with the Congressional objective of preventing "economic disruption and harm to the western livestock industry". PRIA mandates improvement of the rangelands in order to expand the forage resource and increase the resulting benefits to livestock and wildlife production.

In the Federal Land Policy & Management Act (FLPMA) Congress directs that the BLM administered lands be managed in a manner which "recognizes the Nation's need for domestic sources of minerals, food, timber, and fiber from the public lands". The National Environmental Policy Act requires consideration of all environmental actions on the culture, heritage and custom of local government (16 U.S.C. sec. 4331 (a)(4)). Current active preference and continuously available supplemental use is considered the established allowable use for livestock grazing. The Forest Service is obligated to consider and provide for "community stability" in accordance with the National Forest

Management Act (NFMA) and other National Forest related legislation dating back to the 1890's.

Essentially all rangeland use and value is dependent upon maintenance and enhancement of the primary landscape resources of soils, vegetation, and watersheds. August L. Hormay<sup>1</sup>, states that "...all renewable rangeland values stem directly or indirectly from vegetation. Sustained high-level production of these values therefore depends on proper management of the vegetation. The principal tool the rangeland manager has for managing vegetation is livestock grazing. It is the only force under firm control of the manager that can be applied on practically the entire range area....desirable vegetation and the overall productive capacity of rangelands can be increased more rapidly with livestock grazing than without....Livestock can be used to trample seed into the soil thereby promoting more forage and a better soil cover; to remove stifling old growth on plants, thus increasing plant vigor and production of useable herbage; to stimulate adventitious growth and higher quality forage; and *to reduce fire hazard.*" (emphasis added) Hormay explained that grazing management that is based on the physiological status and phenological development of the plants is the basis for keeping plants healthy and vigorous. Utilization levels have essentially no bearing on the longevity of the plants and very little value in management decisions. The principles of plant physiology as the basis for vegetation management taught by Hormay and other experts are a sound basis for grazing management in Eureka County. Eureka County natural resource strategy includes management based on the renewable nature of Eureka County's vegetation resources.

#### OBJECTIVES:

- 1) Implement rangeland improvement programs, including but not limited to water developments, rangeland restoration, pinyon-juniper and shrub control, and weed control to increase forage production; improve livestock grazing management, raise stocking rates, and achieve other multiple use goals. It is the policy of Eureka County that water rights for livestock uses are to be held solely in the name of the permittee and not held jointly with a federal or state agency (see comment below).
- 2) Identify and develop off-stream water sources where such opportunities exist in all allotment pastures with sensitive riparian areas and in all allotments where improved livestock distribution will result from such development.
- 3) Identify and implement all economically and technically feasible livestock distribution, forage production enhancement, and weed control programs before seeking changes in livestock stocking rates.
- 4) Identify and initiate reductions in stocking levels only after monitoring data demonstrates that grazing management including range improvements and specialized grazing systems are not supporting basic soil, vegetation and watershed goals.

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<sup>1</sup> Hormay, August L.(1970); "Principles of Rest-Rotation Grazing and Multiple-Use Land Management"; U.S. Forest Service Training Text No.4(2200).

5) Assure that all grazing management actions and strategies fully consider impact on property rights of inholders and adjacent private land owners and consider the potential impacts of such actions on grazing animal health and productivity.

6) Where monitoring history, actual use or authorization of Temporary Non-renewable grazing (TNR) demonstrates that supplemental use is continuously available, and can or should be used to improve or protect rangelands (e.g., reduction of fuel loads to prevent recurring wildfire), initiate a process to allocate such use to permittees as active grazing preference.

7) Authorize use of supplemental forage during those years when climatic conditions result in additional availability.

8) Temporary “voluntary non-use” of all or a portion of adjudicated forage is necessary on occasion due to drought, economic difficulties, animal health, etc., and is an acceptable management strategy. “Voluntary non-use” for the purpose of long-term or permanent retirement of a grazing allotment is detrimental to the economic stability of Eureka County and will be opposed by the Board of Eureka County Commissioners.

#### Monitoring:

- Document the amount of livestock use through review of actual use, authorized active use, suspended use and temporary nonrenewable use.
- Document livestock production or performance when available.
- Document all rangeland and livestock management improvement programs as to acres affected by vegetation manipulation, water development, specialized grazing systems and weed control.
- Document grazing use in each allotment through use pattern mapping for the purpose of recording livestock or wildlife distribution patterns and identifying additional monitoring techniques that are needed. Utilization monitoring is not a suitable measure for calculating stocking rates.
- Document the direction of rangeland trend and seral class acreage changes that support changes in the amount of use being authorized or denied.
- Document all decisions or agreements resulting in changes in active preference and approvals or denial of applications for supplemental use.
- Cooperative Monitoring completed by permittees is fully endorsed by Eureka County, monitoring completed by agency officials should always include the participation of the permittee.

#### Evaluation:

- Determine from monitoring data, trend studies and ecological status rangeland studies, the amount of authorized use that can be sustained.
- Determine the degree to which, data supported requests for increases in active preference, return of voluntary non-use, and applications for supplemental use are approved and authorized.

- Determine the degree to which identified vegetation manipulation projects, range improvement practices, specialized grazing systems, and weed control projects are being authorized and implemented.

Further guidance and comment:

Eureka County will evaluate each issue regarding "takings" of private property on a basis of whether it is personal and individual, or if a given incident has a potential affect on the County as a whole. Each "takings" claim will be evaluated in view of what is known of the affected business such as a ranch operation, irrigated agricultural operation, mining, or other property as set forth in this plan. Eureka County will consider that the economic value of a (ranch) base operation is dependent upon its relationship to adjacent or nearby federal or state managed lands. That relationship is often evidenced by a grazing permit. The existence of such permit causes County Assessors in many areas to appraise the taxable value of the private property which serves as the base operation at a higher rate than it would be appraised if no permit existed. Thus, for taxation purposes the grazing permit is considered a part of the realty upon which an individual must be taxed. The Internal Revenue Service also considers the permit as a taxable property interest. Financing institutions, whose support is critical to continued livestock grazing and agricultural operations in Eureka County, consider the existence of the permit, and the reasonable expectation of land use which emanates therefrom, as an indispensable factor in determining to extend and continue financial support. Grazing permits are capitalized into the value of a ranch, so that when a buyer purchases a ranch, he actually pays for livestock production stemming from the private and federally managed lands, as well as additional property in the form of water rights, rights of way, and improvements also on both private and federally managed land areas.<sup>1</sup>

The grazing permit was recognized by Congress as having the character of a property right, interest or investment backed expectation when it enacted that portion of the Taylor Grazing Act which is found in 43 U.S.C § 315 (b) guaranteeing renewal of permits if denial of the permit would "impair the value of the grazing unit of the permittee, when such unit is pledged as security for any bona fide loan."

Congress also recognized the importance of the permit to the ranch operator when it enacted 43 U.S.C. § 1752 (c) [a portion of the Federal Land Policy Management Act] which afforded to the "holder of the expiring permit or lease" the "first priority for receipt of the new permit or lease." Such priority renewal recognizes the investment of time, energy and money by the ranch owner in reliance upon the land use of the federally managed lands which becomes an integral part of the ranch operation. Stewards of the Range attorney, Fred Kelly Grant quotes Marc Valens as having "succinctly analyzed the importance of the priority renewal both

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<sup>1</sup> Angus McIntosh, 2002, Ph.D. Dissertation, New Mexico State Univ. "Property Rights on Western Ranches: Federal Rangeland Policy and a Model for Valuation.

to the ranch operator and to all members of the American public who collectively own the federally managed lands.” In *Federal Grazing Lands: Old History, New Directions* (1978), (an unpublished manuscript), cited at page 707 of Coggins Wilkinson Leshy, *Federal Public Land and Resources Law* (3rd Edition 1993), Valens states:

“Priority renewal does have advantages. A permittee becomes intimately familiar with the range....[H]igh turnover of federal grazers does not permit them to get to know the range nearly as well. Only long use can teach an operator where the thicket is that hides the stubborn bull late in the fall. The seasonal pattern of drying up of the range and water holes must be known to fully utilize the range resource. If the first areas to dry are not used early in the season, they will be wasted. The rancher who expects to use the same range for many years in the future will be careful not to hurt the resource. The range cattle themselves get to learn the range. An old range cow can find hidden water holes and meadows that a new cow would not. And with the first snows of fall, the old cows will lead the herd back to the home ranch.”

Federal land ranchers in Eureka County operate within allotments originally identified and adjudicated on the basis of water ownership. Their “right to graze” is a property interest appurtenant to livestock watering rights, most of which existed long before the Forest Organic Act and the Taylor Grazing Act were passed. All property, including water rights, is founded in the power of the State, even property existing within lands controlled by federal agencies. The nature of Nevada water rights reflects the split estate concept developed on western lands under Mexican law and continued with the establishment of the United States. The interest created in and owned by each Eureka county ranchers' predecessors and interest in allotments of grazing lands or forage lands is a portion of the "surface estate" of the split estate. McIntosh (2002) further describes this right in terms of the travel by livestock to the place where a livestock watering right is used has established livestock grazing rights-of-way for access to each water source that is based on the normal travel of livestock that are grazing as they approach or leave the water location. The ranchers have the right to graze on the surface of the land, a right which they developed through settlement and development.

As described in the Introduction (Section 6.1), property ownership includes a “bundle-of-rights”. McIntosh (2002) quotes a legal dictionary in defining the bundle-of-rights as: “...the collection of rights that constitute *fee* ownership in an object or realty (or interests in real estate). The bundle-of-rights includes, but is not limited to, the right to: sell, lease, use, give away, exclude others from and to retain. The bundle-of-rights is the list of options that an owner can exercise over his property.” The term “*fee*” refers to the quality and character of ownership in a property.



A long series of decisions by the United States Supreme Court set forth the position that when a validating or confirming statute is passed, the legal title to the possessory right passes as completely as though a patent had been issued. Title to allotments of federal land for grazing have been validated or confirmed for over a century, and the boundaries of those allotments have been adjudicated. The Stock Raising Homestead Act of 1916 culminated development of the settlement acts regarding the lands "chiefly valuable for grazing and raising forage crops" when it completely split the surface estate from the mineral estate in order to allow for the disposal of legal surface title to ranchers, while retaining undiscovered mineral wealth to the United States. The grazing right owned by Eureka County ranchers was acknowledged and secured by passage of the Forest Organic Act in 1897 and the Taylor Grazing Act in 1934. Every subsequent Act regarding management of the federal lands has protected and preserved all "existing rights" such as the grazing right.

Property rights related to the federal lands are split between a number of parties and users, private and governmental. The rights possessed by the various parties include water rights, grazing rights, rights-of-way or easements, mineral rights, wildlife rights, petroleum exploration rights and timber harvest rights. Each of the rights has been validated and secured by statute or court decision.

In *Public Lands Council v. Babbitt*, supra, the United States District Court acknowledged the "right" of a permittee to his adjudicated grazing preference, and held that such "right" could not be removed by a regulation issued by the Secretary of Interior. Such recognition of a "right" forms the basis for a "taking" when that "right" is taken by regulation. It is the goal of this Plan that management activities be instituted which prevent such "taking" and which foster effective implementation of the "right" to adjudicated grazing preferences.

The split estate is further demonstrated by the stock watering right possessed by each rancher to water existing on federal land. Each rancher who grazes livestock on federal lands has the right to use water existing on the federal lands even though he or she is not the title holder to the lands themselves. The effective date of the right to water the livestock grazing on those lands is the date of first appropriation by the rancher or any predecessor in title who conveyed the stockwater right.

- (1) Eureka County may protect the property and persons of Eureka County from agency officials who attempt to enforce regulations based on unproven facts or conclusive presumptions<sup>1</sup>.

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<sup>1</sup> Ramona Morrison, January 21, 2009, Notice of default and verification of admissions by Department of Interior and Department of Justice, Document #436988. Recorder Office for Lyon County Nevada Agriculture Commissioner. Morrison describes a series of unproven facts and conclusive presumptions that formed the basis for recent BLM regulatory actions.

- (2) Eureka County may plan for and take positive action to assure that private property rights and private property interests including, investment backed expectations, are protected in light of the standard set forth above.
- (3) Eureka County opposes the practice of federal agencies demanding a portion of the water rights from either above ground or underground sources that are held as private property and may protest or object to any attempt by federal agents to obtain ownership of water rights currently owned privately.

### **6.2.3 Water Quality, Riparian Areas, and Aquatic Habitats**

#### GOALS:

Meet the requirements for water quality contained in the Nevada Administrative Code (NAC) Section 445, to the extent they can be met while complying with constitutional and statutory law as to vested water rights, maintain or improve riparian areas and aquatic habitat that represents a range of variability for functioning condition.

#### PRIMARY PLANNING GUIDANCE ADDRESSED:

- ◆ Private Property and Property Rights, Eureka County Code 9.30.060.A
- ◆ Water Resources, Eureka County Code 9.30.060.C
- ◆ Mining, Eureka County Code 9.30.060.E
- ◆ Agriculture, Eureka County Code 9.30.060.F
- ◆ Wildlife, Eureka County Code 9.30.060.G
- ◆ Recreation, Eureka County Code 9.30.060.H
- ◆ Riparian Habitat, Eureka County Code 9.30.060.K
- ◆ Wild Horses and Burros, Eureka County Code 9.30.060.M
- ◆ Pinyon and Juniper Control, Eureka County Code 9.30.060.O
- ◆ Wildfire, Eureka County Code 9.30.060.P

#### GUIDANCE:

Determination of proper functioning condition, stream channel morphology, and quality of riparian and aquatic habitats will always include a technically accurate determination of stream flows being perennial, ephemeral, or intermittent. Determination of water quality or riparian evaluation based on water quality means water quality as suited to the beneficial use for which the water is designated. Streams or springs that provide irrigation water and livestock water do not require human drinking water quality standards. Some agency actions may claim to be based on the Clean Water Action Plan. However, this act does not include enforcement authority<sup>1</sup>. Water quality laws that are legally enforceable still depend on authority under the Clean Water Act and several related laws.

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<sup>1</sup> Letter from federal EPA to Karen Budd-Falen, October 29, 2002

Water quality standards must be realistic and attainable for the specific location that the regulation will be applied. Consequently, standards for water quality must be applied on the basis of sound baseline data that is specific to each perennial body of water or naturally occurring reach of perennial stream. Water quality standards for naturally occurring streams or lakes, reservoirs, or other impoundments are based on mean water quality determined throughout the course of entire years, over multiple year time frames. Point in time measurements of water quality may provide an indication that more sampling and analysis is warranted, but such limited samples will not provide sufficient evidence to justify regulatory action on a basis that water quality has been impaired.

Stream morphology developed by Rosgen<sup>1</sup> and his associates is the acceptable technique; any other approach requires evaluation and approval of the Natural Resource Advisory Commission. Identification of goals for riparian vegetation attributes must be realistic and attainable based on the dependability of surface or subsurface water regimes, climate as determined by elevations, soil and substrate characteristics, and the likelihood of unacceptable impacts on other uses within the riparian area and surrounding uplands. For example, quaking aspen reproduction is desirable in Eureka County and aspen reproduction that replaces an aspen stand in increments over about 100 years while grazing, wildlife populations, and recreation continue in the vicinity is preferable to techniques of riparian wide aspen stand regeneration that excludes customary uses.

#### OBJECTIVES:

- 1) Select or develop site specific Best Management Practices (BMP's) through allotment management plans for those riparian areas and aquatic habitats which have been specifically identified and documented as exceeding State water quality standards for the actual use the particular water is intended for.
- 2) BMP's include but are not limited to: prescribed grazing systems, off-site water development, shrub and pinyon/juniper control, livestock salting plans, establishment of riparian pastures and herding.
- 3) Develop and utilize standardized forms and procedures for all monitoring data related to riparian and aquatic habitat, condition and trend.
- 4) Develop management plans for multiple recreation uses in high erosion hazard watersheds, or watersheds where accelerated erosion is occurring, which assure that planning documents and/or other agreements which alter multiple recreation use are formulated through coordination with the Natural Resource Advisory Commission which includes representatives of recreational groups.

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<sup>1</sup> Rosgen, David L. developed the geomorphological classification of stream channels and published the preliminary results as "A Stream Classification System" in 1991. Dr. Sherman Swanson, University of Nevada Reno collaborated on development and application of this technique. See also, Rosgen, D.L., 1996. Applied River Morphology. Wildland Hydrology. Pagosa Springs, Colorado.

5) Develop and implement a management plan for wild horses, livestock and wildlife to minimize surface disturbance and erosion adversely affecting riparian areas.

6) Provide for the development and maintenance of water conveyance systems (i.e. provide for livestock watering systems, irrigation diversions, and domestic or municipal uses).

Monitoring:

- Document progress in the development of AMP's including site specific BMP's and their implementation.
- Document the development and implementation of multiple recreational use plans for specific high erosion areas.
- Document impacts of wild horses, wildlife, and multiple recreation use on riparian and aquatic habitat.
- Document impacts of decisions regarding state water plan(s) and changes in State water quality standards on various uses of federal or state managed lands.
- Document the status of water rights in renewal of permits and developing AMPs.

Evaluation:

- Track the development of AMP's and implementation of BMP's to determine their impact on improvement of riparian areas and water quality. Identify the need to re-evaluate the design and effectiveness of BMP's.
- Review the degree of use and effectiveness of standardized procedures to obtain and record data to determine the condition and trend of riparian and aquatic habitat in areas identified as being adversely affected by wild horses, wildlife, and recreational use.
- Evaluate the records of grazing permit renewal for their impact on private property rights, including water rights.
- Interpret riparian monitoring data in view of technical limitations that may be present such as intermittent or ephemeral stream flows, soils or substrate susceptibility to erosion, expected stream flow of perennial waters, and site specific base data for water quality.

**6.2.4 Wildlife and Wildlife Habitat**

GOAL: Maintain, improve or mitigate wildlife impacts to habitat in order to sustain viable and harvestable populations of big game and upland game species as well as wetland/riparian habitat for waterfowl, fur bearers and a diversity of other game and non-game species.

PRIMARY PLANNING GUIDANCE ADDRESSED:

- ◆ Private Property and Property Rights, Eureka County Code 9.30.060.A
- ◆ Agriculture, Eureka County Code 9.30.060.F
- ◆ Wildlife, Eureka County Code 9.30.060.G
- ◆ Recreation, Eureka County Code 9.30.060.H
- ◆ Water Resources, Eureka County Code 9.30.060.C
- ◆ Riparian Habitat, Eureka County Code 9.30.060.K

GUIDANCE: The Federal Land Policy and Management Act provides that it is the policy of the United States that BLM administered lands be managed in a manner that will protect the quality of multiple resources, will provide food and habitat for fish and wildlife and domestic animals, and will provide for outdoor recreation and human occupancy and use. The Public Rangeland Improvement Act directs improvement of rangeland conditions and provides for rangeland improvements which include habitat for wildlife. The authority for management of wildlife rests solely with the State of Nevada by virtue of the equal footing doctrine set forth in Article One of the Admissions Act, and the Tenth Amendment of the U.S. Constitution.

Comments received during meetings in Eureka County include a demand to limit Rocky Mountain Elk populations to areas south of Highway 50. This was based on a preference to designate the areas of Eureka County that are north of Highway 50 as Mule Deer habitat areas. Translocation of both elk and bighorn sheep, and allowing elk to move north of Highway 50 on their own were strongly opposed while traditional mule deer populations and game bird populations are strongly supported.

Experience and scientific observations in other areas support this preference for mule deer and sage grouse as the species that are the objective of wildlife management with the understanding that a variety of non-game species will be present as well. Declines in both sage grouse and mule deer population numbers have been well documented following peak populations from the 1930s to the late 1960s. Population changes are discussed in the Nevada Wildlife Action Plan<sup>1</sup>, but habitat descriptions in that report do not seem to be scientifically supported. Declines in both species parallel the decline in livestock numbers and the loss of ranch families who lived and worked where their livestock grazed. There are other possible causes of the declines in both deer and sage grouse that include loss of habitat as plant species composition changes and increase in predation. Mr. Cliff Gardner<sup>2</sup> of Ruby Valley Nevada has documented population changes, habitat changes, and predation.

Mule deer benefit from managed livestock grazing that has the effect of pruning and stimulating growth of browse plants such as antelope bitterbrush as well as perennial

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<sup>1</sup> Nevada Wildlife Action Plan, 23 June 2006, Nevada Department of Wildlife under the directions of Nature Conservancy and an Association of Wildlife Agencies

<sup>2</sup> A large selection of reference documents are available on Mr. Gardner's web site at [www.gardnerfiles.com](http://www.gardnerfiles.com)

grasses and forbs.<sup>1</sup> Sage Grouse benefit from spring grazing on meadows prior to the arrival of sage grouse broods, the early grazing improves the sage grouse food supply because the plants that had been consumed are re-growing and very palatable when the sage grouse arrive and insects are also readily accessible for the sage grouse chicks.<sup>2</sup>

As livestock and ranching declined there has been an observed increase in predators of both mule deer and sage grouse. Between about 1940 and 1970, several chemicals were developed and used to control coyote populations in order to protect livestock, and the mule deer and sage grouse also benefited. After the use of chemicals such as 1080 were banned, sheep ranchers returned to trapping or shooting as predator management which continued to benefit wildlife populations. However most Eureka County sheep ranches are no longer in business and the benefit of predator management by those ranchers has been lost.

Adult sage grouse are believed to depend on their ability to see predators approaching in order to escape, which is one of the benefits thought to be provided by grazing meadows that are also used to raise sage grouse broods. As discussed in the Society for Range Management paper “Ecology and Management of Sage Grouse and Sage Grouse Habitat” (2006), predation of adult sagegrouse has a substantial affect on populations but it has been demonstrated in recent years that depredation of sage grouse nests by common ravens can literally prevent successful reproduction of sage grouse over wide areas.<sup>3</sup>

Interspecific competition between elk and mule deer has been well documented, especially with regards to winter forage or browse during periods of accumulated snow. For example Edward P. Cliff<sup>4</sup> observed elk and deer in Oregon from 1934 to 1939 and reported that elk and deer depended on the same plant species for winter forage and browse, stating that: “*When either species is allowed to increase beyond the sustained carrying capacity of their habitat, it immediately becomes a matter of ‘the survival of the fittest.’*” ... “*The history of the Blue Mountain deer and elk herds demonstrates conclusively that mule deer cannot compete successfully with their larger adversaries when food becomes a limiting factor. The elk can browse about 2½ feet higher than deer.*” Cliff goes on to record that elk can use their antlers to “rake” down higher browse and that elk are more able to travel through deep snow and uncover forage buried in snow. Similar observations are reported from Montana and northern Idaho<sup>5</sup> in a 1938

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<sup>1</sup> “Principles of Rest-Rotation Grazing and Multiple-Use Land Management”, August Hormay 1970

“Following the Nevada Wildlife Trail,” Dave Mathis, 1997, a retired Nevada Dept. of Wildlife biologist

<sup>2</sup> Dr. Klebenow, University of Nevada Reno, demonstrated that sage grouse would ignore ungrazed meadow areas in favor of foraging on grazed meadows at the Sheldon Wildlife Refuge. Various research reports and papers, personal communication. Dr. Klebenow is the principle author of “Enhancing Sage Grouse Habitat; A Nevada Landowners Guide”, NW Nevada Sage Grouse Working Group, June 2002.

<sup>3</sup> Society for Range Management, “Ecology and Management of Sage Grouse and Sage Grouse Habitat” (2006)

<sup>4</sup> Cliff, Edward P. (1939) Relationship Between Elk and Mule Deer in the Blue Mountains of Oregon. Fourth North American Wildlife Conference (pg 560)

<sup>5</sup>R.M. Denio (1938). “Elk and Deer Foods and Feeding Habits”, Transactions of N. American Wildlife Conference 3:421-427

and in Canada in 1947<sup>1</sup> to the present time as described by the Wildlife Management Institute (1982)<sup>2</sup>.

Prevention of elk herd establishment north of Highway 50 is intended to provide mule deer with the greatest possible opportunity to survive severe winters. It would also serve to prevent damage to cultivated fields and hay stacks by elk.

.OBJECTIVES:

1) Coordinate with the Eureka County Wildlife Advisory Board, Eureka County Natural Resources Advisory Commission, Nevada Department of Wildlife, affected private property interests, lessees and permittees to develop specific wildlife population targets, harvest guidelines, depredation mitigation and guidelines for future site specific management plans affecting upland, water fowl and big game habitat.

2) Realistic and attainable wildlife population goals have as a baseline, the historical observations of wildlife populations at the time of European settlement, which indicate that wildlife populations were generally sparse with very few deer, bighorn sheep, or sage grouse being observed by early explorers<sup>3</sup>. Archeological interpretations support this scarcity of animals and birds. Wildlife populations at levels of those existing at the time of European settlement is the best that natural Eureka County habitats can provide. Wildlife populations increased in the mid-1900s, following the establishment of ranches and farms, and the continuation of the preferred wildlife populations will require positive management actions in response to local community concerns. Community economic concerns and values will be obtained from the Eureka County Wildlife Advisory Board, Eureka County Natural Resources Advisory Commission, Eureka County Economic Development Board and the Board of Eureka County Commissioners; the voice of Eureka County citizens provides the basis for wildlife and wildlife habitat management investments.

3) Where it is in the best interest of the local community for wildlife populations to substantially exceed pre-settlement conditions, develop population management plans that analyze and, where necessary mitigate, harmful impacts to rangelands, woodlands, native wildlife species and economically desirable non-

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<sup>1</sup> I. McT.Cowant (1947) "Range Competition Between Mule Deer, Bighorn Sheep, and Elk in Jasper Park, Transactions of N.Am. Wildlife Conf. 12:223

<sup>2</sup> Wildlife Management Institute (1982) "Elk of North America: Ecology and Management", Stackpole Books (690 pages). This book was preceded by Elk of North America (1951). See also "*North American Elk: Ecology and Management*", edited by Dale E. Toweill (2002). Each has an extensive bibliography.

<sup>3</sup> Summaries of the journals of early explorers that describe the absence of game as a serious hardship are summarized by Cliff Gardner and available on [www.gardnerfiles.com](http://www.gardnerfiles.com). NDOW also notes the reports of the scarcity of game animals in the early 1800's in "The Ruby-Butte Deer Herd", Nevada Dept. of Fish and Game, March 1976 (page 19)

native wildlife species. Mitigation must accommodate impacts that have accumulated since initial resource allocation.

4) Manage wildlife populations and wildlife habitat to enhance species native to Eureka County habitats. Exceptions to this objective must be founded on a clear public benefit attributed to the introduction, enhancement or propagation of a non-native species or a species native to Nevada, but not historically found in Eureka County. Public benefit is demonstrated through affirmation by the Eureka County Wildlife Advisory Board and Eureka County Natural Resources Advisory Commission.

5) Manage the areas north of Highway 50 as primarily mule deer habitat by preventing movement, pioneering, or transportation of elk into the area. This objective is specific to large ungulates and does not imply actions specific to other game or non-game birds and animals.

5) Conduct rangeland studies, pellet group plots, breeding bird transects and other appropriate studies to monitor wildlife relationships to available habitat as well as impacts of vegetation manipulation projects on wildlife.

6) Identify specific wildlife habitat attributes that are required by various wildlife species. Use objective techniques to measure and record habitat characteristics of wildlife species; assume that the wildlife select habitat that best meets the needs of the species. Develop technical descriptions of habitat attribute requirements for each species and for each season of the year.

7) Accelerate the planning, approval and completion of multiple-use water developments, rangeland treatment projects and prescribed burns that include objectives for enhancement of big game and other wildlife habitat. Wildlife developments must be cooperative in nature, respecting the rights and interests of existing resource users.

8) Include considerations of wildlife habitat requirements in the design and reclamation of mineral development projects through approved Plan(s) of Operations.

9) Assure that management agencies provide all necessary maintenance of enclosure fences not specifically placed for improved management of livestock.

10) Initiate cooperative studies with willing private land owners, of wildlife depredation and related concerns regarding wildlife habitat on private land.

11) Develop records of wildlife losses to predators and support predator control efforts designed to protect specified wildlife species.



### Monitoring:

- Document the participation of affected parties in the development and establishment of population targets and management guidelines for upland game, water fowl, and big game species.
- Document the inclusion of wildlife habitat objectives in activity plans and BLM approved Reclamation Plans.
- Document the location and extent of water developments and vegetation manipulation projects and prescribed fires for wildlife habitat improvement and provide timely notification to all affected parties.
- Periodically monitor range improvement projects, rights-of-way, woodcuts, mining activities, multiple recreation uses, and materials leases, to document habitat improvement or disturbance.
- Document the incidents of wildlife depredation and extent of game animal harvest in designated management areas of both land and wildlife management agencies.
- Document visitor use of wildlife and fish in terms of hunter or fisherman questionnaire contents, business reports of sales to visitors to the area, etc.

### Evaluation:

- Track the participation of agencies, landowners and sportsmen and their progress in development of designated management area plans.
- Reconcile wildlife population fluctuation related to both habitat condition and non-habitat impacts on reproduction and survival.
- Track the numbers and time required for the initiation and completion of water developments, prescribed burns and range treatment projects for wildlife habitat improvement.
- Track the incidents and disposition of wildlife depredation on private lands and property.

### **6.2.5 Land Tenure**

GOAL: Utilize, to the greatest extent possible, agricultural or mining entry, land exchange, and or land sale for disposal of all public lands which by virtue of their size or location render them difficult and expensive to manage and do not serve a significant public need or where disposal will serve important public objectives. Authorize as needed the use of those lands, not currently authorized, for rights-of-way, leases and permits. Fully recognize and protect existing property rights including rights-of-way, easement, water rights, forage rights, mineral rights, and other such property.

### PRIMARY PLANNING GUIDANCE ADDRESSED:

- ◆ Private Property and Property Rights, Eureka County Code 9.30.060.A
- ◆ Tax Base, Eureka County Code 9.30.060.B
- ◆ Mining, Eureka County Code 9.30.060.E
- ◆ Agriculture, Eureka County Code 9.30.060.F
- ◆ Utility Rights and Public Consumptions, Eureka County Code 9.30.060.I
- ◆ Land Disposition/Land Tenure Adjustments, Eureka County Code 9.30.060.J
- ◆ Access, Eureka County Code 9.30.060.N
- ◆ Other Federal Land Use Regulations, Eureka County Code 9.30.060.Q
- ◆ Recreation, Eureka County Code 9.30.060.H

### GUIDANCE:

Federal Land Policy & Management Act provides for effective use of the BLM administered lands by providing continuity of uses for roads, power, water, and natural gas. The Federal Land Policy & Management Act mandates multiple uses of the BLM administered lands, provides for continuing inventory and classification reviews of the BLM administered land, authorizes the Director to acquire lands when necessary to provide more efficient management through consolidation, and authorizes disposal of certain BLM administered lands. Lands currently under the jurisdiction of other agencies or lands currently withdrawn need a management plan to assure multiple use development when that existing withdrawal is revoked. The BLM is required to comply with federal, state and local government laws relating to hazardous materials.

### OBJECTIVES:

- 1) Identify and give priority consideration to requests for exchanges or purchases from private land owners with fenced federal range, isolated tracts, or irregular boundary lines.
- 2) Develop an inventory of those BLM and FS administered lands which should be disposed of in the public good and make available for further application for agricultural or mining purposes those lands currently under DLE application or Patent application that are relinquished or rejected.
- 3) Encourage property owners to identify and record existing property rights, particularly those that predate FLPMA. Eureka County recognizes the minimum width of rights of way to be 50 feet on either side of a water conveyance ditch, pipeline, or flume as established under the 1866 Mining Act and further recognizes that the width of rights-of-way established under R.S.2477 to be from 100 feet to several miles wide and limited only by practical conditions. All necessary actions for maintenance of ditches, pipelines, flumes, roads, trails, or other infrastructure for water conveyance or travel within these rights-of-ways is hereby approved by Eureka County.

3) Seek legal administrative access only through purchase or exchange where significant administrative need exists, construct new roads around private lands where easement acquisition is not feasible, and consider significant public access needs in all land tenure adjustment transactions.

4) Manage newly acquired lands and lands that have been returned to BLM management through revocation of withdrawals in accordance with existing land use plans for adjacent land.

5) In coordination with federal agencies and state and local government planning agencies and in cooperation with interested members of the public through the NEPA process, develop and implement an Action Plan for management of hazardous materials on state and public lands.

Monitoring:

- Document the review procedures and acres of land classified for priority disposal.
- Document all applications for rights-of-way, leases and permits and the actions taken on each.
- Document access needs and procedures and methods utilized to achieve such access.

Evaluation:

- Determine annually the degree of progress in achieving disposal of lands classified for priority disposal.
- Evaluate the degree to which access needs are being met.

**6.2.6 Locatable Minerals, Fluid Minerals, and Mineral Materials**

GOAL: Facilitate environmentally responsible exploration, development and reclamation of oil, gas, geothermal, locatable minerals, aggregate and similar resources on federal lands.

**PRIMARY PLANNING GUIDANCE ADDRESSED:**

- ◆ Tax Base, Eureka County Code 9.30.060.B
- ◆ Water Resources, Eureka County Code 9.30.060.C
- ◆ Air Resources, Eureka County Code 9.30.060.D
- ◆ Mining, Eureka County Code 9.30.060.E
- ◆ Utility Rights and Public Consumptions, Eureka County Code 9.30.060.I
- ◆ Land Disposition/Land Tenure Adjustments, Eureka County Code 9.30.060.J
- ◆ Access, Eureka County Code 9.30.060.N
- ◆ Other Federal Land Use Regulations, Eureka County Code 9.30.060.Q

GUIDANCE: The Mineral Leasing Act of 1920 as amended, Geothermal Steam Act of 1970, as amended, the Mining and Mineral Policy Act of 1970, all declare that it is the continuing policy of the federal government to foster and encourage private enterprise in the development of domestic mineral resources. The 1872 Mining Law along with the Mining and Mineral Policy Act of 1970 declares that it is the continuing policy of the United States to foster and encourage private enterprise in the development of domestic mineral resources. The Federal Land Policy & Management Act, reiterates that the Mining and Minerals Policy Act of 1970 is to be implemented and directs that the BLM administered lands are to be managed in a manner which recognizes the nation's need for domestic sources of minerals and other resources. The National Materials and Minerals Policy, Research and Development Act of 1980 restates the need to implement the 1970 Act and requires the Secretary of the Interior to improve the quality of minerals data in land use decision making. The Mining Law of 1866 guaranteed certain rights which allow for orderly and efficient use of the public lands for commerce.

OBJECTIVES:

- 1) In coordination with federal agencies and state and local government planning agencies and in cooperation with interested members of the public, develop a land management mineral classification plan to evaluate, classify and inventory the potential for locatable mineral, oil, gas and geothermal, and material mineral exploration or development, to insure that lands shall remain open and available unless withdrawn by Congress or federal administrative action. To the extent practicable, land with high mineral or oil and gas values shall remain open for economic use.
- 2) Develop an evaluation program that relies upon and uses all available data, including, but not limited to reviewing existing data including hydrological data geochemical and geophysical testing, geological mapping and sampling, and, where appropriate, drilling testing.
- 3) Provide for mineral material needs through negotiated sales, free use permits and community pits.
- 4) Actively engage in NEPA analysis of environmental and community impacts related to proposed mineral, oil and gas development, including social, economic, and fiscal impacts.

Monitoring:

- Document all exploration activity and requests for and the issuance of patents through a system of tracking paper work associated with such activity.

Evaluation:

- Determine the degree to which mineral exploration and development are occurring as compared to needs and potential for the County.
- Determine whether the time required to obtain necessary permits and approvals is excessive.

**6.2.7 Cultural, Historic, and Paleontological Resources**

GOAL: In coordination with federal state and local government planning agencies, tribal leadership and interested members of the public, determine the significance of cultural resource sites according to condition, content and relevance and increase the opportunity for educational, recreational, socio-cultural, and scientific uses of cultural and Paleontological resources.

**PRIMARY PLANNING GUIDANCE ADDRESSED:**

- ◆ Recreation, Eureka County Code 9.30.060.H
- ◆ Utility Rights and Public Consumptions, Eureka County Code 9.30.060.I
- ◆ Land Disposition/Land Tenure Adjustments, Eureka County Code 9.30.060.J
- ◆ Access, Eureka County Code 9.30.060.N
- ◆ Other Federal Land Use Regulations, Eureka County Code 9.30.060.Q

GUIDANCE: The Federal Land Policy and Management Act direct that the BLM administered lands be managed so as to protect archeological values. The Antiquities Act of 1906 and the Archeological Resources Protection Act of 1979 require protection of Paleontological resources and require permits for excavation or appropriation of such resources. The National Environmental Policy Act directs preservation of important natural aspects of the national heritage. The National Historic Preservation Act of 1966 describes federal agency' responsibility to preserve prehistoric and historic cultural resources.

**OBJECTIVES:**

- 1) Where sufficient data indicate adverse impacts of land uses to high-value sites, establish mitigation measures to reduce impacts and protect and conserve unique cultural and Paleontological resources.
- 2) Manage the existing historic district designations in accordance with Section 1 10 of the National Historic Preservation Act of 1966.
- 3) Nominate appropriate site/areas to the national register of historic places only in accordance with the policies and procedures outlined in NEPA and only upon approval of the Eureka County Board of Commissioners.

**Monitoring:**

- Document, record and make available to the Eureka Sentinel Museum all data that details conditions found at specific cultural and Paleontological sites during all site visits.
- Maintain, review and make available to the public for analysis the data collected during annual monitoring site visits.
- Periodically review changes in historical, cultural and Paleontological site designations.

Evaluation:

- Analyze the site visit data to determine the degree of impact of multiple uses occurring on the site and develop mitigation measures.
- Track the progress of recommendations for additions to the National Register of Historic Places.
- Analyze the degree to which cultural resource management restrictions are affecting or limiting multiple uses of the public lands in Eureka County.
- Review the data provided to and on file with the Eureka County Historical Society and Eureka Sentinel Museum.

**6.2.8 Woodland Resources**

GOAL: Maintain or improve aspen and conifer tree health, vegetation diversity, wildlife and watershed values through active management of sites with the ecological potential for aspen, pinyon, or juniper woodlands and initiate thinning, removal, or other management measures.

PRIMARY PLANNING GUIDANCE ADDRESSED:

- ◆ Private Property and Property Rights, Eureka County Code 9.30.060.A
- ◆ Tax Base, Eureka County Code 9.30.060.B
- ◆ Water Resources, Eureka County Code 9.30.060.C
- ◆ Air Resources, Eureka County Code 9.30.060.D
- ◆ Agriculture, Eureka County Code 9.30.060.F
- ◆ Wildlife, Eureka County Code 9.30.060.G
- ◆ Recreation, Eureka County Code 9.30.060.H
- ◆ Riparian Habitat, Eureka County Code 9.30.060.K
- ◆ Pinyon and Juniper Control, Eureka County Code 9.30.060.O
- ◆ Wildfire, Eureka County Code 9.30.060.P

GUIDANCE: The Public Rangelands Improvement Act directs that the condition of the BLM administered rangelands be improved so that they become as productive as feasible for all rangeland values. The Federal Land Policy Management Act mandates that BLM administered lands be managed in a manner that will protect the quality of ecological and other resource values and provide food and habitat for fish and wildlife and domestic animals and recognizes the nation's need for domestic sources of minerals, food, timber, and fiber from the BLM administered lands. Forest Reserves and later National Forests

are directed to conserve water flows, furnish timber for the people, and support the local economy in accordance with the Forest Service Organic Act and the National Forest Management Act. As discussed during local meetings, it is well demonstrated that unrestricted invasion of Pinyon and Juniper into plant communities that have the ecological potential of rangeland results in loss of wildlife habitat, loss of livestock forage, reduced water flow from springs and streams, and increased soil erosion.

#### OBJECTIVES:

- 1) Plan and implement, where necessary and useful, programs to improve Pinion and juniper woodland health, e.g.: selective fence post and firewood harvesting, or other operations such as green-cuts.
- 2) Plan and implement reclamation of disturbed forest sites.
- 3) Plan and implement removal of pinyon or juniper from plant communities that are identified as non-woodland (rangeland) ecological sites and restore the vegetation that is appropriate for those respective sites.
- 3) Document woodland product harvest activities on the BLM and FS administered lands as necessary to promote customary economic use of woodland resources (i.e. pine nuts, firewood, posts, Christmas trees, etc.)
- 4) Plan and implement wildlife habitat improvements and grazing management strategies designed to enhance woodland or forest goals for aspen, pinyon-juniper, or other woodland types.
- 5) Document, report to responsible agencies and ensure mitigating management actions for the occurrence of insects and diseases that threaten the health of woodland resources.

#### Monitoring:

- Record the presence of insects or diseases that threaten woodland health.
- Identify and document old and decadent stands of trees and the management actions applied in each individual case.
- Identify and document the acres and severity of pinyon-juniper encroachment into rangeland ecological sites as identified by soil survey, aerial photo interpretation, or other techniques.
- Inventory aspen stands for such features as age class distribution, density, and area.

#### Evaluation:

- Evaluate monitoring documentation to determine the degree to which woodlands are affected by insect damage or disease.

- Correlate aspen stand characteristics with recreational use, wildlife populations, wild horses, livestock grazing and other multiple use activities.

### **6.2.9 Hunting, Fishing, and Outdoor Recreation**

**GOALS:** Provide for multiple recreation uses on Eureka County federal and state administered lands located within its boundaries for residents and visitors to the County. Provide recreational uses including high quality recreational opportunities and experiences at developed and dispersed/undeveloped recreation sites by allowing historic uses and access while maintaining existing amenities and by providing new recreation sites for public enjoyment. Pursue increased public access opportunities in both motorized and non-motorized settings through the acquisition of rights-of-way or easements across federal administered lands and private lands at the invitation of the property owner. Recognize that multiple recreation uses are mandated by the multiple use concepts and that adequate outdoor recreation resources must be provided on the federal administered areas; keeping open all existing access roads and the ability to maintain those same roads or accesses.

#### **PRIMARY PLANNING GUIDANCE ADDRESSED:**

- ◆ Private Property and Property Rights, Eureka County Code 9.30.060.A
- ◆ Tax Base, Eureka County Code 9.30.060.B
- ◆ Water Resources, Eureka County Code 9.30.060.C
- ◆ Air Resources, Eureka County Code 9.30.060.D
- ◆ Agriculture, Eureka County Code 9.30.060.F
- ◆ Wildlife, Eureka County Code 9.30.060.G
- ◆ Recreation, Eureka County Code 9.30.060.H
- ◆ Riparian Habitat, Eureka County Code 9.30.060.K
- ◆ Wild Horses and Burros, Eureka County Code 9.30.060.M
- ◆ Access, Eureka County Code 9.30.060.N
- ◆ Pinyon and Juniper Control, Eureka County Code 9.30.060.O
- ◆ Wildfire, Eureka County Code 9.30.060.P

**GUIDANCE:** The Federal Land Policy & Management Act declares it to be the policy of the United States that BLM administered lands be managed on the basis of multiple use in a manner which provides for outdoor recreation and human occupancy and use, while at the same time protecting scenic, ecological, environmental, water, and archaeological values. The Act also mandates that outdoor recreation be considered one of the principle uses in the multiple use concept for the BLM administered lands. In 1963, Congress enacted the Outdoor Recreation Coordination Act declaring it "desirable that all American people of present and future generations be assured adequate outdoor recreation resources". See 16 U.S.C. ' 460L. The Secretary of Interior was authorized to prepare and maintain "a continuing inventory and evaluation of outdoor recreation needs and resources". 16 U.S.C. ' 460L-1. This Act also requires consideration of the plans of federal agencies, states, and the political subdivisions of states, and required the BLM to cooperate with states, political subdivisions of states and private interests with respect to



outdoor recreation. ' 460L-1(c)(d). The Intermodal Surface Transportation Efficiency Act 16 U.S.C. ' 1302; National Recreational Trails Fund, 26 U.S.C. ' 9511; and National Trails System Act, 16 U.S.C. ' 1241 provide for the preservation, development and funding of roads and trails for recreation use. These statutes mandate that trails for multiple recreation uses be made available for a diversity of motorized and non-motorized uses. Multiple recreation uses must also be provided for the elderly, physically challenged and very young in order to provide diversity of recreation opportunities. See, Americans with Disabilities Act, 42 U.S.C. ' 12111 et seq. All areas historically accessed by off-road recreational vehicles, mechanized vehicles, horses and boats should continue to be available for their historical uses. These historically accessed areas include roads, trails, sandwashes, and waterways identified as Revised Statute 2477 rights-of-ways, including those areas where wild horses may be located.

## OBJECTIVES

- 1) Provide for continued multiple recreation uses for residents and visitors to Eureka County. Provide recreation in special and extensive recreation management areas, including those areas where state, federal and/or private funds and materials were or are considered to be used to provide for recreational facilities.
- 2) In compliance with applicable local, state and federal laws, cooperatively plan trailhead facilities for both motorized and non-motorized access, development and/or maintenance of roads and trails for both motorized and non-motorized access, restoration of those areas that are open to the public for historical recreational uses, e.g. motorized and equestrian access for recreational and competitive events, hunting, fishing, and camping.
- 3) Provide for adequate outdoor recreation resources by revising the designated areas to decrease or eliminate limitations and restrictions where the review and evaluation shows that the limitations and restrictions are no longer appropriate and necessary.
- 4) Plan and establish designated equestrian, foot, and off-road vehicle trail systems for compatible recreational, agricultural, and other multiple uses so that such uses can continue unabated.
- 5) Maintain existing facilities at developed recreational sites and upgrade, reconstruct and/or increase recreation facilities, when needs are indicated by monitoring data.
- 6) Describe methods of minimizing or mitigating documented use conflicts or damage and define the manner in which each method is expected to accomplish minimization or mitigation. All recreation promotion will include explanation of the contribution of private property owners to wildlife habitat, recreation access, and recreation sites. Recreation on private property without the approval of the owner is not permitted or approved.

### Monitoring:

- Collect, review and analyze data relating to the demand for recreation use, the impact of the various recreation uses on land values, and any actual conflict or damage caused by each of the multiple recreation uses.
- In coordination with federal agencies and state and local planning agencies, review all data to determine whether temporary climatic conditions, wildlife activities, or range conditions require temporary or seasonal restrictions or limitations on historic and present recreation uses, and review data to determine the earliest point at which temporary restrictions or limitations can be removed.
- Collect and maintain data obtained during meetings and discussions with recreation users.
- Collect and maintain data obtained from community business owners concerning business contacts, sales, and future expectations from recreationists.
- Collect and maintain records of all management actions taken specifically to meet requirements of the Americans with Disabilities Act (ADA) and maintain records of use and requests for use from ADA eligible individuals.
- Investigate, validate and document all user conflicts reported to Eureka County and or federal agencies.

### Evaluation:

- Meet annually with interested hunters, fishermen and other recreation users and review the data regarding recreation demands, outdoor recreation resources, and multiple recreation uses and their impact.
- Coordinate with federal agencies and state and local government planning agencies, to annually review and analyze recreational inventory, classification and designation information to validate the relevance and importance of criteria and the impact on land values and on recreation uses, historic and present.
- Analyze data on multiple recreational uses in areas with special use designations or which are under study for such designation to identify any adverse impacts on multiple recreational uses.
- Review data regarding implementation of the Americans with Disabilities Act and whether ADA implementation actions are adequate.

### **6.2.10 Wilderness, Wilderness Study Areas (WSA), Areas of Critical Environmental Concern (ACEC), and Other Restrictive Land Use Classifications**

GOAL: Seek immediate Congressional designation action on all WSAs and other restrictive land classifications based on Eureka County policy to release these areas for multiple use management and in the interim prevent, minimize or mitigate impairment or degradation of such areas to the extent that Congressional actions are not pre-empted. Provide the amenities promised by wilderness designation through multiple use management that includes dispersed recreation where appropriate and opportunities for solitude.

PRIMARY PLANNING GUIDANCE ADDRESSED:

- ◆ Private Property and Property Rights, Eureka County Code 9.30.060.A
- ◆ Tax Base, Eureka County Code 9.30.060.B
- ◆ Water Resources, Eureka County Code 9.30.060.C
- ◆ Air Resources: Eureka County Code 9.30.060.D
- ◆ Mining, Eureka County Code 9.30.060.E
- ◆ Agriculture, Eureka County Code 9.30.060.F
- ◆ Wildlife, Eureka County Code 9.30.060.G
- ◆ Recreation, Eureka County Code 9.30.060.H
- ◆ Utility Rights and Public Consumptions, Eureka County Code 9.30.060.I
- ◆ Land Disposition/Land Tenure Adjustments, Eureka County Code 9.30.060.J
- ◆ Riparian Habitat, Eureka County Code 9.30.060.K
- ◆ Wilderness, Wilderness Study Areas, Parks and Refuges,  
Eureka County Code 9.30.060.L
- ◆ Wild Horses and Burros, Eureka County Code 9.30.060.M
- ◆ Access, Eureka County Code 9.30.060.N
- ◆ Pinyon and Juniper Control, Eureka County Code 9.30.060.O
- ◆ Wildfire, Eureka County Code 9.30.060.P
- ◆ Other Federal Land Use Regulations, Eureka County Code 9.30.060.Q

GUIDANCE: The Federal Land Policy and Management Act provide that the Secretary shall review BLM administered lands and recommend those which he finds to meet wilderness characteristics. Between submission of the Secretary's recommendations and final Congressional action, the Act provides that the lands be managed in such manner so as not to impair their wilderness characteristics, "subject, however, to the continuation of existing mining and grazing uses and mineral leasing in the manner and degree in which the same was being conducted on" October 21, 1976. The Act directs prevention of "unnecessary or undue degradation of the lands and their resources" and implementation of environmental protection. Enabling legislation will identify specific management direction for each Wilderness Area or specify that these lands be placed under multiple use management. The Federal Lands Policy & Management Act declares as the policy of the United States that BLM administered lands will be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource and archaeological values, that will provide food and habitat for fish and wildlife and domestic animals, that will provide for outdoor recreation and human occupancy and use, and, where appropriate, will preserve and protect certain BLM administered lands in their natural condition.

Existing land uses and pre-existing property rights are described in other sections of this Natural Resource and Land Use Plan. Every area of Eureka County includes pre-existing property rights and existing uses that are best served through multiple use management. Eureka County is committed to the protection of those existing rights.

As discussed within the Eureka County Master Plan, Eureka County is committed to future development of mining, communication infrastructure, and energy production. Locations for many of the future developments cannot be identified at this time, therefore all currently available land must remain available and not included into Wilderness Areas, Roadless Areas, ACEC, or other restrictive designations.

OBJECTIVES:

- 1) Develop comprehensive guidance to Congress seeking release of all WSAs deemed by the Department of Interior to be unsuitable for wilderness designation to multiple use management.
- 2) Provide for optimum scenic value in Eureka County through achievement of vegetation and soils watershed objectives and implementation of nondegrading, nonimpairing range improvement activities, construction, use and maintenance of livestock management facilities, and facilities for public enjoyment of the land.
- 3) Upon Congressional release, return management policies for the affected area to those consistent with land use plans and the non-wilderness full multiple use concept mandated by Congress in the Federal Land Policy & Management Act and Public Rangelands Improvement Act.
- 4) Develop and establish objective scientific classifications of areas providing the amenities of wilderness experience under multiple use management based upon ecological site potential, desired plant community, and ecological condition and trend criteria, soil stability, topography, and proximity of disturbance such as designated military air space.
- 5) Identify measurable accomplishments or benefits that will be obtained through future designation of restricted use areas; no designation of restricted use areas such as Roadless, ACEC, or others will be completed until it is clearly demonstrated that such designations will not be detrimental to existing property rights, recreation including hunting or fishing, livestock grazing management, wildlife habitat management, County administrative needs, and future mining or energy development.
- 6) Designation of ACEC, Roadless Area, or other use restrictions serve as surrogate for Wilderness designation but do not fall within the limitations of the Wilderness Act, such designations must not impair existing rights.
- 7) No additional Wilderness Areas will be permitted in Eureka County.

Monitoring:

- Track the development of Congressional recommendations and Congressional action on WSA's recommendations.

- Track the data obtained from rangeland studies and document the location, pace, and extent, of trends in rangeland vegetation and soil stability.
- Document the implementation of multiple use management on lands released through Congressional action.
- Collect data regarding the multiple recreation uses occurring in areas designated or being subjected to potentiality study for special designation such as ACEC or wilderness.

Evaluation:

- Compare current WSA acres recommendations with those remaining at the end of each decade.
- Determine the extent of change in condition class and trends for watershed uplands and riparian habitat.
- Compare management of released land for compliance with multiple use guidance provided in land use plans for adjacent land and the Federal Land Policy and Management Act.

**6.2.11 Air Quality**

GOAL: Prevent significant deterioration of the superior air quality found in Eureka County.

PRIMARY PLANNING GUIDANCE ADDRESSED:

- ◆ Private Property and Property Rights, Eureka County Code 9.30.060.A
- ◆ Water Resources, Eureka County Code 9.30.060.C
- ◆ Air Resources: Eureka County Code 9.30.060.D
- ◆ Mining, Eureka County Code 9.30.060.E
- ◆ Agriculture, Eureka County Code 9.30.060.F
- ◆ Wildlife, Eureka County Code 9.30.060.G
- ◆ Recreation, Eureka County Code 9.30.060.H
- ◆ Riparian Habitat, Eureka County Code 9.30.060.K
- ◆ Wilderness, Wilderness Study Areas, Parks and Refuges, Eureka County Code 9.30.060.L
- ◆ Wild Horses and Burros, Eureka County Code 9.30.060.M
- ◆ Pinyon and Juniper Control, Eureka County Code 9.30.060.O
- ◆ Wildfire, Eureka County Code 9.30.060.P

GUIDANCE: The Federal Clean Air Act and State of Nevada air quality regulations establish standards and provide guidance to management agencies regarding parameters affecting air quality. Smoke management is one element (both prevention of significant deterioration (PSD) and total suspended particulate (TSP)) of several elements in the National Ambient Air Quality Standards established in the Clean Air Act (1967) and amendments to the Act (1972, 1977).

## OBJECTIVES:

- 1) Engage the State of Nevada and federal agencies in their industrial air quality permitting process for proposed developments that are likely to diminish air quality in Eureka County.
- 2) Manage smoke from prescribed burns through techniques of smoke avoidance, dilution and emission reduction and limit unnecessary emissions from existing and new point and nonpoint sources through development and implementation of Best Management Practices.
- 3) Engage federal land management agencies in burn planning.
- 4) Conduct prescribed burning at maximum allowed by Clean Air Act and State regulations.

## Monitoring:

- Maintain records of both acreage and tonnage burned and compare to allowable values.
- Review compliance with best management practices for point source emissions.

## Evaluation:

- Review burn calculations and plans to assure that maximums are observed.
- Evaluate conformance of prescribed burning plans with requirements and guidelines for air quality and smoke management being developed by the State of Idaho.
- Review Best Management Practices as necessary to assure applicability and compliance.
- Review annually the backlog of prescribed burns and applications and requests for additional prescribed burns to incorporate them into the following year annual plan.

## **6.2.12 Standards of Conduct**

GOAL: Ensure that state and federal laws, regulations and policies that affect natural resource and land use are administered in a fair, impartial and ethical manner.

## PRIMARY PLANNING GUIDANCE ADDRESSED:

- ◆ Private Property and Property Rights, Eureka County Code 9.30.060.A
- ◆ Tax Base, Eureka County Code 9.30.060.B
- ◆ Water Resources, Eureka County Code 9.30.060.C
- ◆ Air Resources: Eureka County Code 9.30.060.D
- ◆ Mining, Eureka County Code 9.30.060.E

- ◆ Agriculture, Eureka County Code 9.30.060.F
- ◆ Wildlife, Eureka County Code 9.30.060.G
- ◆ Recreation, Eureka County Code 9.30.060.H
- ◆ Utility Rights and Public Consumptions 9.30.060.I
- ◆ Land Disposition and Land Tenure Adjustments 9.30.060.J
- ◆ Riparian Habitat, Eureka County Code 9.30.060.K
- ◆ Wilderness, Wilderness Study Areas, Parks and Refuges,  
Eureka County Code 9.30.060.L
- ◆ Wild Horses and Burros, Eureka County Code 9.30.060.M
- ◆ Access, Eureka County Code 9.30.060.N
- ◆ Wildfire, Eureka County Code 9.30.060.P
- ◆ Other Federal Land Use Regulations 9.30.060.Q

**GUIDANCE:** An expansive body of state and federal laws direct how government agents may conduct themselves in the performance of their duties. General standards for the ethical conduct of federal employees are found at 5 CFR 2635. These include:

Gifts from Outside Sources (Subpart B, § 2635.201). An employee is prohibited from soliciting or accepting any gift from a prohibited source or given because of the employee's official position. A prohibited source is defined as any person who is seeking official action by an agency; who does business or seeks to do business with the agency; who conducts activities regulated by the agency; or, who has interests that may be substantially affected by the performance of an official duty.

Conflicting Financial Interests (Subpart D, § 2635.401, 18 U.S.C. § 208(a)). An employee is prohibited from participating personally and substantially in an official capacity in any particular matter in which, to his knowledge, he or any person whose interests are imputed to him has a financial interest, if the particular matter will have a direct and predictable effect on that interest.

Impartiality in Performing Official Duties (Subpart E, § 2635.501). An employee should not participate in a particular matter involving specific parties which he knows is likely to affect the financial interests of a member of his household, or in which he knows a person with whom he has a covered relationship is or represents a party, if he determines that a reasonable person with knowledge of the relevant facts would question his impartiality in the matter. Covered relationships include active participation (which itself is further defined) in an organization.

Misuse of Position (Subpart G, § 2635.701).

- An employee shall not use his public office for his own private gain, . . . or for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity, including nonprofit organizations of which the employee is an officer or member.
- An employee shall not engage in a financial transaction using nonpublic information, nor allow the improper use of nonpublic information to further his

own private interest or that of another, whether through advice or recommendation, or by knowing unauthorized disclosure.

Performing an act affecting a personal financial interest in violation of 18 U.S.C. § 208 is punishable both by incarceration and imposition of financial penalties under 18 U.S.C. § 216. Violations of the government-wide standards regulations may be cause for appropriate corrective or disciplinary action to be taken under applicable procedures. 5 C.F.R. § 2635.106(a). Possible discipline ranges from reprimand to removal. However, a violation of the standards or of supplemental agency regulations, as such, does not create any right or benefit, substantive or procedural, enforceable at law by any person against the United States, its agencies, its offices or employees, or any other person. 5 C.F.R. § 2635.106(c).

The BLM ethics office instructs agency employees at regular training sessions that the agency has “zero tolerance” for conduct which presents an appearance of a lack of impartiality. Employees are also instructed at these sessions that if their views are so divergent from the BLM policy, they should consider seeking employment elsewhere. Analogous standards for US Forest Service employees are found at US Forest Service Manual 6109.

General requirements for ethical conduct of state employees are found at NRS 281.481. These requirements include, in part:

1. A public officer or employee shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.
2. A public officer or employee shall not use his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity to the interests of that person. As used in this subsection:
  - (a) “Commitment in a private capacity to the interests of that person” has the meaning ascribed to “commitment in a private capacity to the interests of others” in subsection 8 of NRS 281.501.
  - (b) “Unwarranted” means without justification or adequate reason.
3. A public officer or employee shall not participate as an agent of government in the negotiation or execution of a contract between the government and any private business in which he has a significant pecuniary interest.
4. A public officer or employee shall not accept any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of his duties as a public officer or employee.
5. If a public officer or employee acquires, through his public duties or relationships, any information which by law or practice is not at the time available to people generally, he shall not use the information to further the pecuniary interests of himself or any other person or business entity.



6. A public officer or employee shall not suppress any governmental report or other document because it might tend to affect unfavorably his pecuniary interests.

7. A public officer or employee, other than a member of the Legislature, shall not use governmental time, property, equipment or other facility to benefit his personal or financial interest. This subsection does not prohibit:

(a) A limited use of governmental property, equipment or other facility for personal purposes if:

(1) The public officer who is responsible for and has authority to authorize the use of such property, equipment or other facility has established a policy allowing the use or the use is necessary as a result of emergency circumstances;

(2) The use does not interfere with the performance of his public duties;

(3) The cost or value related to the use is nominal; and

(4) The use does not create the appearance of impropriety;

(b) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or

(c) The use of telephones or other means of communication if there is not a special charge for that use.

If a governmental agency incurs a cost as a result of a use that is authorized pursuant to this subsection or would ordinarily charge a member of the general public for the use, the public officer or employee shall promptly reimburse the cost or pay the charge to the governmental agency.

Nevada Revised Statutes provide for additional prosecution of government officials who fail to adhere to the highest ethical standards, see NRS 197.130, False report by public officer. Every public officer who shall knowingly make any false or misleading statement in any official report or statement, under circumstances not otherwise prohibited by law, shall be guilty of a gross misdemeanor.

Additional standards are found at NRS 281.491 and NRS 281.501.

#### OBJECTIVES:

1) Engage the State of Nevada and federal agencies in ongoing dialog about ethical performance of duties to minimize the opportunity for ethical violations.

2) Identify community concerns about violations of ethical standards before the concerns become disruptive.

3) Request appropriate audience with supervisory personnel to investigate the merits of ethics violations and resolve questions about ethical standards.

4) Pursue legal resolution where ethics violations are valid and agency response is unsatisfactory.

Monitoring:

- Maintain records of reported violations.
- Document actions to resolve reported violations.

Evaluation:

- Periodically review the occurrence of ethics violations.

**6.2.13 Law Enforcement**

GOAL: Assert the maximum extent of local authority allowed under law in the enforcement of laws limiting use of and access to natural resources on state and federal lands.

**PRIMARY PLANNING GUIDANCE ADDRESSED:**

- ◆ Private Property and Property Rights, Eureka County Code 9.30.060.A
- ◆ Tax Base, Eureka County Code 9.30.060.B
- ◆ Water Resources, Eureka County Code 9.30.060.C
- ◆ Air Resources: Eureka County Code 9.30.060.D
- ◆ Mining, Eureka County Code 9.30.060.E
- ◆ Agriculture, Eureka County Code 9.30.060.F
- ◆ Wildlife, Eureka County Code 9.30.060.G
- ◆ Recreation, Eureka County Code 9.30.060.H
- ◆ Utility Rights and Public Consumptions 9.30.060.I
- ◆ Land Disposition and Land Tenure Adjustments 9.30.060.J
- ◆ Riparian Habitat, Eureka County Code 9.30.060.K
- ◆ Wilderness, Wilderness Study Areas, Parks and Refuges,  
Eureka County Code 9.30.060.L
- ◆ Wild Horses and Burros, Eureka County Code 9.30.060.M
- ◆ Access, Eureka County Code 9.30.060.N
- ◆ Wildfire, Eureka County Code 9.30.060.P
- ◆ Other Federal Land Use Regulations 9.30.060.Q

GUIDANCE: Authority of the Eureka County Sheriff and his deputies is found at NRS 248. Unless explicitly preempted in authority by state or federal law, the authority of the Eureka County Sheriff shall be assumed to be controlling for any law enforcement action in Eureka County.

Federal agents are to provide a clear written authorization that identifies the jurisdiction that both Congress and the U.S. Constitution has provided for the action they are about to take and how that claim of jurisdiction preempts the jurisdiction of a County Sheriff in Nevada. If such documentation is not provided or if it is inadequate, then the federal agent has indicated they do not have the jurisdiction for that proposed law enforcement

action. Agencies or federal agent in this section applies to any of a variety of agencies and their employees including Bureau of Land Management, U.S. Forest Service, US Fish and Wildlife Service, Bureau of Reclamation, Corps of Engineers, Department of Energy, Environmental Protection Agency, etc.

In order to prosecute a criminal or civil issue the government must first prove that it has jurisdiction. Before citations or arrests are made, the Sheriff can legitimately demand the proof of federal jurisdiction.<sup>1</sup>

Congresswoman Helen Hage explained: “The proposition that law enforcement and civil and criminal jurisdiction is exclusively within the power of the individual states is well attested to by decisions of the United States Supreme Court, the Constitution for the United States of America and fully recognized in the laws and statutes of Nevada State.” Hage’s citations show that the States possess primary authority for law enforcement. Since the federal government is limited to those delegated powers, it can be expected to enforce federal laws within federal enclaves (see the discussion of “public land” above). Congress has no general grant of law enforcement which greatly limits the authority of federal employees who claim law enforcement authority.<sup>2</sup>

Federal agencies, under the authority of FLPMA 43 USC Section 303(1) are authorized to contract with local law enforcement to provide services within the federally administered area:

When the Secretary determines that assistance is necessary in enforcing Federal laws and regulation relating to the public lands or their resources, he shall offer a contract to appropriate local officials having law enforcement authority within their respective jurisdictions with the view of achieving maximum feasible reliance upon local law enforcement officials in enforcing such laws and regulations. . . . (2) . . . , Such cooperation may include reimbursement to a state or its subdivisions for expenditures incurred by it in connection with activities which assist in the administration and regulation of use and occupancy of the public lands.

FLPMA further states in 43 USC Section 701 (g)(6) of the Session Laws of 1976 in the Savings Provisions:

Nothing in this Act shall be construed . . . as a limitation upon the police power of the respective States, or as derogating the authority of a local police officer in the performance of his duties, or as depriving any State or political subdivision thereof of any right it may have to exercise civil and criminal jurisdiction on the national resource lands...

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<sup>1</sup> Larry Becraft web site “The Dixieland Law Journal”, September 1999 article “Federal Jurisdiction” (22 pages)

<sup>2</sup> Helen Hage as Chairman of the Nevada Live Stock Association, 2003, “White Paper Addressing the U.S. Bureau of Land Management’s Challenge to Nevada State Jurisdiction” (5 pages)

Similarly, Forest Service officials are directed to cooperate with local law enforcement in 16 USC Chapter 2 Section 480 and 16 USC Chapter 3 Section 551a which limit FS law enforcement and specifically protects the authority and jurisdiction of the local unit of government (again the State, County, and Sheriff )

§ 480. Civil and criminal jurisdiction

The jurisdiction, both civil and criminal, over persons within national forests shall not be affected or changed by reason of their existence, except so far as the punishment of offenses against the United States therein is concerned; the intent and meaning of this provision being that the State wherein any such national forest is situated shall not, by reason of the establishment thereof, lose its jurisdiction, nor the inhabitants thereof their rights and privileges as citizens, or be absolved from their duties as citizens of the State.

§ 551a. Cooperation by Secretary of Agriculture with States and political subdivisions in law enforcement

The Secretary of Agriculture, in connection with the administration and regulation of the use and occupancy of the national forests and national grasslands, is authorized to cooperate with any State or political subdivision thereof, on lands which are within or part of any unit of the national forest system, in the enforcement or supervision of the laws or ordinances of a State or subdivision thereof. Such cooperation may include the reimbursement of a State or its subdivision for expenditures incurred in connection with activities on national forest system lands. This section shall not deprive any State or political subdivision thereof of its right to exercise civil and criminal jurisdiction, within or on lands which are a part of the national forest system.

Federal agents will strictly follow the federal statutes so that there will be no conflict with state law and local ordinances. However if conflicts do arise then federal agents are expected to recognize the sovereignty of the State of Nevada.

Federal law enforcement authority of the Bureau of Land Management over activities on public lands is provided in the Federal Land Policy and Management Act of 1976 at 43 USC § 1733. This regulation is for the purpose of enforcing Federal laws and regulations relating to the public lands.

Law enforcement by Forest Service officers is often based on 16 USC § 559. authorizing “Arrests by employees of Forest Service for violations of laws and regulations.” This section of law applies to the drug law enforcement authority for the Forest Service employees within the National Forest System.

With respect to agency access to private property or crossing private property, Eureka County requires the following:

(1) oral or written permission of the owner or lessor of private property (with evidence of the permission provided to the Sheriff);

(2) five day advance written notice from any federal or state agency to the Sheriff of a proposed crossing, said notice to state the following:

(a) specific management purpose of the agency for the crossing,

(b) the names of federal and non-federal persons to make the crossing,

(c) a statement of the specific status of any non-agency employee particularly those who may be an "interested public" to a specific grazing allotment;

(3) if the crossing is by vehicle, the vehicle must be owned by the Government and operated by a government official;

(4) if the crossing is on foot, agency employees "must be present and in direct supervision and control" of the persons who are not agency employees;

(5) the access must involve no activity on the private property other than movement across it for access to federal land, thus prohibiting inspection, photographing or videotaping of private property.

#### OBJECTIVES:

- 1) Ensure that the people of Eureka County are adequately represented in all law enforcement activities that occur on state and federal lands within the County's borders or involve federal actions affecting private property within the County's borders.
- 2) Identify and address community concerns about enforcement of state and federal laws related to use of natural resources and access to state and federal lands.
- 3) Resolve questions of law regarding appropriate authority over the regulation of natural resources on state and federal land and access to state and federal lands.
- 4) Exert the Sovereignty of the State of Nevada in each issue of jurisdiction and law enforcement.

#### Monitoring:

- Maintain records of questionable law enforcement actions by state or federal agents.
- Document actions to resolve reported violations of state or federal law enforcement authority.

#### Evaluation:

- Periodically review the occurrence of transgressions of authority.

### 6.3 PRIMARY PLANNING GUIDANCE

Primary guidance for natural resource and land use planning is found in Title 9, Chapters 30, 40 and 50 of the Eureka County Code, as amended.

#### Chapter 30 - NATURAL RESOURCES AND LAND USE PLAN

##### .010 Definitions

The following definitions apply to this chapter:

**Animal unit month** - A measure of forage consumption. The forage necessary to support one (1) cow and her calf, one (1) horse or five (5) sheep for one (1) month, often abbreviated as AUM.

**Compensable property right** - Any type of right to specific property, personal or real, tangible or intangible, which, when reduced or taken for public purpose, is due just compensation under the Fifth Amendment of the U.S. Constitution.

**Customary usage right** - A right based in custom, usage or practice of the people, which by common adoption and acquiescence, and by long and unvarying habit, has become compulsory, and has acquired the force of law with respect to the place or subject-matter to which it relates.

**Federal lands** - All land and associated natural resources owned and managed by the United States. Federal lands include, but are not limited to, public lands, federally reserved lands, federal mineral leases, federal geothermal leases, federal forage leases and federally reserved water rights, federal rights-of-way, but categorically exempted are lands or resources to which private interest or title is attached.

**Multiple-use** - Balanced and diversified management of public lands and their various public resources to best meet present and future economic and environmental needs of the American people.

**Natural resources** - All renewable and nonrenewable material in its native state which when extracted has economic value. Natural resources may be of commercial or noncommercial nature, including, but not limited to forage, timber, minerals, wildlife, recreational opportunities, fishing, unappropriated streams, springs, seeps and wetlands, ground water, geothermal reservoirs, oil and gas and all other similar resources.

**Peer-review** - Evaluation of the scientific quality and pertinence of research by other experts in the same field. Peer-review is used by editors in deciding whether submissions meet standards for publication in scientific journals.

**Private property** - As protected from being taken for public uses. Property that belongs

absolutely to an individual and of which he or she has the exclusive right of disposition.

**Public lands** - Lands open to sale or other disposition under the general land laws to which no claims or rights of others have attached.

.020 Purpose

The purpose of this Chapter is to (1) guide County policy with respect to natural resource issues facing Eureka County, (2) provide a framework to guide federal agencies in land use planning on federal lands as per the National Environmental Policy Act of 1969, the Federal Lands Policy and Management Act of 1976, the National Forest Management Act of 1976, the Threatened and Endangered Species Act of 1973, and other applicable laws and executive orders, and (3) safeguard property rights and other customary usage rights of the citizens of Eureka County, the State of Nevada, and the United States against any and all encroachments upon those rights by individuals, groups, corporations, public agencies, non-governmental organizations, or any other entity which may attempt to take private property, trespass upon private property or infringe upon other customary rights as have been established by the constitutions, laws and customs of the United States, the State of Nevada, and Eureka County. This title is meant to complement and supplement the constitutions and laws of the United States, the State of Nevada, and Eureka County with additional means of protection and enforcement. This Chapter is not intended to create new rights nor is it intended to in any way supplant the lawful authority of individuals, groups, organizations, corporations, governments or other entities which act pursuant to the laws of constitutions of the United States, the State of Nevada, and Eureka County.

.030 Adoption of the Eureka County Natural Resources and Land Use Plan

A. Holding that the American people are best served when government affairs are conducted as closely to the people as possible (i.e., at the County level), the citizens of Eureka County, through the Eureka County Board of Commissioners, adopt the Eureka County Natural Resources and Land Use Plan as provided in this chapter.

B. The Eureka County Natural Resources and Land Use Plan shall serve as the primary guide for the use and management of all natural resources and state and federal lands within Eureka County.

.040 Custom and culture

A. Since the time that aboriginal peoples inhabited what is now Eureka County, local custom and culture has revolved around beneficial use of natural resources. Aboriginal peoples harvested native plants, animals and geologic material to provide nearly all the raw material for their tools, shelter and sustenance. What was not found locally was traded with other communities in and around the Great Basin. In similar fashion, early

European miners, ranchers and farmers lived largely within the bounds of what they could obtain from the natural environment.

B. With the early gold and silver finds in the mid-1800s came Cornish and Irish miners, Italian charcoal burners (Carbonari), Germans, Swiss, French, Russians, Chinese, and others contributing to mining and support industries, and defining the early custom and culture of Eureka County. The signing of the Treaty of Guadalupe-Hidalgo in 1848 concluded the Mexican-American War and enlarged the borders of the United States to include what is now Eureka County. Upon ratification of the Treaty, the United States acquired and managed this territory as sovereign and proprietor under the Property Clause of the U.S. Constitution. Legal traditions of property rights that existed under Mexican law prior to the establishment of Nevada as a Territory of the United States remain intact today as they are consistent with the U.S. Constitution and laws of the United States. Prior existing property rights including, but not limited to water rights based on the doctrine of prior appropriation, forage rights based on the ownership of water rights and land, rights-of-way, and ownership of real property, are explicitly preserved by all federal land laws. Preservation of these rights demonstrates their importance to the custom, culture and economy of Eureka County and the west.

C. The burgeoning mining camps brought Basque sheepmen who ran sheep in most of the mountains and valleys in Eureka County. On their heels came cattlemen and other settlers who, with the help of the 1877 Desert Lands Act, the Act of 1888, the Act of 1890, the 1891 Creative Act, and the 1916 Stock Raising Homestead Act, established privately-owned base properties to support permanent range livestock operations and farms. Competition among livestock interests resulted in the passage of the 1925 Nevada Livestock Watering Law. A component of this law, locally known as the Three Mile Rule, made it a misdemeanor for a stockman to allow his animals to graze within three miles of a watering site owned by another stockman. The federal government responded to disputes among stockmen and over-use of the federal ranges by passing the 1934 Taylor Grazing Act. The Taylor Grazing Act superseded Nevada's Livestock Watering Law; however, it did not extinguish any prior existing property rights. These property rights withstanding, the Taylor Grazing Act gave the Secretary of the Interior broad discretion to manage public land through rules and regulations and provided that all future grazing on public land be allowed only via grazing permits. The system of management adopted by the Secretary of Interior under the Act provided for (1) adjudication of federal ranges, (2) issuance of revocable licenses with preference given to existing grazers owning commensurate base property, and (3) establishment of Grazing Districts. Graziers in Eureka County and Elko County established the N-1 Grazing District in 1935. Graziers in Eureka County, Lander County, and Nye County



established the N-6 Grazing District in 1951. Early efforts of the State of Nevada to preserve customary grazing rights (*e.g.*, 1925 Nevada Livestock Watering Law) and recognition of these rights by subsequent federal laws (*e.g.*, TGA, FLMPA, and PRIA) demonstrate the importance of livestock grazing to the region's custom and culture. The continued importance of livestock grazing and impacts of federal lands management decisions to citizens of contemporary Eureka County is reflected in establishment of the Eureka County Public Lands Advisory Commission in 1994 and the Eureka County Department of Natural Resources in 1995.

D. Commensurate with development of arable land and distributed water in Eureka County, livestock numbers grew steadily until their peak in the 1940s and 1950s. With these changes came increased wildlife. Populations of mule deer increased across the state until they peaked in the 1940s and 1950s. Similar trends are observed for sage grouse. Downward trends in these wildlife species, beginning in the 1960s, are commensurate with declines in permitted livestock on federal ranges and continues into the present decade.

E. Access to resources on federal lands and the right to pass uninhibited across federal lands are important historical components of the Eureka County's custom and culture. In 1859 Captain James Simpson of the U.S. Corps of Topographical Engineers surveyed the Simpson Wagon Road north of present day Eureka to supplant the earlier-established and longer Humboldt Route. In 1860 the Simpson Route was established as the Pony Express Trail. The 1866 Mining Act and the 1897 Reservoir Siting Act, protected miners, ranchers and others to whom access to federal lands was the basis of their livelihood. The portion of the 1866 Act codified as Revised Statute 2477 provided simply that "[t]he right-of-way for the construction of highways over public land, not reserved for public uses, is hereby granted." Although Revised Statute 2477 was repealed by the Federal Land Management and Policy Act of 1976, miners, ranchers, hunters and fishermen still use these early rights-of-way and rely on Revised Statute 2477 to protect their economic welfare and recreational opportunities.

F. Water rights in Eureka County date back to the mid 1800s. Early miners, ranchers and farmers established surface water rights through the common law doctrine of prior appropriation. The State of Nevada codified this doctrine for surface water in 1905 and extended the law to ground water in 1939. Efforts by Nevada's largest municipalities to import water resources from rural communities is causing contemporary owners of agricultural and stockwatering rights in Eureka County to fear for the future of economically viable beneficial uses of water in Eureka County.

G. Farming has been an important component of Eureka County's industry since the early days of land settlement. Farming was limited to native sub-irrigated meadows and lands irrigated by diverted surface water until supplemental flowing wells were drilled on the Romano Ranch in 1948 and the Flynn Ranch in 1949. In 1949 two irrigation wells were drilled in Diamond Valley in an effort to develop land under Desert Land Entry. By the mid 1950s, pumped irrigation wells were being developed in southern Diamond Valley, Crescent Valley and Pine Valley. By 1965, some 200 irrigation wells had been drilled in Diamond Valley alone. Today, Eureka County's farming districts support a robust grass, alfalfa and meadow hay industry.

H. While standards of living have changed dramatically since the mid-1800s, miners, ranchers and farmers remain the core of the Eureka County community. The shift from strictly local food hunting and fishing to sport hunting and fishing and other natural resource recreation activities has added a small, but viable, recreation and tourism component to the County's natural resource-based culture. Custom and culture of today's Eureka County citizens remain steeped in their mining, farming and ranching heritage. Eureka County is and will ever be dependent upon natural resources for its economic existence.

.050 Community stability

A. Economic and social stability of Eureka County are inseparably tied to the use of natural resources. Over ninety percent (90%) of the County's employment is in the Natural Resources and Mining sector (including agriculture). Mining presently contributes the major portion of the County's personal income and tax revenue stream; however, the "boom and bust" nature of the mine activity periodically brings farming, ranching and agricultural services back to the forefront of the economy. When mining activity lulls, the community relies on its other traditional industries to maintain its viability.

B. State and federal lands make up eighty-one percent (81%) of Eureka County's land area. Given (1) that the community's viability remains largely dependent on business and recreational activities conducted on or in concert with state and federal lands and (2) that many of these activities are inseparably tied to the economic viability of private lands in Eureka County, the community remains particularly sensitive to state and federal planning decisions.

C. Community stability in Eureka County is a symbiosis between the small private land base and the much larger federal land base. Private property interests in minerals, water, forage, rights-of-way and other natural resource attributes of federal lands enhance social and economic

values of Eureka County's private lands. Reductions in the private land base or erosion of private property interests in federal lands, including, but not limited to real property, personal property and mixed property; split estates, easements, rights-of-way, mineral rights, water rights and customary usage rights; fee interest, tenancy and possessory interest, adversely affect the social and economic stability of the County.

D. Certain provisions in a number of federal laws, including the Federal Land Policy and Management Act of 1976, the Public Rangelands Improvement Act of 1978, the Federal Water Pollution Control Act Amendments of 1972 (Clean Water Act), the Threatened and Endangered Species Act of 1973 and the Wild Horse and Burro Protection Act of 1971, have spawned sweeping changes to federal land policy that have proven detrimental to economic and social stability in Eureka County. Repeal of Revised Statute 2477 has denied access to large tracts of federal land, thereby negatively impacting a wide range of economic and recreational users. Department of Interior regulations commonly known as "Range Reform 94" have substantially reduced viability of cattle and sheep ranches. Zealous and overreaching expansion of Clean Water Act regulations to isolated springs and seeps and ephemeral streams threatens many activities on federal lands. The threat of listing sage grouse, other wildlife and plant species under the Threatened and Endangered Species Act may severely limit economic and recreational use of private, state and federal land in Eureka County, particularly where such listing occurs without adequate peer-reviewed scientific analysis.

E. As the previous observations attest, stability of the Eureka County community, its industries, commerce, schools, health care, police protection, and other services, rests squarely on (1) protection of private property rights, (2) sound and balanced management of natural resources, and (3) continued multiple-use and economic-use of state and federal lands.

.060 Primary planning guidance

A. **Private property and property rights.** Where the Board of Eureka County Commissioners determines that it is in public interest of the citizens of Eureka County, Eureka County will evaluate state or federal actions related to private property and private property interests, including investment backed expectations. The County will use as its primary guidance the Fifth Amendment to the United States Constitution, which prohibits the taking of private property for public use without just compensation. The County will also pursue the principles of Executive Order 12630 which requires federal agencies to prepare a Takings Implication Assessment prior to initiating any action, issuing any rule, or making any decision which would constitute a taking of private property

or private property interest, including investment backed expectation.

**B. Tax base.** It is critical to the welfare of the citizens of Eureka County that the Board of Eureka County Commissioners pursue a stable source of tax revenue based on economic use of natural resources. In order to build a broad tax base, the County supports privatizing certain state and federal lands for commercial, residential, industrial and agricultural and mining uses. In the face of considerable reductions in Ad Valorem tax revenues caused by transfer of private land to public ownership, Eureka County maintains a policy of no net reduction in Ad Valorem taxes related to land tenure changes unless the reductions are adequately mitigated by agreement with the Board of Eureka County Commissioners after public hearing. In addition, Eureka County promotes the concept of split-estate taxation wherein the various components of an estate in real property are taxed as a function of their relative value rather than being accrued only in the surface estate.

**C. Water resources.**

1. Eureka County affirms support for the doctrine of prior appropriation as established by state law; that the right to appropriate water is a compensable property right available to individuals and municipalities. Ownership of the right to use water has, as key principals, those provisions set forth in Nevada Revised Statutes 533.0010 through 533.085, including, but not limited to, first right, first use, beneficial use, and point of diversion.
2. Eureka County promotes private development of water resources on state and federal land for beneficial use in Eureka County, including, but not limited to geothermal reservoirs, power generation, municipal water supplies, irrigation and stock water.
3. Eureka County mandates the use of peer-reviewed science in the assessment of impacts related to water resource development.
4. The County discourages out-of-basin water transfers and will adamantly oppose such transfers that do not (1) pass the highest test of scientific rigor in demonstrating minimal impacts to existing water rights and (2) show a long-term benefit to the economic viability and community stability of the County. Out-of-basin and out-of-county transfers of water shall be accorded full attention of N.R.S. 533.370, N.R.S. 533.438 and other applicable state laws.
5. Eureka County will work to maintain its water resources in a condition that will render it useable by future generations for the full range of beneficial uses that further a viable and stable economic and social base

for its citizens. The County supports retaining authority of States to protect water quality under the Clean Water Act. The County does not support abrogation of that authority to any other governmental or non-governmental entity. The County promotes water quality standards that are i) consistent with actual uses for which a particular water source or body is lawfully appropriated, and ii) based on accurate information regarding its natural state and range of variability. The County will demand coordination among all responsible and affected interests when considering water quality actions.

**D. Air resources.** Eureka County will work to maintain its air resources in a condition that will render them useable by future generations for the full range of beneficial uses that further a viable and stable economic and social base for its citizens.

1. The County supports retaining authority of States to protect air quality under the Clean Air Act. The County does not support abrogation of that authority to any other governmental or non-governmental entity. The County promotes air quality standards that are i) consistent with actual uses for which a particular airshed is lawfully appropriated, and ii) based on accurate information regarding its natural state and range of variability.
2. The Naval Strike and Air Warfare Center at Naval Air Station Fallon affects airspace over Eureka County by operating the Fallon Range Training Complex (FRTC). As a Cooperating Agency in the January 2000 Environmental Impact Statement analyzing changes to operations of the FRTC, Eureka County demonstrated its intention to protect its interests in the public air space. That interest persists today. The County will demand coordination among all responsible and affected interests when considering actions that may impact air quality and air space.

**E. Mining.** It is critical to the welfare of the citizens of Eureka County and the nation that mining on state and federal lands remains an open and free enterprise. Eureka County upholds the tenet that mining claims are compensable property belonging to individuals or groups of individuals. Eureka County supports:

1. retention of and compliance with the 1872 Mining Law as amended;
2. mine reclamation activities as per Nevada Revised Statutes Chapter 519A;
3. streamlining of the permitting process;

4. reasonable bonding requirements that promote small business investment in mine exploration, development, and reclamation;
5. use of the best available science and technology to ensure adequate protection of land, air, and water resources;
6. mitigation of mining activities that may impair the economic future of Eureka County citizens through bilateral or multi-lateral consultations with the Board of Eureka County Commissioners;
7. disposal of mine dewatering water in a manner that returns water to the ground in the same basin it is withdrawn with minimal evaporation and transpiration loss;
8. immediate curtailment of temporary dewatering rights at the cessation of permitted mining and reversion of all temporary change applications supporting dewatering to the permitted use of the originating water right.

**F. Agriculture.** Eureka County recognizes (1) the importance of agriculture to the stability of the local economy and (2) the historic and contemporary influence of agriculture on the community's custom and culture. Farms and ranches have played and continue to play a fundamental role in the social and economic well-being of our County. Eureka County recognizes that increasing regulatory pressures are reducing the viability of farms and ranches. In order to reverse such trends, Eureka County supports, encourages and promotes policies that will lead to the long-term economic strength of family farming and ranching.

1. With respect to farm production, Eureka County supports:
  - a. private investment in and ownership of agriculturally productive land;
  - b. economically and scientifically sound agricultural practices;
  - c. coordination and consultation of state and federal conservation, wildlife and planning activities with local farm organizations and Eureka County.
2. With respect to livestock production and federal lands, Eureka County supports:
  - a. private investment in and private ownership of range improvements and water developments;
  - b. economically and scientifically sound grazing practices;
  - c. increasing grazing capacity and other economic incentives to promote private investment in range

improvements including, but not limited to, fencing, seeding, water development, improved grazing systems, brush control, pinion/juniper eradication, proper fire management and noxious weed control;

- d. restoring Voluntary Non-Use AUMs and suspended AUMs to active preference;
- e. a grazing fee formula that accounts for all non-fee costs of producing livestock on state and federal land;
- f. subleasing of grazing rights;
- g. multiple-use concepts;
- h. active management of range resources by permittees rather than by public agencies;
- i. limiting the role of public agencies to monitoring range condition as per the 1984 Nevada Rangeland Monitoring Handbook and determining compliance with applicable laws;
- j. coordination and consultation of state and federal conservation, wildlife, land management and planning activities with permittees, local livestock organizations and Eureka County.

**G. Wildlife.** Management of wildlife, including fish, game animals, non-game animals, predatory animals, sensitive species, Threatened and Endangered Species, under all jurisdictions whatsoever, must be grounded in peer-reviewed science and local input. Wildlife management plans must identify and plan for mitigation of negative impacts to local economies, private property interests and customary usage rights.

1. Eureka County supports wildlife management that:
  - a. is responsive to the County Wildlife Advisory Board, the Natural Resources Advisory Commission, and the Board of County Commissioners;
  - b. enhances populations of game and non-game species native to Eureka County;
  - c. recognizes that enhancing non-native game and non-game species may negatively impact native species and rangeland and forest ecosystems;
  - d. increases wildlife numbers where practicable and not in conflict with existing economic uses or ecosystem health;
  - e. avoids managing wildlife at population levels that exceed those reported in historical records and established by peer-reviewed scientific investigation;
  - f. recognizes that large game animals compete for forage and water with other economic uses;
  - g. recognizes that federal agencies are mandated to maintain or improve conditions on federal forests and

ranges;

h. recognizes that wildlife damage mitigation may encumber existing interests and properties to future damages.

2. Eureka County will actively participate in wildlife management decisions that affect the welfare of its citizens via state wildlife planning efforts and county, state and federal land use planning. Eureka County will work to ensure proper implementation of wildlife plans.

3. Eureka County is adamantly opposed to listing any species of wildlife under the Threatened and Endangered Species Act unless the highest level of scientific rigor (*i.e.*, peer-reviewed research based on publicly accessible data sets and methodology) demonstrates that the species warrants listing. The County shall consider all reasonable actions to avoid listings under the Threatened and Endangered Species Act, including, but not limited to, state and local conservation planning and legal recourse.

4. To maintain agriculture as a productive part of the local economy and to enhance the environment for ecologically and economically important wildlife, Eureka County supports sound predator control programs.

5. Eureka County generally opposes the introduction, gradual encroachment and institutionalization of wildlife not native to Eureka County.

6. Eureka County recognizes that the Bureau of Land Management is mandated by Congress to manage all multiple-uses of federal lands, including wildlife, in a manner that maintains or improves the conditions of federal ranges. The County will pursue federal intervention in wildlife management situations in which range conditions are inadequately protected.

**H. Recreation.** Recreation is important to the citizens of Eureka County. The unique outdoor recreational opportunities found in Eureka County are many of its greatest assets. Eureka County values the opportunity and freedom these lands provide and encourages balanced management goals that include hiking, camping, wildlife viewing, and other outdoor recreation activities. Eureka County strongly advocates the rights of recreationists to continued lawful access to public lands.

**I. Utility rights and public consumption.** As per 43 U.S.C., Sec. 315(e), Eureka County supports individual citizen's acquisition of rights-of-ways



for roads, ditches, pipelines, canals, power lines, telephone lines and stock driveways. Eureka County adamantly supports the protection of vested rights that may limit other uses of state and federal lands. As per 43 U.S.C., Sec. 315(d) Eureka County recognizes rights of local citizens to utilize natural resources for personal consumption (e.g., firewood, posts, sand, gravel, etc.).

**J. Land disposition and land tenure adjustments.**

1. Eureka County will respect and uphold private property interests in land, including, but not limited to, land patents, mining claims, easements, rights-of-way, and forage rights.
2. Eureka County maintains a no-net-loss policy with respect to private land and private property rights, and is opposed to public acquisition of private property, except where the acquisition is a) clearly in the public interest of the citizens of Eureka County and b) appropriately mitigated in value and in land area by transfer of property from the public domain to private ownership. Determination that such a transaction is in the public interest of the citizens of Eureka County and that proposed mitigation is appropriate shall be determined by the Board of Eureka County Commissioners after proper public hearing.
3. Eureka County recognizes that the imbalance of the private/public land ownership inhibits new economic activity in Eureka County and is detrimental to Eureka County's long-term viability. The County encourages state and federal agencies to aggressively pursue land disposal to the maximum extent allowed by law. State and federal land transfers to local governments will be given priority consideration in any disposal of state or federal land.
4. If any public entity intends to acquire an estate in land, water, minerals, forage or any other private property in Eureka County, the proposed acquisition shall first be presented to the Board of Eureka County Commissioners. The Board shall determine likely impacts to the County's human and natural environment and render an opinion about the suitability of the acquisition.

**K. Riparian habitat and wetlands.**

1. Riparian areas and wetlands are critically important to well-balanced and productive rangeland ecosystems. Eureka County encourages consultation, cooperation and coordination as provided under Section 8 of the Public Rangelands Improvement Act of

1978 for riparian areas and wetlands under the jurisdiction of a federal agency.

2. The bulk of riparian areas and wetlands in Eureka County exist on private ranches and farms. Eureka County supports retaining riparian areas and wetlands in private ownership by improving the economic environment for the ranching and farming community.

**L. Wilderness, wilderness study areas, parks and refuges.** To the extent that multiple-use of federal lands is vital to the economy of Eureka County, the County is opposed to the designation of any Wilderness Areas or Wilderness Study Areas within its geographic boundaries. The County calls for removal of Wilderness Study Area designations and re-introduction of active stewardship of these lands that do not meet the suitability criteria of the 1964 Wilderness Act. Eureka County demands local input and decision-making in the designation and management of parks, refuges, Areas of Environmental Concern, roadless areas or any other legislative action, regulatory decision or policy that limits access to or use of federal land or resources within the geographic boundaries of the County.

**M. Wild horses.** Eureka County recognizes that horses, protected under the Wild Free-Roaming Horse and Burro Act of 1971, are properly classified as feral animals. The County recognizes that in passing the Wild Free Roaming Horse and Burro Act, Congress failed to account for prior adjudication of the nation's public ranges, thereby disenfranchising livestock grazers and wildlife of existing forage allocations without compensation. The County recognizes that the Department of Interior is mandated by Congress to manage Wild and Free Roaming Horses in a manner that is consistent with legislative intent and will hold the agencies accountable under all applicable laws. Poor management of feral horse herds has resulted in sustained over-population of horses in Eureka County. Over-population has caused long-term damage to range vegetation and water sources, and has resulted in starvation of horses during periods of drought and severe winters. Eureka County encourages federal legislation and policies that promote scientifically-sound and responsible management of feral horse herds. Eureka County advocates economically beneficial uses for feral horses and advocates public sale of excess horses. The County opposes the cost-ineffective policy of long-term pasturing for excess horses where the policy conflicts with the stated intent of the 1971 Wild Free-Roaming Horse and Burro Act to manage horses "...in a manner that is designed to achieve and maintain a thriving natural ecological balance on the public lands."

**N. Access.** Eureka County supports the right of public access through state and federal lands inasmuch as access does not conflict with private

property rights (as per the Eureka County Public Roads Resolution of March 7, 1994).

**O. Pinyon and juniper control.** Eureka County encourages active management of pinyon/juniper woodlands and removal of woodlands where they exist at unhealthy densities and beyond their historic range. Eureka County supports economic use of these resources.

**P. Wildfire.** Eureka County supports the right for local citizens to protect their property from fires originating on state and federal lands. The County advocates active fire management on federal lands, including, where appropriate and in consultation with grazing permit holders, adjacent landowners, local volunteer fire fighters and Eureka County, a let-burn policy. The County is opposed to arbitrary and inequitable restriction of post-fire land use for recreation and livestock grazing. The County insists that all post-fire land use restrictions be adequately justified and based on peer-reviewed science.

**Q. Other federal land use regulations.** Many land use regulations have the potential to adversely impact Eureka County's economy. Eureka County mandates involvement in all federal actions that may impact the local economy according to this Title.

#### Chapter 40 - COOPERATIVE PUBLIC LANDS MANAGEMENT

##### .010 Findings of fact

The Board of Commissioners of Eureka County, a political subdivision of the State of Nevada, finds as follows:

A. The government of the United States of America exercises control over 2,100,000 acres (eighty-one percent) of the land and the majority of natural resources within the geographic boundaries of Eureka County;

B. Decisions governing federal lands in Eureka County have a history of negative impact on the interrelated heritage of cultural, environmental and economic well-being and stability of County residents;

C. The Congress of the United States has expressed intent, codified in 42 U.S.C. §4331, to act in cooperation with County governments while using all practicable means to create and maintain conditions on federal lands allowing for productive harmony between man and nature while fulfilling the social, economic, environmental and cultural requirements of present and future generations;

D. The efforts of Congress seeking to coordinate federal plans with County government, maintaining a balance between population and resources, and encouraging high standards of living and a wide sharing of life's amenities, as contemplated by 42 U.S.C. §4331(b)(5), can be enhanced by:

1. Increasing cooperation between Eureka County, State of Nevada, and those federal officials involved with the administration of federal lands situated within the County; and
2. Full consideration by the Federal Government of the needs of Eureka County citizens who will be directly or indirectly impacted by federal agency decisions regarding the use of federal lands and the management of water, fish and wildlife in Nevada;

E. There now exists a substantial and urgent need to increase the involvement of Eureka County in the management of federal lands and in the development of criteria that are meaningful in any decision-making process, as contemplated by 43 C.F.R. Section 1610.3-1(a), Section 1610.3-1(b), Section 1620.3-2(a); 36 C.F.R. Ch. II, Section 219.7(a), Section 219.7(c), Section 219.7(d).

.020 Procedures adopted

Based upon consideration of the findings set forth in section .010 of this chapter, Eureka County adopts the following procedures to ensure that there is full and complete disclosure and cooperation by federal entities to the County regarding decisions affecting federal lands located within the County and, reciprocally, that federal entities be made aware of the impact of their actions and decision-making on the interrelated heritage of cultural, environmental and economic well-being and stability of the County. The adopted procedures apply to all decisions undertaken by any agency, department or other federal entity including, but not limited to, the Department of Interior, Department of Agriculture, Environmental Protection Agency, Department of Defense, or Department of Energy (hereinafter known as "federal entities") that do or will have a direct or indirect impact on federal and private lands within the geographic confines of the County.

.030 Specific procedures

Within thirty (30) days after adoption of this chapter, and at the beginning of each calendar year thereafter, the Chairman of the Board of Eureka County Commissioners, on behalf of the Board, or his designee, shall give to federal entities written notice as follows:

- A. That the County government of Eureka County demands, pursuant to adopted federal statutes and regulations, full and complete notice and opportunity for involvement in the decision making processes of the

federal entity that:

1. are being taken or are being proposed to be taken regarding federal lands located within the State of Nevada,
2. involve listing, de-listing, classification or reclassification of a threatened or endangered species or any designated habitat within the County, or
3. involve any major federal action significantly affecting the quality of the human and natural environment within the County;

B. That failure of federal entities to afford Eureka County complete notice and opportunity for involvement beyond that afforded individuals, or to limit State and County government involvement, input to or comment at public hearings, is presumed to be prejudicial to the government of Eureka County and its residents, and that the Board of Eureka County Commissioners is authorized and empowered by this chapter to authorize and instruct the Eureka County District Attorney to seek redress for such prejudice in the federal courts and through administrative hearings;

C. That, within the County's budgetary constraints, the County will notify federal entities of any other evidence of our interrelated historic, cultural and environmental heritage, as well as the anticipated impact on the same of any use of federal or private lands situated within the County.

.040 Presumption of negative impact

If implementation of a habitat designation or other federal policy or practice over federal lands located within the geographic boundaries of this County:

- A. causes alteration of present County land use regulations without such changes having been initiated voluntarily by the County and
- B. makes it unfeasible for existing, lawful businesses to continue their current operations, then the proposed federal action will be presumed by the County to create a negative impact on the interrelated environmental, cultural and economic well-being of this County and its residents, and not to be a preferred alternative acceptable to the County as it relates to resolving the environmental and other concerns of the federal entities.

.050 Quarterly reports required

On a quarterly basis, the Chairman of the Board of Eureka County Commissioners, or his designee, shall report to the County Commission and the public on the activity of the

County taken under this chapter, and actions taken or proposed to be taken by the federal or state governments regarding federal lands in the County.

.060 Savings clause

Nothing herein is intended to conflict with any lawful federal statute or regulation that governs federal lands within Eureka County. Any section, paragraph, sentence, phrase or word that is found to do so as a matter of law may be severed from this chapter without limiting the enforceability of the non-conflicting portion. The Board of Eureka County Commissioners expressly declares that it would have enacted the non-conflicting portion without enacting any portion found to be in conflict or otherwise unlawful.

Chapter 50 - PUBLIC ROADS

.010 Declaration of policy and intent

A. Eureka County, a political subdivision of the State of Nevada, holds title, as trustee for the public, to all public roads, trails, pathways, traces, highways, byways, and similar public travel corridors situated in the County, of every kind whatsoever, except for State and federal highways, however such roads may have come into being. Title to those roads commonly known as R.S. 2477 roads, irrevocably granted to the public by act of congress (Mining Law of 1866), is held in trust by the County as the unit of government closest to the people.

B. The County will:

1. Protect and defend against all interference the right of the public to travel and use the public roads within the County;
2. Oppose closure of any public roads except as authorized by this chapter; and
3. Maintain the public roads by conventional or other appropriate means, as from time to time authorized by the Board of County Commissioners, or designate certain public roads as roads to be maintained only by passage and use without liability to the County, as permitted by Nevada Revised Statutes.

.020 Definitions as used in this section

**Construction** means the establishment of a road by mechanical or other means, including repeated use.

**County road** means any public road situated within Eureka County, except for

designated State and federal highways; also, any road maintained by the County for County purposes which is not open to the public.

**Highway** - **Modern usage**: Any state or federally designated road, usually paved or graveled; or **Traditional (R.S. 2477) usage**: Any road, trace, trail, canal, navigable waterway, or other route used by humans for travel by wheeled vehicle, horseback, foot or boat, or otherwise. This definition applies to all highways established across public lands pursuant to the Mining Law of 1866 (R.S. 2477) between the enactment of the statute in 1866 and its repeal by the enactment of the Federal Lands Policy Management Act (FLPMA) in 1976.

**Maintenance** means construction, reconstruction and repair of a road by mechanical or other means, including repeated use.

**Public road** means any road open to travel by the general public. The term includes, without limitation, roads (1) on land held in fee simple absolute by the County, (2) on easements across land held or claimed by others, (3) pursuant to express or implied permit or license on lands held or claimed by others, (4) canals or navigable waterways. Roads established pursuant to the grant of right-of-way by the Mining Law of 1866 (R.S. 2477 roads) are public roads.

**Right-of-way** means the entire fee, easement or licensed or permitted area for a road; the traveled way, together with such adjoining land as may be required for construction or maintenance of a road.

**Road** means any highway (traditional usage), road, trail, trace, footpath, canal, navigable water, or other route, whether constructed or created by repeated use, when used by humans for transportation by wheeled vehicle, horseback, foot or boat, or otherwise.

.030 Map of County roads

- A. The Department Public Works may prepare and maintain a map or series of maps showing the location of all County roads as hereinabove defined.
- B. Any such map or series of maps of County roads prepared by the Department of Public Works, as from time to time amended, is made a part of this Title by reference. Revised editions of the map of County roads may be accepted by the Board of Commissioners, and upon adoption shall become a part of this chapter by reference and shall constitute evidence that such roads and highways exist and belong to the County.
- C. Copies of the map of County roads shall be available for purchase at cost by the public.
- D. Due to the large number of roads in the County and the difficulty of mapping them all, the failure of a highway or road to appear upon such a

map or series of maps shall not constitute a waiver of such highway or road, nor shall it be used as evidence of such road's or highway's nonexistence.

.040 Interference with travel

It is a misdemeanor, punishable as provided for misdemeanors in the Nevada Revised Statutes, for any person to interfere with the right of the public to travel the public roads, except:

A. Public roads may be closed temporarily by the Board of Commissioners for reasons of public safety, and the County Sheriff and/or director of emergency management may effect temporary closures for reasons of public safety pending an emergency meeting of the Board of Commissioners to ratify such closure.

B. Public roads may be closed permanently by the Board of Commissioners only after thirty (30) days notice of intent to close and a public hearing on the proposed closure.

C. The Board of Commissioners may grant temporary exclusive licenses to use, or place lesser restrictions on the public use of, a public road to accommodate mining activity; provided, (1) an alternate route offering reasonable public access to the areas served by the public road is provided at the licensee's expense, (2) the licensee maintains the public road and returns it to the County at the conclusion of mining activity in as good or better condition than at the time of licensing, (3) thirty (30) days' notice is given of intent to temporarily limit use of the public road for mining activity and calling a public hearing thereafter on the proposed limitation(s).

D. The Board of Commissioners may grant temporary exclusive licenses to use a public road or highway to accommodate short-term special events such as parades, races, walkathons and similar activities.

.050 Public authorized to maintain roads

The public is authorized to maintain, by use or by mechanical means, public roads which are not regularly maintained by the County. The public is not authorized to reconstruct or reroute a public road outside its original right-of-way.

.060 County authorized to accept roads as gifts

The Board of Commissioners is authorized to accept by gift, bequest or otherwise, private roads for addition to the system of County roads. Such transfers may be by fee, easement, license or permit.



## Chapter 60 - REVERSION OF PUBLIC LANDS

### .010 Findings of fact

The Board of Eureka County Commissioners, a political subdivision of the State of Nevada, finds as follows:

- A. The government of the United States of America exercises control over 2,100,000 acres (eighty-one percent) of the land and the majority of natural resources within the geographic boundaries of Eureka County;
- B. Decisions governing federal lands in Eureka County have a direct impact on the interrelated heritage of cultural, environmental and economic well-being and stability of County residents;
- C. The interest of the citizens of Eureka County is best served when government is conducted as close to the people as possible;
- D. Authority to management of natural resources located on state and federal lands within the geographic boundaries of Eureka County should be vested in the Board of Eureka County Commissioners.

### .020 Procedures adopted

- A. At such time as the Nevada Legislature shall authorize Eureka County to manage public lands situated within the County's exterior boundaries, the Board of Eureka County Commissioners is authorized to take all actions and do all things reasonably necessary to assume management of said public lands.
- B. The Board of Eureka County Commissioners is authorized to develop plans and take all other reasonable actions preparatory to future assumption of management of the natural resources of the County's public lands.
- C. The grant of authority set forth in this section includes the power and duty to protect and further all traditional commercial and noncommercial uses of public lands within the County, and to provide for continued general access to and multiple use of the public lands by all traditional users, and the power to do all things reasonably necessary to effect the purposes of this section.
- D. The Board of Eureka County Commissioners is expressly authorized to:
  - 1. Impose and collect fees and charges for use of the county's

public lands natural resources as defined in 9.20.010 for commercial or noncommercial purposes;

2. To use the fees and charges collected to finance management and improvement of those natural resources and for the general purposes of the County;

3. To determine when and if certain public lands should be devoted to special purposes rather than multiple use in order to better utilize the particular natural resources found on those lands, and to provide for orderly transfer of special purpose public lands to private ownership if that will effect more desirable utilization of the resources.

## **6.4 RESOURCE SPECIFIC PLANS, STANDARDS, AND GUIDELINES**

6.4.1 THREATENED AND ENDANGERED SPECIES  
(under development)

6.4.2 WATER QUALITY MANAGEMENT  
(See Eureka County Master Plan Chapter 9, Water Resources)

6.4.3 RANGELAND MONITORING  
(under development)

6.4.4 STANDARDS AND GUIDELINES FOR RANGELANDS  
(under development)

6.4.5 INVASIVE WEED AND INSECT PEST ABATEMENT  
(under development)

## **6.5 FEDERAL LAWS, STATE LAWS, AND OTHER LEGAL CITATIONS**

Following are excerpts from various laws, regulations, and some supporting court decisions that have been used to guide development of the Natural Resource and Land Use Plan of the Eureka County Master Plan. This section is not intended to be a comprehensive source of reference, but is illustrative of the Federal and State laws and regulations that may either benefit or burden the citizens of Eureka County.

Eureka County recognizes that each regulation in the Code of Federal Regulations (CFR) has, as its authority, an original law recorded in the United States Code (USC) that specifies or limits the scope of the regulation. Any reference to a portion of the CFR is also, by inference, dependent on the specific language of the respective law(s). Similarly, Nevada Administrative Code (NAC) is founded in an original law recorded in Nevada Revised Statute (NRS). Section 6.2.2 guides state and federal proposals for land use regulation or management, and Eureka County cooperation with these agencies.

### 6.5.1 Federal laws regulating resource use, conservation, and land management

#### 6.5.1.01 Bureau of Land Management land use planning

In accordance with these Federal Acts - - - The Taylor Grazing Act, The Federal Land Policy and Management Act and The Public Rangelands Improvement Act - - - the Bureau of Land Management is required to preserve the stability of the western livestock industry and to provide for multiple use management including necessary range improvements for the benefit of livestock production, wildlife habitat, watershed protection, and recreation. These federal mandates can be met only by management of all federally managed lands within Eureka County in such a way as to provide for continued use of allocated forage by permitted livestock and to work toward the restoration of forages to recover suspended AUMs. The Act requires management practices designed to improve the range so that it will support "expansion of the forage resource" to the benefit of livestock production. The mandate of the Act is not furthered by management practices designed to reduce grazing in order to improve the range. Such practices reverse the Congressional mandate set forth in the statute.

Range improvements necessary to maintain current levels of livestock production, wildlife habitat, watershed protection, and recreation opportunity must be identified by the Bureau of Land Management and either by BLM employees or as identified by Eureka County. The Secretary of Interior, and therefore the Bureau of Land Management, is committed by statute to preserving the stability of the livestock industry. The stability of that industry as a whole is directly related to the stability of the individual ranches that make up the industry, including those in Eureka County. The stability of the livestock industry in the County requires that the statutory mandates be followed.

The quality of economic life of Eureka County as well as the scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archaeological values which are part of life in the County protected by the Federal Land Policy and Management Act require that the statutory mandates for stabilizing the livestock industry be followed. This includes, in part: (1) coordination of federal actions with the County; (2) federal agents resolving inconsistencies between the federal proposal and the established County plan; and (3) actions specifically designed to complete consultation, cooperation, and coordination requirements.

#### 6.5.1.02 Federal Land Policy and Management Act (“FLPMA”)

The Bureau of Land Management (“BLM”) must follow the consistency and coordination requirements in FLPMA “when the Secretary is making decisions directly affecting the actual management of the public lands,” whether formally characterized as “resource management plan” activity or not. [Uintah County, Utah v. Norton, Civ. No. 2:00-CV-0482J](#) (Memorandum Opinion, September 21, 2001) citing [State of Utah v. Babbitt, 137 F. 3d 1193, 1208 \(10<sup>th</sup> Cir. 1998\)](#).

In addition to public involvement, the BLM is obligated to coordinate its planning processes with local government land use plans. [43 C.F.R. § 1610.3-1\(a\)](#).

In providing guidance to BLM personnel, the BLM State Director shall assure such guidance is as "consistent as possible with existing officially adopted and approved resource related plans, policies or programs of other Federal agencies, State agencies, Indian tribes and local governments that may be affected. . . ." [43 C.F.R. § 1610.3-1\(c\)\(1\)](#).

The BLM is obligated to take all practical measures to resolve conflicts between federal and local government land use plans. Additionally, the BLM must identify areas where the proposed plan is inconsistent with local land use policies, plans or programs and provide reasons why inconsistencies exist and cannot be remedied. [43 C.F.R. §§ 1610.3-1\(c\),\(2\),\(3\)](#).

The BLM “shall provide other Federal agencies, State and local governments, and Indian tribes opportunity for review, advice, and suggestion on issues and topics which may affect or influence other agency or other government programs. To facilitate coordination with State governments, State Directors should seek the policy advice of the Governor(s) on the timing, scope and coordination of plan components; definition of planning areas; scheduling of public involvement activities; and the multiple use opportunities and constraints on public lands.” [43 C.F.R. § 1610.3-1\(b\)](#).

“A notice of intent to prepare, amend, or revise a resource management plan shall be submitted, consistent with State procedures for coordination of Federal activities, for circulation among State agencies. This notice shall also be submitted to Federal agencies, the heads of county boards other local government

units and Tribal Chairmen or Alaska Native Leaders that have requested such notices or that the responsible line manager has reason to believe would be concerned with the plan or amendment. These notices shall be issued simultaneously with the public notices required under § 1610.2(b) of this title.” [43 C.F.R. § 1610.3-1\(d\)](#).

“Federal agencies, State and local governments and Indian tribes shall have the time period prescribed under § 1610.2 of this title for review and comment on resource management plan proposals. Should they notify the District or Area Manager, in writing, of what they believe to be specific inconsistencies between the Bureau of Land Management resource management plan and their officially approved and adopted resources related plans, the resource management plan documentation shall show how those inconsistencies were addressed and, if possible, resolved.” [43 C.F.R. § 1610.3-1\(e\)](#)

The BLM plan must be consistent with officially approved and adopted local land use plans, as long as such local plans are consistent with federal law and regulations. [43 C.F.R. § 1610.3-2\(a\)](#).

Prior to BLM resource management plan or management framework plan approval, the BLM shall submit a list of known inconsistencies between the BLM plans and local plans to the governor. [43 C.F.R. § 1610.3-2\(e\)](#).

The BLM has no duty to make its plan consistent with a local government plan, if the BLM is not notified by the local government of the existence of its local plan. [43 C.F.R. § 1610.3-2\(c\)](#).

#### 6.5.1.03 Public Rangelands Improvement Act of 1978 (PRIA) (43 U.S.C. 1901-1908)

The Public Rangelands Improvement Act of 1978. 43 U.S.C. § 1901-1908, provides that the Secretary of Interior "shall manage the public rangelands in accordance with the Taylor Grazing Act, the Federal Land Policy and Management Act of 1976 and other applicable law consistent with the public rangelands improvement program pursuant to this Act." See 43 U.S.C. §1903, which also provides that:

"the goal of such management shall be to improve the range conditions of the public rangelands so that they become as productive as feasible in accordance with the rangeland management objectives established through the land use planning process, and consistent with the values and objectives listed in [Section 1901]."

The values and objectives listed in Section 1901 by which the Secretary was to be guided include a finding and declaration by the Congress that:

"to prevent economic disruption and harm to the western livestock industry, it is in the public interest to charge a fee for livestock grazing permits and leases on the public lands which is based on a formula

reflecting annual changes in the costs of production." 43 U.S.C. § 1901 (a) (5)."

The Congress further found and declared that one of the reasons the Public Rangelands Improvement Act was necessary is that segments of the public rangelands were producing less "than their potential for livestock" and that unsatisfactory conditions on some public rangelands prevented "expansion of the forage resource and resulting benefits to livestock and wildlife production." 43 U.S.C. § 1901 (a) (3). The Act mandates improvement of the rangelands in order to increase the potential for livestock development and to prevent economic harm to the "western livestock industry."

#### 6.5.1.04 Taylor Grazing Act of 1934 (TGA) (43 U.S.C. 315)

The Taylor Grazing Act of 1934, 43 U.S.C. § 315, was passed primarily to provide for stabilization of the western livestock industry. The Act authorized the Secretary of Interior to establish grazing districts in those federally managed lands which were "chiefly valuable for grazing and raising forage crops." The Secretary was authorized to act in a way that would "promote the highest use of the public lands." 43 U.S.C. § 315. The Act authorized the Secretary to issue grazing permits on a preferential basis with preference to be given to those "land owners engaged in the livestock business," "bona fide occupants or settlers," or "owners of water or water rights." 43 U.S.C. § 315 (b). The Secretary was authorized to take action to stabilize the livestock industry which was recognized as necessary to the national well-being.

The Act also recognized the property interests of a permittee in the form of an investment backed expectation in § 315 (b). That Section provided that no preference would be given to any person whose rights were acquired during the year 1934 except that the Secretary could not deny the renewal of any such permit "if such denial will impair the value of the grazing unit of the permittee, when such unit is pledged as security for any bona fide loan."

#### 6.5.1.05 Forest Service Land Use Planning

Forest Service administered areas within Eureka County are regulated by either the Tonopah Ranger District or the Austin Ranger District of the Humboldt-Toiyabe National Forest. Land use Plans for the grazing allotments within the Monitor Mountain Range are scheduled for revision in 2011.

#### 6.5.1.06 Forest Service Organic Act (FSOA) June 4, 1897

FSOA was preceded by the Forest Reserve Act of March 3, 1891 which recognized the prior appropriation of water doctrine and expanded ditch rights-of-ways. FSOA was followed by the Forest Service Rights-Of-Way Act of March 3, 1899 which authorized granting of rights-of-way through Forest Reserves.

The US Supreme Court in *United States vs. New Mexico* (1978) explained that Forest Reserves (and later National Forests) were established by Congress to “conserve the water flows and to furnish a continuous supply of timber for the people.” The water was specifically to be used for “domestic, mining, milling, or irrigation purposes” as specified in the Organic Administration Act of 1897, 316 U.S.C. Sect 481. The Court further stated that “As this provision and its legislative history evidence, Congress authorized the national forest system principally as a means of enhancing the quantity of water that would be available to the settlers of the arid West.” As explained by McIntosh (2002) Congress recognized that the split-estate settlement and development, the water, timber, and associated rights-of-way were intended to be appropriated and used by the bona fide residents, settlers, miners and prospectors for minerals. It was this class of citizens, who were to be the beneficiaries of the forest reserves. As stated by the Court in *U.S. v. New Mexico*, 1978, “They are not parks set aside for nonuse, but have been established for economic reasons.” This history of the Forest Service illustrates that National Forests have as a primary purpose the support of the economic health of the nearby communities and as explained by McIntosh, they were “...not been established for environmental preservation purposes.” Eureka County supports the use of National Forest Administered lands for the purposes of recreation, environmental protections, and other such amenities so long as those objectives remain secondary to the purposes for which the National Forest Reserves were established.

#### 6.5.1.07 National Forest Management Act (“NFMA”)

[T]he Secretary of Agriculture shall develop, maintain, and, as appropriate, revise land and resource management plans for units of the National Forest System, coordinated with the land and resource management planning processes of State and local governments and other Federal agencies. [16 U.S.C. § 1604\(a\)](#). The Forest Service is obligated to consider and provide for "community stability" Forest Service, United States Department of Agriculture, *The Use Book*, 13 (1906 ed.) in its decision making processes. [36 C.F.R. § 221.3\(a\)\(3\)](#) See also S. Rept. No. 105.22; 30 Cong. Rec. 984 (1897); *The Use Book* at 17.

The Forest Service is obligated to coordinate with equivalent and related planning efforts of local governments. [36 C.F.R. § 219.7\(a\)](#).

The Forest Service is obligated to meet with local governments, to establish process for coordination. At a minimum, coordination and participation with local governments shall occur prior to Forest Service selection of the preferred management alternative. [36 C.F.R. § 219.7\(d\)](#).

The Forest Service is obligated, after review of the county plan, to display the results of its review in an environmental impact statement. [36 C.F.R. § 219.7\(c\)](#); See also [40 C.F.R. §§ 1502.16\(c\)](#) and [1506.2](#).

The Forest Service is obligated to consider alternatives to its proposed alternative if there are any conflicts with county land use plans. [36 C.F.R. § 219.7\(c\)\(4\)](#).

The Forest Service is required to implement monitoring programs to determine how the agency's land use plans affect communities adjacent to or near the national forest being planned. [36 C.F.R. § 219.7\(f\)](#).

#### 6.5.1.08 The Forest and Rangeland Renewable Resources Planning Act of 1974

Public Law 93-378 Approved Aug 17, 1974 and as amended by P.L.106-580 December 31, 2000;. Section 4 (16 U.S.C. 1602) and Section 6 (16 U.S.C. 1604) requires coordination with State and Local Governments. FS can cooperate with other agencies but coordination is mandatory with the local governments. <http://www.fs.fed.us/emc/nfma/includes/range74.pdf>

#### 6.5.1.09 Clean Air Act

[T]he prevention and control of air pollution “at its source is the primary responsibility of States and local governments . . . .” [42 U.S.C. § 7401\(a\)\(3\)](#).

"[F]ederal financial assistance and leadership is essential for the development of cooperative Federal, State, regional, and local programs to prevent and control air pollution." [42 U.S.C. § 7401\(a\)\(4\)](#).

The federal government "shall encourage cooperative activities by the States and local governments . . . ." [42 U.S.C. § 7402\(a\)](#).

Each State "shall provide a satisfactory process of consultation with general purpose local governments . . . ." [42 U.S.C. § 7421](#).

#### 6.5.1.10 Clean Water Act

“Federal agencies shall co-operate with State and local agencies to develop comprehensive solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources.” [33 U.S.C. § 1251\(g\)](#).

The Environmental Protection Agency "shall, after careful investigation, and in cooperation with other Federal agencies, State water pollution control agencies, interstate agencies, and the municipalities and industries involved, prepare or develop comprehensive programs for preventing” water pollution. [33 U.S.C. § 1252\(a\)](#).

Section 404 of the Clean Water Act regulates the placement of fill material into wetlands, and defines what wetlands are for purposes of regulation. This section is jointly administered by at least four federal agencies.



#### 6.5.1.11 Endangered Species Act

“[N]ot less than ninety days before the effective date of the regulation,” the U.S. Fish and Wildlife Service (“FWS”) is required to give actual notice to local governments of its intent to propose a species for listing or change or propose critical habitat. [16 U.S.C. § 1533\(b\)\(5\)\(A\)\(ii\)](#).

Once notified, the local government has the opportunity to comment on the proposed species listing or critical habitat designation. [50 C.F.R. § 424.16\(c\)\(i\)\(ii\)](#).

The FWS must directly respond to the "State agency"<sup>[2]</sup> comments. [16 U.S.C. § 1533\(i\)](#).

Other federal agencies must also consider local government and public comments regarding the management of threatened or endangered species. [16 U.S.C. § 1533\(f\)\(5\)](#).

Section 2 (c)(2) instructs federal agencies to cooperate with State and local agencies to resolve water resource issues in concert with conservation of endangered species. 16 U.S.C. § 1531 (c)(2)

The listing of a species as threatened or endangered by the FWS is to be based on the “best scientific and commercial data available.” [16 U.S.C. § 1533\(b\)\(1\)\(A\)](#).

The FWS shall list species only after taking into account efforts of State or political subdivisions to protect the species. [16 U.S.C. § 1533\(b\)\(1\)\(A\)](#).

Critical habitat designations must take economic impacts into account. Areas may be excluded as critical habitat based upon economic impacts unless the failure to designate the area as critical habitat would result in extinction of the species. [16 U.S.C. § 1533\(b\)\(2\)](#).

The FWS is required to complete full NEPA documentation when designating critical habitat. [Commission of Catron County v. U.S.F.W.S.](#), 75 F.3d 1429 (10th Cir. 1996).

The Secretary “shall develop and implement [recovery] plans for the . . . survival of endangered species . . . unless he finds that such a plan will not promote the conservation of the species.” [16 U.S.C. § 1533\(f\)\(1\)](#).

According to the ESA section 7 consultation regulations, an applicant “refers to any person . . . who requires formal approval or authorization from a Federal agency as a prerequisite to conducting agency action. [50 C.F.R. § 402.02](#). “Although early consultation is conducted between the Service [FWS] and the Federal agency, the prospective applicant should be involved throughout the

consultation process. [50 C.F.R. § 402.11\(a\)](#). The Biological Assessment or Biological Evaluation (“BA”), i.e., the document created by the federal agency containing the proposed action, may be prepared by a non-Federal representative. [50 C.F.R. § 402.12\(a\)](#) to (c).

The Sensitive Species Program was created on January 6, 1989 by the FWS and is implemented by all federal agencies. These federal agencies are to give "special consideration" to those plant and animal species that the FWS is considering for listing but lacks the scientific data to list. 54 Fed. Reg. 554 (January 6, 1989).

#### 6.5.1.12 National Environmental Policy Act (“NEPA”)

All federal agencies shall prepare an environmental impact statement (“EIS”) or an environmental assessment (“EA”), (i.e. a NEPA document) for "every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment." [42 U.S.C. § 4332\(2\)\(c\)](#).

Such EIS or EA shall include, among other things, alternatives to the proposed action. [42 U.S.C. § 4332\(C\)\(iii\)](#).

Each EIS or EA shall also contain a “no action” alternative which describes the status quo. [Natural Resources Defense Council v. Hodel](#), 624 F.Supp. 1045, 1054 (D. Nev. 1985).

Culture is defined as the customary beliefs, social forms and material traits of a group; an integrated pattern of human behavior passed to succeeding generations. *Webster's New Collegiate Dictionary*, 277 (1975).

A custom is a usage or practice of the people, which, by common adoption and acquiescence, and by long and unvarying habit, has become compulsory and has acquired the force of law with respect to the place or subject-matter to which it relates. *Bouvier's Law Dictionary*, 417 (1st ed. 1867).

Copies of comments by State or local governments must accompany the EIS or EA throughout the review process. [42 U.S.C. § 4332\(C\)](#).

Federal agencies shall “consult [] early with appropriate state and local agencies and Indian tribes and with interested private persons and organizations when its own involvement is reasonably foreseeable.” [40 C.F.R. § 1501.2\(d\)\(2\)](#).

Local governments shall be invited to participate in the scoping process. [40 C.F.R. § 1501.7\(a\)\(1\)](#).

Federal agencies shall cooperate “to the fullest extent possible to reduce duplication” with State and local requirements. Cooperation shall include:  
(1) Joint planning

- (2) Joint environmental research
- (3) Joint hearings
- (4) Joint environmental assessments. [40 C.F.R. § 1506.2](#)  
[40 C.F.R. § 1506.2\(b\)](#).

Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and comparable State and local requirements, unless the agencies are specifically barred from doing so by law. Such cooperation shall to the fullest extent possible include joint environmental impact statements. In such cases one or more Federal agencies shall be joint lead agencies. Where State laws or local ordinances have environmental impact statement requirements in addition to but not in conflict with those in NEPA, Federal agencies shall cooperate in fulfilling these requirements as well as those of Federal laws so that one document will comply with all applicable laws. [40 C.F.R. § 1506.2\(c\)](#).

Federal, State, or local agencies, including at least one Federal agency, may act as joint lead agencies to prepare an environmental impact statement. [40 C.F.R. § 1501.5\(b\)](#).

Any Federal agency, or any State or local agency or a private person substantially affected by the absence of lead agency designation, may make a written request to the potential lead agency that a lead agency be designated. [40 C.F.R. § 1501.5\(d\)](#).

A State or local agency of similar qualifications [one who has special expertise] . . . may by agreement with the lead agency become a cooperating agency. [40 C.F.R. § 1508.5](#).

To better integrate EIS into State or local planning processes, such statement shall discuss any inconsistency of a proposed action with any approved State or local plan and laws (whether or not federally sanctioned). Where an inconsistency exists, the statement should describe the extent to which the agency would reconcile its proposed action with the plan or law. [40 C.F.R. § 1502.16\(c\)](#).

Environmental impact statements must discuss any "inconsistency of a proposed action with any approved State or local plan and laws (whether or not federally sanctioned). Where an inconsistency exists, the [EIS] should describe the extent to which the agency would reconcile its proposed action with the plan or law." [40 C.F.R. § 1506.2\(d\)](#).

Appropriate mitigation measures must be included in the EIS. [40 C.F.R. § 1502.14\(F\)](#). Mitigation includes (a) avoiding the impact altogether, (b) limiting the degree of the impact, (c) repairing, rehabilitating or restoring the affected environment, (d) reducing the impact by preservation opportunities, or (e) compensating for the impact by replacing or providing substitute resources or environments. [40 C.F.R. § 1508.20](#).

Federal agencies shall circulate the entire draft and final EIS, or if the EIS is unusually long, a summary of the EIS, to State and local agencies authorized to develop and enforce environmental standards. [40 C.F.R. § 1502.19\(a\)](#).

A local government, because of a concern for its environment, wildlife, socio-economic impacts and tax base, has standing to sue federal agencies and seek relief for violations of NEPA. [Commission of Catron County v. U.S.F.W.S., 75 F3d 1429 \(10th Cir. 1996\)](#).

#### 6.5.1.13 Revised Statute 2477 (R.S. 2477)

Revised Statute 2477 provides that “the right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted.” The Act of July 26, 1866, ch. 262, § 8, 14 STAT. 251, 253 (1866) (formerly codified at 43 U.S.C. § 932).

The grant is self-executing; an R.S. 2477 right-of-way comes into existence “automatically” when the requisite elements are met. See [Shultz v. Department of Army](#), 10 F.3d 649, 655 (9<sup>th</sup> Cir. 1993).

One hundred and ten years after its enactment, R.S. 2477 was repealed with the passage of the Federal Land Policy and Management Act of 1976 (“FLPMA”), 43 U.S.C. § 1701 *et seq.* See 43 U.S.C. § 932, repealed by Pub. L. No. 94-579, § 706(a), 90 STAT. 2743, 2793 (1976). However, FLPMA explicitly preserved any rights-of-way that existed before October 21, 1976, the date of FLPMA’s enactment. See [43 U.S.C. § 1769\(a\)](#).

#### 6.5.1.14 Wild and Free-Roaming Horse and Burro Act

The Wild and Free-Roaming Horse and Burro Act of 1971 (as amended by the Public Range Land Improvement Act of 1978) requires the BLM to “immediately remove excess animals from the range so as to achieve appropriate management levels”. Congress defines ‘excess animals’ as “ ‘wild free roaming horses or burros’ which must be removed from an area in order to preserve and maintain a thriving natural ecological balance and multiple-use relationship.” The 1978 Conference Committee stated: “The goal of wild horse and burro management, as with all Range Management Programs, should be to maintain a thriving ecological balance between wild horse and burro populations, wildlife, livestock, and vegetation, and to protect the range from the deterioration associated with over population of wild horses and burros.” There are no provisions in the Wild and Free-Roaming Horse and Burro Act for allocating forage or water to horses and burros protected under the law.

#### 6.5.1.15 Wild and Scenic Rivers Act

NOTE: This law does not apply directly within Eureka County at this date. It does illustrate the concern of Congress for property rights and local culture.

It is Congressional policy to protect "historic, cultural or other similar values . . ." in free-flowing rivers or segments thereof. [16 U.S.C. § 1271](#).

Wild and scenic river designations on federal lands cannot affect valid existing rights. [16 U.S.C. § 1279\(b\)](#).

The Secretary of the Interior, the Secretary of Agriculture, or the head of any other Federal agency, shall assist, advise and cooperate with States or their political subdivisions . . . to plan, protect, and manage river resources. Such assistance, advice, and cooperation may be through written agreements or otherwise. [16 U.S.C. § 1282\(b\)\(1\)](#).

Under the Wild and Scenic Rivers Act, "any taking by the United States of a water right which is vested under either State or Federal law . . . shall entitle the owner thereof to just compensation." [16 U.S.C. § 1284\(b\)](#).

The study of any river for designation under the Act "shall be pursued in as close cooperation with appropriate agencies of the affected State and its political subdivisions as possible, [and] shall be carried on jointly, if request for such joint study is made by the State . . . ." [16 U.S.C. § 1276\(c\)](#).

"The Federal agency charged with the administration of any component of the national wild and scenic rivers system may enter into written cooperative agreements with . . . the appropriate official of a political subdivision of a State for State or local governmental participation in the administration of the component." [16 U.S.C. § 1281\(e\)](#).

Wild and scenic river designations cannot affect valid existing leases, permits, contracts or other rights. [16 U.S.C. § 1283\(b\)](#).

The federal government is precluded from condemning or taking private land adjacent to a wild or scenic river so long as the local zoning ordinances protect the value of the land. [16 U.S.C. § 1277\(c\)](#).

### 6.5.2 Federal laws about data standards, intergovernmental cooperation, information quality and sharing

#### 6.5.2.01 Federal Advisory Committee Act, October 6, 1972

Public Law 92-463 (86 Stat.770) is enforceable through the Administrative Procedure Act (APA).

Committee requires clear designation of name, purpose, duties, and duration (time it will be in place).

Each Advisory Committee meeting shall be open to the public, allow for interested parties to attend, appear before the committee, and file statements.

Records, reports, transcripts, minutes, agendas, and other records shall be available for public display.

6.5.2.02 Federal Data Quality Act (“FDQA”)  
(See the Paperwork Reduction Act, also)

Congress originally included this process in the Paperwork Reduction Act of 1995. OMB and other levels of organization within the Executive Branch ignored the law until, in 2000, Congress ordered specific actions and deadlines for the Executive branch to complete by 2002. Some agencies refer to their compliance with Data Quality as Information Quality.

The FDQA directs the Office of Management and Budget (“OMB”) to issue government-wide guidelines that “provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility and integrity of information (including statistical information ) disseminated by Federal agencies.” [515\(a\) of Pub.L. No. 106, 554, 114 Stat. 2763 \(2000\)](#).

See Office of Management and Budget (OMB), “Guidelines for Office of Management and Budget (OMB), “Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Dissemination by Federal Agencies,” *Federal Register*, Vol. 67, No. 2, January 3, 2002

The OMB guidelines apply to all federal agencies and require that information disseminated by the Federal government will meet basic informational quality standards. [66 Fed. Reg. 49719](#).

This “standard of quality” essentially requires that data used and published by all Federal agencies meet four elements. These elements include:

- (a) quality
- (b) utility (i.e. referring to the usefulness of the data for its intended purpose)
- (c) objectivity (i.e. the data must be accurate, reliable, and unbiased)
- (d) integrity

66 Fed. Reg. at 49719.

In addition to following the OMB guidelines, all federal agencies were to issue data quality guidelines by October 1, 2002. (67 Fed. Reg. 9797). Each agency has

complied, and now has both the requirements for data quality assessment in accordance with law, and in accordance with their specific policies.

Peer review, as a requirement to assure the quality and credibility of scientific data, has been extensively discussed by the Office of Management and Budget in the “Final Information Quality Bulletin for Peer Review”, 45 pages, as released December 16, 2004 (file code M-05-03). OMB defines the term “Peer Review”, and specifies the procedures each agency is to follow including the qualifications required of peer reviewers.

OMB defines peer review as: “one of the important procedures used to ensure that the quality of published information meets the standards of the scientific and technical community. It is a form of deliberation involving an exchange of judgments about the appropriateness of methods and the strength of the author’s inferences. Peer review involves the review of a draft product for quality by specialists in the field who were not involved in producing the draft. The peer reviewer’s report is an evaluation or critique that is used by the authors of the draft to improve the product. Peer review typically evaluates the clarity of hypotheses, the validity of the research design, the quality of data collection procedures, the robustness of the methods employed, the appropriateness of the methods for the hypotheses being tested, the extent to which the conclusions follow from the analysis, and the strengths and limitations of the overall product.”

#### 6.5.2.03 Federal Data Access Act

Requires data obtained with federal funds be made available for analysis by interested parties, in addition to the scientists who generated the data.

#### 6.5.2.04 Freedom of Information Act (“FOIA”)

Under the FOIA, “each agency, upon any request for records which (A) reasonably describes such records and (B) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person.” [5 U.S.C. § 552\(a\)\(3\)](#).

#### 6.5.2.05 Intergovernmental Cooperation Act (“ICA”)

The Intergovernmental Cooperation Act, [31 U.S.C. §§ 6501-6506](#) and companion [Executive Order 12372](#), require all federal agencies to consider local viewpoints during the planning stages of any federal project. [31 U.S.C. § 6506\(c\)](#).

The obligation of federal agencies to consider local government concerns is a legally enforceable right. [City of Waltham v. U.S. Postal Service](#), 11 F.3d 235, 245 (1<sup>st</sup> Cir. 1993).

Injunctive relief is available in those cases in which federal agencies fail to comply with the ICA. City of Rochester v. U.S. Postal Service, 541 F.2d 967, 976 (2<sup>nd</sup> Cir. 1976).

The consideration of local government plans and policies must occur on the record. Federal agencies have an affirmative duty to develop a list of factors which support or explain an agency's decision to act in disharmony with local land use plans. Village of Palatine v. U.S. Postal Service, 742 F. Supp. 1377, 1397 (N.D. Ill. 1990).

#### 6.5.2.06 Racketeer Influenced and Corrupt Organization Act (RICO)

18 USC Section 1961-1968 is most known for prosecution of violent criminals who violate State criminal codes and do so repeatedly which establishes a pattern.

RICO also applies to criminal activity such as mail fraud, wire fraud, obstruction of justice, an a number of similar crimes, again a criminal or a civil prosecution requires that a pattern of the criminal behaviour has been identified

As of 2005, RICO lawsuits are underway in Wyoming, defendants are BLM employees. Another civil suit in California is also underway with employees of both federal and local government being the defendants.

#### 6.5.2.07 Regulatory Flexibility Act see 5 U.S.C. §601 – 612

Includes requirements for agencies to publish notification of proposed rules that are likely to have significant economic impact on small entities and complete a regulatory flexibility analysis.

#### 6.5.2.08 Resource Conservation Act of 1981

"It is the purpose of this subchapter to encourage and improve the capability of State and local units of government and local nonprofit organizations in rural areas to plan, develop, and carry out programs for resource conservation and development." [16 U.S.C. § 3451](#).

"In carrying out the provisions of this subchapter, the Secretary [of Agriculture] may . . . (2) cooperate with other departments and agencies of the Federal Government, State, and local units of government, and with local nonprofit organizations in conducting surveys and inventories, disseminating information, and developing area plans . . . ." [16 U.S.C. § 3455](#).

The Secretary of Agriculture may provide technical and financial assistance only if "the works of improvement provided for in the area plan are consistent with any current comprehensive plan for such area." [16 U.S.C. § 3456\(a\)\(4\)](#).



#### 6.5.2.09 Soil and Water Resources Conservation Act

"Recognizing that the arrangements under which the Federal Government cooperates . . . through conservation districts, with other local units of government and land users, have effectively aided in the protection and improvement of the Nation's basic resources, . . . it is declared to be policy of the United States that these arrangements and similar cooperative arrangements should be utilized to the fullest extent practicable. . . ." [16 U.S.C. § 2003\(b\)](#).

"In the implementation of this [Act], the Secretary [of Agriculture] shall utilize information and data available from other Federal, State, and local governments . . . ." [16 U.S.C. § 2008](#).

#### 6.5.2.10 Examples of federal law enforcement statutes within Federal enclaves:

As noted in previous sections, Eureka County expects federal agents to clearly identify the extent of jurisdiction and law enforcement authority held by each employee prior to taking any action against persons or property within Eureka County. Strict adherence to Due Process of Law is required at all times.

Federal law enforcement authority of the Bureau of Land Management over activities on public lands is provided in the Federal Land Policy and Management Act of 1976 at 43 USC § 1733. Pertinent provisions are:

#### **§ 1733. Enforcement authority**

##### **(a) Regulations for implementation of management, use, and protection requirements; violations; criminal penalties**

The Secretary shall issue regulations necessary to implement the provisions of this Act with respect to the management, use, and protection of the public lands, including the property located thereon. Any person who knowingly and willfully violates any such regulation which is lawfully issued pursuant to this Act shall be fined no more than \$1,000 or imprisoned no more than twelve months, or both. Any person charged with a violation of such regulation may be tried and sentenced by any United States magistrate judge designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions and limitations as provided for in section 3401 of title 18 of the United States Code.

##### **(b) Civil actions by Attorney General for violations of regulations; nature of relief; jurisdiction**

At the request of the Secretary, the Attorney General may institute a civil action in any United States district court for an injunction or other appropriate order to prevent any person from utilizing public lands in violation of regulations issued by the Secretary under this Act.

**(c) Contracts for enforcement of Federal laws and regulations by local law enforcement officials; procedure applicable; contract requirements and implementation**

(1) When the Secretary determines that assistance is necessary in enforcing Federal laws and regulations relating to the public lands or their resources he shall offer a contract to appropriate local officials having law enforcement authority within their respective jurisdictions with the view of achieving maximum feasible reliance upon local law enforcement officials in enforcing such laws and regulations. The Secretary shall negotiate on reasonable terms with such officials who have authority to enter into such contracts to enforce such Federal laws and regulations. In the performance of their duties under such contracts such officials and their agents are authorized to carry firearms; execute and serve any warrant or other process issued by a court or officer of competent jurisdiction; make arrests without warrant or process for a misdemeanor he has reasonable grounds to believe is being committed in his presence or view, or for a felony if he has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; search without warrant or process any person, place, or conveyance according to any Federal law or rule of law; and seize without warrant or process any evidentiary item as provided by Federal law. The Secretary shall provide such law enforcement training as he deems necessary in order to carry out the contracted for responsibilities. While exercising the powers and authorities provided by such contract pursuant to this section, such law enforcement officials and their agents shall have all the immunities of Federal law enforcement officials.

(2) The Secretary may authorize Federal personnel or appropriate local officials to carry out his law enforcement responsibilities with respect to the public lands and their resources. Such designated personnel shall receive the training and have the responsibilities and authority provided for in paragraph (1) of this subsection.

**(d) Cooperation with regulatory and law enforcement officials of any State or political subdivision in enforcement of laws or ordinances**

In connection with the administration and regulation of the use and occupancy of the public lands, the Secretary is authorized to cooperate with the regulatory and law enforcement officials of any State or political subdivision thereof in the enforcement of the laws or ordinances of such State or subdivision. Such cooperation may include reimbursement to a State or its subdivision for expenditures incurred by it in connection with activities which assist in the administration and regulation of use and occupancy of the public lands.

**(e) Uniformed desert ranger force in California Desert Conservation Area; establishment; enforcement of Federal laws and regulations**

Nothing in this section shall prevent the Secretary from promptly establishing a uniformed desert ranger force in the California Desert Conservation Area established pursuant to section 1781 of this title for the purpose of enforcing Federal laws and regulations relating to the public lands and resources managed by him in such area. The officers and members of such ranger force shall have the same responsibilities and authority as provided for in paragraph (1) of subsection (c) of this section.

**(f) Applicability of other Federal enforcement provisions**

Nothing in this Act shall be construed as reducing or limiting the enforcement authority vested in the Secretary by any other statute.

**(g) Unlawful activities**

The use, occupancy, or development of any portion of the public lands contrary to any regulation of the Secretary or other responsible authority, or contrary to any order issued pursuant to any such regulation, is unlawful and prohibited.

Similar, but more comprehensive provisions for U.S. Forest Service law enforcement authority over activities on National Forest Lands are found at 16 USC § 559, et seq. Pertinent provisions include:

**16 USC § 559. Arrests by employees of Forest Service for violations of laws and regulations.** All persons employed in the Forest Service of the United States shall have authority to make arrests for the violation of the laws and regulations relating to the national forests, and any person so arrested shall be taken before the nearest United States magistrate judge, within whose jurisdiction the forest is located, for trial; and upon sworn information by any competent person any United States magistrate judge in the proper jurisdiction shall issue process for the arrest of any person charged with the violation of said laws and regulations; but nothing herein contained shall be construed as preventing the arrest by any officer of the United States, without process, of any person taken in the act of violating said laws and regulations.

**§ 559c. Powers of officers and employees of Forest Service**

For the purposes of sections 559b to 559f of this title, if specifically designated by the Secretary and specially trained, not to exceed 1,000 special agents and law enforcement officers of the Forest Service when in the performance of their duties shall have authority to:

- (1) carry firearms;
- (2) conduct, within the exterior boundaries of the National Forest System, investigations of violations of and enforce section 841 of title 21 and other criminal violations relating to marijuana and other controlled substances that are manufactured, distributed, or dispensed on National Forest System lands and to conduct such investigations and enforcement of such laws outside the exterior boundaries of the National Forest System for offenses committed within the National Forest System or which affect the administration of the National Forest System (including the pursuit of persons suspected of such offenses who flee the National Forest System to avoid arrest);
- (3) make arrests with a warrant or process for misdemeanor violations, or without a warrant or process for violations of such misdemeanors that any such officer or employee has probable cause to believe are being committed in his presence or view, or for a felony with a warrant or without a warrant if he has probable cause to believe that the person to be arrested has committed or is committing such felony, for offenses committed within the National Forest System or which affect the administration of the National Forest System;

- (4) serve warrants and other process issued by a court or officer of competent jurisdiction;
- (5) search with or without warrant or process any person, place, or conveyance according to Federal law or rule of law; and
- (6) seize with or without warrant or process any evidentiary item according to Federal law or rule of law.

### 6.5.3 PRESIDENTIAL EXECUTIVE ORDERS

#### 6.5.3.01 Presidential Executive Order 12372 as amended by EO12416 --- Intergovernmental Review of Federal Programs

See the discussion of Intergovernmental Cooperation Act (“ICA”), above.

#### 6.5.3.02 Presidential Executive Order 12630 --- Governmental Actions and Interference With Constitutionally Protected Property Rights see 62 Fed. Reg. 48,445 (1988)

"The Fifth Amendment of the United States Constitution provides that private property shall not be taken for public use without just compensation . . . . Recent Supreme Court decisions, however, in reaffirming the fundamental protection of private property rights provided by the Fifth Amendment and in assessing the nature of governmental actions that have an impact on constitutionally protected property rights, have also reaffirmed that governmental actions that do not formally invoke the condemnation power, including regulations, may result in a taking for which just compensation is required." Section 1(a).

"The purpose of this Order is to assist Federal departments and agencies in undertaking such reviews and in proposing, planning, and implementing actions with due regard for the constitutional protections afforded by the Fifth Amendment and to reduce the risk of undue or inadvertent burdens on the public fisc resulting from lawful governmental action." Section 1(c).

"The Just Compensation Clause [of the Fifth Amendment] is self-actuating, requiring that compensation be paid whenever governmental action results in a taking of private property regardless of whether the underlying authority for the action contemplated a taking or authorized the payment of compensation. Accordingly, governmental actions that may have significant impact on the use of value or private property should be scrutinized to avoid undue or unplanned burdens on the public fisc." Section 3(e).

Agencies are required to prepare a Takings Implication Assessment prior to taking any action, issuing any rule, or making any decision which would constitute a taking of private property or private property interest including investment backed expectation.

Note: although not specified in this EO, agency actions may partially Take property as demonstrated in *Loveladies Harbor Inc., et. al. vs. the United States*, 21 C.L.C.T. 153 (1990) which have awarded compensation for partial takings

where the takings have frustrated reasonable investment backed expectations and deprived the individual of the economically viable use of his land and property rights and interests.

6.5.3.03 Presidential Executive Order 12866 --- Regulatory Planning and Review  
see 58 Fed.Reg. 51,735 (1993)

"The American people deserve a regulatory system that works for them, not against them: a regulatory system that protects and improves their health, safety, environment, and well being and improves the performance of the economy without imposing unacceptable or unreasonable costs on society; regulatory policies that recognize that the private sector and private markets are the best engine for economic growth; regulatory approaches that respect the role of State, local and tribal governments; and regulations that are effective, consistent, sensible, and understandable. We do not have such a regulatory system today." Introduction.

"Wherever feasible, agencies shall seek views of appropriate State, local and tribal officials before imposing regulatory requirements that might significantly or uniquely affect those governmental entities. Each agency shall assess the effects of Federal regulations on State, local, and tribal governments, including specifically the availability of resources to carry out those mandates, and seek to minimize those burdens that uniquely or significantly affect such governmental entities, consistent with achieving regulatory objectives. In addition, as appropriate, agencies shall seek to harmonize Federal regulatory actions with related State, local and tribal regulatory governmental functions." Section 1(b)(9).

"State, local and tribal governments are specifically encouraged to assist in the identification of regulations that impose significant or unique burdens on those governmental entities and that appear to have outlived their justification or be otherwise inconsistent with the public interest." Section 5(b).

"In particular, before issuing a notice of proposed rule making, each agency should, where appropriate, seek the involvement of those who are intended to benefit from and those who are expected to be burdened by any regulation (including, specifically, State, local and tribal officials). Each agency also is directed to explore and, where appropriate, use consensual mechanisms for developing regulations, including negotiated rule making." Section 6(a)(1).

6.5.3.04 Presidential Executive Order 13352 --- Facilitation of Cooperative Conservation  
August 26, 2004

“Purpose of this order is to ensure that the Departments of Interior, Agriculture, Commerce, and Defense and the Environmental Protection Agency implement laws relating to the environment and natural resources in a manner that promotes cooperative conservation, with an emphasis on appropriate inclusion of local

participation in Federal decision making, in accordance with their respective agency missions, policies, and regulations.”

Cooperative conservation means collaborative actions that relate to use, enhancement, and enjoyment of natural resources, protection of the environment, or both. Federal agencies are to take appropriate account of and respect the interests of persons with ownership or other legally recognized interests in land and other natural resources; properly accommodate local participation in Federal decision making; and provide that programs, projects, and activities are consistent with protecting public health and safety.

#### 6.5.4 State Laws Related to Planning

##### 6.5.4.01 Nevada Constitution and standing of County Government

Nevada is among a handful of States which, according to the Nevada Association of Counties, is not considered to be organized under the concept of County home rule. Each County was originally organized in accordance with what became known as Dillon’s Rule. Named after Iowa Supreme Court Justice Dillon, who argued in the late 1800’s that local government is to be limited in authority. This concept was largely a reaction to the widespread corruption among local officials of the late 1800’s and early 1900’s that some believed could only be solved with strict control by state legislatures. However, as the populations grew it was apparent that Counties needed more flexibility to organize and finance the functions of local government, including hiring individuals to serve in such capacity as County Manager, and arranging intergovernmental agreements between county and city governments. Home Rule of counties was developed to meet this need either through a “Charter” or, in the case of Nevada through legislation granting the necessary authority to the respective Counties.

Preparation of the Natural Resource and Land Use Plan is governed by NRS 278.150 through 278.220. The land use plan is one element of the Eureka County Master Plan. Collectively, the Master Plan is to be a comprehensive, long-term general plan for the physical development of the County which in the Planning Commission’s judgment is related to the planning thereof. This land use plan was prepared and adopted by the Eureka County Planning Commission as a basis for the development of the County into the foreseeable future.

According to NRS 278.160, the Natural Resource and Land Use Plan to the Eureka County Master Plan “may address a wide variety of issues as such are deemed appropriate to the development of the County”. The plan shall be a map, together with such charts, drawings, diagrams, schedules, reports, ordinances, or other printed material, or any one of a combination of the foregoing as may be considered essential to the purposes of the administration of land use within Eureka County (NRS278.220).

Eureka County authority for components of this Master Plan also includes the passage of SB40 by the Nevada Legislature in 1983 and the resulting portions of NRS321, particularly NRS321.640 through NRS 321.770. Nevada law has provided the authority for each County to develop of plans and strategies for resources that occur within lands managed by federal and state agencies. In turn, upon presentation of the Natural Resource and Land Use Plan of the Eureka County Master Plan this document will enable the federal agencies to fully comply with the intent of Congress as specified in various federal laws by incorporating the policies of Eureka County into agency documents and activities and resolving inconsistencies between federal proposals and County plans. Eureka County has done its part to meet the combined goals of the Nevada Legislature and the United States Congress by completion of this 2006 update of the Natural Resource and Land Use Plan of the Eureka County Master Plan and incorporating the most recent version of Title 9 of the Eureka County Code.

#### 6.5.4.02 Nevada Administrative Procedures Act

Nevada Revised Statutes Chapter 233B specifies proper public notice, procedural due process, and full due process obligations of a number of Nevada agencies as they propose or adopt rules and regulations, orders, decisions, and take certain other actions.

#### 6.5.4.03 Nevada Statewide Policy Plan for Public Lands

Nevada Revised Statutes, Chapter 321 includes NRS321-640 through NRS 321-770 which authorize each County to develop a plan such as the Natural Resource and Land Use Plan to the Eureka County Master Plan as authorized under SR 40.

NRS 321 also declares the sovereignty of the State of Nevada and authorizes the Attorney General and the District Attorney of each County to take action to safeguard the land and resources of Nevada.

### 6.5.5 COURT CASES AND DECISIONS

#### 6.5.5.01 Decisions upholding local land use planning

State land use planning is allowed on federal lands as long as such land use planning does not include zoning. Federal agencies cannot claim "Constitutional Supremacy" if the agency can comply with both federal law and the local land use plan. [California Coastal Commission v. Granite Rock Co., 480 U.S. 572 \(1987\)](#).

“When considering preemption, [the U.S. Supreme Court] starts with the assumption that the State's historic powers are not superseded by federal law unless that is the clear and manifest purpose of Congress.” [Wisconsin Public U.S. Intervenor v. Mortier, 501 U.S. 597 \(1991\)](#).

#### 6.5.5.02 Court cases upholding compensation for takings of private property such as Hage vs. United States

The Natural Resources Advisory Commission and the Board of Commissioners have carefully followed the progress of Hage vs. United States, Civil No. 91-1470 L in which a Nevada rancher claims a taking of his property by restrictive actions taken by federal regulatory agencies and seeks compensation in the United States Court of Claims. In entering an order denying summary judgment to the Government and ordering a trial on the merits, the Chief Judge of the Court of Claims made it clear that the Constitution prevents "government from doing through general regulation what it is prevented from doing through direct specific action--taking private property for public use without just compensation." Decision of March 8, 1996, page 25.

Trial of Hage vs. United States was completed as of November 2004. As a result, the property owned by Hage was clearly identified, including water rights and rights-of-way within Forest Service and BLM allotment areas. The Court of Claims also found that in this situation, a grazing permit is not required for the ranch to make beneficial use of its water rights. The extent of property that was taken has been proven and its value described using several techniques illustrated by McIntosh (2002). The final decision is being prepared by the Court of Claims which is likely to include orders for the regulatory agencies to compensate the property owner.

One of the arguments presented by Hage is based on the split estate nature of property ownership within the federally administered lands, they argue that a rancher is not obligated to obtain a permit to graze within the adjudicated allotment that includes that ranch's property rights. However, agencies argue that grazing requires a permit so long as the ranch and the respective government agency have a contractual agreement that specifies this permitting process.

A summary of the Hage decision written by Stewards of the Range, does not conclude that the Court of Claims ruled that grazing is possible without an agency permit in the following material from the Stewards of the Range Internet Web Site on May15, 2005:

“The question of whether or not ranchers need a grazing permit must be read in the context of the property rights opinion from which it is taken and the argument the United States was raising. First, in the context of a takings complaint, Judge Smith ruled that the permit was not necessary in order for the Hages to recover. In other words the grazing permit does not give value to the property claimed by Hages. The property right and its value predate any permitting scheme. Moreover, Judge Smith said that if the permit were the source of the Hages' rights then the property rights confirmed by the Congress would be illusory. Judge Smith also said that the Hages would not need a permit to access their water rights for a purpose other than grazing. He did not address



the issue of whether a permit was required to graze and access the water rights for grazing.

We do not encourage anyone to turn in their grazing permits and then try to access the water rights for grazing. There is a case, the Diamond Bar case out of the Tenth Circuit, which is problematic because it held the cattlemen did not have standing to challenge the federal agency decisions once they gave up their permits. The better course is to maintain the permits and let the actions of the U.S. dictate whether they take the property, even if this means they confiscate the cattle.”

A number of cases are proceeding through various Federal Courts that include presentation of this argument. Eureka County intends to work with the regulatory agencies and ranches so long as the system of permits remains the law. Eureka County would welcome opportunities to work directly with individuals who are lawfully grazing either with or without federal permits in order to accomplish the multiple use goals and economic success.

Eureka County will also evaluate the standards set by United States Supreme Court decisions in *First English Evangelical Lutheran Church of Glendale vs. County of Los Angeles, California*, 107 S. Ct. 2378 (1987); *Nollan vs. California Coastal Commission*, 107 S.Ct. 3141 (1987); *Preseault vs. Interstate Commerce Commission*, 110 S.Ct. 914 (1990); *Lucas vs. South Carolina Coastal Council*, 112 S.Ct. 2886 (1992); *Penn Central Transportation Co. vs. City of New York*, 438 U.S. 104, 98 S.Ct. 2646 (1978), and other decisions relating to consideration of reasonable investment backed expectations as a compensable property interest. The Land Use Committee and the Board will also review cases decided in the United States Court of Claims including *Loveladies Harbor Inc., et. al. vs. the United States*, 21 C.L.C.T. 153 (1990) which have awarded compensation for partial takings where the takings have frustrated reasonable investment backed expectations and deprived the individual of the economically viable use of his land and property rights and interests.

## **7.0 LAND USE ELEMENT**

### **7.1. INTRODUCTION**

The Eureka County Master Plan Land Use Element has been prepared to guide the use of privately held land resources in the County through the year 2020. This Land Use Element identifies the six principle Land Use Categories that are also described in Element 2, Historic and Current Perspective. These Land Use Categories include: (1) Urban Areas, (2) Permanent Open Space, (3) Open Space with appropriate associated uses, (4) Agriculture or Mining with limited Housing, (5) Agriculture or Mining with Very Limited Housing, and (6) Agriculture only with Associated Housing. Designation of these respective Land Use Categories are intended to help ensure that development, management, and use of land in the County occurs in a manner which promotes the quality of life, health, safety, and welfare of residents and visitors.

Preparation of this Land Use Element has been completed as a portion of the larger effort to update each Element of the Eureka County Master Plan. As explained in Element 1, there has been extensive opportunity for involvement by residents, Eureka County staff, and appointed and elected County officials. Land Use Plan contents were originally prepared by Eureka County in 1973 and were updated in the 2000 Eureka County Master Plan. In those earlier Master Plan documents, the issues of land use on private lands and land use on non-patented lands were both presented in a single element of the Master Plan, Element 6. This 2010 Eureka County Master Plan Update has placed the patented land issues in Element 7, while the non-patented land issues as administered by federal and state agencies continue to be the subject of Element 6. Strategies and policies devoted to non-patented (non-private) lands are needed to enable federal and state agencies to fulfill their obligation to “coordinate” their efforts with Eureka County. Figure 7-1 depicts existing Eureka County land status.

Private land issues have been made the subject of Element 7 in order to recognize the effects of future increases of Eureka County population and to meet related requirements of Nevada State laws (see NRS 278.640). According to NRS 278.160, the land use element to the Eureka County Master Plan “may address a wide variety of issues as such are deemed appropriate to the development of the County”. In addition, NRS 278.200 states that a plan shall be “a map, together with such charts, drawings, diagrams, schedules, reports, ordinances, or other printed material, or any one of a combination of the foregoing as may be considered essential to the purposes of the administration of land use” within Eureka County.

In 1973, mining, farming and ranching were each important and stable components of the Eureka County economy and the population of Eureka County was about 900 persons. Largely due to rapid expansion in the mining industry, Eureka County's population in 1990 reached 1,547 persons. As indicated in Eureka Master Plan Element 4, the present population of 1,651 would increase to 1,872 between 2009 and 2021 which is an increase of about 13%. However,

proposed development of new mines and proposed development of wind, solar, or geothermal energy would likely provide employment for 600 more people who in turn would require land and housing for their families as discussed in Element 3 and Element 8.

Since completion of the Eureka County Master Plan in 2000, few changes in the distribution of land ownership and administration among private, federal, state, and local entities has occurred in the County. The Bureau of Land Management continues to administer the majority of land in the County. Private land holdings continue to be concentrated in valley bottoms and used for agriculture, found as isolated parcels of homestead, state selection lands, and patented mines, or associated with former railroad lands ("checkerboard") in the northern County.

Eureka County and the Town of Eureka have experienced economic expansion fueled by regional mining activity. Evidence of the area's growth can be seen in the development of housing and commercial ventures in and around the community of Eureka. Also fueled by mining employment in adjacent Lander County, the community of Crescent Valley has experienced population growth. Local growth has placed increased demands on land resources held by private parties and resulted in land division and parceling, particularly in the vicinity of Eureka.

## **7.2 LAND USE ISSUES**

Preparation of this land use plan has been guided by extensive public input derived through a series of community meetings. Residents and other interested persons attended meetings held in Crescent Valley and Eureka and were consistently concerned about protection of private property rights. Opinions of participants in the meetings and responses to the 2010 Eureka County Master Plan Update Survey indicate the majority of Eureka County citizens are concerned about how best to safeguard landowner rights but are opposed to restrictive land use regulation in the form of zoning, as that term is generally used.

Opinions expressed in 2010 reaffirm the opposition to zoning described in the 2000 Eureka County Master Plan. The Eureka County Commission and the Eureka County Planning Commission met jointly in January of 1998 to address the divergent views of residents concerning land use regulation. The Commissions agreed that the 1998 Eureka County Land Use Plan would serve to repeal the 1973 Plan but would not recommend imposition of new land use regulations (i.e. zoning). Rather, the Commissions agreed that the 1998 Eureka County Land Use Plan (2000 Eureka County Master Plan) would encourage future development in a manner and in locations consistent with existing patterns of land use. Issues raised during community meetings and in Master Plan Update Survey responses focused on the need to increase the amount of private land in the County and reverse an apparent trend which has lead to ever heightened restrictions on the use of land managed by the Forest Service and the Bureau of Land Management.

Other concerns included fiscal impacts from parceling or division of lands and de-facto subdivision development. The effects of parceling on the continued economic viability of the Eureka County agricultural sector were also mentioned as concerns by some. General land use designations and a requirement to dedicate water rights to parceled or divided lands provides opportunities for Eureka County to plan development of land for moderate to high density housing and properly provide for the infrastructure of such developments. Patterns of land use were also discussed from the perspective of entrance themes and community appearance, particularly in the Town of Eureka. Participants in the Eureka meetings expressed interest in seeing annexation lands such as those purchased by the County from the BLM, used efficiently and in a manner maximizing benefits to taxpayers.

Issues raised in Crescent Valley meetings included the effects of continued parceling within the Town on groundwater quality and quantity, the need for a community sewer system as a prerequisite to development of multi-family housing, and the need for additional land to be acquired from the BLM for community expansion. Interest was also expressed in developing industrial sites along the Union Pacific rail line in the vicinity of Beowawe.

### **7.3 POPULATION**

Land use in Eureka County is influenced by population growth or decline. A growing population places demands on private land resources to support development of housing, industry, and commercial establishments. In a growing area, conversion of agricultural lands to municipal and industrial purposes is a common reality. Lands administered by public agencies are used to respond to growth through the provision of public facilities and infrastructure as well as in meeting demands for active and passive recreation. Growth increases the demand for and consequently the value of land resources.

Alternatively, a decline in population will typically reduce demands upon land resources and their related values. Unoccupied dwellings can fall into disrepair and vacant lots can become overgrown with weeds, creating fire hazards. As assessed valuations fall, the fiscal burden to provide needed public services and facilities may become greater for remaining residents.

Population growth can result from immigration (i.e. mining induced growth) and natural increases where births rates exceed death rates. Alternatively, population decline can result from outmigration upon the closure of an industry (i.e. mining) or as a result of natural factors such as when death rates exceed birth rates. The emigration of younger residents of child-bearing age and the aging of an area's population can exacerbate the natural decline of the population of a community.

#### **7.3.1 Assimilation of Growth**

Population growth in Eureka County will increase demand for new homesites and development of land for commercial, industrial, and public infrastructure. Table 7-1 illustrates the projected demand for land to support residential development through 2021.

Table 7-1  
 Estimated Acreage Required to Assimilate  
 Projected Population Growth in Eureka County

Area	Population <sup>1</sup>		Change 2000- 2021	New House- holds <sup>2</sup>	Acreage Required	
	2000	2021			.5 acres /hshld	2.5 acres /hshld
County-wide	1,651	1,981	330	132	66	330
Town of Eureka	545	654	109	44	22	110
Diamond Valley	330	374	44	18	9	45
Beowawe	33	40	7	3	2	8
Crescent Valley	396	449	153	62	31	155
Balance of County	347	416	69	28	14	70

1/ Based on U.S. Census and projections by the Nevada State Demographer.

2/ Based upon 2.5 persons per household.

Table 7-1 suggests that the creation of 130 new households over the next 12 years will require 66 to 330 acres of land. This level of land demand assumes a housing density of 1 home for every 2.5 acres up to 2 dwellings per acre. It is important to note that at a density of 2.5 acres or less per dwelling unit, community water and/or sewer system services would be required for all 248 dwellings. Alternatively, parcel sizes per dwelling unit in Eureka County tend to be greater than 2.5 acres outside of established community areas. At 5 to 10 acres per dwelling, a total of 650 to 1,320 acres would be required to assimilate the population growth anticipated

in the County through 2021.

## **7.4 PRIVATE LAND USE**

There exist approximately 505,000 acres of private land in Eureka County. The majority of these lands are rangelands used to support Eureka County's range livestock industry. Private rangelands are located primarily in northern Eureka County. Irrigated agriculture is the next most significant use of land in the County. Irrigated agriculture is concentrated primarily in the following valleys including Diamond, Pine, Crescent, and Boulder. Most all private lands in the County have the potential for mining and/or oil production. Intensive mining currently occurs in southern Diamond Valley (near Eureka), and immediately northeast of Boulder Valley in the Tuscarora Mountains. Oil production in Eureka County is primarily located in Pine Valley.

With few exceptions, commercial land uses in Eureka County are located within the towns of Eureka and Crescent Valley. Southern Diamond Valley (outside of the Town of Eureka) contains several developed commercial sites. Beyond mining, industrial land uses are located mainly along the I-80/Union Pacific Rail line corridor in northern Eureka County at Beowawe and Dunphy.

### **7.4.1 Existing Private Land Uses**

Figure 7-2 depicts existing land use within Eureka County. Most of the land area within Eureka County is used for livestock grazing on privately owned or federally administered rangelands. Mining is concentrated in northeastern Eureka County and just west of the Town of Eureka in the southeast portion of the County. Predominant agriculture areas are found in Boulder, Pine, Crescent, and Diamond valleys. Urban areas are community centers or residential areas with public water and/or sewer systems. Figure 7-3 shows existing land use within the Town of Eureka. Commercial uses of land are located mainly along the U.S. Highway 50 corridor from one end of the community to the other. Medium density residential sites, which are parcels less than 2.5 acres requiring public water and/or sewer hookups, are scattered throughout the community. On the east side of Highway 50, most residential lots are occupied by older single-family residences. A few mobile homes have been placed on lots east of Highway 50 within Eureka. West of Highway 50, mobile homes occupy lots on the southern and northern ends of Eureka. West-central Eureka is comprised of older single-family residences. Large areas of land within the Eureka Townsite are owned by various governmental entities including Eureka County School District, Eureka County, and the State of Nevada. A small area of high-density residential dwellings (i.e. duplexes and apartments) is found in the northwestern quadrant of Eureka.

Existing land use in and around the Town of Crescent Valley is depicted in Figure 7-3. Medium density residential (parcels less than 2.5 acres) lots dominate the land use of the

community. Larger lots are subject to parceling. Mobile homes are currently found on most occupied parcels in the community. A mobile home park and recreational vehicle parks (located in areas designated commercial) exist in Crescent Valley. Limited existing commercial land uses are concentrated along State Highway 306 in central Crescent Valley and in the northeastern quadrant of the community. The Eureka County School District, the Town of Crescent Valley and Eureka County own parcels of land in the community which are used for public purposes.

Large areas of undeveloped federally administered land are located adjacent to the Crescent Valley Townsite. One such area, immediately to the north of the community, has been identified by the Crescent Valley Town Board as desirable for transfer from federally administered status to private/local government to enable future community expansion. Several areas of low-density residential (parcels greater than 2.5 acres) are found within 2 miles of the Crescent Valley Townsite. Several hundred parcels larger than 2.5 acres in the vicinity of the Townsite have been platted and recorded.

#### **7.4.2 Goals and Policies for Private Land Use**

As previously noted, community meetings held to gather input to the preparation of this plan made obvious the interest of existing land owners in protecting private property rights. In addition, the desire to expand the acreage of private land in the County was made consistently clear. This plan addresses the protection of existing property rights from three perspectives. First, the right to use land is not enjoined through restrictive land use designations or zoning ordinances. Second, the potential for erosion of property value through incompatible adjacent land uses is recognized and discouraged. Finally, the adverse consequences of certain land use decisions by federal, state, and local governments on adjacent private lands is recognized and discouraged. Goals and policies of Eureka County follow:

### **Goal 7.1 - Protect Private Property Rights**

Policy 7.1.1 - Eureka County will encourage private land uses which enhance the use and/or value of adjacent private lands.

Policy 7.1.2 - Eureka County will discourage state and federal actions which threaten to impair the use and/or value of private property rights in the County.

### **Goal 7.2 - Promote Orderly Development**

Policy 7.2.1 - Eureka County will encourage private land uses which are consistent with adjacent land uses.

### **Goal 7.3 - Increase Private Land Holdings**

Policy 7.3.1 - Eureka County will encourage transfer of non-patented lands to private ownership.

Policy 7.3.2 - Eureka County will discourage transfer of private land to public ownership.

Policy 7.3.3 – When transfer of non-patented lands from federal administration into private, state, or county ownership removes those lands from the forage base of an adjudicated grazing allotment, the forage loss will be mitigated by providing forage at another location of equal or greater value and any detrimental effects to private property rights, such as rights-of-way or water rights, will require compensation for such losses.

Implementation of the aforementioned goals and policies will serve to maintain the existing character and patterns of land use in Eureka County. Minimization of land use conflicts through encouragement of compatible adjacent land uses will prevent adversarial decline of land value and loss of use rights.



## 8.0 HOUSING ELEMENT

### 8.1 HOUSING INVENTORY AND CONDITIONS

In 2009, mobile homes accounted for 67.3 percent of the total housing stock in Eureka County, as seen in Table 8-1. The percentage of Mobile home inventory in Eureka County has decreased from 2000 to 2009, however, the total number of mobile homes have remained much the same. During the same time period, the numbers of single family attached units have decreased in number and in percentage, while single family detached and multi-family units have increased both in number and in percentage.

Table 8-1  
Eureka County  
Housing Inventory  
Units by Type of Structure  
2000 - 2009

TYPE OF HOUSING	2009	PERCENT	2005	PERCENT	2000	PERCENT
Single Family Detached	268	27.3	242	27.2	239	25.3
Single Family Attached	28	2.9	20	2.3	30	3.2
Multi-Family	25	2.5	16	1.8	16	1.7
Mobile Homes	660	67.3	610	68.7	660	69.8
TOTAL	981		888		945	

Source: Eureka County Assessor

Reliance upon mobile homes in many rural areas, particularly Eureka County, is due to a number of factors including affordability for retirees and young families, lack of available mortgage financing, and short-term housing options to meet the demands associated with mining activity. Other factors contributing to mobile home use include the lack of a stable housing market, a general lack of available housing, the cost to construct a new home relative to the price of existing homes, and demographic characteristics.

There are very few subsidized housing units in Eureka County. In the past, USDA Rural Development funded a 12 unit senior facility in the Town of Eureka. Overall, Eureka County has the lowest number of project based subsidized housing units per capita in Nevada

#### 8.1.1 Housing Inventory by Location

Housing inventory as to units by type of structure and by location for Eureka County is shown in Table 8-2.

Table 8-2  
Eureka County Housing Inventory  
Units By Type of Structure and By Location

TYPE	2009	%	2005	%	2000	%
<b>Single Family Detached</b>						
Eureka	123	45.9	113	46.7	122	51.0
Crescent Valley	13	4.8	11	4.5	8	3.3
Diamond Valley	59	22.0	51	21.1	46	19.3
General County	57	21.3	60	24.8	59	24.7
Devil's Gate GID	16	6.0	7	2.9	4	1.7
<b>TOTAL</b>	<b>268</b>		<b>242</b>		<b>239</b>	
<b>Single Family Attached</b>						
Eureka	28	100	20	100	28	93.3
Crescent Valley	0	0	0	0	0	0
Diamond Valley	0	0	0	0	2	6.7
General County	0	0	0	0	0	0
Devil's Gate GID	0	0	0	0	0	0
<b>TOTAL</b>	<b>28</b>		<b>20</b>		<b>30</b>	
<b>Multi-Family</b>						
Eureka	25	100	16	100	16	100
Crescent Valley	0	0	0	0	0	0
Diamond Valley	0	0	0	0	0	0
General County	0	0	0	0	0	0
Devil's Gate GID	0	0	0	0	0	0
<b>TOTAL</b>	<b>25</b>		<b>16</b>		<b>16</b>	
<b>Mobile Homes</b>						
Eureka	129	19.5	116	19.0	126	19.1
Crescent Valley	166	25.2	176	28.9	180	27.3
Diamond Valley	115	17.4	115	18.8	113	17.1
General County	186	28.2	144	23.6	182	27.6
Devil's Gate GID	64	9.7	59	9.7	59	8.9-
<b>TOTAL</b>	<b>660</b>		<b>610</b>		<b>660</b>	
<b>TOTAL FOR YEAR</b>	<b>981</b>		<b>888</b>		<b>945</b>	

Source: Eureka County Assessor

### 8.1.2 Housing Conditions

Table 8-3 shows the age of housing stock in Eureka County based on the 2000 Census. Since 2000, most new housing in the County has been mobile homes that were placed on foundations and converted to real property.

The age of the housing stock in Nevada is greatly influenced by the population growth which has occurred over the last 10 years. A factor which is also important to consider is that new housing is generally more expensive than older housing. The price differences are usually due to the cost of materials, size of the dwelling, number of bedrooms and bathrooms, and other amenities. In Eureka County there has been limited construction of single family conventional housing, and prices tend to lag behind those

in urban areas. Such a situation is beneficial for housing affordability, but is somewhat less desirable from the standpoint of housing availability.

Measures of overcrowding are often used in order to define the adequacy of housing size. There is little evidence to suggest overcrowding is a problem in Eureka County. Most households live in single family detached units or mobile homes. As a result, ratios of persons per room fall within acceptable levels.

In 1997, the County acquired from the Bureau of Land Management, lands comprised of one hundred sixty-three acres (163 acres.) via patent numbers 27-97-009 and 27-97-0028 respectively. These lands, located north of the Eureka townsite, have been annexed into the town of Eureka and would be suitable for future residential development.

Table 8-3  
Age of Housing Stock  
Eureka County: 2000

		% OF		% OF		% OF
	Total	Total	Vacant	Total	Occupied	Total
Age:						
10 yrs. or less	246	24	36	3.5	210	20.5
10-20 yrs	229	22.3	95	9.3	134	13.1
20-30 yrs	238	23.2	86	8.4	152	14.8
30-40 yrs	113	11	53	5.2	60	5.9
50 yrs +	199	19.5	89	8.7	110	10.6
Total	1025	100	359	35.1	666	64.9

Source: 2000 U.S. Census

## 8.2 DEMOGRAPHIC FACTORS AFFECTING HOUSING DEMAND AND NEED

Housing demand has been and will continue to be influenced by emerging demographic and economic factors including population growth, household formations, income, marital status of head of household, household size, age of head of household, and type of housing preferred. The following sections discuss these factors as they may apply to Eureka County

Table 8-4

Demographics by Size of Household  
Eureka County, Nevada and the U.S: 2000

Size	Eureka Co.	% of Total	Nevada	% of Total	U.S. (000)	% of Total
<b>Owner Occupied:</b>						
1 person	119	24.1	89,092	19.5	14,190	20.3
2 person	182	37.0	174,492	38.2	24,888	35.6
3 person	73	14.8	74,840	16.4	11,950	17.1
4 person	70	14.1	63,509	13.9	10,991	15.7
5 or more	49	10.0	55,314	12.0	7,794	11.3
<b>Total</b>	<b>493</b>	<b>100</b>	<b>457,247</b>	<b>100</b>	<b>69,815</b>	<b>100</b>
<b>Renter Occupied:</b>						
1 person	69	39.9	97,653	33.22		
2 person	37	21.4	84,738	28.83		
3 person	28	16.2	45,685	15.54		
4 person	18	10.4	33,250	11.31		
5 or more	21	12.1	32,592	11.2		
<b>Total</b>	<b>173</b>	<b>100</b>	<b>293,918</b>	<b>100</b>		

Source: 2000 U.S. Census

### 8.2.1 Population Growth

Population growth comes from two sources: natural causes (birth minus deaths), and immigration. As shown in Table 8-5, although sporadic, population growth is expected to continue in Eureka County for sometime. Population growth in Eureka County has been driven largely by mining activity in Crescent Valley and Eureka.

Table 8-5  
Eureka County  
Population Projections: 2000-2028

	2000	2007	2014	2021	2028
Eureka County	1,651	1,458	1,694	1,872	1,792

Source: Nevada State Demographer, 2008 projection and U.S. Census, 2000

### 8.2.2 Marital Status and Household Composition and Size

Marital status also influences rental demand and home ownership rates. Married couple households are more likely to be homeowners. This is explained, in part, by the correlation between marital status and (1) income, and (2) household size. Marital status varies among areas in Nevada with rural areas generally having higher rates of married households. According to the 2000 U.S. Census, in Eureka County, married couple

households account for approximately 61.7 percent of all households, which is higher than the State rate of 61 percent. It is interesting to note that the 2006-2008 U.S. Census Survey estimates 47.3 percent of Nevada households are married couple households. Although no comparable data is available for Eureka County, because of the significant decrease in state percentages, one might expect the percentage of married couple households to be lower today than indicated by the 2000 census.

### 8.3 HOUSING COSTS

#### 8.3.1 Property and Housing Values

Table 8-6 shows sales of vacant property in Eureka County from 2007 to 2009. There was a large variation in sale prices associated with the sale of vacant land of more than 10 acres. The quality and location of the property sold will have a direct affect on sales price. There were no reported sales of parcels/lots by Eureka County Assessor within the Town of Eureka or the town of Crescent Valley.

Table 8-6  
Sales of Vacant Land by Parcel  
Eureka County: 2007 to 2009

Area	Minimum Price Per Parcel	Maximum Price Per Parcel	Number of Parcels Sold	Total Sales of Parcels	Mean price per parcel
Town of Eureka	0	0	0	0	0
Town of Crescent Valley	0	0	0	0	0
Balance of County 10ac.or less	\$1,000	\$11,595	14	\$53,491	\$3,821
Balance of County more than 10ac.	\$250	\$200,000	79	\$1,642,385	\$20,790
Total for Eureka County	\$250	\$200,000	93	\$1,695,876	\$18,235

Source: Eureka County Assessor

Residential sales in Eureka County for 1995 to 1997 and 2007 to 2009, as shown in Table 8-7, have more than doubled in relation to both maximum and average prices. Minimum prices in residential sales have nearly doubled.

Existing home sales prices in Eureka County tend to be in-line with other small rural counties according the 2000 U.S. Census. Average housing prices in urban areas are more than double that of Eureka County. However, the price differential is due to a number of factors including land prices, and development standards. New housing is generally more expensive than existing housing. Since a majority of housing in urban areas is less than 20 years old, average prices are strongly influence by new and more expensive housing.

Table 8-7

Residential Sales  
Eureka County  
1995-1997 and 2007-2009

Eureka County	1995-1997	2007-2009
Minimum Price	\$16,500	\$32,000
Maximum Price	\$87,500	\$187,000
Average Price	\$42,875	\$123,353

Source: Eureka County Assessor

### 8.3.2 Housing Affordability

A common measure of housing affordability typically includes the relationship of housing prices to income. A household spending more than 30 percent of their income on housing is said to be experiencing a housing cost burden. Attempts to characterize housing affordability solely in terms of the income to housing cost ratio diminish the importance of demographic and economic conditions which also influence affordability and demand for housing. Table 8-8 shows the percentage of households spending more than 30 percent of their income on housing in 2000. In terms of affordability, Nevada is higher (less affordable) than either the United States or Eureka County. Eureka County is more affordable than either Nevada or the United States.

Table 8-8  
Housing Affordability  
Eureka County, Nevada, and United States: 2000

Area	Paying more than 30 Percent of Income on Housing	
	Owner Percent	Renter Percent
Nevada	40.3	49.9
United States	22.0	39.9
Eureka County	16.2	14.2

Source: 2000 U.S. Census

## 8.4 HOUSING DEMAND PROJECTIONS

### 8.4.1 Housing Demand by Location

Table 8-9 shows new housing demand increase from 2000 through 2028. The table shows the number of new dwelling units which will need to be constructed to meet housing demands associated with the population projections in Table 8-5. Using the census basis of 2.5 occupants per household, from 2000 to 2028, a total of 90 new housing units may be needed under the growth population scenario. Table 8-9 does not include additional units which will be vacant, typically 3 to 5 percent.

Based upon household tenure as shown in Table 8-4, it is estimated that approximately 28 percent of the new housing units will need to be rental units. As a result, Eureka County can anticipate a total need of approximately 25 rental housing units through 2028.

Table 8-9  
New Housing Demand Projections  
Eureka County: 2000-2028

Year	Estimated Population	Loss or Gain of Population	Demand Projection
2000	1651		
2007	1458	-193	-77
2014	1694	+236	+94
2021	1872	+178	+71
2028	1792	-80	-32

Source: Nevada State Demographer and 2000 U.S. Census Bureau

Based on Table 8-1, a breakdown of new housing demand by type of housing is shown in Table 8-10. The greatest increase in housing type is expected to be mobile homes with single family detached housing being the seconded greatest increase.

Table 8-10  
New Housing Demand Projections  
By Housing Type  
Eureka County: 2000-2028

	Total New Demand	Single Family Detached	Single Family Attached	Multi-Family	Mobile Homes
2000	-	-	-	-	-
2007	-77	-	-	-	-
2014	+94	5	1	1	12
2021	+71	19	2	2	48
2028	-32	-	-	-	-
Total	90	24	3	3	60

Source: Nevada State Demographer and 2000 U.S. Census

## 8.5 FUNDING SOURCES

There are numerous funding sources available for housing assistance in Eureka County. The primary sources are administered by the Nevada Housing Division, the Nevada Commission on Economic Development-CDBG Program, USDA Rural Development, and to a lesser extent the Nevada Welfare Division. Mobile homes that are purchased and converted to real property qualify for additional avenues of financing. The following table summarizes programs which could be utilized in Eureka County.

AGENCY/PROGRAM	ELIGIBLE APPLICANTS	PROGRAM SUMMARY
<b>Nevada Housing Division</b>		
<ul style="list-style-type: none"> <li>HOME Program (Home Investment Partnership Program)</li> </ul>	Private sector profit and non-profits, as well as federal, state and local government	Funds can be used for multi-family projects, homeowner assistance, down payment assistance, tenant based rental assistance, etc.
<ul style="list-style-type: none"> <li>Multi-family Bond Program</li> </ul>	Non-profits and private developers.	The Multi Family Bond Financing Program is designed to provide a method for financing medium to large scale affordable housing projects. Non-profits or developers who participate in this program set aside a specified number of units for low income households.
<ul style="list-style-type: none"> <li>Low-Income Housing Tax Credit Program</li> </ul>	For-profit or non-profit developers	This program creates economic incentives to for-profit or non-profit developers to produce low-income housing. Approximately \$3.0 million in tax credit is available annually in Nevada.
<ul style="list-style-type: none"> <li>Low Income Housing Trust Fund</li> </ul>	Non-profits, local government, housing authorities	The Account for Low-Income Housing Trust Fund is a state-funded program for affordable housing to expand and improve the supply of rental housing through new construction and rehabilitation of multifamily projects. Trust Funds may also be used to provide financing for down payment assistance and homeowner rehabilitation of single family residences, and to provide emergency assistance to families who are in danger of becoming homeless.
<ul style="list-style-type: none"> <li>Weatherization Program</li> </ul>	Non-profits and low income owner households.	The Low Income Weatherization Assistance Program assists low income persons in reducing their utility bills by providing for various energy conservation measures. Assistance is provided free of charge and no liens or financial obligations are placed on individuals receiving assistance.
<b>Commission on Economic Development-CDBG</b>		
<ul style="list-style-type: none"> <li>CDBG Housing Rehabilitation (Community Development Block Grants)</li> </ul>	Non-profits and government agencies.	Homeowner housing rehabilitation for low and moderate income Households.



AGENCY/PROGRAM	ELIGIBLE APPLICANTS	PROGRAM SUMMARY
<b>USDA Rural Development</b>		
<ul style="list-style-type: none"> <li>Section 502 Loans</li> </ul>	Low and very low-income families	Section 502 loans are primarily used to help low-income individuals or households purchase homes in rural areas. Funds can be used to build, repair, renovate or relocate a home, or to purchase and prepare sites, including providing water and sewage facilities. Applicants for loans may have an income of up to 115% of the median income for the area.
<ul style="list-style-type: none"> <li>Section 502 Mutual Self-Help Housing Loan</li> </ul>	Very low-income and low-income households. Families must be without adequate housing, however, they must be able to afford the mortgage	Used primarily to help construct their own homes. The program is targeted to families who are unable to buy clean, safe housing through conventional methods. Families participating in a mutual self-help project perform approximately 65 percent of the construction labor on each other's homes under qualified supervision.
<ul style="list-style-type: none"> <li>Rural Housing Repair and Rehabilitation Loans</li> </ul>	Very low-income rural residents who own and occupy a dwelling in need of repairs.	This loans funded directly by the Government. Funds are available for repairs to improve or modernize a home, or to remove health and safety hazards. This loan is a 1% loan that may be repaid over a 20-year period.
<ul style="list-style-type: none"> <li>Rural Housing Repair and Rehabilitation Grants</li> </ul>	Dwelling owner/occupant who is 62 years of age or older.	These grants are funded directly by the Government. A grant may only be used for repairs or improvements to remove health and safety hazards, or to complete repairs to make the dwelling accessible for household members with disabilities. The amount of the grant is based on the applicant's ability to repay and must be used in conjunction with the Repair and Rehabilitation Loan.
<ul style="list-style-type: none"> <li>Very Low Income Housing Repair Program</li> </ul>	Available to homeowners who are 62 years old or older and cannot repay a Section 504 loan.	Provides loans and grants to repair, improve, or modernize their dwellings or to remove health and safety hazards. To obtain a loan, homeowner-occupants must be unable to obtain affordable credit elsewhere and must have very low incomes, defined as below 50 percent of the area median income.
<ul style="list-style-type: none"> <li>Housing Preservation Grant</li> </ul>	Non-profits or units of local government.	Provides grants to sponsoring organizations for the repair or rehabilitation of low-income and very low-income housing.
<ul style="list-style-type: none"> <li>Farm Labor Housing Loans and Grants</li> </ul>	Individual farmers, associations of farmers, State or political subdivisions, non-profits	Makes loans and grants to finance low-rent housing for domestic farm laborers.

## 8.6 SUMMARY OF FINDINGS-PROSPECTS FOR HOUSING DEVELOPMENT

This section utilizes the key findings of the previous sections to support recommendations for local policies concerning housing needs, and to evaluate the prospects for new housing development in Eureka County. This section also identifies possible constraints to housing development.

Eureka County, as well as other rural counties in Nevada and across the nation, typically has high levels of mobile homes in the housing stock. This trend is unlikely to change. There are several factors which tend to support mobile home use in Eureka County. They include: (1) short-term housing needs for mining employees, (2) the lack of available mortgage financing, (3) improved quality and price competitiveness of mobile homes, (4) affordable housing options of lower income and younger families, and (5) limited real estate market in terms of overall housing availability. Eureka County can anticipate that mobile home use is likely to continue at levels consistent with those in Table 8-1.

Continued use of mobile homes is a decision which is influenced largely by personal circumstance. It would be difficult for Eureka County to discourage use of mobile home units regardless of the fiscal implications or long-term problems such use may pose for the housing stock in Eureka County. Less dependence on mobile homes may best be countered by making single family conventional dwelling development as attractive as possible.

Furthermore, with mobile homes there are few options available to assist low or moderate income persons to achieve home ownership or reduce annual housing costs unless mobile homes are converted to real property. Tenant based subsidy, available through the U.S. Department of Housing and Urban Development (HUD) Section 8 certificate and voucher program, can be used for mobile home rentals. Tenant based subsidy is given directly to the qualified household for rental housing costs instead of the subsidy being tied directly to a specific dwelling unit.

**Traditional rental housing units in Eureka County are limited.** In 2009, traditional multi-family structures (apartments and single family attached units) accounted for only 2.5 percent of the housing stock in Eureka County whereas approximately 26 percent of the households in Eureka County were renters. Most, if not all of the multi-family units will be found in the Town of Eureka. Nearly all rentals in Crescent Valley would be comprised of mobile homes. As a result, many low and moderate income renter households may find it difficult to obtain affordable housing.

Another important aspect of the rental market is that the 2000 Census showed a higher percentage of large households (4 persons or more) in Eureka County were renters as compared to Nevada (see Table 8-5). Housing which is typically owner occupied (mobile homes and single family detached units) is being rented instead. Similarly, there was a

much higher percentage of one person owner occupied housing units in Eureka County as compared to Nevada and the United States.

A constraint to the development of traditional multi-family housing is the requirement of sanitary sewer and municipal water systems. As a result, new multi-family development would be restricted largely to the Town of Eureka because it is the only area which provides both sanitary sewer and municipal water. Although it is possible to develop multi-family housing outside areas with sewer and water systems, it is highly unlikely that such development would occur due to development costs.

**The lack of conventional single family housing can create a barrier to home ownership.** An inadequate supply of conventional single family housing can make it more difficult for lower income families/households to obtain housing without substantial up-front cash investment. The U.S. Department of Housing and Urban Development (HUD) defined a low to moderate income family in Eureka County as one having an income of less than 80 percent of the County's median household income. HUD estimates of median household income for Eureka County was \$64,000 in 2009. As a result, a moderate income household would have an income at or below \$51,200. A low income household will have an income at or below \$32,000.

As stated earlier, mobile homes are affordable housing options. However, the problem for persons of limited financial assets is two-fold. First, financing is not always available for mobile home units. Mobile home financing can be obtained from the dealer when the unit is originally purchased. Commercial lenders rarely provide financing for mobile home units. Second, mobile homes are being placed on vacant and or undeveloped parcels in Eureka County. Therefore, an up-front cash investment is required to acquire the land and make needed improvements such as a well or septic tank. As a result, low to moderate income households particularly those with larger families can not obtain financing, especially financing where the loan to value ratio requires a small down payment.

Without the availability of traditional single family housing units and mortgage financing, it is exceedingly difficult for many households to achieve home ownership, particularly when initial investments required could range from \$10,000 to \$20,000.

**Demographic trends support increasing ownership opportunities and development of single family housing in Eureka County.** Continued growth in Eureka County is likely to be associated with mining activity. For growth projections please refer to Table 8.6. In other counties such as Lander, Pershing, Humboldt and Elko Counties, mining has had a strong influence on household demographics. In these counties a greater number of married coupled families can be found along with larger households and predominately younger households, and higher households incomes as compared to non-mining rural counties. All of these demographic factors tend to support greater demands for housing ownership and or housing which are typically suited for single families.

**Subsidized housing in Eureka County is limited.** Except for senior housing units, there are no other project based subsidies in the County. On a per capita basis, Eureka County has the lowest level of project based subsidy of any Nevada County. Subsidized rental housing is typically available to low and moderate income households. Such households based upon current household income levels in Eureka County would be below \$51,200. With a strong increase in population growth associated with mining, lower income households in Eureka County may find housing less affordable in the near future, particularly with the lack of subsidy. As shown in Table 8-9, a fairly high percentage of low income households are paying more than 30 percent of their income on housing.

**Additional senior housing including assisted living may be needed in Eureka County.** Table 8-5 showed that a relatively high percentage of single family detached units were occupied by one person. It is highly probable that many of the one person owner occupied housing belongs to elderly persons age 65 or older. A twelve-unit senior housing project is available in the Town of Eureka. Housing elderly residents can also be achieved by reducing housing costs. Many elderly are on fixed incomes and can not afford to maintain the existing physical structure of their homes. Often times they have problems with related housing costs such as utilities, and taxes. Many elderly also face mobility problems which require expensive modification to their homes.

Elderly residents who for a variety of reasons cannot live alone but do not need the twenty-four hour skilled medical care provided in nursing facilities may require an assisted living situation. Persons in assisted living facilities are offered a variety of services usually including meals, laundry services, assistance with activities of daily living (eating, bathing, grooming, toileting, etc.), twenty-four hour security and available assistance. An assisted living facility provides on-going supervision of their residents, and assumes responsibility for their well-being.

Approximately 20 percent of persons age 65 or older require assistance with instrumental activities of daily living. By 2020 the total number of persons age 65 or older in Eureka County is estimated to be 193 based upon the Nevada State Demographers age estimates. The total number requiring assistance by 2020 is therefore estimated to be 39 persons. Assisted living is also provided by in-home care, relatives, and spouses. Therefore the total number who may be willing to move into such a facility would be something less than 39. Furthermore, assistance living facilities typically charge \$1,000 to \$2,000 per month. Smaller residential settings (approximately 6 persons) are generally less than \$1,000 per month. As a result, financial requirements may be a factor.

According to the Assisted Living Facilities Association of America, the majority of residents have children/relatives within a 30 minute drive of the facility. A catchment area for the southern portion of the County would include Eureka and Diamond Valley. Crescent Valley and Beowawe could form a catchment area for the northern portion of the County. Some northern county residents may seek similar services in Elko County.

## **8.7 HOUSING GOALS AND POLICIES**

### **Goal 8.1 - Support development initiatives that would provide an appropriate mix of housing.**

Policy 8.1.1 - Suggested future development and growth should be in the areas with established infrastructure.

Policy 8.1.2 - Encourage greater mortgage lending activity from public and private sources. Evaluate use of USDA Rural Development loan guarantee program.

### **Goal 8.2 - Support efforts to improve existing housing stock in Eureka County.**

### **Goal 8.3 - Support affordable housing initiatives including low and moderate income households in Eureka County.**

Policy 8.3.1 - Increase the number and type of subsidized housing available to elderly persons as the need arises.

Policy 8.3.2 - Evaluate methods to provide incentives to developers of affordable housing projects.

### **Goal 8.4 - Evaluate needs for assisted living centers in Eureka County.**

Policy 8.4.1 - Contact private and non profit developers concerning the need for assisted living facility.

Policy 8.4.2 - Coordinate activities with local senior centers in Eureka and Crescent Valley.

### **Goal 8.5 - Facilitate development of affordable housing.**

Policy 8.5.1 – Communicate housing needs to state and federal agencies such as the Nevada Housing Division, Nevada Rural Housing Authority, USDA rural Development, and the Community Development Block Grant Program.

Policy 8.5.2 – Contact private and non-profit housing developers concerning the need for additional housing investment in Eureka County.

Policy 8.5.3 – Support the availability of adequate financing for housing development and rehabilitation programs through private lending institutions.

Policies 8.5.4 – Periodically distribute information or notify residents of available housing programs.

## **9.0 Water Resources Element**

### **9.1 Introduction**

Water within Eureka County is obtained from both surface and subsurface (underground) water sources. Numerous springs, perennial streams, and ephemeral streams provide surface water sources, including the Humboldt River. Subsurface water as obtained from wells traditionally is used for industrial purposes such as mining, irrigation of agricultural crops, stockwater, domestic use, and municipal water systems. All water within Eureka County originates within the Great Basin portion of Nevada and all Eureka County streams or rivers terminate within the boundaries of Nevada with no interstate movement of water. By law, the State of Nevada owns all the water in Nevada but the right to use specific portions of that water is a lawfully protected property right.

Water rights in Eureka County, as currently recognized under State law, date back to the mid 1800s. Early miners, ranchers and farmers established surface water rights through the common law doctrine of prior appropriation. As discussed in Element 6 of the Eureka County Master Plan, the doctrine of prior appropriation and beneficial use of water was established by Spain throughout what is now the western United States when this area was held under the authority of the Mexican government. Historically, the Treaty of Guadalupe-Hidalgo (1848) specified that property rights and real property ownership would continue without interruption when the United States borders were extended to the present locations. Those property rights included, for example: water, forage, access to water and forage, ranches or farms, and mineral rights. Nevada codified this doctrine for surface water in 1905 and extended the law to ground water in 1939.

### **9.2 Water Resource Issues**

Adjudication of water rights, vested water rights, and appropriated water rights are primarily governed by Nevada Revised Statutes 533. Water rights state-wide are owned by individuals, businesses, partnerships, corporations, and government entities including the U.S., State of Nevada, counties, cities or towns, and special use districts of various kinds. Ownership of water rights requires the designation of specific beneficial use that each water right pertains to such as domestic use, stock water, irrigation, wildlife water, wildlife habitat, industrial use such as mining or milling, municipal use, and several other designations.

Ability of various underground water sources to yield a sustained discharge of water has not been determined throughout Eureka County, but is currently the subject of various studies as a result of concerns that more water has been allocated than those aquifers can provide. As data becomes available in the future, the available quantity of water and the quality of the water from various sources will be incorporated into the Eureka County Master Plan.

At the time of this 2010 Eureka County Master Plan update there are several recent events that illustrate the cause for concern among Eureka County residents. For example, (1) mine de-watering efforts have resulted in subsurface water being pumped from the mine locations and disposed of in several ways including irrigation of crops and discharge onto the surface or

into the Humboldt River. Mine dewatering with discharge into the Humboldt River or its tributaries has the effect of deportation of Eureka County subsurface water from Eureka County. (2) Water rights held by agricultural producers for the beneficial use of irrigation have recently been sold to mining companies for future use at planned mine sites. Beneficial use of that water will become industrial for mining and milling purposes and possibly municipal use which offers positive benefits to the economy of Eureka County. Conversion of beneficial use will also result in those irrigated lands no longer receiving irrigation water that is needed for the crops to live and protect the soils from erosion. The contribution of those croplands to the economy of Eureka County will end. (3) Efforts by Nevada's largest municipalities to import water resources from rural communities are causing contemporary owners of agricultural and stockwatering rights in Eureka County to fear for the future of economically viable beneficial uses of water in Eureka County.

Eureka County fully participates in such organizations as the Humboldt River Basin Water Authority and the Central Nevada Regional Water Authority as a means to clearly identify problems related to water resources and to successfully solve those problems. Future effects of mine dewatering, interbasin transfer of water, and exportation of water from subsurface aquifers is not known, but is potentially detrimental to other Eureka County water users who depend on those same aquifers.

Water quality issues, specifically water pollution, is regulated by federal and state laws that further classify pollution as being from an identified "point" source or pollution from diffuse or "non-point" sources. Refer to Nevada Revised Statutes 445A and Nevada Administrative Code 445A, and associated statutes.

Naturally occurring substances may be found in Eureka County water that include, for example, soluble salts (salinity), arsenic, and other such chemicals that have the effect of reducing the suitability of water for some uses. Although they occur naturally, these substances that limit water quality are viewed as water pollution by regulatory agencies. Sewage or storm water from urban sources, waste water from mining or milling, and other such sources may become point sources of pollution in Eureka County that require construction of facilities and further treatment of the water. Examples of non-point sources of pollutants include sediments from erosion of surface soils following storm run-off events and flooding, loss of vegetation due to wildfires, and a number of other situations. Non-point sources of pollution are generally solved through the use of conservation measures known as Best Practices and also called Best Management Practices (BMP).

Eureka County protection of underground water quality includes testing municipal water sources for levels of toxic substances such as arsenic, mercury, or other chemicals. Pesticides and fertilizers applied to cropland or to urban landscapes are a concern in certain portions of the nation, and will continue to be monitored in Eureka County even though production of forage crops such as hay do not involve the types of chemical applications required by other crops. By state law and County ordinance, water well construction and casing along with minimum lot size protects domestic wells from pollution by septic fields. Eureka County provides County water and/or sewer infrastructure within designated urban growth areas (Town of Eureka, Town of Crescent Valley, Devils Gate General Improvement District).

Increasing efforts of federal and state agencies to control water quality standards threatens Eureka County economic and community interests. These efforts include water quantity and quality issues within the Humboldt River and its tributaries. For example, municipal wells placed near the Humboldt River illustrate concerns about water quality. At this time water from the Humboldt River must meet water quality standards that are suitable for irrigation of crops and consumption by livestock, and naturally does so. Wells near the Humboldt River meet water quality standards for human consumption because they pump water from depths that are well below the level that any Humboldt River water seepage can reach. If Humboldt River water is found to be included in the discharge from those wells then Eureka County officials are concerned that federal agencies will demand that the Humboldt River water quality conform to the higher human use standards without regard to the natural quality of Humboldt River water.

Vested water rights, water right appropriation, and water right adjudication are discussed in some detail in the proceedings of the seminar entitled “Vested Water Rights in Nevada” sponsored by the Humboldt River Basin Water Authority and the Nevada Water Resources Association in March 2007 (48 pages) a digitized version is available at [http://ndep.nv.gov/bffwp/docs/hrbwa\\_vestedwaterrightsbook.pdf](http://ndep.nv.gov/bffwp/docs/hrbwa_vestedwaterrightsbook.pdf). That document is included in this portion of the Eureka County Master Plan by reference

### **9.3 Primary Planning Guidance**

Guidance for Chapter 9 of the Eureka County Master Plan is found in Eureka County Code 9.30.060.C and further discussed in Eureka County Master Plan Chapter 6. Further guidance for Chapter 9 of the Eureka County Master Plan is found in:

- (1) Resolution of the Eureka County Planning Commission dated June 1, 2000 and accepted by the Eureka County Board of Commissioners on July 6, 2000, entitled: *“Resolution Adopting the Amended Water Resources Plan Into the Eureka County Master Plan.”* and
- (2) Resolution of the Eureka County Board of Commissioners dated March 6, 2009, entitled: *“Resolution Restating the Eureka County Board of Commissioners Position on Water Resources in Eureka County.”*

#### **9.3.1 GOALS:**

1. Meet the requirements for water quality contained in the Nevada Administrative Code (NAC) Section 445, to the extent they can be met while complying with constitutional and statutory law regarding property rights including vested water rights.
2. Safeguard the economic stability of Eureka County by the protection of the property interests of water rights owners in accordance with constitutional and statutory law.
3. Clearly inform federal and state entities about the water resource policies of Eureka County to enable officials of those entities to coordinate their proposed regulatory actions with Eureka County.
4. Continue to study the water resources within Eureka County to determine both quantity and quality, using non-biased protocols and procedures (i.e. USGS approaches for inventory, monitoring, and analysis of data).

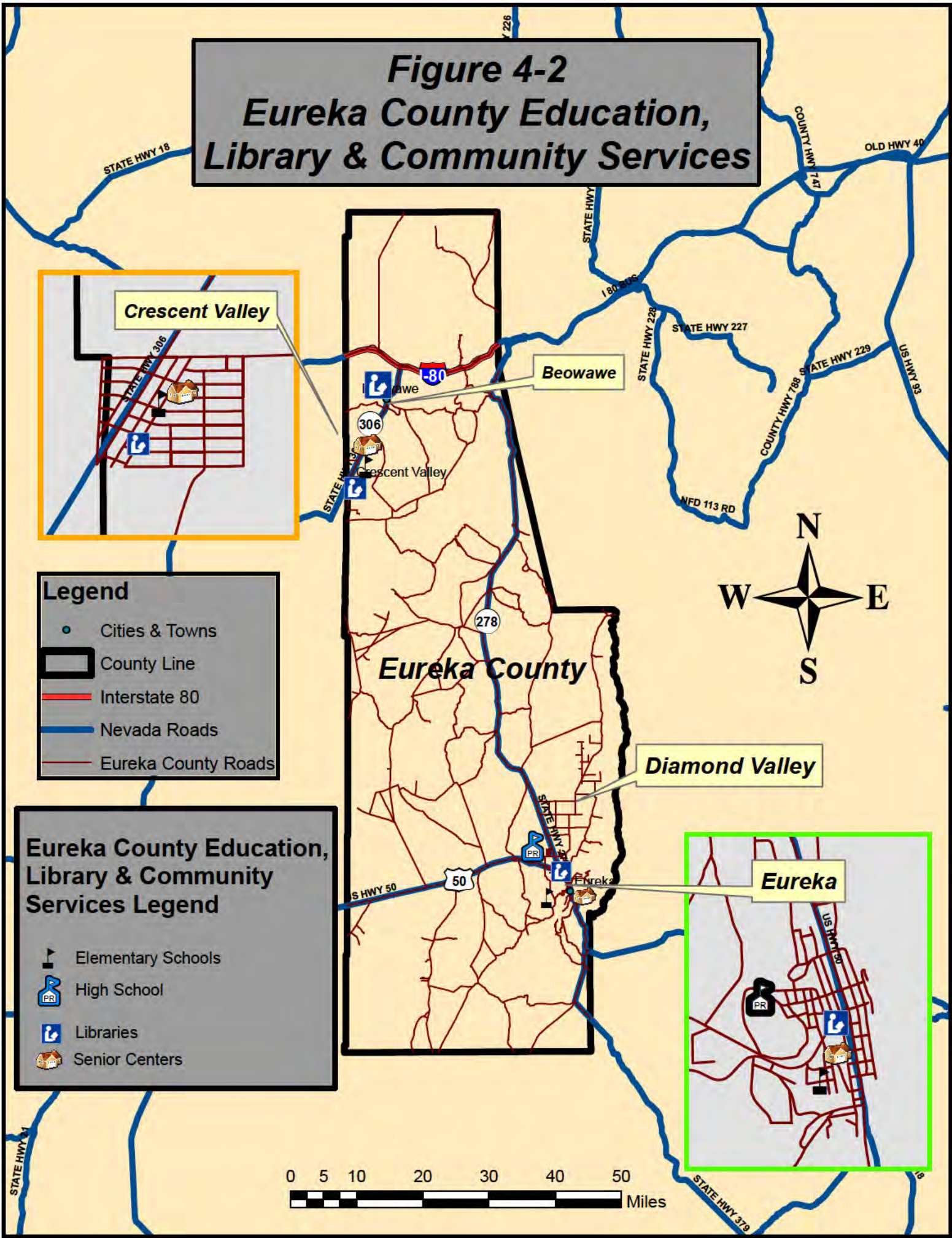


5. Develop a Water Resources Plan that takes into account existing and current conditions, analyzes various scenarios, outlines and analyzes different management alternatives including a status-quo or no-action alternative.
6. Pursue a funding mechanism for (1) continued water resources study, (2) water resources planning and management, and (3) mitigation of negatively affected water and water dependent resources.

### **9.3.2 Water Resources, Eureka County Code 9.30.060.C**

1. Eureka County affirms support for the doctrine of prior appropriation as established by state law; that the right to appropriate water is a compensable property right available to individuals and municipalities. Ownership of the right to use water has, as key principals, those provisions set forth in Nevada Revised Statutes 533.0010 through 533.085, including, but not limited to, first right, first use, beneficial use, and point of diversion.
2. Eureka County promotes private development of water resources on state and federal land for beneficial use in Eureka County, including, but not limited to geothermal reservoirs, power generation, municipal water supplies, irrigation and stock water.
3. Eureka County mandates the use of peer-reviewed science in the assessment of impacts related to water resource development.
4. The County discourages out-of-basin water transfers and will adamantly oppose such transfers that do not (1) pass the highest test of scientific rigor in demonstrating minimal impacts to existing water rights and (2) show a long-term benefit to the economic viability and community stability of the County. Out-of-basin and out-of-county transfers of water shall be accorded full attention of N.R.S. 533.370, N.R.S. 533.438 and other applicable state laws.
5. Eureka County will continue to work to maintain its water resources in a condition that will render it useable by future generations for the full range of beneficial uses that further a viable and stable economic and social base for its citizens. The County supports retaining authority of States to protect water quality under the Clean Water Act. The County does not support abrogation of that authority to any other governmental or non-governmental entity. The County promotes water quality standards that are i) consistent with actual uses for which a particular water source or body is lawfully appropriated, and ii) based on accurate information regarding its natural state and range of variability. The County will demand coordination among all responsible and affected interests when considering water quality actions.

**Figure 4-2**  
**Eureka County Education,  
 Library & Community Services**



**Legend**

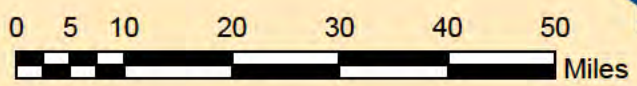
- Cities & Towns
- ▭ County Line
- ▬ Interstate 80
- ▬ Nevada Roads
- ▬ Eureka County Roads

**Eureka County Education,  
 Library & Community  
 Services Legend**

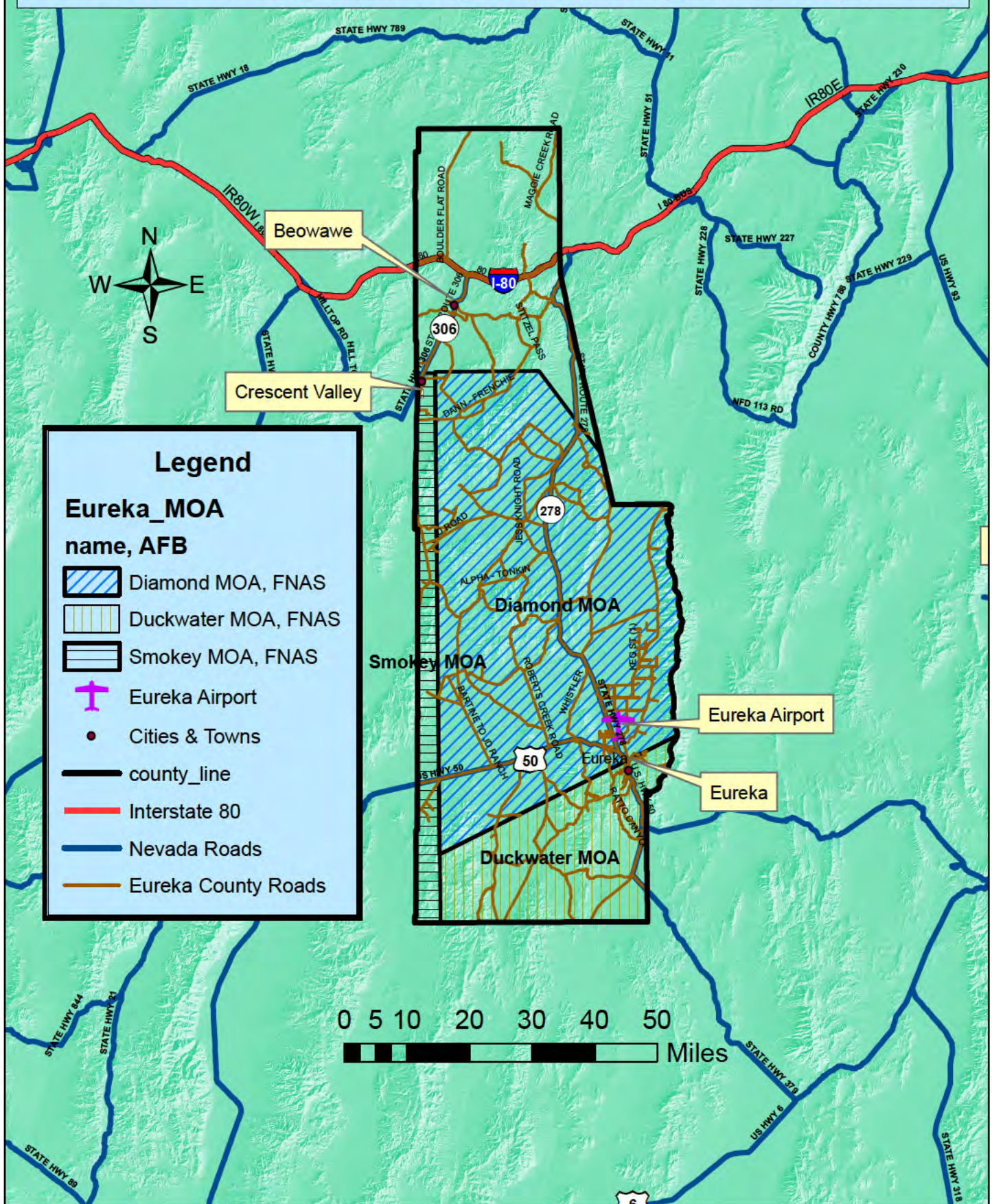
- 🏠 Elementary Schools
- 🎓 High School
- 📖 Libraries
- 🏡 Senior Centers

**Eureka**

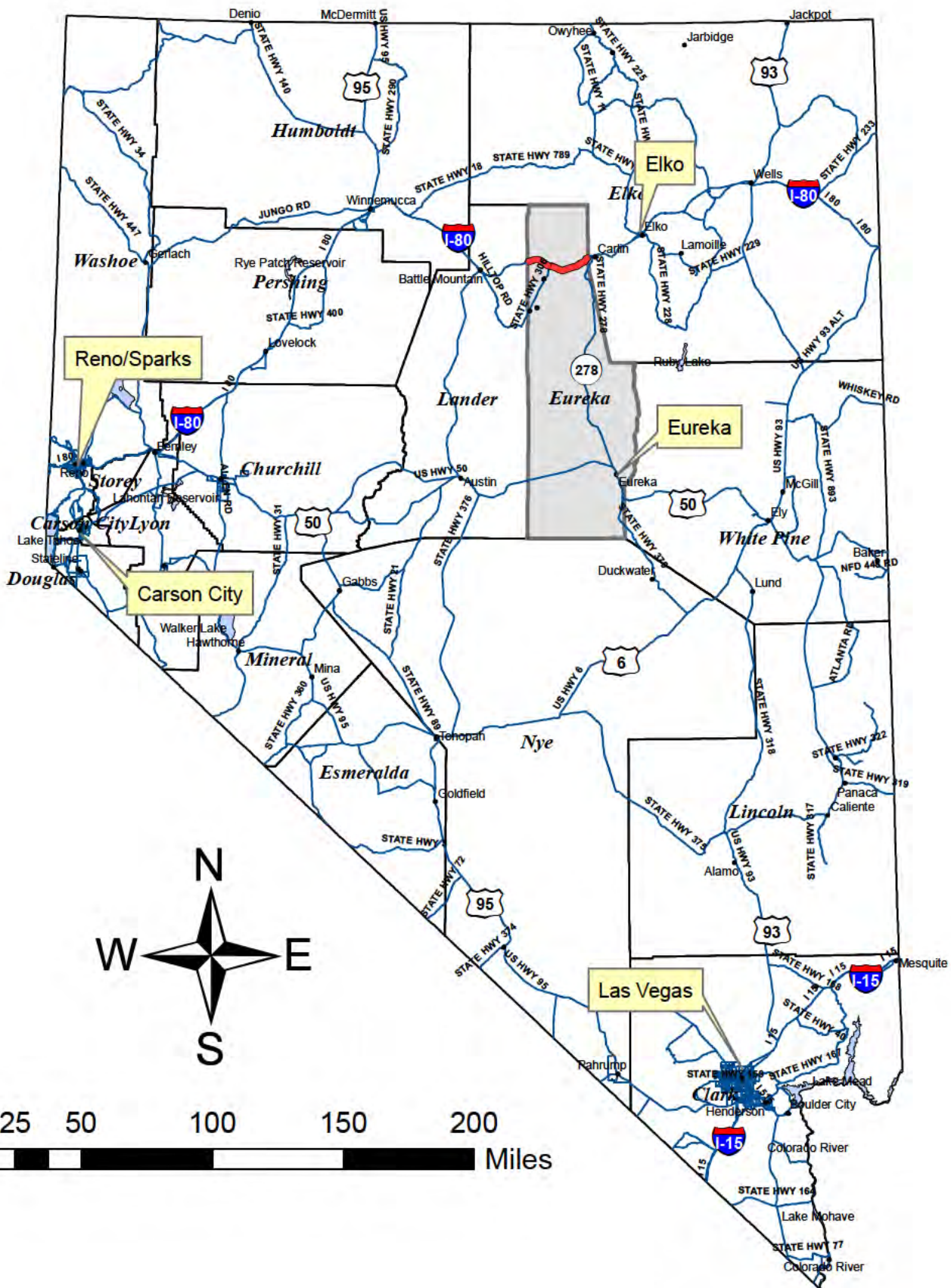
Detailed inset map of Eureka showing the locations of a high school (PR icon), a library (📖 icon), and a senior center (🏡 icon) within the city's street grid.



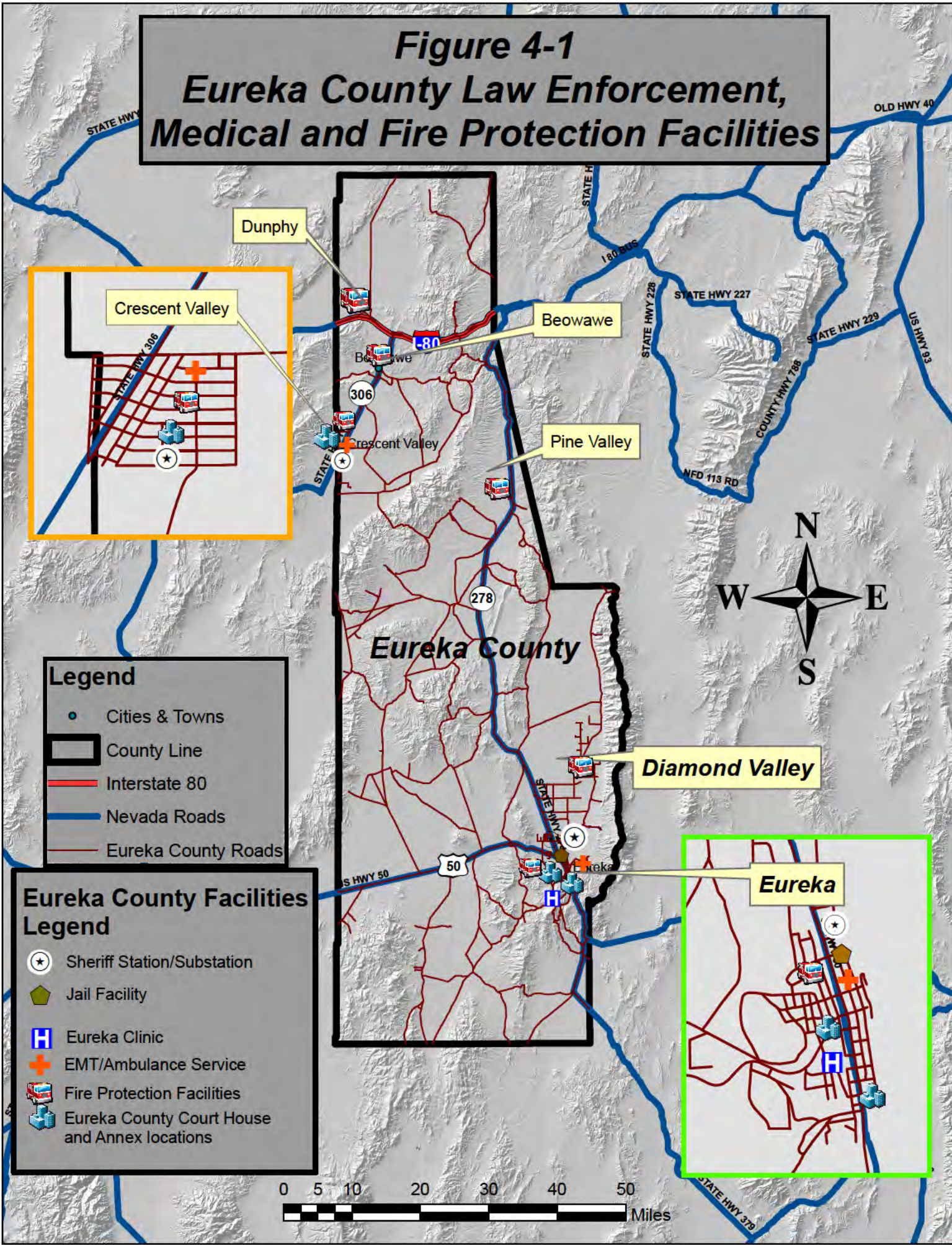
# Figure 2-2 Eureka County Military Operating Areas (MOA)



# Figure 1-1 Eureka County Vicinity Map



**Figure 4-1**  
**Eureka County Law Enforcement,**  
**Medical and Fire Protection Facilities**



**Legend**

- Cities & Towns
- ▭ County Line
- Interstate 80
- Nevada Roads
- Eureka County Roads

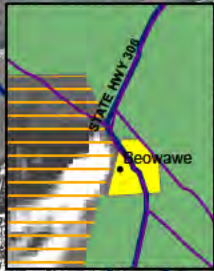
**Eureka County Facilities Legend**

- ⊙ Sheriff Station/Substation
- ⬡ Jail Facility
- H Eureka Clinic
- ⊕ EMT/Ambulance Service
- 🚒 Fire Protection Facilities
- 🏛️ Eureka County Court House and Annex locations



**Figure 7-2  
Eureka County General  
Land Use Categories**

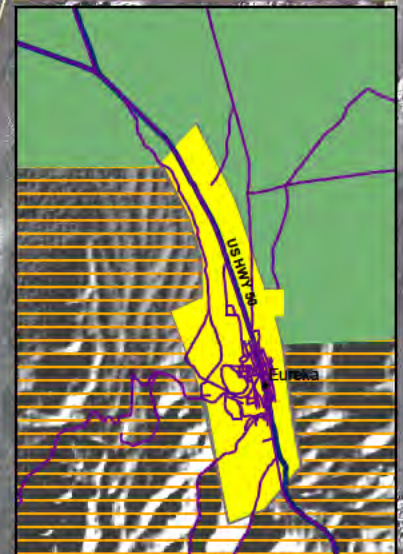
**Beowawe, Nevada**



**Crescent Valley, Nevada**



**Eureka, Nevada**

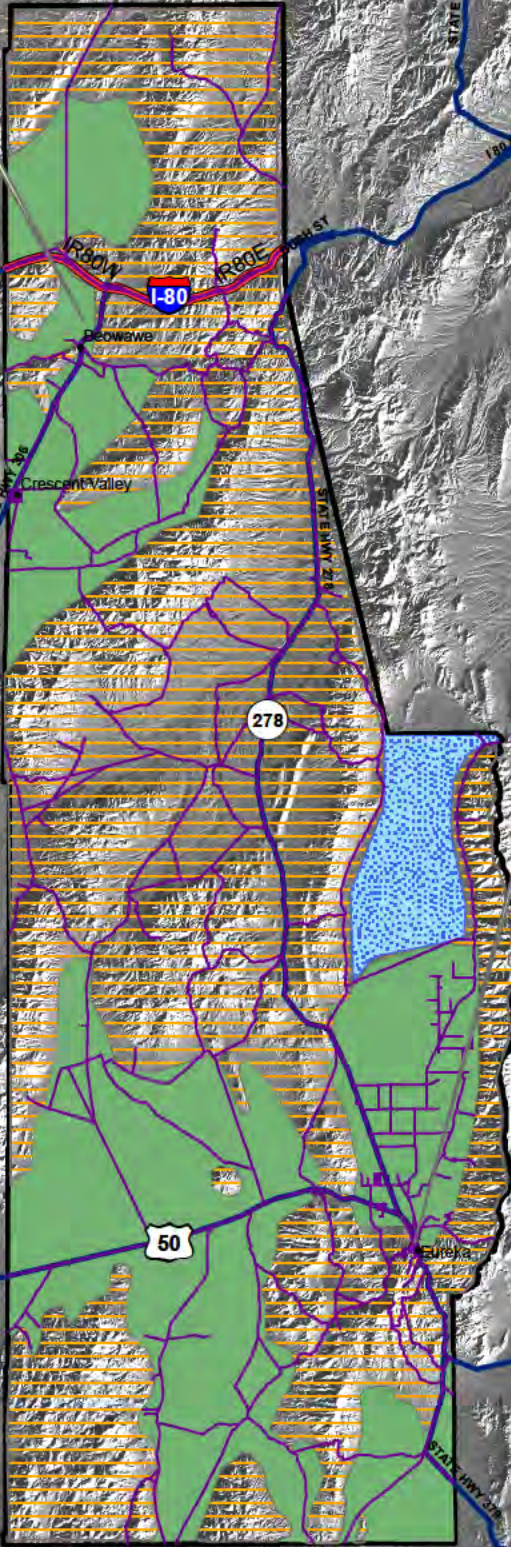


**Legend**

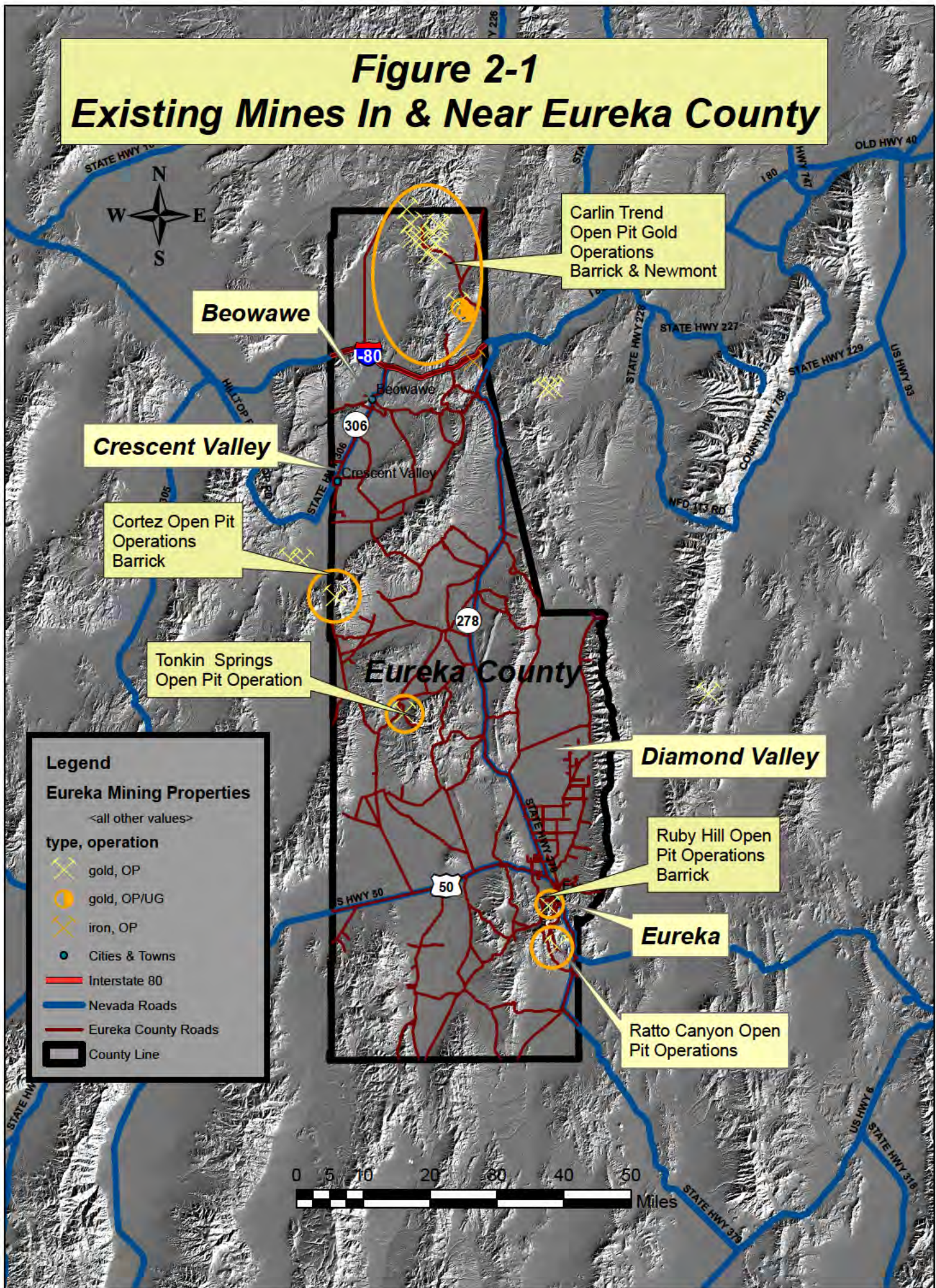
**Eureka County Land Use Categories**

**Category**

-  Ag\_Commercial/Industrial\_Limited\_Housing
-  Ag\_Mining\_Very\_Limited\_Housing
-  Ag\_Open\_Space
-  Urbanized\_Areas
-  Cities & Towns
-  Eureka County Roads
-  Nevada State Routes
-  IR-80
-  Eureka County Border



**Figure 2-1**  
**Existing Mines In & Near Eureka County**





**Legend**

**Eureka Mining Properties**

<all other values>

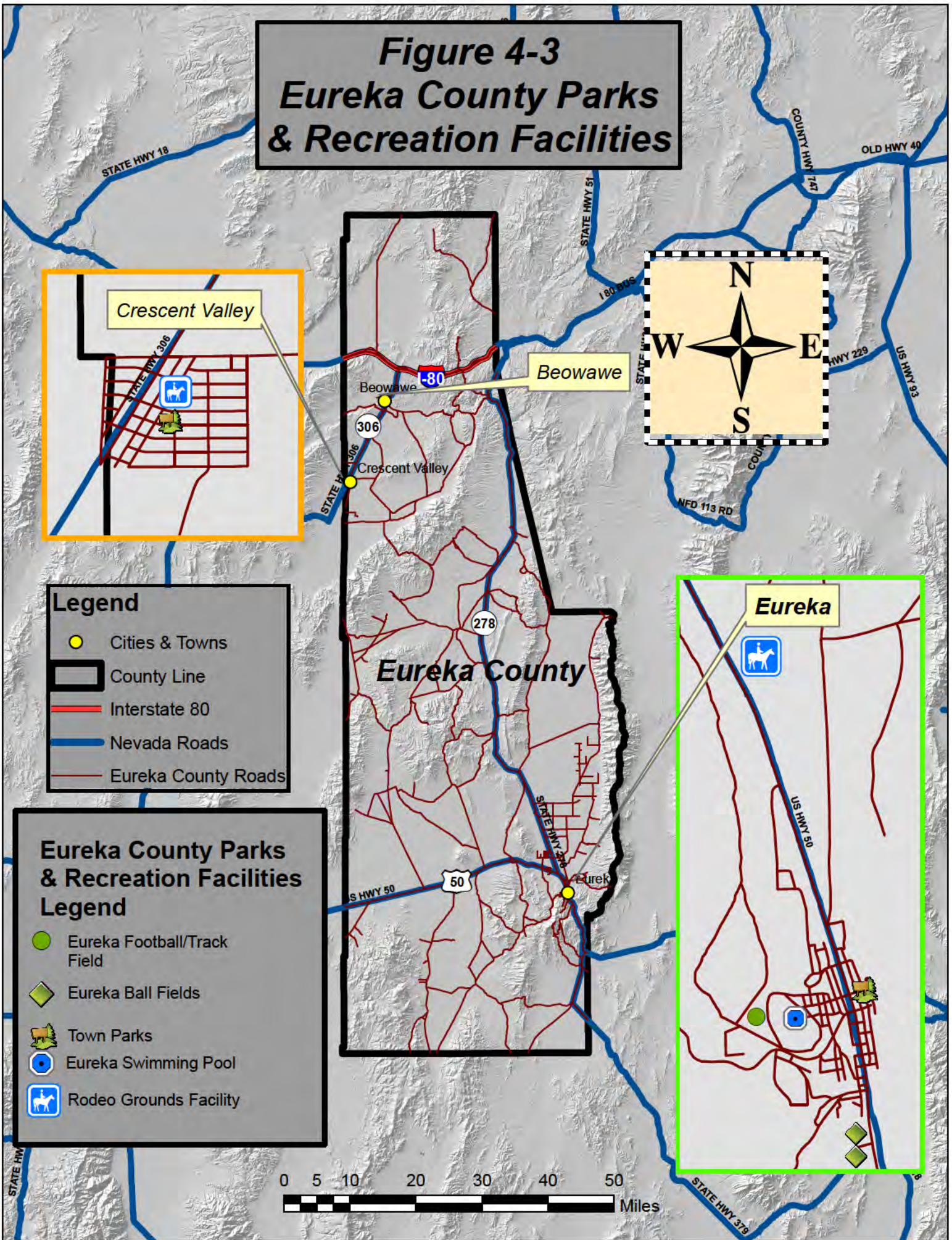
**type, operation**

-  gold, OP
-  gold, OP/UG
-  iron, OP
-  Cities & Towns

-  Interstate 80
-  Nevada Roads
-  Eureka County Roads
-  County Line

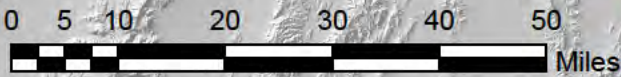
0 5 10 20 30 40 50 Miles

**Figure 4-3  
Eureka County Parks  
& Recreation Facilities**



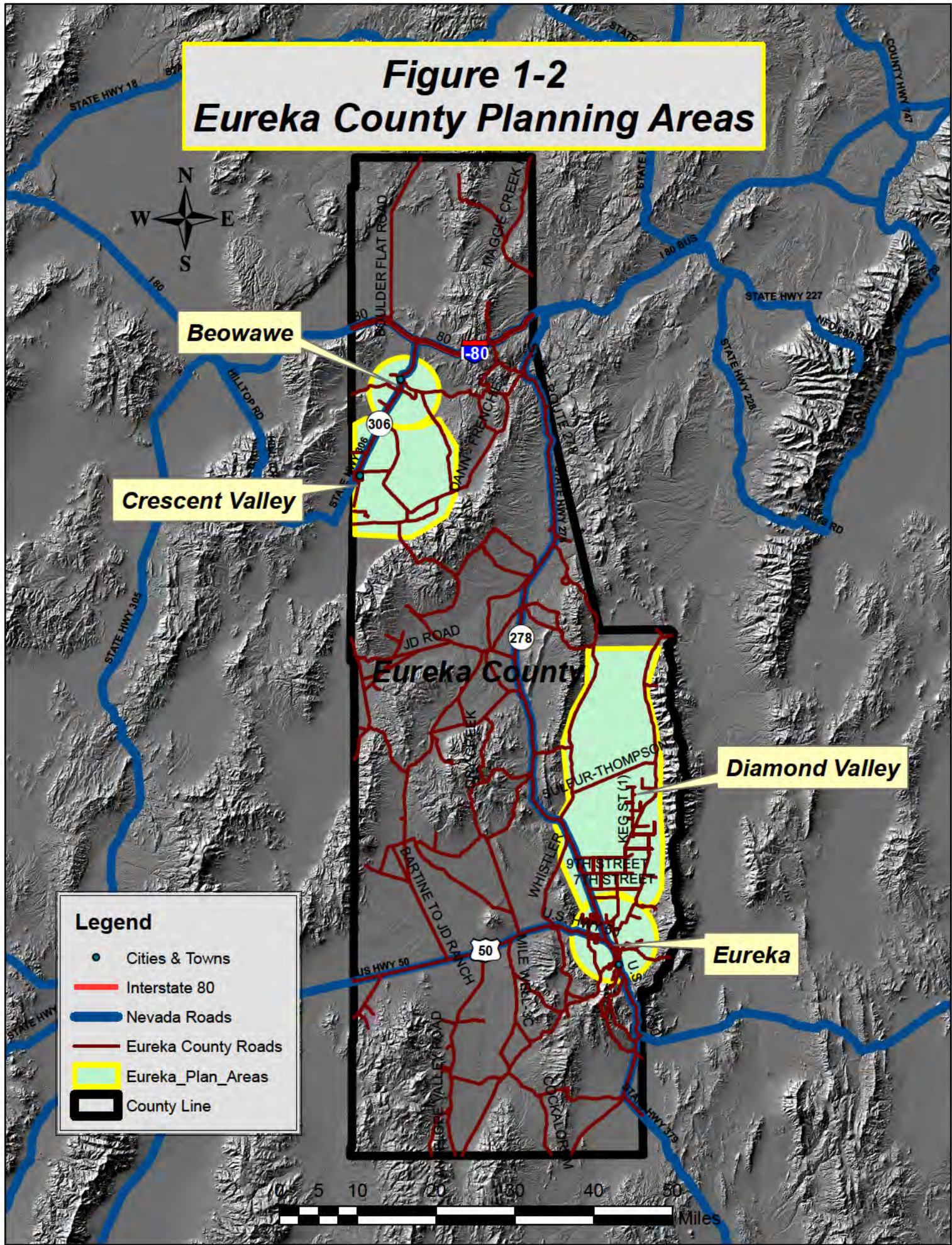
- Legend**
- Cities & Towns
  - County Line
  - Interstate 80
  - Nevada Roads
  - Eureka County Roads

- Eureka County Parks  
& Recreation Facilities  
Legend**
- Eureka Football/Track Field
  - ◆ Eureka Ball Fields
  - Town Parks
  - Eureka Swimming Pool
  - Rodeo Grounds Facility





**Figure 1-2  
Eureka County Planning Areas**



**Legend**

- Cities & Towns
- Interstate 80
- Nevada Roads
- Eureka County Roads
- Eureka\_Plan\_Areas
- ▭ County Line

0 5 10 20 30 40 50 Miles

**Figure 2-4**  
**Eureka County, Nevada**  
**Land Status Map**








Beowawe

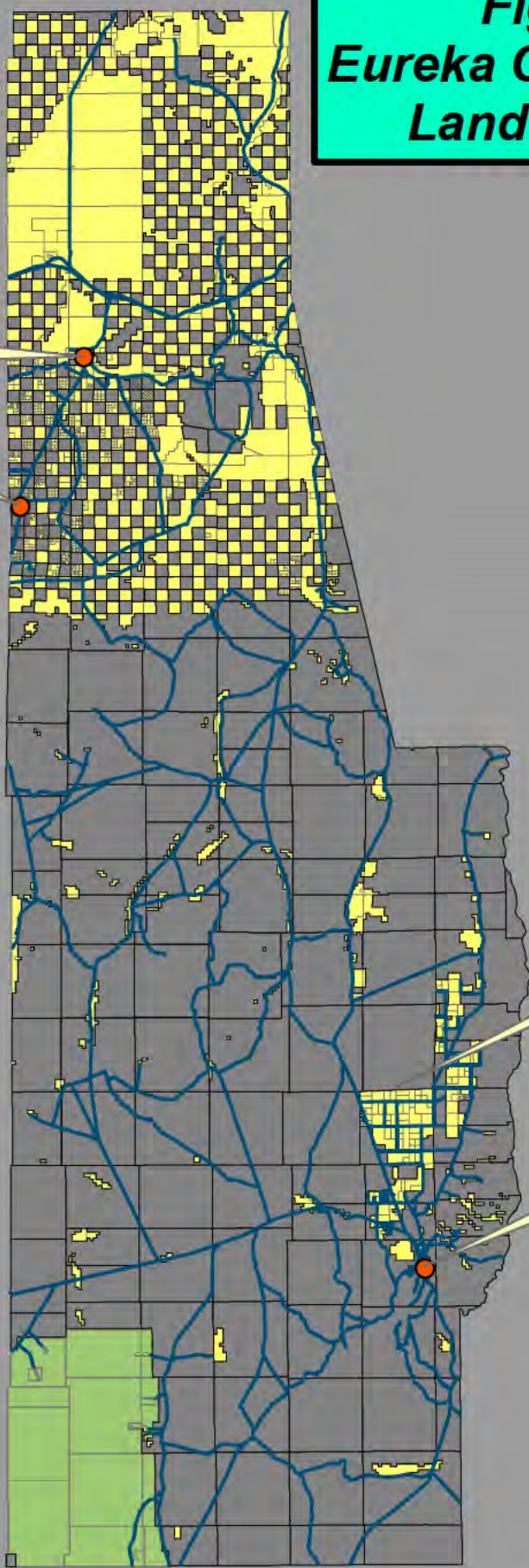
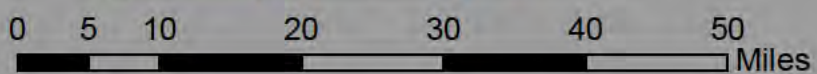
Crescent Valley

Diamond Valley

Eureka

**Legend**

-  Town Sites
-  Roads
-  BLM
-  Forest Service
-  Private



**Figure 7-1 (Fig. 2-4)  
Eureka County, Nevada  
Land Status Map**



Beowawe

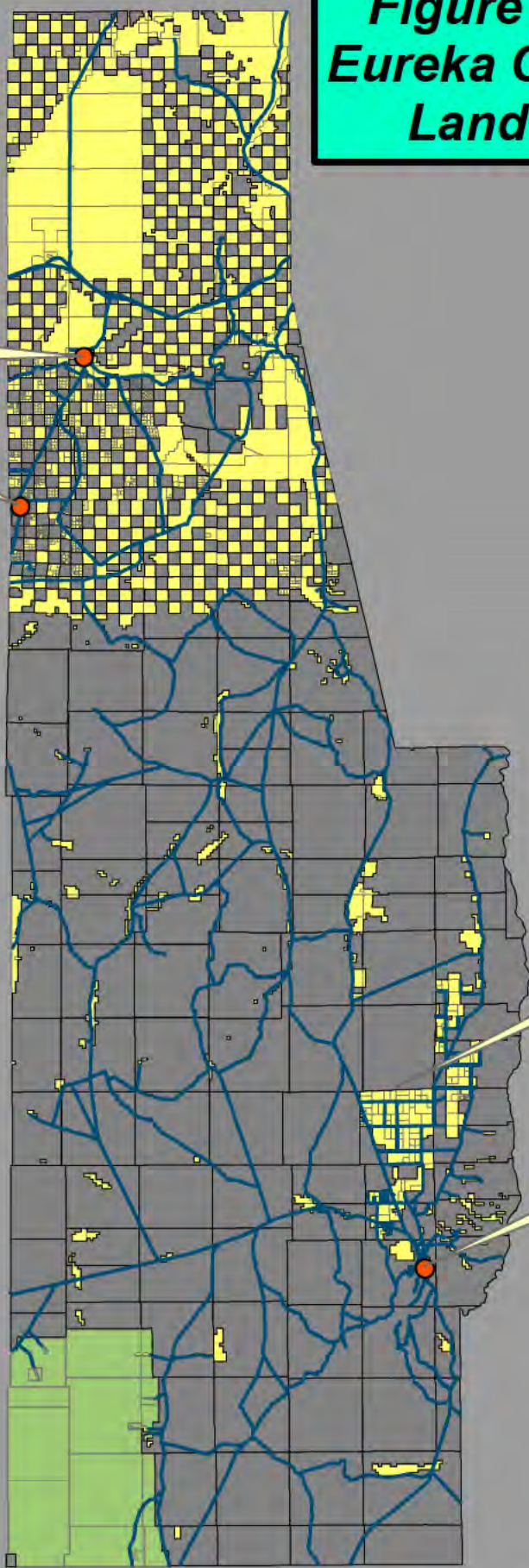
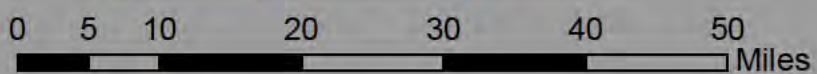
Crescent Valley

Diamond Valley

Eureka

**Legend**

- Town Sites
- Roads
- BLM
- Forest Service
- Private

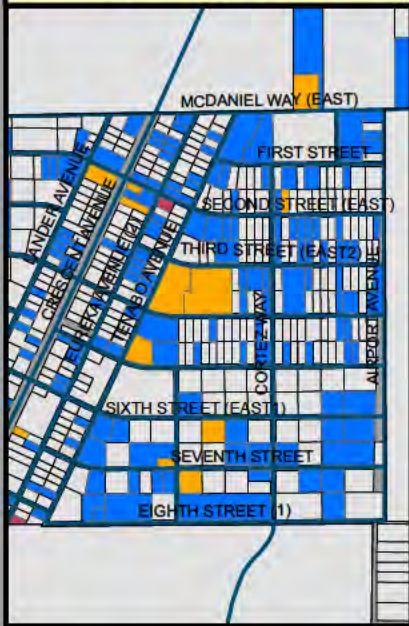


**Figure 2-3**  
**Eureka County, Nevada**  
**Land Use Map**

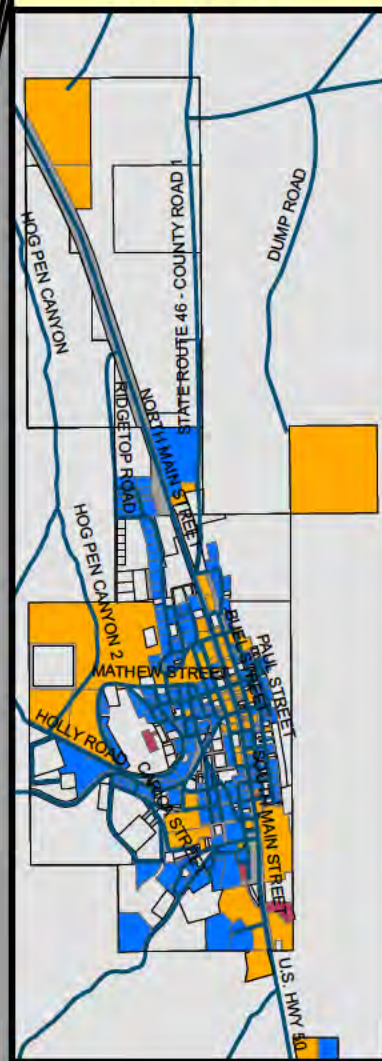


Beowawe

**Crescent Valley Town Site Land Use**

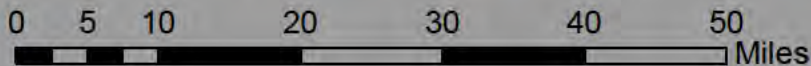


**Eureka Town Site Land Use**



**Legend**

- Roads
- LAND USE**
- VACANT
- RESIDENTIAL
- COMMERCIAL/INDUSTRIAL
- AGRICULTURAL
- MINING
- UTILITIES

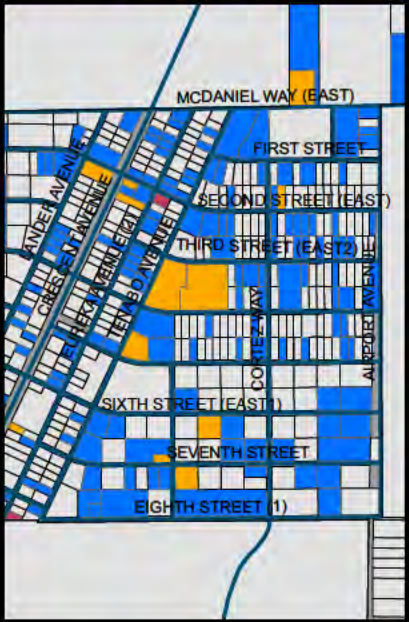


**Figure 7-3 (Fig. 2-3)  
Eureka County, Nevada  
Land Use Map**

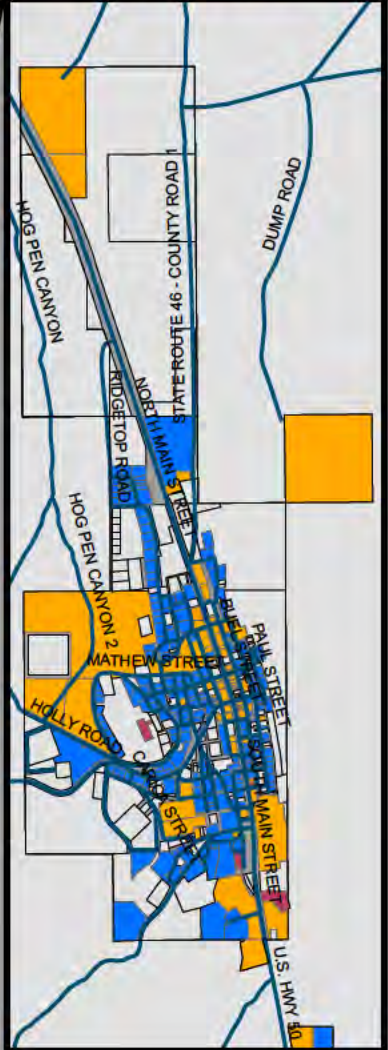


Beowawe

**Crescent Valley Town  
Site Land Use**



**Eureka Town Site  
Land Use**



**Legend**

- Roads
- LAND USE**
- VACANT
- RESIDENTIAL
- COMMERCIAL/INDUSTRIAL
- AGRICULTURAL
- MINING
- UTILITIES

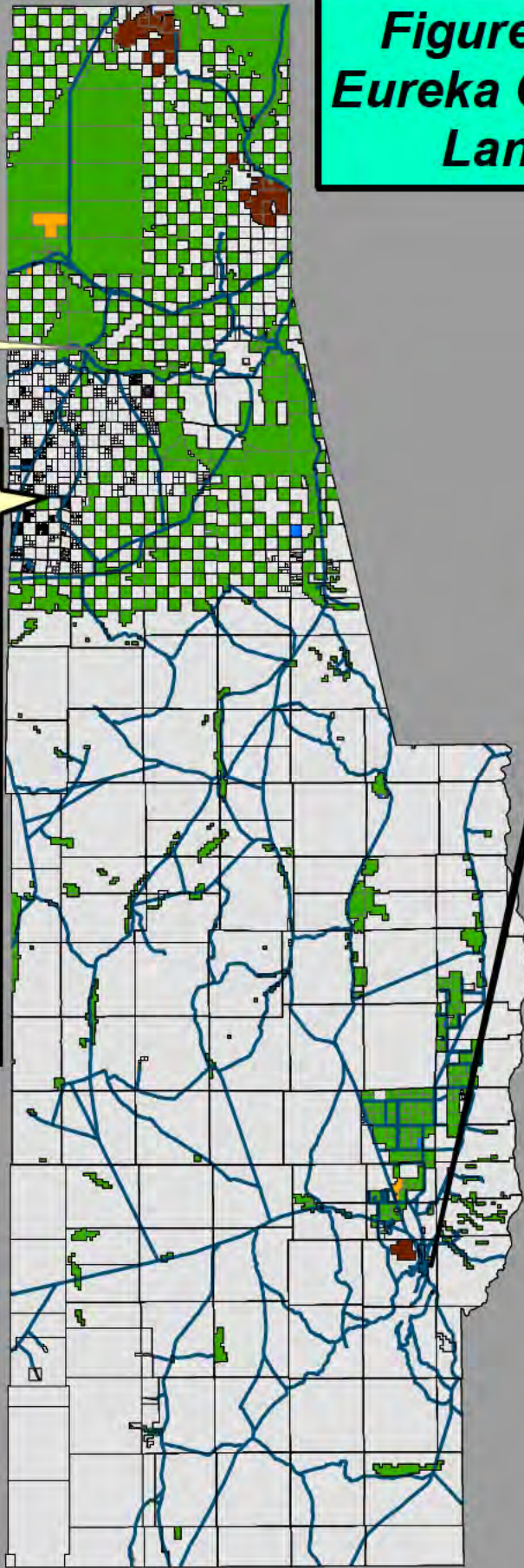
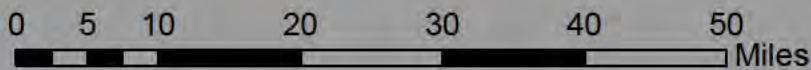


Figure 4-4

# Eureka County Road System

