



# Public Notice

U.S. ARMY CORPS OF ENGINEERS

BUILDING STRONG®

## Public Notice of Permit Application

Action ID: SPK-2007-00543-NO

Comments Period: 24 August 2009 - 24 September 2009

**SUBJECT:** The U.S. Army Corps of Engineers, Sacramento District, (Corps) is evaluating a permit application to construct the Red Stone Multi Use Development project, which would result in impacts to approximately 22.99 acres of waters of the United States, including wetlands, in or adjacent to Tenmile Creek. This notice is to inform interested parties of the proposed activity and to solicit comments. This notice may also be viewed at the Corps web site at <http://www.spk.usace.army.mil/regulatory.html>.

**AUTHORITY:** This application is being evaluated under Section 404 of the Clean Water Act for the discharge of dredged or fill material in waters of the United States.

**APPLICANT:** Kenneth Krater  
MTK Limited, LLC  
901 Dartmouth Drive  
Reno, Nevada 89509

**LOCATION:** The project site is located on or near , Section 31, Township 38 N, Range 59 E, Latitude 41.1445°, Longitude -115.3546°, Spring Creek, Elko County, Nevada, and can be seen on the Elko East, Nevada (1975) and Te-Moak, Nevada (1990), U.S. Geological Survey 7.5-minute topographic quadrangles.

**PROJECT DESCRIPTION:** The applicant is proposing to place 555,000 cubic yards of fill in 22.99 acres of wetlands and other waters of the U.S. to construct a residential and commercial development. Based on the available information, the overall project purpose is to provide diverse housing opportunities, commercial businesses and light industrial opportunities. The applicant believes there is a need to provide diverse housing opportunities to support the growing mining industry in Elko County and area efforts to diversify the economy. The attached drawings provide additional project details.

The Applicant proposes to prepare the subject property through grading activities involving cut and fill, to construct a master planned community consisting of approximately 4,000 residential units on 1,442.60± acres, 100± acres of commercial land, 15.7± acres of light industrial land, and 83.5± acres of public facility land which includes an elementary school site, a fire station site, and a wastewater treatment plant in a phased construction process. The project will include an extensive network of 25.2± acres of open space accommodating in-kind compensatory mitigation on-site, and a 38.5± acre Regional Park that will be available to the public.

### ADDITIONAL INFORMATION:

**Environmental Setting.** There are approximately 19.4 acres of palustrine emergent wetlands and 2 seasonal tributaries Tenmile Creek and Spring Creek within the project area. Spring Creek flows in to Tenmile Creek in the south and east portion of the property, where Tenmile Creek then flows to the north and west and exits the property via a manmade ditch (constructed circa 1923). Tenmile Creek and non-localized, inconsistent groundwater sources (seeps/springs) serve as the primary sources of irrigation for the property to support current livestock grazing practices.

The project area has been subjected to human-induced influences which have resulted in changes in hydrologic and vegetative attributes. Influences are associated with agricultural and grazing practices that date back to pre turn of the 20th century. Vegetation within the project area is distributed along an elevation gradient reflecting current area hydrology and soils. Uplands are characterized by big sagebrush (*Artemisia tridentata*) and rubber rabbit brush

(*Chrysothamnus nauseosus*) in the shrub overstory, and a sparse, herbaceous understory consisting of Douglas's sedge (*Carex douglasii*),

Sandberg bluegrass (*Poa secunda*) and occasional weedy species including bur buttercup (*Ranunculus testiculatus*). Drier portions of valley floor pastures support Western wheatgrass (*Agropyron smithii*) and Kentucky bluegrass (*Poa pratensis*) as common grasses, while the presence of weedy species including Canada thistle (*Cirsium arvense*), leafy spurge (*Euphorbia esula*), and hairy whitetop (*Cardaria pubescens*) indicate disturbance likely associated with livestock grazing and the irrigation management regime.

Soils within the project area have been mapped by the NRCS (USDA, 1974) in an Order III Soil Survey. There are seven soil map units represented within the project area. Soils are generally deep to very deep loams that are mildly to strongly alkaline affected. However, the project area and vicinity has been altered by development of agriculture, grazing, and commercial and residential properties.

Historically, Tenmile Creek flowed through and supported what appears to have been emergent wetland on the valley floor to the north and west within the project area. However, following the construction of an irrigation ditch located adjacent but approximately 3 feet higher (in upland) than the surrounding low area, and the installation of two headgates, year round flows were cut off from the northern and western portions of the adjacent lower elevation areas. The manmade ditch became known as the Yowell Ditch, under the Bartlett Decree (1923-1938) establishing priority usage. Natural channels of Spring Creek and

Tenmile Creek provide surface water for the eastern fourth of the Wetland 1, while the Yowell Ditch is used to flood irrigate the larger portion of the meadow to the west and southwest based on availability of flows. During flood events, flows from Tenmile Creek may overtop the first headgate and sheet flow across the area to the north and west located approximately 3 feet below the elevation of the Yowell Ditch. The headgates provide a method to divert flows to this area between April 15 and August 15 or away from this area each year based on available flows.

Until the late 1960's the Spring Creek area within proximity to Spring and Tenmile Creeks was used for grazing land by Lamoille ranchers. In the late 60's, a large portion of the ranch land was sold to a developer from Texas with the intention of developing a 6,000 unit subdivision including an 18-hole golf course and reservoir along Spring Creek. A mobile home section has been developed to 96% capacity, and a housing section has been developed to 50% capacity. In addition, several smaller subdivisions have been created throughout the valley.

**Alternatives.** The applicant has provided information concerning project alternatives. Additional information concerning project alternatives may be available from the applicant or their agent. Other alternatives may develop during the review process for this permit application. All reasonable project alternatives, in particular those which may be less damaging to the aquatic environment, will be considered.

**Mitigation.** The Corps requires that applicants consider and use all reasonable and practical measures to avoid and minimize impacts to aquatic resources. The applicant proposed to avoid impacts to wetland 1 by providing the main access to the site at the existing Corral Lane; however, due to requirements from NDOT the main access to the site must occur in the vicinity of the school campus thus impacting wetland 1. Corral Lane is proposed to be removed once the new access is constructed. The applicant has proposed to minimize impacts to Spring and Tenmile Creeks by creating a new channel out of the development area versus piping the creeks.

If the applicant is unable to avoid or minimize all impacts, the Corps may require compensatory mitigation. The applicant has proposed the following compensatory mitigation, where it is currently contained in Yowell Ditch; the applicant has proposed to restore Tenmile Creek to its original channel. Twenty-two acres of wetlands adjacent to the re-established Tenmile Creek will be restored to palustrine emergent (wet meadow) wetlands. The proposed project will impact 22.99 acres of wetlands, the applicant proposes to restore 38 acres of wetlands and 5 acres of other waters.

**OTHER GOVERNMENTAL AUTHORIZATIONS:** Water quality certification or a waiver, as required under Section 401 of the Clean Water Act from the Nevada Division of Environmental Protection, Bureau of Water Quality Planning is required for this project. The applicant applied for certification on April 22, 2009.

**HISTORIC PROPERTIES:** The Corps will initiate consultation with the State Historic Preservation Officer under Section 106 of the National Historic Preservation Act, as appropriate.

**ENDANGERED SPECIES:** The project will not affect any Federally-listed threatened or endangered species or their critical habitat that are protected by the Endangered Species Act.

The above determinations are based on information provided by the applicant and our preliminary review.

**EVALUATION FACTORS:** The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the described activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the described activity, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the described activity will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare of the people. The activity's impact on the public interest will include application of the Section 404(b)(1) guidelines promulgated by the Administrator, Environmental Protection Agency (40 CFR Part 230).

The Corps is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

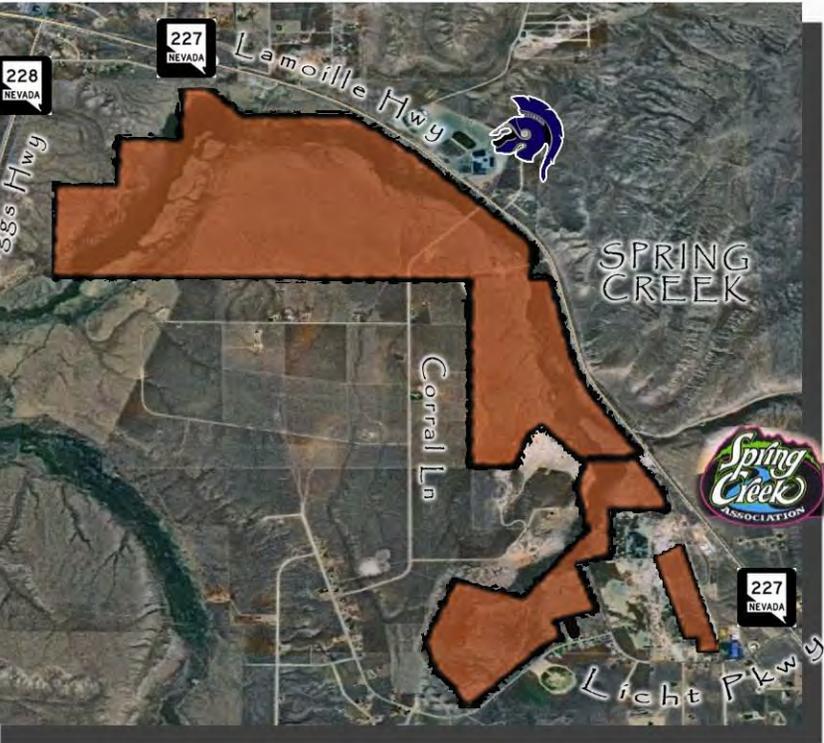
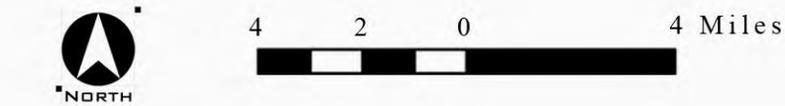
**SUBMITTING COMMENTS:** Written comments, referencing Action ID SPK-2007-00543-NO must be submitted to the office listed below on or before **24 September 2009**.

Kristine Hansen, Project Manager  
US Army Corps of Engineers, Sacramento District  
Reno Field Office, 300 Booth Street, Room 2103, Reno, Nevada 89509-1361  
Email: Kristine.S.Hansen@usace.army.mil

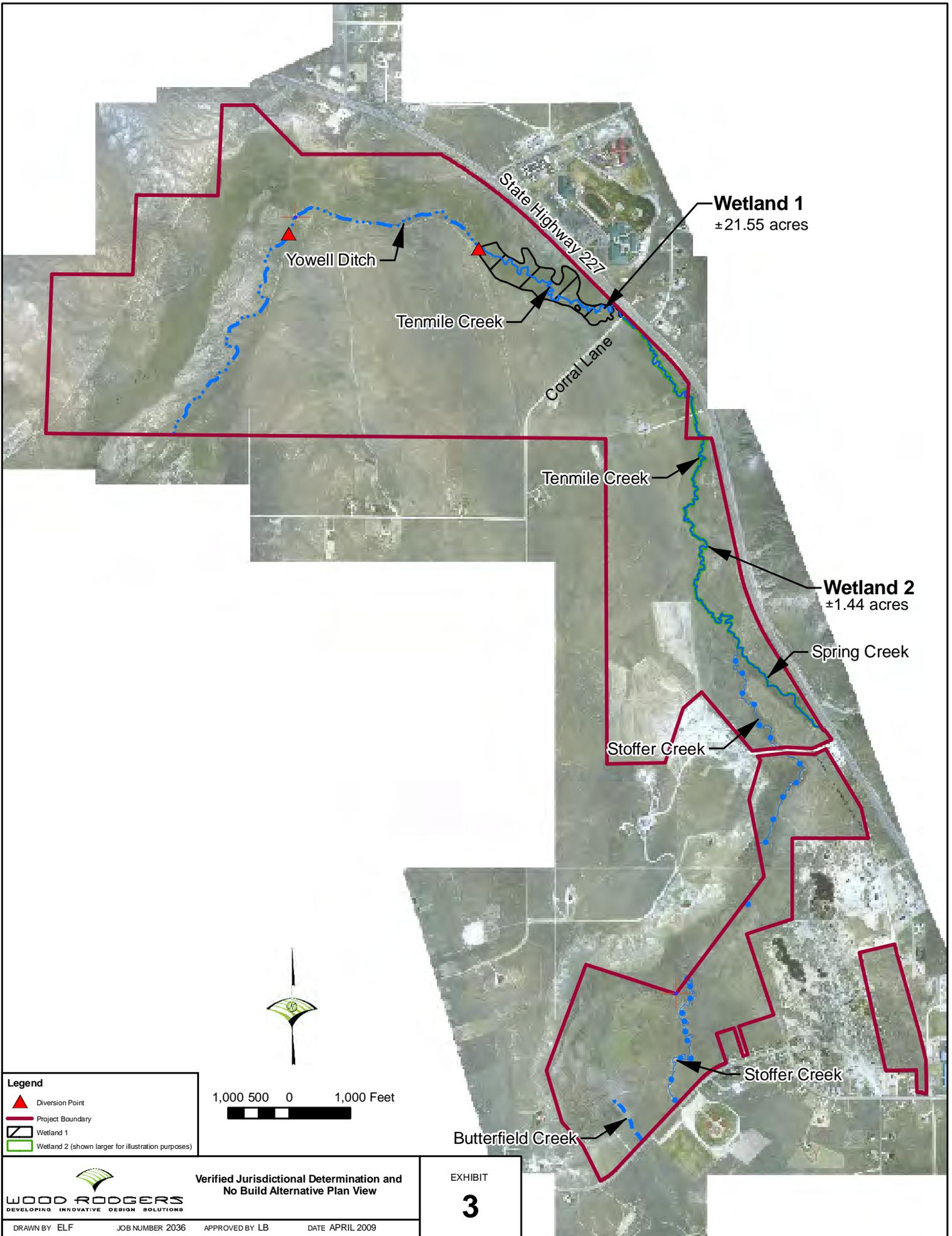
The Corps is particularly interested in receiving comments related to the proposal's probable impacts on the affected aquatic environment and the secondary and cumulative effects. Anyone may request, in writing, that a public hearing be held to consider this application. Requests shall specifically state, with particularity, the reason(s) for holding a public hearing. If the Corps determines that the information received in response to this notice is inadequate for thorough evaluation, a public hearing may be warranted. If a public hearing is warranted, interested parties will be notified of the time, date, and location. Please note that all comment letters received are subject to release to the public through the Freedom of Information Act. If you have questions or need additional information please contact the applicant or the Corps' project manager Kristine Hansen, 775-784-5307, Kristine.S.Hansen@usace.army.mil.

Attachments: 8 drawings

# REDSTONE MASTER PLANNED COMMUNITY



**EXHIBIT 1  
REDSTONE VICINITY MAP**



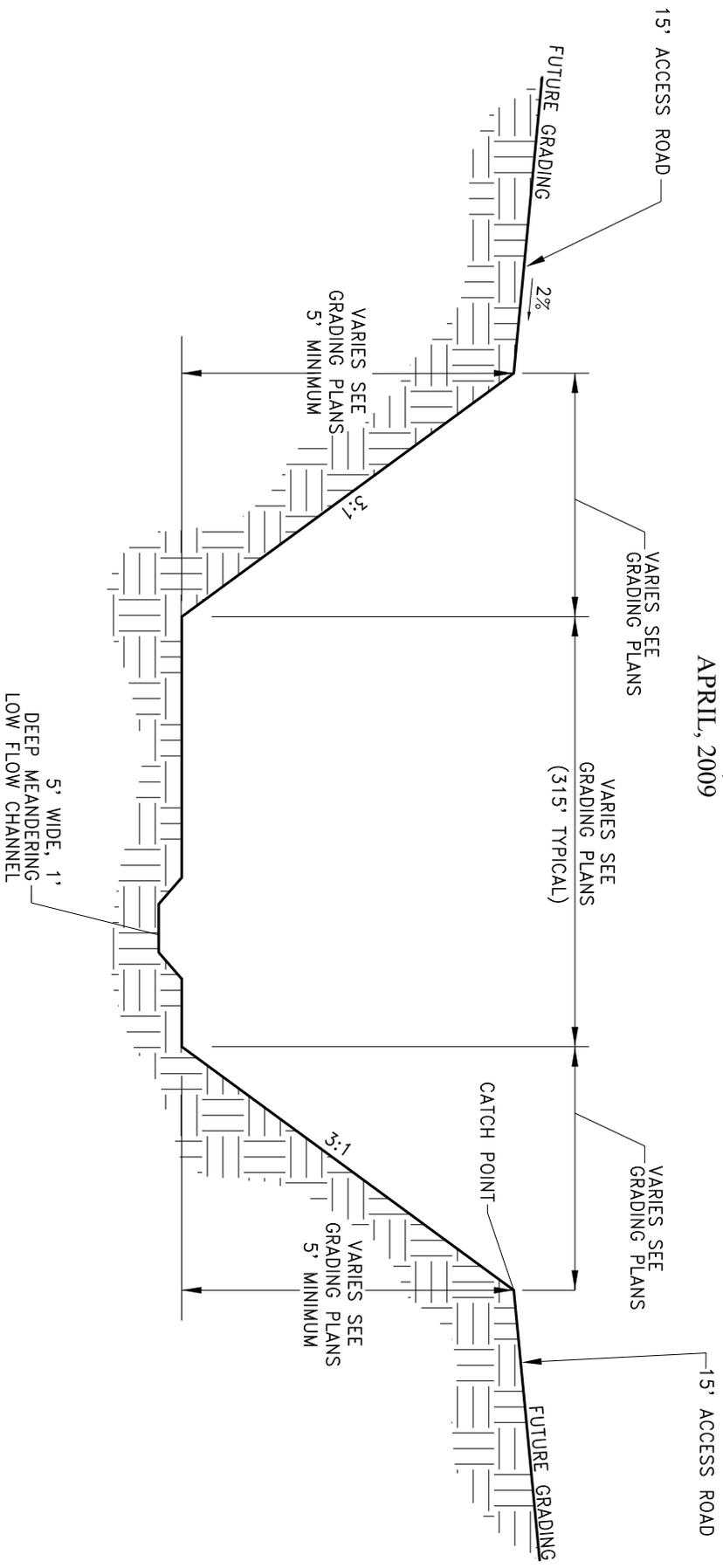






# EXHIBIT 6 - CROSS SECTION B-B RED STONE

ELKO COUNTY, NEVADA  
APRIL, 2009



**B-B**

## CHANNEL GRADING

NOT TO SCALE

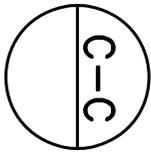
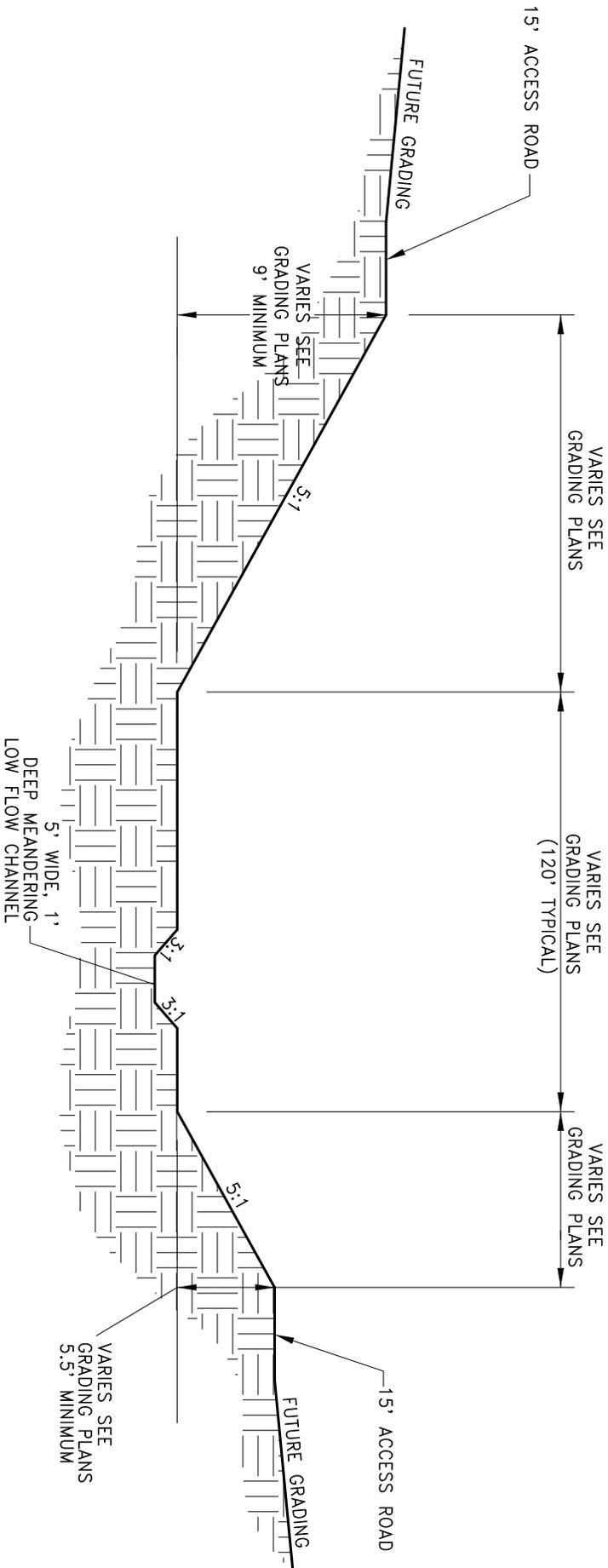
\* NOTE: GRADING PLANS TO BE PREPARED IN COORDINATION WITH DEVELOPMENT OF THE DETAILED MITIGATION PLAN



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 575 Double Eagle Court  
 Reno, NV, 89521  
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 Fax 775.823.4066

# EXHIBIT 7 - CROSS SECTION C-C RED STONE

ELKO COUNTY, NEVADA  
APRIL, 2009



## CHANNEL GRADING

NOT TO SCALE

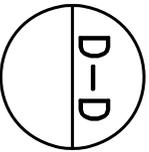
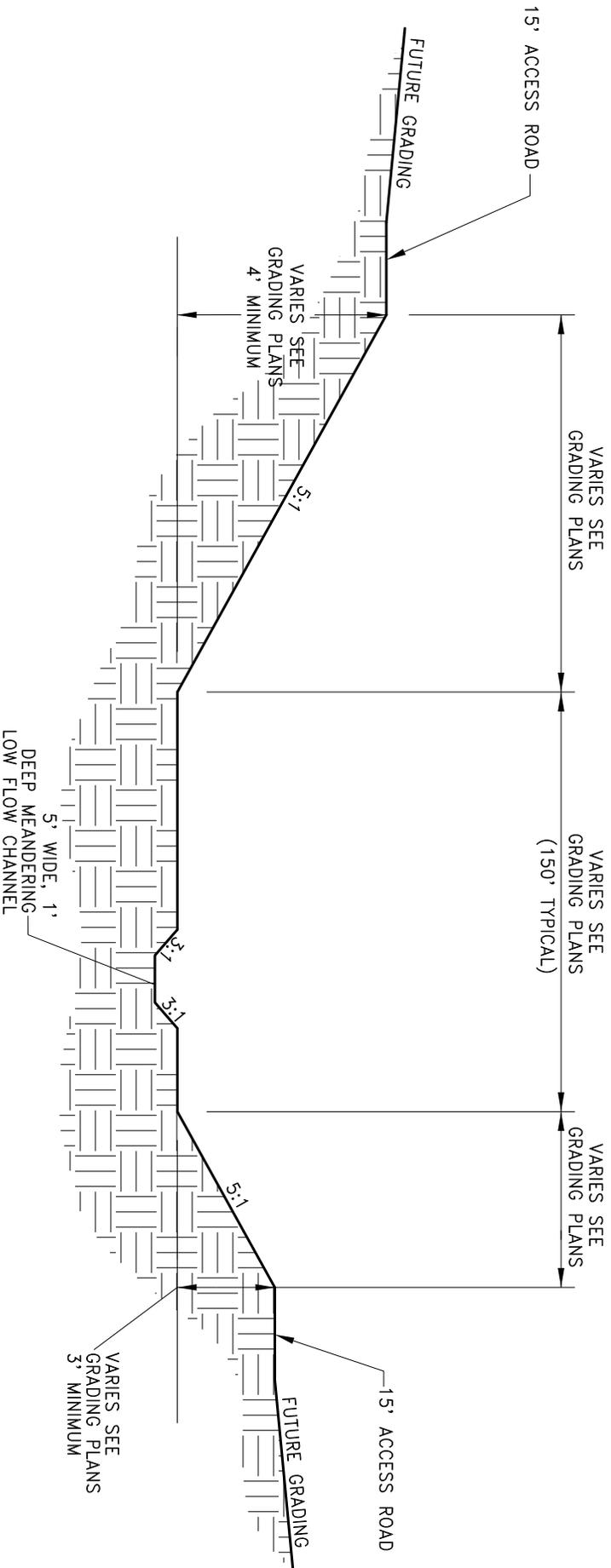
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# EXHIBIT 8 - CROSS SECTION D-D RED STONE

ELKO COUNTY, NEVADA  
APRIL, 2009



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NOT TO SCALE

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