

Resolution No. 94-11

ROUND MOUNTAIN TOWN BOARD
COUNTY OF NYE, STATE OF NEVADA

**RESOLUTION ACCEPTING THE
TRANSFER OF RIGHT-OF-WAY N-3759**

WHEREAS, the Town of Round Mountain is seeking transfer of the Shoshone Water Company from the Round Mountain Gold Corporation to the Town of Round Mountain; and

WHEREAS, said transfer requires the Town of Round Mountain to obtain the assignment of a water pipe line right-of-way, being more specifically described as follows:

Serial number of grant:	N-3759
Name and address of grantee:	Shoshone Water Company c/o Round Mountain Gold Corp. Smokey Valley Common Operation Round Mountain, Nevada 89045
Map designation:	Round Mountain Water Pipe Line System
Date filed:	April 22, 1969
Permitted use by grantee:	Water Pipe Line
Authority for grant:	Act of February 15, 1901 (31 Stat. 790; 43 U.S.C. 959)
Code reference:	43 CFR 2800 and 2873
Circular number:	2265 as amended
Date of grant:	May 14, 1971
Expiration of grant:	None;

hereinafter referred to as "right-of-way N-3759"; and

WHEREAS, the Bureau of Land Management desires the Town of Round Mountain to pass a resolution wherein the Town of Round Mountain accepts transfer of right-of-way N-3759, and agrees to comply with and be bound by all terms and conditions of said authorization; and

WHEREAS, the Town Board agrees that it is in the best

interests of the citizens of the Town of Round Mountain to accept transfer of right-of-way N-3759,

NOW THEREFORE, it hereby is resolved as follows:

1. The Town of Round Mountain hereby accepts the assignment of right-of-way N-3759.

2. The Town of Round Mountain hereby agrees to comply with and be bound by all terms and conditions of said assignment.

DATED this 24 day of May, 1994.

PROPOSED on the 24 day of May, 1994 by

Joanne Arnston

VOTE: AYES: Dan Earp NAYS: None

LC Hansen

Joanne Arnston

Kathy Quick

ABSENT: none

ABSTENTIONS: none

EFFECTIVE this 24 day of May, 1994.

TOWN BOARD OF ROUND MOUNTAIN
COUNTY OF NYE, STATE OF NEVADA

By: Joni Eastley
JONI EASTLEY, CHAIRPERSON

ATTEST:
By: Donna Willis
DONNA WILLIS, ex-officio Clerk
of the Round Mountain Town Board



United States Department of the Interior

Bureau of Land Management
Tonopah Field Station
P.O. Box 911
Tonopah, Nevada 89049

In Reply Refer To:
N-3759
2800
(NV-060)

CERTIFIED MAIL Z 203 969 209
RETURN RECEIPT REQUESTED

JUN 10 1996

DECISION

Town of Round Mountain :
P.O. Box 1305 : Right-of-Way
Round Mountain, NV 89045 :

DETERMINATION OF RENTAL EXEMPTION

Right-of-way grant N-3759 was granted to Karl W. Berg on May 14, 1971. This grant authorized a pipeline and 3 storage tanks in MDM, T. 10 N., R. 44 E., secs. 16, 20 and 21. The grant was later assigned to the Shoshone Water Company and more recently to the Town of Round Mountain. Historically, rent has been paid on this right-of-way and has been paid through May 13, 1996. The amount has been determined using the rental schedule for linear rights-of-way. Because this right-of-way is primarily for a site right-of-way, rent should be determined by an appraisal.

According to 43 CFR 2803.1-2(b)(1)(i), rental for this right-of-way should be charged if the principle source of revenue is customer charges. Information submitted to this office on April 29, 1996, shows that the principle source of revenue for the water system is NOT from customer charges.

Therefore the Town of Round Mountain is exempt from payment of rental for the water system. The grant provides that rental is subject to periodic review and possible subsequent change. If in the future, the principle source of revenue is from customer charges, rental will be charged and the amount will be determined by an appraisal.

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from the receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) or 43 CFR 2804.1 for a stay of the effectiveness of this decision during the time your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed in this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted; and
- (4) Whether the public interest favors granting the stay.


Ron Huntsinger
Tonopah Field Station Manager

1 Enclosure: 1. Form 1842-1 (1 p)