

Subject: RE: PRR Copy of the map Washoe County filed per NRS 403.190(1) Margolin
From: Public Records Requests <PublicRecordsReq@dot.nv.gov>
Date: 5/31/2022 2:46 PM
To: Jed Margolin <jm@jmargolin.com>
CC: Public Records Requests <PublicRecordsReq@dot.nv.gov>

Good Afternoon,

I have reached out to several sections within NDOT and have not had luck in locating records responsive to your request.

Thank you again,
Kami

Kami Thompson
Records Management

NDOT – Public Records
Phone: 775.888.7437
Email: PublicRecordsRequests@dot.nv.gov

Sent on behalf of the Custodian of Records, Kamilah Thompson



From: Jed Margolin <jm@jmargolin.com>
Sent: Wednesday, May 11, 2022 11:18 AM
To: Public Records Requests <PublicRecordsReq@dot.nv.gov>
Subject: Re: PRR Copy of the map Washoe County filed per NRS 403.190(1) Margolin

Dear Kami Thompson,

>Additional information is needed to process your request. What mapping are you seeking? What location(s) are you seeking?

The mapping that I am asking for is the mapping that Washoe County had a duty to file under NRS 403.190(1):

NRS 403.190 Map of county roads filed by board of county highway commissioners; effect of filing of map that includes an R.S. 2477 road; authority of user to file map of minor county road; fees.

1. Except as otherwise provided in subsection 4, upon laying out and designating the county roads as required in NRS 403.170, the board of county highway commissioners shall cause a map of the county to be made, showing the county roads and their designations. The board shall file one copy of the map with the clerk of the board of county highway commissioners, one copy with the Department of Transportation, one copy with the county clerk and one copy with the county recorder.

Washoe County had the duty to file a copy of this map with your department.

The area of the mapping is Washoe County.

The entire NRS 403.190 can be found at: <https://www.leg.state.nv.us/nrs/NRS-403.html#NRS403Sec190>

NRS 403.190 is part of:

TITLE 35 - HIGHWAYS; ROADS; BRIDGES; PARKS; OUTDOOR RECREATION
CHAPTER 403 - COUNTY ROADS, HIGHWAYS AND BRIDGES

which is at: <https://www.leg.state.nv.us/nrs/NRS-403.html>

The part that required counties to provide a copy of this map to NDOT became law in 1979:
<https://www.leg.state.nv.us/Statutes/60th/Stats197906.html#Stats197906page1174>

Washoe County had the duty to designate which roads are public roads under NRS 403.170:
<https://www.leg.state.nv.us/nrs/NRS-403.html#NRS403Sec170>

NRS 403.170 Designation of main, general and minor county roads; immunity of State and county from liability resulting from use of minor county roads; reclassification and abandonment of roads; hearing.

1. The board of county highway commissioners of each of the several counties of the State of Nevada shall:

(a) Lay out and designate which of the roads, generally termed public highways, are the most important to the people of the whole county and over which there is the greatest amount of general public travel and shall designate these roads as main county roads.

(b) Lay out and designate other roads of the county over which there is general public travel, and which are generally termed county roads, and shall designate these roads as general county roads.

(c) Lay out and designate other roads which are neither main nor general county roads but have been established by usage, or were constructed for use by the public, and shall designate these roads as minor county roads. This section does not require any maintenance for minor county roads. The State and the county are immune from liability for damages suffered by a person as a result of using any road designated as a minor county road.

2. The board of county highway commissioners may, from time to time, reclassify the roads and may lay out new roads of any class, or the board may change or abandon any roads termed as public highways.

3. The designation of a new road as a main county road, as a general county road or as a minor county road, or the reclassification of any road, or the abandonment of any road does not become effective until after a public hearing is held at which parties in interest and citizens have an opportunity to be heard. At least 10 days' notice of the time and place of the hearing must be published in a newspaper of general circulation in the county.

[1: Art. 4:257:1913; 1919 RL p. 2903; NCL § 5375] — (NRS A 1979, 1173; 1993, 1399)

My request is for a copy of the map that Washoe County was required to make and send to NDOT under NRS 403.190 .

Washoe County was also required to record a copy of the map with the Washoe County Recorder. If they did, I have not been able to find it.

What I have found is a map that Washoe County posted at https://www.washoecounty.gov/csd/files/CSD%20Images/renoroads_new

I have attached it as *Reference 1*.

The title is PRESUMED PUBLIC ROADS and says: Original Date March 1999 / Revised October 2010.

The following is the legend on the map.



On the map Washoe County says it maintains what it presumes to be public roads. It does not say it only presumes that it maintains a presumed public road.

Under NRS 405.191:

NRS 405.191 “Public road” defined; county roads and highways may be established on rights-of-way over certain public lands. As used in NRS 405.193 and 405.195, “public road” includes:

1. A United States highway, a state highway or a main, general or minor county road and any other way laid out or maintained by any governmental agency.

See <https://www.leg.state.nv.us/nrs/NRS-405.html#NRS405Sec191>

There is a statement that accompanies the map, dated 1999, that says:

These maps will neither create nor extinguish a public right-of-way by virtue of showing or not showing a

road as a public road.

See https://www.washoecounty.gov/csd/files/CSD%20Images/ppr_notice_1999 . I have attached it as *Reference 2*,

It was not updated when the map was updated in 2010.

Does it matter? Once a public road always a public road unless the County Commissioners abandon it. I don't see anything in the minutes of the Washoe County Commissioners meetings that they abandoned any of these roads.

The 1999 statement also says:

At a hearing held April 27, 1999, the Washoe County Board of County Commissioners found the roads shown on these maps were presumed to be public roads based on NRS 405.191 and NRS 405.195.

I obtained the minutes of that meeting from Washoe County's very new and very crappy Web page for searching and finding the minutes of the Washoe County Board of Commissioners meetings. For one thing you cannot directly link to specific documents. The process starts here (Good luck.):

<https://login.imagesilo.com/PVE.aspx?txtEntityID=11032&txtUser=PUBLIC&txtPassword=Public1!&hRemote=0>

Fortunately, I found and downloaded the minutes and am attaching them as *Reference 3*.

The discussion agenda item 99-389 MAPS DEPICTING ROADS PRESUMED TO BE PUBLIC - PUBLIC WORKS starts on PDF page 14. On PDF Page 15:

Mr. Roundtree noted that adoption of these roads and making them a part of the public record starts the statute of limitations, which in this case is 15 years; and that if a determination to the contrary is not made during that 15-year period, all roads shown on these maps actually do become public and there is then no opportunity for someone to challenge them.

(Mr. Roundtree is listed as David Roundtree, Public Works Director.)

If we add 15 years from 1999 we get 2014. Therefore, in 2014 these roads supposedly and officially became public roads and there is now no opportunity for someone to challenge it.

Further, on PDF page 15:

Chairman Galloway stated that Legal Counsel has advised that, relative to the issue raised regarding the recording of the maps, further research will need to be done to determine if that is legally allowed.

Upon inquiry of Commissioner Shaw, Mr. Roundtree advised that it is staff's intent to make the maps as accessible to the public as possible and the public libraries would be a good place to locate them.

On motion by Commissioner Bond, seconded by Commissioner Shaw, which motion duly carried, Chairman Galloway ordered that the maps depicting roads within Washoe County which are presumed to be public roads be adopted; and that staff be directed to utilize the information contained in the maps as it relates to public roads and public access issues in the review of development proposals. It was further ordered that the maps be recorded in the Recorder's Office if it is determined that it is legally allowable to do so.

If this is why Washoe County produced the map I see some problems here.

1. The NRS requirement that counties make a map of the county roads and their designations and file one copy with the clerk of the board of county highway commissioners, one copy with the department of highways, one copy with the county clerk, and one copy with the county recorder goes back to 1979. <https://www.leg.state.nv.us/Statutes/60th/Stats197906.html#Stats197906page1174>

I don't see that Washoe County recorded it with the Washoe County Recorder.

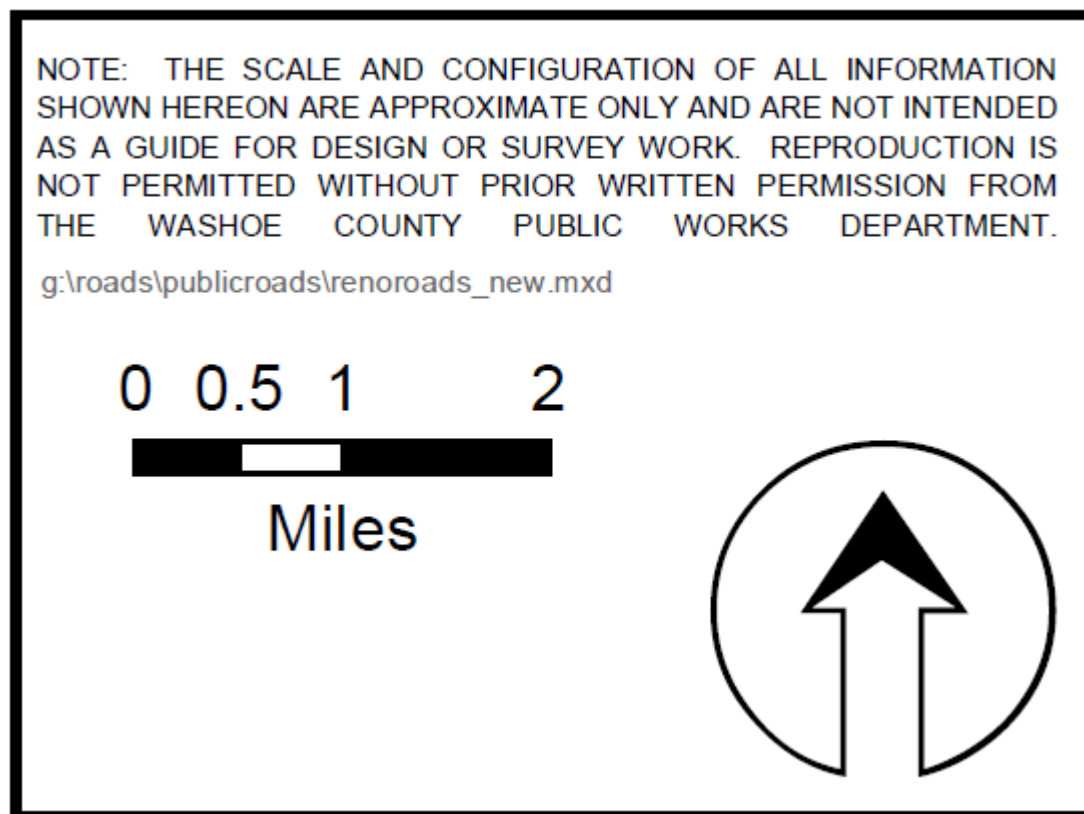
2. This is an affirmative duty, a commandment. It does not say that counties can use weasel words like presume and say:

These maps will neither create nor extinguish a public right-of-way by virtue of showing or not showing a road as a public road

3. The NRS states what the statute of limitations is for different matters. <https://www.leg.state.nv.us/nrs/nrs-011.html>

I don't see anything about a 15 year period after which a presumed public road becomes an actual public road. There is no statute of limitations of 15 years for anything. Washoe County made that up.

4. The map is supposed to be a public document. The map says:” Reproduction is not permitted without prior written permission from the Washoe County Public Works Department.”



I don't think that would pass muster with Nevada's NRS CHAPTER 239 - PUBLIC RECORDS starting at <https://www.leg.state.nv.us/nrs/nrs-239.html#NRS239Sec001>

Section 6 says:

6. "Official state record" includes, without limitation:

(a) Papers, unpublished books, maps and photographs;

If the above is the map that Washoe County made in order to comply with NRS 403.190 (and NRS 403.170) they failed to comply with the law.

So, either Washoe County failed to comply with the law or they made a different map that does and sent NDOT a copy of it. That is the map I am asking you for.

The public has the right to know which roads are public and which are not.

Look at <https://www.leg.state.nv.us/nrs/NRS-405.html#NRS405Sec195>

NRS 405.195 Petition to open, reopen, close, relocate or abandon road; hearings and orders by board of county commissioners regarding petition; legal actions authorized.

In deciding if a road is to be a public road or is to be abandoned one of the factors that the County Board must take into consideration is:

(c) Whether the decision will result in a significant reduction in the value of public or private property.

NRS 405.195(3)(c).

Isn't that also one of NDOT's missions?

Given the importance of this issue I had expected NDOT to keep a file containing all of the maps that counties were required to file with you under NRS 403.190 and NRS 403.170 to make them easy to find so that you could see how county roads interface with your roads.

Apparently you do not do that. (You really should.)

Therefore please look for the map that Washoe County was required to file with you under NRS 403.190 and if you find it send me a copy of it.

If Washoe County did not send you the map required by NRS 403.190 then say that.

Regards,

Jed Margolin
1981 Empire Rd.
Reno, Nevada 89521-7430

[This is my mailing address. I actually live in Storey County but my community (the Virginia City Highlands) doesn't have its own post office.]

=====

| ----- Original Message -----
| From: [Public Records Requests](#)

To: jm@jmargolin.com
Cc: [Public Records Requests](#)
Sent: Friday, May 06, 2022 12:46 PM
Subject: PRR Copy of the map Washoe County filed per NRS 403.190(1) Margolin

Good Afternoon,

Thank you for your recent request for public records or information concerning NDOT. Pursuant to NRS 239.0107, we acknowledge receipt.

Your request is important to us, and we will do our best to fulfill it as soon as possible. You can expect receipt of your requested documents or response indicating that we do not have responsive records by the close of business on **May 27, 2022**. Be advised that due to the volume and scope of the requests NDOT receives, availability of staff for research, and accessibility to some records, additional time may be required to fulfill your request. You will be notified in writing on or before the anticipated delivery date if an extension is needed. If we cannot ascertain the specific documents or information you desire, we will contact you for clarification or, in some cases, ask you to personally review the files either in Carson City or other NDOT offices. Pursuant to NRS 239, NDOT is authorized to charge for copies, and we will provide an estimate and request prior payment before further processing, if required.

- Additional information is needed to process your request. What mapping are you seeking? What location(s) are you seeking?

Please contact us if you have any questions.

Sincerely,
Kami Thompson

NDOT – Public Records
Phone: 775-888-7437
Email: PublicRecordsRequests@dot.nv.gov

Sent on Behalf of the Custodian of Records, Kami Thompson



This communication, including any attachments, may contain confidential information and is intended only for the individual or entity to whom it is addressed. Any review, dissemination or copying of this communication by anyone other than the intended recipient is strictly prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and delete all copies of the original message.