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4 5	UNITED STATES DISTRICT COURT	
6	DISTRICT OF NEVADA	
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8	UNITED STATES OF AMERICA,	Case No. 3:99-cv-00547-MMD-WGC
9	Plaintiff,	ORDER
10	V. (RE EVIDENTIARY HEARING
11	JOHN C. CARPENTER, et al.,	
12	Defendants, and	
13	COUNTY OF ELKO,	
14	Defendant/Counter-Claimant,	
15	THE WILDERNESS SOCIETY, et al.,	
16	Defendants/Intervenors/Cross-Claimants.	
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18	After hearing from the parties, the Court granted Elko County's request for an	
19	evidentiary hearing on the issue of whether Elko County can establish a right-of-way	
20	under Revised Statute 2477. The Court finds that such a hearing is appropriate as part	
21	of the Court's review of the proposed consent decree, particularly in light of the	
22	heightened clear and convincing burden of proof required of Elko County. ¹ The Court	
23	agrees with TWS that an evidentiary hearing on its cross-claims is not appropriate	
24	because review of TWS's cross-claims under the Administrative Procedure Act, 5	
25	U.S.C. § 702, is limited to the administrative records.	
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 ¹The Court agrees with the United States and TWS that Elko County must establish its claimed right-of-way under Revised Statute 2477 by clear and convincing evidence. (Dkt. no. 507.)

The Court has ordered the parties to confer and file a joint pre-hearing statement. The parties are directed to include their respective list of witnesses and documents in the statement. After further consideration, the Court finds that a set of proposed findings of fact and conclusions of law would provide a road map for the Court during the evidentiary hearing. Therefore, the parties are directed to include joint proposed findings of fact and conclusions of law in the pre-hearing statement. The Court will set a briefing schedule for post-hearing briefs at the evidentiary hearing's conclusion. The joint pre-hearing statement is due on September 29, 2014. The parties must raise any issues that must be resolved by the time of the evidentiary hearing in a motion filed on the same date. DATED THIS 18th day of August 2014. MIRANDA M. DU UNITED STATES DISTRICT JUDGE