



United States Department of the Interior
BUREAU OF LAND MANAGEMENT
National Headquarters
Washington, DC 20240
<https://www.blm.gov>



December 13, 2024

Memorandum

To: BLM Nevada State Director

From: Director, Bureau of Land Management

Subject: BLM Interim Management of the Basin and Range National Monument

On July 10, 2015, President Obama issued Proclamation 9297¹ (“the Proclamation”), designating the Basin and Range National Monument (“the Monument”). The Proclamation identified objects of historic and scientific interest and reserved more than 704,000 acres of land in Lincoln and Nye Counties as the smallest area compatible to protect the objects identified.

The result of tectonic expansion over eons that spans the transition between the Mojave Desert and the sagebrush steppe of the Great Basin Region, the Basin and Range Proclamation describes how this iconic American landscape presents a stunning backdrop for the rock art of early Americans, and the frame for an important contemporary artwork evoking American forms of millennia past. It explains that the Monument encompasses one of the most undisturbed corners of the broader Great Basin region, which extends from the Sierra Nevada Mountains in the west to the Colorado Plateau in the east.

The Proclamation also specifically directs the Secretary of the Interior, through the Bureau of Land Management (“BLM”), to prepare a management plan for purposes of protecting and restoring the objects identified in the Proclamation within three years of the establishment of the Monument. In preparing the management plan, BLM-NV will provide for maximum public involvement in the development of that plan including, but not limited to, consultation with State, tribal, and local governments.

This interim management guidance will help ensure that, until the new plan is prepared, BLM-NV will manage the Monument in a manner consistent with the Proclamation.² The purpose of this memorandum is to: (a) provide interim guidance to BLM-NV for managing the Monument while the agency develops a management plan for the Monument; and (b) direct BLM-NV to prepare a management plan for the Monument, with a goal of finalizing that plan no later than

¹ 80 Fed. Reg. 41969 (July 10, 2015).

² This interim management direction applies only to BLM-managed lands and interests in lands located within the exterior boundaries of the monument. However, the Monument boundary encompasses approximately 4,438 acres owned by private landowners. If the BLM were to acquire any new lands and interests in lands within the boundaries of the monument reservation prior to completion of a resource management plan, this interim management guidance would apply to those lands as well.

January 2031. As implementation of the Proclamation proceeds, additional resource-specific guidance will be provided as necessary.

I. Interim Management Direction

The Proclamation identified objects of historic and scientific interest within the Monument boundaries and provided specific direction for management of the Monument, including the direction to prepare a management plan for the Monument. While BLM-NV is in the process of preparing that management plan, the BLM State and Field Office staff will ensure that management of the Monument conserves, protects, and restores the objects of historic and scientific interest within the Monument boundary for the benefit of current and future generations, consistent with the Proclamation, the Omnibus Public Land Management Act of 2009 (16 U.S.C. 7202), and the Antiquities Act (54 U.S.C. 320301). Additionally, the BLM's policies for interim management of lands reserved as part of a national Monument are generally outlined in Section 1.6 of BLM Manual 6220.

This interim management direction describes how the Proclamation fits into the existing legal framework for managing discretionary activities within national Monuments by restating and summarizing how the Proclamation, relevant statutes, regulations, and the applicable resource management plan govern the Monument prior to completion of the management plan for the Monument. This interim management direction does not alter the applicable laws or legal framework, or create new legal consequences. While certain legal obligations are discussed in this interim management direction, those obligations stem from applicable statutes, regulations, and the Proclamation.

A. Mining and Mineral Leasing Activity

The Proclamation provides that, subject to valid existing rights,

All Federal lands and interests in lands within the boundaries of the Monument are hereby appropriated and withdrawn from all forms of entry, location, selection, sale, or other disposition under the public land laws, from location, entry, and patent under the mining laws, and from disposition under all laws relating to mineral and geothermal leasing, other than by exchange that furthers the protective purposes of the Monument.

Therefore, no new mining claims may be located, and no new mineral leases may be issued, on lands within the Monument. Before approving a plan of operations³ within the Monument on claims located before the lands were withdrawn, BLM-NV must, in accordance with 43 CFR 3809.100(a), prepare a mineral examination report to determine whether the mining claim was valid *before* the withdrawal,⁴ and to determine whether the mining claim remains valid. The operator will be responsible for the costs of the mineral examination, as required by 43 CFR 3800.5(b). During the period that BLM-NV is completing the examination, limited activity may be allowed on the claim, but only to take samples to confirm or corroborate mineral exposures that are physically disclosed and existing on the mining claim prior to the withdrawal, or to

³ There are no "notice-level" operations in national Monuments, meaning that operators must submit a plan of operations for any surface disturbance greater than casual use. *See* 43 CFR 3809.11(c)(7).

⁴ The effective date of the withdrawal is the day the Monument was established, July 10, 2015.

complete minimum necessary annual assessment work. If BLM-NV concludes that a mining claim is invalid, BLM-NV should not approve operations on the claim, but instead promptly initiate contest proceedings.

If mining or mineral leasing activities that BLM-NV determines are valid existing rights are allowed to proceed, the agency must—to the greatest extent possible, and in accordance with applicable law—manage the activity in a manner that protects Monument objects, in addition to taking any action necessary to prevent unnecessary or undue degradation of these public lands.

B. Discretionary Activities

1. In General

Section 302 of the Federal Land Policy and Management Act (FLPMA) states that public lands should be managed under the principles of multiple use and sustained yield “except that where a tract of such public land has been dedicated to specific uses according to any other provisions of law it shall be managed in accordance with such law.”⁵ The Proclamation dedicates the lands within the Monument to a specific use under the Antiquities Act—namely, the protection of the objects identified in the Proclamation. Therefore, BLM-NV must manage the lands reserved within the Monument boundary in a manner that protects the objects for which the Monument has been designated. In other words, within the Monument, typical multiple-use management is superseded by the direction in the Proclamation to protect Monument objects. On BLM-administered lands within the Monument, authorizations and BLM-initiated actions are allowed only to the extent they are consistent with the protection of the objects identified in the Proclamation.

For any discretionary project or activity proposed within the boundaries of the Monument or with the potential to affect objects for which the Monument has been designated, BLM-NV must undertake a two-part analysis before issuing an authorization. First, the authorized officer must verify that the proposal conforms to the approved resource management plan. Second, the authorized officer must determine that the proposal is consistent with the protection of Monument objects. Because the 2008 Ely Resource Management Plan was developed before the issuance of the Proclamation,⁶ a finding that a proposed project or activity conforms to that resource management plan does not necessarily ensure that the proposal is consistent with the protection of objects for which the Monument has been designated. The authorized officer should ensure that the decision document and associated record provides adequate documentation of both the conformity to the resource management plan and compliance with the

Proclamation. Documentation of this analysis is required for all proposals that were not approved prior to July 10, 2015.

⁵ 43 U.S.C. 1732(a).

⁶ The Ely Resource Management Plan was amended by the Nevada and Northeastern California Greater Sage-Grouse Approved Resource Management Plan Amendment and Final EIS, which was signed in September 2015, just after the Monument was established.

In summary, prior to the adoption of a new management plan for the Monument, BLM-NV may authorize for activities only if it determines that: (1) the decision conforms to the 2008 Ely Resource Management Plan, as amended; and (2) the decision is consistent with the protection of Monument objects. BLM-NV should ensure that the NEPA analysis for the decision adequately addresses potential impacts to Monument objects and document the basis for its determinations and, if not, undertake additional environmental analysis as necessary. BLM-NV's determination for each of the considerations detailed above should be explained in the decision document for the proposed action.

Note that this analysis does not usually identify a conflict between the management direction in the resource management plan and the requirement in the Proclamation to protect objects, since resource management plans—while they may impose conditions or make certain uses off limits—do not typically *mandate* that particular uses occur. For example, while a resource management plan may *allow* BLM-NV to grant FLPMA Title V rights-of-way in a particular area, it does not mandate that the agency do so. Thus, if BLM-NV denies, or places conditions on, a proposed right-of-way grant to protect objects, that decision would likely still conform to the governing resource management plan. That said, in the rare event that there is a conflict between the Proclamation and the governing resource management plan, the Proclamation controls. If there appears to be a conflict between the requirements of the Proclamation and those of the approved resource management plan, you should consult with the Office of the Solicitor.

Within eighteen months of issuance of this guidance, BLM-NV-NV should prepare a report for the director that reviews existing discretionary uses and activities within the Monument to determine whether their impacts are consistent with the protection of the Monument objects. Subject to valid existing rights and consistent with applicable law and regulations, BLM-NV should consider taking appropriate action with regard to any such activities and uses that it has determined to be incompatible with the protection of objects for which the Monument has been designated, pending the completion of a new management plan to implement the Proclamation.⁷ To the extent that BLM-NV has taken actions to address potential conflicts, BLM-NV should summarize those actions in the same report submitted to the Director by the above date and does not need to complete a new review.

Finally, effective on-the-ground management of Monument objects requires monitoring and inspection to ensure that they are being adequately protected on an ongoing basis. BLM-NV should review its existing monitoring plans and, where necessary and appropriate, update them to provide for proactive monitoring within the Monument boundary to ensure protection of objects. In particular, BLM-NV should ensure that it is adequately monitoring cultural sites and riparian areas within the Monument. Further, BLM-NV should review existing monitoring data to determine whether any areas within the Monument should be temporarily closed or whether other uses of the area should be temporarily restricted to ensure protection of Monument objects. Beyond resource monitoring, the plans should include compliance checks for existing facilities within the Monument. The agency should also ensure that any activity or use that it approves includes adequate monitoring to ensure protection of objects. If BLM-NV's monitoring within

⁷ The BLM's ability to suspend or take other appropriate action with regard to previously authorized activities and uses could depend on the nature and type of authorization at issue. For third-party authorizations, please consult with the Solicitor's Office prior to issuing a suspension.

the Monument identifies impacts to Monument objects or other resources, BLM-NV should take appropriate action (up to, and including, issuing temporary area closures or specific use restrictions consistent with 43 C.F.R. 8364.1), in consultation with the Solicitor's Office, to address the impacts. In the event that BLM-NV determines that it is necessary to issue a temporary area closure or use restriction in accordance with section 8364.1, the agency should consider whether it is appropriate to rely on an applicable categorical exclusion to comply with NEPA.

More specific guidance regarding particular uses and activities follows. Note, however, that this guidance is not intended to be comprehensive; additional, detailed direction may be provided as particular issues are identified, including through the decision making and public involvement processes.

2. Recreation Management

The Monument area is replete with diverse opportunities for recreation, including hiking, camping, birdwatching, motorized touring, stargazing, and hunting that support the travel and tourism sector of the local economy. However, prior to authorizing a proposed recreation use, activity, or facility, BLM-NV must ensure that any proposed recreation use, activity, or facility is evaluated for resource management plan conformance and consistency with the Proclamation. Note that this requirement applies to special recreation permits that may come up for renewal, notwithstanding whether an event or activity has been permitted in the past.

a. Off-Highway Vehicle Management

The Proclamation provides,

Except for emergency or authorized administrative purposes, motorized vehicle use in the monument shall be permitted only on roads existing as of the date of this proclamation. Non-motorized mechanized vehicle use shall be permitted only on roads and trails designated for their use consistent with the care and management of the objects identified above. The Secretary shall prepare a transportation plan that designates the roads and trails where motorized or non-motorized mechanized vehicle use will be permitted.

For purposes of preparing a transportation management plan, the Proclamation limits motorized vehicle use to those roads existing as of July 10, 2015. This limitation means that BLM-NV can consider only those roads, primitive roads, and trails that are documented in BLM-NV's route inventories existing as of July 10, 2015, in making travel management decisions. This limitation is intended to give BLM-NV some flexibility in designating routes during a travel management planning process, but also ensures that the plan will adequately protect Monument objects. The Proclamation does not allow the designation of roads that do not exist in BLM-NV's inventories as of July 10, 2015. While BLM-NV is not required to begin transportation planning until after the resource management plan is completed, BLM-NV should identify the roads that existed in BLM-NV inventories as of July 10, 2015. In addition, to better inform the public, within 30 days of the issuance of this guidance, BLM-NV will maintain a map of existing routes on the Monument webpage with appropriate explanatory language.

The Proclamation does not impose the same limitation on non-motorized, mechanized vehicle use, which, therefore, may be allowed on roads and trails that are not documented in BLM route inventories existing as of July 10, 2015, if the use is consistent with the care and management of the Monument objects.

Prior to completion of a Travel Management Plan, BLM-NV should ensure that motorized and mechanized vehicle use is limited to designated roads and trails. Additionally, BLM-NV should ensure that use of designated roads and trails is consistent with protection of Monument objects. If monitoring demonstrates that use of certain roads or trails is creating impacts to Monument objects, BLM-NV should take appropriate action (up to, and including, issuing road closures), in consultation with the Solicitor's Office, to address the issue. In taking appropriate action, BLM-NV should consider whether the motorized vehicle use at issue is causing or will cause a considerable adverse effect to Monument objects and resources. In such case, 43 CFR 8341.2 requires BLM-NV to immediately close the road or trail to the type of vehicle causing the adverse effect. The BLM should also consider whether reliance on the categorical exclusion applying to the temporary closure of roads and trails at 516 DM 11.9(G)(3) or other available categorical exclusions is appropriate if BLM-NV determines it is necessary to close any roads or trails to continued motorized vehicle use.

b. Recreational Infrastructure and Facilities

Recreational use of the Monument has been increasing. Increased visitation has the potential to strain existing recreational facilities in the area, which, in turn, can adversely impact resources within the Monument. To avoid such impacts, BLM-NV should assess whether and where additional recreational infrastructure and facilities, such as toilet facilities and designated campsites, are necessary in the Monument to avoid adverse impacts to resources and ensure the protection of Monument objects.

3. Rights-of-Way

The Proclamation provides:

Except as necessary for the care and management of the objects identified above or for the purpose of permitted livestock grazing, no new rights-of-way for electric transmission or transportation shall be authorized within the monument. Other rights-of-way may be authorized only if consistent with the care and management of the objects identified above.

Pursuant to this language, new rights-of-way for electric transmission or transportation would generally be prohibited, except where necessary for the care and management of the objects identified in the Proclamation or to support authorized livestock grazing. BLM-NV may authorize other types of rights-of-way where doing so is consistent with the protection of Monument objects. Holders of rights-of-way for flood control, pipeline, telecommunications facilities, water infrastructure, or other valid existing rights-of-way that were authorized before the Proclamation may continue to operate within the corridors authorized by their grants, as long as the use is consistent with the care and management of Monument objects. As a result, if the holder of an existing right-of-way within the Monument submits an application to renew their authorization, BLM-NV will need to determine that the renewal is consistent with the care and

management of Monument objects. Note that a small segment of the transmission corridor authorized in the Lincoln County Conservation, Recreation, and Development Act (Public Law 108-424) runs alongside Nevada State Route 318 in the southeastern corner of the Monument. That transmission corridor is not affected by this right-of-way provision because it is congressionally designated. If BLM-NV receives a proposal for a right-of-way and is unsure how to apply this provision, please consult with the Solicitor's Office for project-specific guidance.

4. Vegetation Management and Restoration and Restoration

Vegetation management is another type of activity that regularly occurs within the Monument that must conform to the applicable resource management plan and be consistent with the protection of Monument objects. While the Proclamation does not specifically limit the types of vegetation treatment that BLM-NV can use within the Monument, certain treatment methods allowed under the applicable resource management plan may not be consistent with the protection of the objects. Thus, agency staff should review such projects with particular care to ensure such consistency.

Due to the diversity of plant species and ecoregions within the Monument boundary, certain areas are used for native seed collection. While the Proclamation does not expressly prohibit collection of native seeds BLM-NV would need to ensure that the any activity authorized is consistent with the protection of Monument objects. Further, commercial activities that are authorized pursuant to BLM-NV's Forest Management regulations (43 C.F.R. Subchapter E), such as commercial seed collection and commercial timber harvest, are not permitted within the National Monument. If BLM-NV is interested in using contractors to aid in timber reductions or seed harvesting in order to meet resource objectives, consistent with the protection of Monument objects, please consult with the Office of the Solicitor early in the process.

Restoration of vegetation, including from wildland fire, and reclamation from previous activities, in particular addressing prior mining operations within the Monument boundary, can improve protection of Monument objects. BLM-NV should continue to identify and implement restoration and mining reclamation actions in a manner that is consistent with the Proclamation. BLM-NV should also apply lessons learned from past efforts to any future remediation and reclamation from mining operations within the Monument. In relation to future remediation and reclamation efforts, BLM-NV will ensure that information from affected Tribes, the public, and other stakeholders is considered through appropriate processes.

5. Livestock Grazing

The Proclamation provides:

Nothing in this proclamation shall be deemed to affect authorizations for livestock grazing, or administration thereof, on Federal lands within the monument.
Livestock grazing within the monument shall continue to be governed by laws and regulations other than this proclamation.

BLM Manual 6220, section 1.6.I, provides the general policy guidance for managing grazing in national monuments. The language in the Proclamation does not affect or curtail authorizations

for livestock grazing—including the levels of grazing authorized. However, such uses, including future authorizations for livestock grazing, remain subject to applicable laws and regulations other than the Proclamation and shall continue to be governed by the same laws, regulations, and policies as are generally applicable on other lands administered by the BLM.

C. Consultation, Coordination and Consistency

The Proclamation directs the Secretary of the Interior to provide for maximum public involvement in the development of the management plan, in particular, consultation with federally recognized Tribal Nations and coordination with State and local governments. The BLM will maximize opportunities for consultation and to seek cooperation and consistency while carrying out this interim management direction. In order to ensure that the planning process has robust public engagement, BLM-NV should ensure that the following agreements and committees are established prior to beginning scoping for the management plan.

1. Tribal Engagement

While the Proclamation is silent on the issue of co-stewardship, BLM-NV should explore entering into one or more memoranda of understanding with interested Tribal Nations for co-stewardship of the Monument that will set forth parameters for meaningful engagement on the development and implementation of the management plan and future management of the Monument, including consideration of Indigenous Knowledge.

Additionally, BLM-NV should explore whether opportunities exist to contract with Federally recognized Tribes or Tribal Organizations under Title I of the ISDEAA to perform programs, services, functions, or activities, or portions thereof, that BLM-NV would otherwise provide in the Monument and that satisfy the requirements of 25 U.S.C. 5321. BLM-NV should also develop a list of programs or portions of programs within the Monument that are of special geographic, historic, or cultural significance to Tribal Nations that qualifying Tribes could perform pursuant to new funding agreements issued under Title IV of the ISDEAA. For example, under Title IV, qualifying Tribes may be able to perform certain activities related to cultural heritage, including research and inventory activities; natural resource management, including vegetative treatment projects and cultural resource management; riparian management; and recreation management, such as facilities construction and maintenance and interpretative design and interpretative construction.

D. Protection of *City* artwork

The Proclamation describes *City*, by Michale Heizer, as “one of the most ambitious examples of the distinctively American land art movement... the work combines modern abstract architecture and engineering with ancient American aesthetic influences on a monumental scale...” The artwork is located on a privately held parcel within the boundary of the Monument, but the “presence of *City* in this stark and silent landscape provides the visitor a distinctive lens through which to experience and interact with Garden Valley.”

The Proclamation recognizes that it may be necessary for BLM-NV to undertake or authorize activities on public land in the immediate vicinity of the artwork, such as improving drainage or preventing erosion, in order to prevent harm to the artwork *City*. As a result, the Proclamation permits the Secretary to undertake or authorize activities to ensure the protection of the artwork, consistent with the care and management of the objects identified. The Proclamation also directs BLM-NV to provide for reasonable use of existing roads within the Monument to facilitate public access to *City* in the management plan.

II. Completion of a Monument Management Plan

The Proclamation provides,

For purposes of the care and management of the objects identified above, the Secretary, through BLM, shall within 3 years of the date of this proclamation prepare and maintain a management plan for the monument and shall provide for maximum public involvement in the development of that plan including, but not limited to, consultation with State, tribal, and local governments.

BLM-NV originally initiated the planning process less than a year after the Monument was established by publishing a Notice of Intent on June 1, 2016⁸ with a schedule that would have met the 3-year deadline in the Proclamation.⁹ The formal scoping process that began with the publication of that notice ended on July 21, 2016, 15 days after the last scoping meeting. During scoping, BLM-NV hosted six in-person scoping meetings with 89 attendees. BLM-NV arranged and attended several meetings with Tribal Nations to initiate government-to-government consultation as part of the planning process. BLM-NV briefed Nevada State Agencies, including Nevada Department of Transportation, Nevada Division of Minerals, Nevada State Parks, State Historic Preservation Officer, Conservation Department, State Division of Lands, Legislative Council Bureau, and the National Association of Counties, at the Nevada State Capitol building in Carson City, Nevada on June 16, 2016. BLM-NV coordinated with the Nevada Resource Advisory Council. This public input was incorporated into a scoping report that was released to the public on January 24, 2017. BLM-NV also released an analysis of the management situation on December 15, 2017. However, the planning process was terminated in 2018 before BLM-NV published a Draft Resource Management Plan and associated Draft Environmental Impact Statement.

Consistent with the direction in BLM Manual 6220 and the Proclamation, BLM-NV will prepare a stand-alone management plan for all Federal lands within the 704,000-acre boundaries of the Basin and Range National Monument for the purposes of protecting and restoring the Monument objects. Until BLM-NV approves a new management plan for the Monument, the existing 2008 Ely Resource Management Plan, as amended remains in effect, to the extent it is consistent with the protection of Monument objects identified in the Proclamation.

Prior to initiating the planning process, BLM-NV should review the GIS data for the Monument and correct any errors prior to initiating the planning process. During the planning process,

⁸ 81 Fed. Reg. 35043 (June 1, 2016).

⁹ <https://eplanning.blm.gov/eplanning-ui/project/63341/550>

BLM-NV will finalize and make available to the public an updated map and spatial data for the Monument.

In preparing the management plan, BLM-NV will prioritize consultation with Tribal Nations. The planning process should also include opportunities for consultation with other Federal land management agencies and provide for maximum public involvement, including consultation with State and local governments, community members, and other interested stakeholders. The BLM should review the documents developed as part of the 2016 planning effort and incorporate the information therein into this planning process as appropriate.

Before March 31, 2025, BLM-NV will finalize and submit a preparation plan.

Attachments:

Proclamation 9297