

MEMORANDUM OF UNDERSTANDING
Between
STATE OF NEVADA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF STATE LANDS
and
U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
NEVADA STATE OFFICE

I. PURPOSE

- A. This Memorandum of Understanding (MOU) supersedes BLM MOU 1600-NEV-008-3 (dated 1994), between the State of Nevada, Department of Administration, Budget and Planning Division; and the U.S. Department of the Interior, Bureau of Land Management, Nevada State Office including BLM District Offices in Nevada.
- B. To establish procedures for the State of Nevada, through the Nevada Department of Conservation and Natural Resources ("State"), and the Nevada State Office of the Bureau of Land Management ("BLM") for coordination of planning and program activities conducted under the National Environmental Policy Act (NEPA) within the State of Nevada to ensure consideration of timely and thorough comments provided by the State and local governments.
- C. To supplement the Presidential Executive Order no. 12372 (EO 12372) providing for states to develop a review process for federally funded programs and development proposals on public land and to implement Nevada Governor Bob Miller Executive Order signed August 15, 1989, establishing the Nevada State Clearinghouse to implement EO 12372; all provisions contained therein are incorporated by this reference.

II. OBJECTIVES

- A. To recognize the Department of Conservation and Natural Resources, Division of State Lands, as the official State Clearinghouse for consultation and notification purposes, and as the official representative of the governor.
- B. To recognize the Bureau of Land Management, Nevada State Office, Division of Resources, Lands, and Planning, as the official contact for consultation and notification purposes for lands administered by the BLM Nevada State Office and BLM district offices in Nevada, which may not include portions of Nevada that are administered by other BLM offices in California and Idaho.

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- C. To establish procedures (e.g., electronic mail or email) for the BLM to notify and consult with the state via the clearinghouse.
 - D. To ensure the purposes of the Federal Land Policy and Management Act, Section 202(c)(9) are carried out regarding coordination of BLM land use planning and management activities with state and local governments and consistency of BLM land use plans with state and local plans, to the maximum extent practicable consistent with federal law.
 - E. To ensure communication and coordination on issues of mutual concern in a timely and efficient manner, including BLM public notices under the National Environmental Policy Act (NEPA).
 - F. To encourage exchange of relevant information on a continuing basis.

III. MUTUAL RESPONSIBILITIES

A. THE STATE AND THE BLM AGREE TO:

1. Comply with all appropriate state and federal laws and regulations to further the objectives of this agreement or MOU.
2. Recognize that other direct contacts and cooperation between the BLM and agencies and commissions of the state are in no way limited or modified by this MOU.
3. Work cooperatively to identify when feasible, any inconsistencies between proposed BLM and state and local land use plans, programs, and policies.
4. Where inconsistencies are identified or a decision may result in a state appeal or protest, the State Clearinghouse may mediate a discussion between the BLM and the State, to seek resolution of the issue(s). Any mediation process is strictly voluntary and non-binding.
5. Pursuant to NRS 321.735 and NRS 321.740, the State Land Use Planning Agency (SLUPA) and the State Land Use Planning Advisory Council (SLUPAC) "*may represent the interests of the state, its local or regional entities, or its citizens as these interests are affected by policies and activities involving the use of federal lands.*" To facilitate federal agency consultation efforts and public review of proposed federal actions under NEPA, SLUPAC may serve as a reviewing body on behalf of the state, pertaining to federal actions under NEPA. SLUPAC also may assist local agencies with commenting pursuant to NEPA regarding county-level concerns, when a county government may request such review. BLM will designate a point of contact for participation in SLUPAC meetings.

IV. INDIVIDUAL RESPONSIBILITIES

A. THE STATE AGREES TO:

1. Coordinate state agency and commission reviews of BLM actions, consolidate comments, and assist in resolving inconsistencies, should any

- exist between state agencies and county commissions, to ensure comments or concerns represent the position of the State of Nevada.
2. Provide additional available information for specific proposals when requested.
 3. Coordinate through the clearinghouse the 60-day Governors Consistency Review, pursuant to 43 CFR section 1610.3-2(e). The state shall notify the BLM Nevada State Director, in writing, of any state concerns or inconsistencies in appropriate local, BLM district, or regional plans by BLM. The BLM Nevada State Director shall provide a timely response to state comments.
 4. Provide notification to the BLM Nevada State Office when state and county-level land use plans are revised or amended.

B. THE BLM AGREES TO:

1. Provide to the State Clearinghouse notices of proposed federal actions where public notices are announced pursuant to NEPA activities, including scoping-level activities when public scoping comments are solicited by the BLM.
2. Provide public notices under NEPA at the earliest practical opportunity through the NEPA process. Such notices and the full documents may be provided via electronic mail (email) or equivalent technologies that allow attachment of the full document in PDF or equivalent file format, and a hyperlink to where the documents and associated information may be available via the World Wide Web, or equivalent data location hosted and managed by the BLM.
3. Provide additional available information for specific proposals when requested and consistent with the NEPA process.
4. Provide to the State Clearinghouse public notices for other activities that support NEPA activities, such as notices for public input under the National Historic Preservation Act.
5. Provide to the State Clearinghouse, one hard copy and access to an electronic copy of each BLM Resource Management Plan, Plan Revision, or Plan Amendment. For all other BLM documents prepared under NEPA, provide to the State Clearinghouse an email notification with applicable hyperlinks, as described in paragraph number 2 above.

V. CONCLUSION & AGREEMENT

This MOU will be effective upon signature by the State Director, Bureau of Land Management Nevada, and the Director, Nevada Department of Conservation and Natural Resources.

This MOU will remain in effect for a period of five (5) years from the latter signature date below, unless formally terminated by either of the signatories after 30 days written notice to the other of their intention to do so.

At the end of the five-year period, this MOU will be reviewed by both signatories for effectiveness, and if appropriate, re-authorized by written notice from both parties.

Amendments to this agreement or MOU may be proposed at any time by either signatory, and shall be effective upon approval by both parties to this agreement.

BUREAU OF LAND MANAGEMENT

STATE OF NEVADA

By 

By 

Amy Lueders
State Director, Nevada

Leo Drozdoff
Director, Department of Conservation and
Natural Resources

Date: 1.15.15

Date: 1-7-15

[This MOU supersedes BLM MOU 1600-NEV-008-3 (dated 1994)]

One Hundred Thirteenth Congress
of the
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Friday,
the third day of January, two thousand and fourteen*

An Act

To authorize appropriations for fiscal year 2015 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

(a) **SHORT TITLE.**—This Act may be cited as the “Carl Levin and Howard P. ‘Buck’ McKeon National Defense Authorization Act for Fiscal Year 2015”.

(b) **FINDINGS.**—Congress makes the following findings:

(1)(A) Senator Carl Levin of Michigan was elected a member of the United States Senate on November 7, 1978, for a full term beginning January 3, 1979. He has served continuously in the Senate since that date, and was appointed as a member of the Committee on Armed Services in January 1979. He has served on the Committee on Armed Services since that date, a period of nearly 36 years.

(B) A graduate of Detroit Central High School, Senator Levin went on to Swarthmore College, and graduated from Harvard Law School in 1959, gaining admittance to the Michigan bar. He served his State as assistant attorney general and general counsel of the Michigan Civil Rights Commission from 1964–1967, and later served his hometown of Detroit as a member of the Detroit City Council from 1969–1973, and as the council’s president from 1974–1977.

(C) Senator Levin first served as chairman of the Committee on Armed Services of the United States Senate for a period of the 107th Congress, and has remained chairman since the 110th Congress began in 2007. He has exercised extraordinary leadership as either the chairman or ranking minority member of the committee since the start of the 105th Congress in 1997.

(D) Each year, for the past 52 years, the Committee on Armed Services has reliably passed an annual defense authorization act, and this will be the 36th that Senator Levin has had a role in. In his capacity as member, ranking member, and chairman, he has been an advocate for a strong national defense, and has made lasting contributions to the security of our Nation.

(E) It is altogether fitting and proper that this Act, the last annual authorization act for the national defense that Senator Levin manages in and for the United States Senate

(E) COSTS OF CONVEYANCE.—As a condition of the conveyance under subparagraph (C), all costs associated with the conveyance (including the cost of the appraisal under subparagraph (B)), shall be paid by the City.

(d) CONVEYANCE OF FEDERAL LAND, STOREY COUNTY, NEVADA.—

(1) DEFINITIONS.—In this subsection:

(A) COUNTY.—The term “County” means Storey County, Nevada.

(B) FEDERAL LAND.—The term “Federal land” means the approximately 1,745 acres of Federal land identified on the map as “BLM Owned–County Request Transfer”.

(C) MAP.—The term “map” means the map entitled “Restoring Storey County Act” and dated November 20, 2012.

(D) MINING TOWNSITE.—The term “mining townsite” means the real property—

(i) located in the Virginia City townsite within the County;

(ii) owned by the Federal Government; and

(iii) on which improvements were constructed based on the belief that—

(I) the property had been or would be acquired from the Federal Government by the entity operating the relevant mine on the date of construction; or

(II) the individual or entity that made the improvements had a valid claim for acquiring the property from the Federal Government.

(E) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(2) MINING CLAIM VALIDITY REVIEW.—

(A) IN GENERAL.—The Secretary shall carry out an expedited program to examine each unpatented mining claim (including each unpatented mining claim for which a patent application has been filed) within the mining townsite.

(B) DETERMINATION OF VALIDITY.—With respect to a mining claim described in subparagraph (A), if the Secretary determines that the elements of a contest are present, the Secretary shall immediately determine the validity of the mining claim.

(C) DECLARATION BY SECRETARY.—If the Secretary determines a mining claim to be invalid under subparagraph (B), as soon as practicable after the date of the determination, the Secretary shall declare the mining claim to be null and void.

(D) TREATMENT OF VALID MINING CLAIMS.—

(i) IN GENERAL.—Each mining claim that the Secretary determines to be valid under subparagraph (B) shall be maintained in compliance with the general mining laws and paragraph (3)(B)(ii).

(ii) EFFECT ON HOLDERS.—A holder of a mining claim described in clause (i) shall not be entitled to a patent.

(E) ABANDONMENT OF CLAIM.—The Secretary shall provide—

(i) a public notice that each mining claim holder may affirmatively abandon the claim of the mining claim holder prior to the validity review under subparagraph (B); and

(ii) to each mining claim holder an opportunity to abandon the claim of the mining claim holder before the date on which the land that is subject to the mining claim is conveyed.

(3) CONVEYANCE TO COUNTY.—

(A) CONVEYANCE.—

(i) IN GENERAL.—Subject to valid existing rights and notwithstanding the land use planning requirements of sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713), after completing the mining claim validity review under paragraph (2)(B), if requested by the County, the Secretary shall convey to the County, by quitclaim deed, all surface rights of the United States in and to the Federal land, including any improvements on the Federal land, in accordance with this paragraph.

(ii) RESERVATION OF RIGHTS.—All mineral and geothermal rights in and to the Federal land are reserved to the United States.

(B) VALID MINING CLAIMS.—

(i) IN GENERAL.—With respect to each parcel of land located in a mining townsite subject to a valid mining claim, the Secretary shall—

(I) reserve the mineral rights in and to the mining townsite; and

(II) otherwise convey, without consideration, the remaining right, title, and interest of the United States in and to the mining townsite (including improvements to the mining townsite), as identified for conveyance on the map.

(ii) PROCEDURES AND REQUIREMENTS.—Each valid mining claim shall be subject to each procedure and requirement described in section 9 of the Act of December 29, 1916 (43 U.S.C. 299) (commonly known as the “Stockraising Homestead Act of 1916”) (including regulations).

(4) RECIPIENTS.—

(A) IN GENERAL.—In the case of a mining townsite conveyed under paragraph (3)(B)(i)(II) for which a valid interest is proven by 1 or more individuals in accordance with chapter 244.2825 of the Nevada Revised Statutes, the County shall reconvey the property to the 1 or more individuals by appropriate deed or other legal conveyance in accordance with that chapter.

(B) AUTHORITY OF COUNTY.—The County shall not be required to recognize a claim under this paragraph that is submitted on a date that is later than 5 years after the date of enactment of this Act.

(5) VALID EXISTING RIGHTS.—The conveyance of a mining townsite under paragraph (3) shall be subject to valid existing rights, including any easement or other right-of-way or lease in existence as of the date of the conveyance.

(6) WITHDRAWALS.—Subject to valid rights in existence on the date of enactment of this Act, and except as otherwise provided in this Act, the mining townsite is withdrawn from—

(A) all forms of entry, appropriation, and disposal under the public land laws;

(B) location, entry, and patent under the mining laws; and

(C) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

(7) SURVEY.—A mining townsite to be conveyed by the United States under paragraph (3) shall be sufficiently surveyed as a whole to legally describe the land for patent conveyance.

(8) CONVEYANCE OF TERMINATED MINING CLAIMS.—If a mining claim determined by the Secretary to be valid under paragraph (2)(B) is abandoned, invalidated, or otherwise returned to the Bureau of Land Management, the mining claim shall be—

(A) withdrawn in accordance with paragraph (6); and

(B) subject to the agreement of the owner, conveyed to the owner of the surface rights covered by the mining claim.

(9) RELEASE.—On completion of the conveyance of a mining townsite under paragraph (3), the United States shall be relieved from liability for, and shall be held harmless from, any claim arising from the presence of an improvement or material on the mining townsite.

(10) SENSE OF CONGRESS REGARDING DEADLINE FOR REVIEW AND CONVEYANCES.—It is the sense of Congress that the examination of the unpatented mining claims under paragraph (2) and the conveyances under paragraph (3) should be completed by not later than 18 months after the date of enactment of this Act.

(e) ELKO MOTOCROSS LAND CONVEYANCE.—

(1) DEFINITIONS.—In this subsection:

(A) COUNTY.—The term “county” means the county of Elko, Nevada.

(B) MAP.—The term “map” means the map entitled “Elko Motocross Park” and dated April 19, 2013.

(C) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

(2) AUTHORIZATION OF CONVEYANCE.—As soon as practicable after the date of enactment of this Act, subject to valid existing rights and the provisions of this subsection, if requested by the county the Secretary shall convey to the county, without consideration, all right, title, and interest of the United States in and to the land described in paragraph (3).

(3) DESCRIPTION OF LAND.—The land referred to in paragraph (2) consists of approximately 275 acres of land managed by the Bureau of Land Management, Elko District, Nevada, as generally depicted on the map as “Elko Motocross Park”.

(4) MAP AND LEGAL DESCRIPTION.—

(A) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall finalize the legal description of the parcel to be conveyed under this subsection.

(B) MINOR ERRORS.—The Secretary may correct any minor error in the map or the legal description.

(C) AVAILABILITY.—The map and legal description shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(5) USE OF CONVEYED LAND.—The land conveyed under this subsection shall be used only as a motocross, bicycle, off-highway vehicle, or stock car racing area, or for any other public purpose consistent with uses allowed under the Act of June 14, 1926 (commonly known as the “Recreation and Public Purposes Act”) (43 U.S.C. 869 et seq.).

(6) ADMINISTRATIVE COSTS.—The Secretary shall require the county to pay all survey costs and other administrative costs necessary for the preparation and completion of any patents for, and transfers of title to, the land described in paragraph (3).

(f) LAND TO BE HELD IN TRUST FOR THE TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS OF NEVADA (ELKO BAND).—

(1) DEFINITIONS.—In this subsection:

(A) MAP.—The term “map” means the map entitled “Te-moak Tribal Land Expansion” and dated April 19, 2013.

(B) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

(C) TRIBE.—The term “Tribe” means the Te-moak Tribe of Western Shoshone Indians of Nevada (Elko Band).

(2) LAND TO BE HELD IN TRUST.—Subject to valid existing rights, all right, title, and interest of the United States in and to the land described in paragraph (3)—

(A) shall be held in trust by the United States for the benefit and use of the Tribe; and

(B) shall be part of the reservation of the Tribe.

(3) DESCRIPTION OF LAND.—The land referred to in paragraph (2) is the approximately 373 acres of land administered by the Bureau of Land Management, as generally depicted on the map as “Expansion Area”.

(4) MAP.—The map shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(5) SURVEY.—Not later than 180 days after the date of enactment of this Act, the Secretary shall complete a survey of the boundary lines to establish the boundaries of the land taken into trust under paragraph (2).

(6) USE OF TRUST LAND.—

(A) GAMING.—Land taken into trust under paragraph (2) shall not be eligible, or considered to have been taken into trust, for class II gaming or class III gaming (as those terms are defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)).

(B) GENERAL USES.—

(i) IN GENERAL.—The Tribe shall use the land taken into trust under paragraph (2) only for—

(I) traditional and customary uses;

(II) stewardship conservation for the benefit of the Tribe; or

(III) residential or recreational development.