

**MEMORANDUM OF AGREEMENT
BETWEEN THE BUREAU OF LAND MANAGEMENT, BLACK ROCK FIELD
OFFICE
AND THE
NEVADA STATE HISTORIC PRESERVATION OFFICER
REGARDING THE ISSUANCE OF A TEN YEAR PERMIT FOR THE BURNING MAN
EVENT**

WHEREAS, the Bureau of Land Management (BLM) will issue a Special Recreation Permit for up to ten years to Black Rock City, LLC (BRC) for the Burning Man Event (Event) thereby making the Event an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 54 U.S.C. § 306108, and its implementing regulations, 36 C.F.R. Part 800; and

WHEREAS, the Event will consist of a 9.5-day annual social gathering in the Black Rock Desert Playa (Black Rock Playa) of northwestern Nevada. The BLM would issue an SRP for the Burning Man Event with a population cap of 80,000 people, and the same durations, and conditions as the 2018 Event. There would be a phased Closure Area, which would include a 9,570-acre Closure Area footprint up to build week and after the Event. During build week and the Event, the Closure Area footprint would be 14,330 acres as shown on the map in Attachment A.

WHEREAS, BLM has defined the Event's area of potential effects (APE) as all geographic areas within which the Event may have effects to historic properties. BLM has determined that the direct APE is the area of land within the Special Recreation Permit boundary (Attachment A) and the indirect APE is a variable boundary extending up to a maximum of 15 miles to the northeast of the Event's direct APE (Attachment A); and

WHEREAS, BLM in consultation with the Nevada State Historic Preservation Officer (SHPO), has found that the Event will have an adverse effect on the Nobles Trail (CrNV-22-4665/26PE2301) eligible for the National Register of Historic Places (NRHP) under the Secretary's Significance Criteria A and D; and

WHEREAS, BLM has consulted with Tribal governments from the Pyramid Lake Paiute Tribe, the Summit Lake Paiute Tribe, and the Reno-Sparks Indian Colony (referred to collectively as the Tribes); and

WHEREAS, BLM has consulted with BRC regarding the effects of the Event on historic properties and has invited them to sign this MOA as an invited signatory; and

WHEREAS, in accordance with Component 5 of the *Programmatic Agreement among the Bureau of Land Management, the Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers regarding the manner in which the BLM will meet its responsibilities under the National Historic Preservation Act*, (February 2012), BLM has not notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination as it does not meet the thresholds that call for ACHP notification;

WHEREAS, the signatories, invited signatory and concurring parties (hereinafter collectively referred to as the Parties and individually by name or as Party) agree that this MOA may be signed in counterparts and the executed MOA, and each signature, will be effective and binding as if all Parties had signed the same document; and

NOW, THEREFORE, BLM and the SHPO agree that the Event shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

BLM shall ensure that the following measures are carried out:

I. MITIGATION MEASURES

- A. BRC must educate participants about the Nobles Trail through production and dissemination of pamphlets or other printed matter, including maps showing the trail in relation to the event location.
- B. BRC, through its website, social media, and other means approved by the BLM, will inform staff volunteers, vendors and contractors, and Event participants that collection, excavation, or vandalism of historical/archeological artifacts or sites is illegal.
- C. BRC through coordination with the Pyramid Lake Paiute Tribe, will educate participants via its website, social media, and other means approved by BLM, on issues of concern to the Pyramid Lake Paiute Tribe.
- D. BRC must educate its participants, volunteers and staff that the commercial or individual disposal of human remains inside the APE is not permitted
- E. Mitigation Measures A, B, C, and D will be deferred until the 2020 event.

II. DISCOVERIES

BRC will report any discoveries during any phase of the Event to the BLM Authorized Officer who will initiate any needed review and/or consultation. BRC will protect the location of any discovery until Event completion or until notified otherwise by the BLM Authorized Officer.

BLM will adequately record the discovery, prepare a site form as necessary, and make a determination of NRHP eligibility. BLM will forward the documentation and NRHP eligibility determinations to the SHPO for comment. The SHPO will have two (2) business days to provide comment on the documentation. BLM and the SHPO will consult on appropriate avoidance or mitigation for discovered cultural resources. If the discovery is eligible for the NRHP, BLM shall prepare a Historic Properties Treatment Plan to address the specific discovery.

In the unlikely event that human remains or funerary objects are found during the Event, BLM will follow the requirements of 43 C.F.R. Part 10.4 (Inadvertent Discoveries) of the regulations implementing the Native American Graves Protection and Repatriation Act (NAGPRA) for human remains discovered on public land.

III. CURATION

Any reports, records, photographs, maps, field notes, artifacts, and other materials collected or developed for the undertaking in the course of data recovery (if an unanticipated discovery results in data recovery) will be curated at the Nevada State Museum in keeping with 36 C.F.R. Part 79.

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IV. BLM REVIEW OF KEY INDIVIDUALS INVOLVED

The BLM will ensure that all cultural resources work associated with this Event is carried out under the supervision of archaeologists meeting Secretary of Interior's professional qualifications standards for archaeology and who are permitted to work in the State of Nevada on BLM Lands in Washoe, Pershing, and Humboldt Counties.

V. DURATION

This MOA will be valid for ten (10) years from the date of its execution. At least six (6) months prior to its expiration, BLM may consult with the SHPO to reconsider the terms of the MOA and amend it in accordance with Stipulation VII below.

VI. DISPUTE RESOLUTION

Should any party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, BLM shall notify all of the Parties and consult with the objecting party to resolve the objection. If BLM determines that such objection cannot be resolved, BLM will:

- A. Forward all documentation relevant to the dispute, including the BLM's proposed resolution, to the ACHP. The ACHP shall provide BLM with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, BLM shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and the Parties, and provide them with a copy of this written response. BLM will then proceed according to its final decision.
- B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, BLM may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, BLM shall prepare a written response that takes into account any timely comments regarding the dispute from the Parties to the MOA, and provide them and the ACHP with a copy of such written response.
- C. BLM's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

VII. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

VIII. TERMINATION

If any Party to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other signatories to attempt to develop an amendment per Stipulation VII, above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other Parties.

Once the MOA is terminated, and prior to work continuing on the undertaking, BLM must either (a) execute an MOA pursuant to 36 C.F.R. Part 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 C.F.R. Part 800.7. BLM shall notify the SHPO as to the course of action it will pursue.

Execution of this MOA by the BLM and the SHPO and implementation of its terms evidence that BLM has taken into account the effects of this undertaking on historic properties.

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SIGNATORIES:

Bureau of Land Management

Mark E. Hall Date 2 July 2019
Mark Hall, Black Rock Field Manager

Nevada State Historic Preservation Office

Rebecca Lynn Palmer Date 07/02/2019
Rebecca L. Palmer, State Historic Preservation Officer

INVITED SIGNATORY:

Black Rock City, LLC

Mona Bennett Date JULY 01, 2019
Name, Title
ASSOCIATE DIRECTOR OF GOVERNMENT AFFAIRS

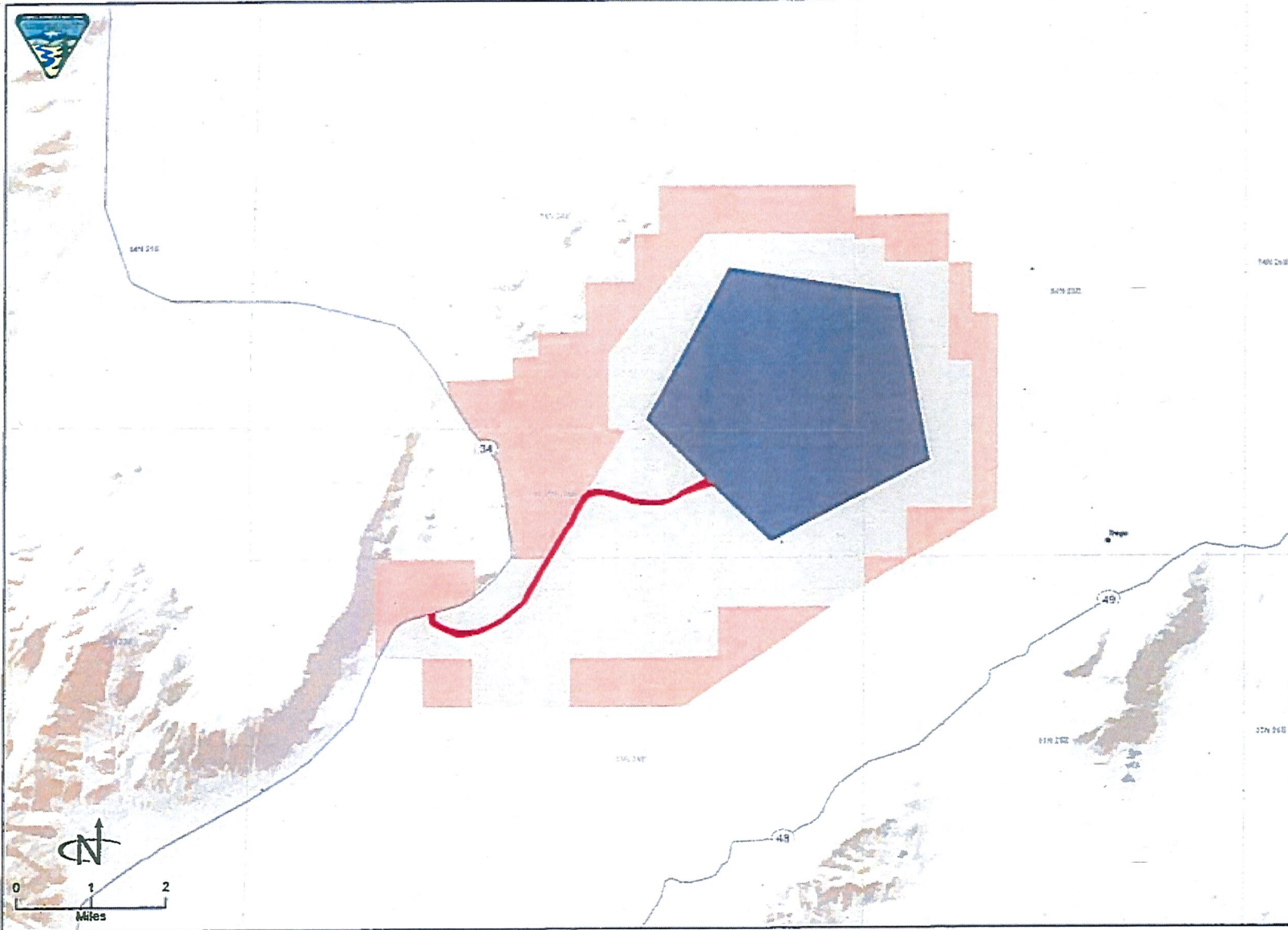
CONCURRING PARTY:

Pyramid Lake Paiute Tribe

_____ Date
[insert name and title]

[insert name and title]

Attachment A
Map of the Phased Closure Area



**Alternative D (No Change,
Same as 2018 Event):
14,330 acres**

- Closure area, phase 1:
6,010 acres
- Closure area, phase 2:
4,760 acres
- Event area: 3,410 acres
- Event entrance road
(Gate Road): 140 acres

Source: USGS 2017
 Data by:
 Bureau of Land Management
 1. National Forests and Public Lands
 2. Private Lands
 3. State Lands
 4. Other Lands
 5. Unmanaged Lands
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