

**MEMORANDUM OF AGREEMENT
BETWEEN THE BUREAU OF LAND MANAGEMENT,
BATTLE MOUNTAIN DISTRICT TONOPAH FIELD OFFICE,
THE NEVADA STATE HISTORIC PRESERVATION OFFICER
AND ESMERALDA COUNTY, NEVADA
REGARDING
THE SALE OF THE GOLD POINT TOWN SITE TO ESMERALDA COUNTY,
NEVADA**

WHEREAS, the Bureau of Land Management (BLM) proposes to sell approximately 230 acres of public land, which includes the Gold Point town site (CrNV-64-4237/26Es664), to Esmeralda County, under the authority of Section 203 of the Federal Land Policy and Management Act (FLPMA) (Public Law 94-579) (Public Law 94-579) and BLM Sales Regulations at 43 C.F.R. § 2710 (hereinafter known as the proposed land sale); and

WHEREAS, the BLM has determined that the proposed land sale is an undertaking pursuant to Title 54 U.S.C. § 300101, et. seq., commonly known as the National Historic Preservation Act of 1966, as amended (NHPA), and Title 54 U.S.C. § 306108, commonly known as Section 106 of the NHPA (Section 106); and

WHEREAS, the BLM has defined the proposed land sale's area of potential effects (APE) for direct and indirect effects as all geographic lands within the area of land to be sold to Esmeralda County, approximately 230 acres (Attachment 1); and

WHEREAS, a cultural resources inventory has been completed for the Gold Point town site and the BLM has determined that the town site is eligible for listing in the National Register of Historic Places (NRHP) under the Secretary's Significance Criteria C and D; and

WHEREAS, the BLM, in consultation with the State Historic Preservation Officer (SHPO), has determined that the proposed land sale constitutes an adverse effect to historic properties as defined in the *State Protocol Agreement between the Bureau of Land Management, Nevada and the Nevada State Historic Preservation Officer for Implementing the National Historic Preservation Act*, (December 2014; Protocol) Section II.A.7; and

WHEREAS, the BLM has consulted with Esmeralda County, and they have agreed to sign this Memorandum of Agreement (MOA) as an Invited Signatory; and

WHEREAS, the BLM has consulted with the Timbisha Shoshone Tribe regarding the effects of the proposed land sale on historic properties and has invited the Tribe to sign this MOA as a Concurring party; and

WHEREAS, to the best of our knowledge and belief, no human remains, associated or unassociated funerary objects or sacred objects, or objects of cultural

patrimony as defined in the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq., 43 C.F.R. § 10), are located within the APE; and

WHEREAS, approximately 186 acres of the APE have not been previously inventoried for historic properties (Attachment 2); and

WHEREAS, the BLM shall complete a Class III cultural resource inventory of the 186 acres in accordance with the Protocol (Section V.A.1); and

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

STIPULATIONS:

The BLM shall ensure that the following measures are carried out:

I. Roles and Responsibilities

A. BLM:

The State Director for the Nevada BLM is the BLM Authorized Officer for the land sale. The BLM State Director, or designee, is the point of contact for the BLM.

B. SHPO:

The State Historic Preservation Officer, or designee, is the point of contact for the SHPO.

C. Esmeralda County:

The Esmeralda County Commissioner, or designee, is the point of contact for the County.

II. Identification and Evaluation

- A. Within sixty (60) days of the execution of the MOA, the BLM shall complete a Class III inventory of the portion of the APE not previously inventoried (Attachment 2) and prepare an inventory report(s) which meets the Secretary of the Interior's Standards for Archeology and Historic Preservation (48 FR 44716) (*Federal Register*, September 29, 1983) and BLM standards and guidelines.
- B. The BLM shall evaluate all cultural resources located within the APE for eligibility to the National Register of Historic Places (NRHP) under all of the Secretary's Significance Criteria.

- C. The BLM shall consult with the Tribe to evaluate the eligibility of properties of traditional religious or cultural significance (Traditional Cultural Properties).
- D. BLM shall submit the draft inventory report(s) to the SHPO for a thirty (30) calendar day review period. If the SHPO concurs or does not respond within thirty (30) calendar days of receipt, BLM shall assume concurrence with the determinations contained within the document and cover letter.
- E. The BLM shall respond to the SHPO's timely comments within thirty (30) days of receipt of comments, and submit the final inventory report(s) to the SHPO.

III. Treatment of Adverse Effects to Historic Properties

- A. The BLM shall develop a Historic Properties Treatment Plan (HPTP) for all historic properties in the APE.
- B. Within six (6) months of the execution of the MOA, the BLM shall submit the draft HPTP to the SHPO for review.
 - 1. The SHPO shall review and comment on the draft HPTP within thirty (30) calendar days of receipt.
 - 2. The BLM shall respond to the SHPO's comments within thirty (30) days of receipt of comments, and submit the final HPTP to the SHPO.
- C. Within two years of the execution of the MOA, the BLM will submit a draft report of the results of implemented measures, as detailed in the HPTP, to the SHPO.
 - 1. The SHPO shall review and comment on the draft report of the results of implemented measures within thirty (30) calendar days of receipt.
 - 2. The BLM shall respond to the SHPO's comments within thirty (30) days of receipt of comments, and submit the final report of the results of implemented measures to the SHPO.

IV. Post-Review Discoveries

Stipulations of this MOA are intended to identify and mitigate adverse effects to historic properties. Unplanned discoveries of buried cultural resources are not anticipated; however, in the event there is an unplanned discovery after the land sale is executed, Esmeralda County shall follow the provisions set forth under NRS Title 33 Chapter 383, as appropriate and applicable.

V. Dispute Resolution

Should any Signatory, Invited Signatory, or Concurring Party to this MOA object at any time to any actions proposed, or the manner in which the terms of this MOA are implemented, the BLM

shall consult with such party to resolve the objection. In the event the BLM cannot resolve the dispute, the dispute will be elevated to the Advisory Council on Historic Preservation (ACHP) for recommendations on dispute resolution. The BLM will:

- A. Forward all documentation relevant to the dispute, including the BLM's proposed resolution, to the ACHP. The ACHP shall provide the 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, the BLM shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, any Signatory, Invited Signatory, or Concurring Party, and provide them with a copy of this written response. The 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, the BLM may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the BLM shall prepare a written response that takes into account any timely comments regarding the dispute from the Signatories, Invited Signatory, or Concurring Party 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.

VI. Duration

This MOA shall expire if its terms are not carried out within five (5) years from the date of its execution, unless the Signatories and Invited Signatory agree in writing to an extension for carrying out its terms.

VII. Amendments

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

VIII. Termination

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

Once the MOA is terminated, and prior to work continuing on the proposed land sale, the BLM must either (a) execute an MOA pursuant to 36 C.F.R. § 800.6, or (b) request, take into account,

and respond to the comments of the ACHP under 36 C.F.R. § 800.7. The BLM shall notify the Signatory and Invited Signatory as to the course of action it will pursue.

EXECUTION of this MOA by the BLM, the SHPO, and Esmeralda County, and implementation of its terms, evidence that the BLM has taken into account the effects of the land sale on historic properties.

SIGNATORIES:



John Ruhs, State Director, BLM Nevada


Date: 14 February 2017



Rebecca L. Palmer, Nevada State Historic Preservation Officer

Date: 2/13/17

INVITED SIGNATORY:



~~Nancy Boland~~, Esmeralda County Commissioner
Micki Bates

Date: 02-07-17

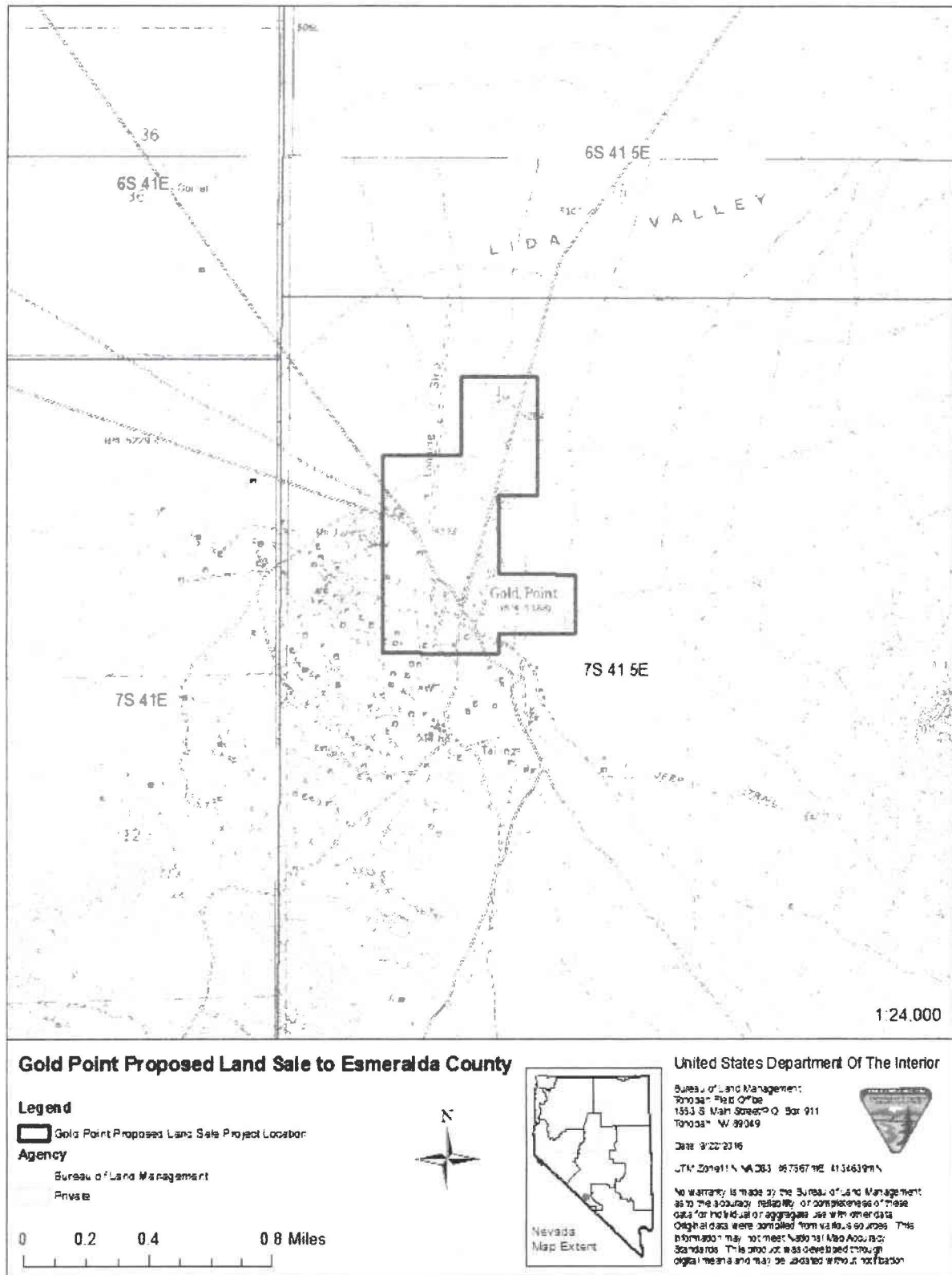
CONCURRING PARTY:



Timbisha Shoshone Tribe

Date: 1-17-17

Attachment 1. Project Location



Attachment 2. Portion of the APE not Previously Surveyed for Cultural Resources

