

U.S. Department of the Interior
Bureau of Land Management

Finding of No Significant Impact

DOI-BLM-NV-L000-2016-0002-EA

December 5, 2016

Conservation Easement for *City*
for the
Ely District, Nevada

Location:
Basin and Range National Monument
Ely District Office, Nevada

U.S. Department of the Interior
Bureau of Land Management
Basin and Range National Monument
Ely District Office
Phone: 775-726-8100
Fax: 775-726-8111



Finding of No Significant Impact (FONSI)
Environmental Assessment No. DOI-BLM-NV-L000-2016- 0002-EA
Conservation Easement for *City* in the Basin and Range National Monument,
Ely District, Nevada

Introduction

The Bureau of Land Management (BLM) prepared the Environmental Assessment (EA) for the proposed donation to BLM of the Conservation Easement for *City* in Basin and Range National Monument, Ely District Office, Nevada (DOI-BLM-NV-L0000-2016-0002-EA). This EA analyzed the effects of accepting a conservation easement on the private land containing and surrounding the land artwork *City* located in Lincoln County, Nevada. The EA analyzed two alternatives: the Proposed Action requested by the Los Angeles County Museum of Art that the BLM accept the donation of the conservation easement and the No Action Alternative. This EA is tiered to, and incorporates by reference, the 2007 Ely Proposed Resource Management Plan/Final Environmental Impact Statement. The 2008 Ely District Record of Decision and Approved Resource Management Plan analyzed acquisition of sensitive areas or areas with high resource values. The 2015 Nevada and Northeastern California Greater Sage-Grouse Approved Resource Management Plan Amendment amended the Ely RMP.

I have reviewed the EA dated November 2016. After consideration of the environmental effects of the BLM's Proposed Action described in the EA and supporting documentation, I have determined that the Proposed Action will not significantly affect the quality of the human environment, individually or cumulatively with other actions in the general area. No environmental effects meet the definition of significance in context or intensity as described in 40 CFR 1508.27. Therefore, preparation of an Environmental Impact Statement is not required as per section 102(2)(c) of the National Environmental Policy Act (NEPA).

Approval of the Proposed Action would allow the BLM to accept the donation of the easement for conservation, creating more seamless management of the private lands with the surrounding public lands in the Basin and Range National Monument. The BLM, as Grantee under the easement, would have certain rights with respect to the private land as outlined in the provisions of the easement for conservation.

The determining factors weighed by the BLM in reaching a finding of no significant impact are:

- There are no major issues involved.
- There are no unique characteristics within the project area to be affected (e.g., prime or unique farmlands).
- There are no adverse impacts to endangered or threatened plant or animal species or their habitats.
- The area is exempt from a cultural resource inventory because no ground disturbance is proposed.
- The project and its potential effects on the quality of the human environment are neither controversial nor do they involve unique or unknown risks.

- The proposal is in conformance with the Monument Proclamation and all federal, state, and local plans and laws imposed for the protection of the environment.

Context

The Proposed Action would result in the BLM receiving a conservation easement on private lands surrounded by BLM-administered public lands within the boundaries of the Basin and Range National Monument in the Ely District. This action would have local impacts on the resources similar to and/or within the scope of those described in the 2007 Ely Proposed Resource Management Plan/Final Environmental Impact Statement and the 2008 Ely District Record of Decision and Approved Resource Management Plan, as amended by the 2015 Nevada and Northeastern California Greater Sage-Grouse Approved Resource Management Plan Amendment. The easement covers 1,316.5 acres of private land. The setting of the Proposed Action is rural in nature and distant from any communities. The effects of accepting the easement are local, and the effects, as described in the EA, were determined not to be significant. The area does not contain any Greater Sage-Grouse habitat.

Intensity

- 1) Impacts that may be both beneficial and adverse:

The Proposed Action is limited to the donation of an existing conservation easement on 1,316.5 acres of private lands surrounded by BLM-administered land. The following resources were analyzed for impacts: water resources, special designations, and land uses. None of the environmental effects discussed in detail in the EA are considered significant, nor do the effects exceed those described in the 2007 Ely Proposed Resource Management Plan/Final Environmental Impact Statement and the 2008 Ely District Record of Decision and Approved Resource Management Plan, as amended by the 2015 Nevada and Northeastern California Greater Sage-Grouse Approved Resource Management Plan Amendment.

- 2) The degree to which the Proposed Action affects public health or safety:

The Proposed Action would not affect public health or safety. A Phase I Environmental Site Assessment (ESA) was completed on May 5, 2015. The Phase I ESA and Conservation Easement were reviewed by John Callan, BLM Environmental Professional at the Nevada State Office. He concurs with the findings of the Phase I ESA which state, "This assessment has revealed no evidence of RECs [Recognized Environmental Conditions] on the lands associated with the conservation easement."

- 3) Unique characteristics of the geographic area such as proximity to historical or cultural resources, parks lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas:

The Proposed Action would convey an interest (i.e., conservation easement) for 1,316.5 acres of private land surrounded by BLM-administered land, which would not affect historical or cultural resources, parks lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas. The Proposed Action is consistent with the

Monument Proclamation. There would be no significant impacts to Monument objects or values identified in the Proclamation from the action as proposed.

4) *The degree to which the effects on the quality of the human environment are likely to be highly controversial:*

The effects on the quality of the human environment from the Proposed Action are not expected to be controversial. As a factor for determining whether or not to prepare a detailed environmental impact statement under 40 CFR 1508.27(b)(4), “controversy” is not equated with “the existence of opposition to a use.” *Northwest Environmental Defense Center v. Bonneville Power Administration*, 117 F.3d 1520, 1536 (9th Cir. 1997). As such, “[t]he term ‘highly controversial’ refers to instances in which a ‘substantial dispute exists as to the size, nature, or effect of the major federal action rather than the mere existence of opposition to a use.’” *Hells Canyon Preservation Council v. Jacoby*, 9 F. Supp. 2d 1216, 1242 (D. Or. 1998).

During preparation of the EA, the public was notified of the Proposed Action by posting the project on the NEPA register of the BLM’s ePlanning website. The BLM accepted public comments between July 8, 2016 and August 8, 2016. The public comment period was announced on the Ely District website and the BLM ePlanning website, as well as through letters mailed to interested parties, and through a local press release. Although comments received reflected both opposition to and support for the Proposed Action, no dispute exists as to the size, nature, or effect of the action.

5) *The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks:*

Possible effects on the human environment as a result of the action are anticipated to be minimal, if any. Direct and indirect effects would not be significant based on the analysis in the EA. BLM has accepted conservation easements on private lands adjacent to BLM-administered monument lands in the past, such as The Conservation Fund-Wallace Acquisition (COC 073957) in 2009 in the Canyons of the Ancients National Monument.

6) *The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration:*

Accepting the donation of this conservation easement does not establish a precedent for any future action. The EA analyzes potential impacts if BLM accepts the donation of an existing easement. Future proposed actions, if any, would be analyzed at a later date.

7) *Whether the action is related to other actions with individually insignificant, but cumulatively significant impacts:*

Past, present and reasonably foreseeable future actions have been considered in the cumulative impacts analysis in the EA. The cumulative impacts analysis examined these actions and determined that the Proposed Action would not incrementally contribute to significant impacts. In addition, for any actions that might be proposed in the future, further environmental analysis, including assessment of cumulative impacts, would be completed prior to authorization as required by NEPA.

- 8) The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing on the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historic resources:

The Proposed Action is exempt from a cultural resource inventory because no ground disturbance is proposed. BLM is not acquiring fee title, and the easement lands will remain private. No adverse impacts have been identified from the Proposed Action.

- 9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973:

The area covered by the conservation easement contains no threatened or endangered species or critical habitat. Additionally, no ground disturbance is proposed. Therefore, the action would have no effect on endangered or threatened plant or animal species or their habitats.

- 10) Whether the action threatens a violation of federal, state, local, or tribal law or requirements imposed for the protection of the environment:

The Proposed Action will not violate or threaten to violate any federal, state, local, or tribal law or requirement imposed for the protection of the environment.



Alicia Styles
Monument Manager
Basin and Range National Monument



Date

Literature Cited

BLM. 2007. Ely Proposed Resource Management Plan/Final Environmental Impact Statement November 2007. USDI – BLM. Ely District Office.

BLM. 2008. Ely District Record of Decision and Approved Resource Management Plan. August 2008. USDI – BLM. Ely District Office.

BLM. 2015. Nevada and Northeastern California Greater Sage-Grouse Approved Resource Management Plan Amendment.