

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

Decision Record

Memorandum

DOI-BLM-NV-B020-2016-0041-EA

**2016 Best in the Desert “Vegas to Reno”
The Long Way Race Event**

PREPARING OFFICE

U.S. Department of the Interior
Bureau of Land Management
Ely District, Nevada



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2016 Best in the Desert

“Vegas to Reno the Long Way”

Race Event

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2016 Best In the Desert “Vegas to Reno the Long Way” Event

Summary

It is my decision to select the Proposed Action analyzed in the revised 2016 Best in the Desert “Vegas to Reno the Long Way” Event Environmental Assessment (revised EA), here incorporated by reference, with the Monument-specific mitigation described herein. I have reviewed and considered public comment on the preliminary EA issued for public review on July 1, which was revised in response to comments received as described below. I have found that this action would not have significant environmental impacts and does not require an Environmental Impact Statement; see Finding of No Significant Impacts (FONSI), attached. With this decision I direct the BLM Carson City District to issue a Special Recreation Permit (SRP) to Best in the Desert Racing Association (BITD) for the event to be conducted as described in the revised EA under the Proposed Action and to include all Environmental Protection Measures, Mitigation Measures, and Stipulations therein; and direct the BLM Tonopah Field Office to issue a minimum impact commercial filming permit to Lucas Oil Production Studios for commercial filming of the event, as described in the revised EA, including the Film Permit Stipulations therein. This decision is issued full force and effect in accordance with 43 C.F.R. §2931.8 and 43 C.F.R. §2920.2-2.

It is my conclusion that this decision addresses public concerns from all sides of the issue and represents the best balance of environmental protection measures with particular attention to the newly-established Basin and Range National Monument (“Monument”); recreation opportunity for participants; and potential for economic benefit to local communities. I have added Monument-specific mitigation to the Proposed Action, specifying a noncompetitive traversal of the Monument with controlled speeds. This decision addresses the 2016 event only, and is expressly not to be construed as setting any precedent for future Monument management.

Alternatives Considered

The preliminary and revised EA analyzed four alternatives which are briefly summarized as follows (refer to the revised EA for full descriptions).

The Proposed Action, as submitted by BITD in its SRP application, was a two-day, approximately 650-mile off-highway vehicle race on existing roads, beginning near Alamo, Nevada and heading basically west and northwest to end at Dayton, Nevada. Shortly after the SRP application was submitted in July 2015, the *Presidential Proclamation -- Establishment of the Basin and Range National Monument* (“Proclamation”) was issued. The proposed race course included approximately 37 miles, all on existing, county-maintained graded roads, through the new Monument.

The Beatty-to-Dayton Route alternative analyzed a 525-mile southeast-to-northwest route beginning near Beatty, Nevada. The southern part of this route was the race course used most recently in 2015 for the annual event. Under this alternative the race course did not include the Monument. It intersected the Proposed Action route near Tonopah, Nevada and was identical to it for the remaining 313 miles.

The Transfer Route alternative analyzed a 598-mile long route that was the same as under the Proposed Action except that the easternmost segment of the route would be reconfigured to avoid the Monument. Participants would be required to transport their race vehicles around the Monument via highway.

The No Action alternative described and compared the environmental consequences that would result if none of the three action alternatives were implemented. Under this alternative no SRP would be issued and the applicant would not be authorized to conduct the event across public lands.

Additional mitigation considered: All three action alternatives included mandatory resource protection measures and stipulations designed to minimize environmental effects. In accordance with the directives of the Proclamation and in response to public comments expressing concern about potential effects to the Monument, BLM worked with BITD to develop additional mitigation to apply to the Monument segment of the Proposed Action route. Under this mitigation vehicles will not race through the Basin and Range National Monument; instead, the vehicles will cross the Monument at controlled speeds and without passing, only resuming the race once outside of the Monument boundary. This mitigation, which included enforcement measures, was designed to further reduce or nearly eliminate potential impacts within the Monument. The EA was revised to add these measures to the Proposed Action, as follows:

- ***Noncompetitive traversal of the Monument:*** A checkpoint would be established at the entrance to the Monument traversal (mile 67 of the event). Each vehicle's time would be recorded on arriving at that checkpoint. Time would be re-started for each vehicle at the exit checkpoint at the end of the Monument traversal (mile 105 of the event). Time spent traversing the Monument would not be included in the vehicle's race time. All activities at these checkpoints would be in previously-disturbed, unvegetated areas outside of the Monument.
- ***Driver notification of the Monument:*** At the staffed checkpoints at the start and end of the Monument noncompetitive traversal, drivers would be individually, personally notified of the speed limit and no passing zone by signs held in front of them by event personnel, in addition to signage posted along the route. Event participants would not be allowed to proceed into the Monument until given a thumbs up from event staff. This would stagger starting times at the entry checkpoint by no less than one minute between participating vehicles. These mitigation measures and the importance of protecting Monument values would also be emphasized at the pre-race meeting.
- ***Minimizing vehicle failure in the Monument:*** At the checkpoint before the Monument, vehicles would be inspected and would not be allowed to continue if they are leaking fluids, or if they show other signs of impending mechanical failure, tire failure, etc. that could cause them to break down or need assistance within the Monument. Drivers would be instructed that if their vehicle does experience mechanical difficulty while crossing the Monument, they must pull to the side and stay within the previously-disturbed area without impacting vegetation or blocking other vehicles. Vehicles needing to leave the course would be escorted out via Seaman Wash Road, a well-maintained road normally passable by two-wheel-drive vehicles.
- ***Maximum speed limit in the Monument*** would be 35 miles per hour. The GPS tracking devices on each participating vehicle would monitor speed and location. Event personnel and BLM staff would also check speeds with radar at undisclosed locations along the Monument traversal. Heavy penalties would be imposed for excess speeds: 5 minutes would be added to participants' time for every 1 mph over the speed limit. Times would be checked at the exit checkpoint to

confirm that vehicles took at least 64 minutes to traverse the approximately 37 miles through the Monument.

- ***No passing allowed in the Monument:*** A no passing zone throughout the Monument would be monitored and enforced by on-the-ground personnel. Because it would be noncompetitive, there would be no motivation to pass. Sequentially-numbered stickers would be placed on vehicles at the first checkpoint, and checked at the second checkpoint to confirm that no passing occurred.
- ***Minimizing support personnel in the Monument:*** No support crews would be allowed in the Monument except in an emergency or specifically summoned by race monitoring personnel to assist a vehicle in distress.
- ***Compliance monitoring*** throughout the event course would involve BLM managers, law enforcement rangers, recreation specialists, and other BLM personnel in conjunction with BITD staff, with an increased presence in the Monument.

It is important to note that the Monument-specific mitigation was not added to reduce the impacts of the preliminary Proposed Action to less-than-significant levels. Rather, the mitigation was added to the Proposed Action to further minimize potential effects in the Monument, in response to public comments expressing heightened concerns regarding that proposed segment. The mitigation will further ensure that the Monument objects and values are protected.

It is also important to note that my decision addresses the 2016 event only, and should not be construed as setting a precedent for Monument management nor for future decisions regarding similar proposed events. The Monument planning process will involve “maximum public involvement” as provided in the Proclamation. The Proclamation requires that the BLM develop the management plan within three years. In the interim it is standard procedure for National Monuments, as directed in BLM Manual 6220, that the BLM uses the NEPA process to evaluate proposals that are submitted based on pre-existing management direction plus specific direction provided in the Proclamation, and taking into account the Monument objects and values named in the Proclamation. The Proclamation limits motorized vehicle use to existing roads, and is silent on the subject of organized off-highway vehicle events. My decision will not affect whether or not the management plan or other future case-by-case decisions will allow such events in the Monument, although monitoring results from this event will be taken into account to inform these decisions.

Public Involvement

The preliminary EA was released for public review July 1; as this was just before the July 4 holiday weekend, the announced 30-day public comment period was extended to August 3. Written comments were submitted via mail, email, and online comment submission form. We reviewed and considered all comments received. An early public comment opportunity for the Monument planning process was also underway concurrently, and several persons and groups submitted comments as part of that process which addressed the topic of OHV events in the Monument in general, and/or the specific proposed BITD event. We also considered these comments to the extent that they pertained to the proposed event.

We received a large number of comments. My responses to these comments are incorporated into this Decision Record, along with explanations of how they led to revisions to the EA. In accordance with BLM NEPA Handbook H-1790-1, 6.9.2.2, similar substantive comments are summarized and one

response is given to each group of similar comments. If a change was made to the EA in response to the comment, the EA section is noted.

Support for the Proposed Action

Of the approximately 150 comment letters received, representing individuals or organizations, the great majority were supportive of the Proposed Action. Only a handful were duplicate “form letters”; most were brief but specific and backed by personal observation, and several were longer and included well-substantiated points. The reasons provided for supporting the Proposed Action included, in summary, the following:

- Off-highway vehicle (OHV) racing is an enjoyable activity for participants and spectators.
- OHV drivers/racers support impact-free use, haul out trash, and avoid environmental damage.
- “Tread Lightly” and “Leave No Trace” values are prevalent and increasing in the OHV community.
- OHV racing is a legitimate use of multiple-use public lands.
- Impacts are low and temporary.
- Other uses do more damage (mining, solar and wind energy, shooters, partiers leaving trash).
- The Proposed Action includes sufficient resource protection measures.
- BITD has a good record for low resource impact and safety in past events.
- OHV racing is a healthful activity for individuals.
- OHV racing provides a wholesome and lawful activity for youth.
- OHV racing introduces children/adults to desert resource values and conservation concepts.
- OHV racing brings new visitors and makes them aware and supportive of the area’s values.
- OHV racing promotes social bonds and camaraderie among family and friends.
- The annual event provides a boost to the local economy.
- A few commenters believe opposition is from persons/groups opposed to OHV use in general.
- A few commenters feel there should be few or no restrictions on public land uses.

Many commenters also stated specific support for including the newly-established Basin and Range National Monument (Monument) as part of the event route. Their reasons included:

- The Monument had not been created when the permit application was submitted.
- The Presidential Proclamation creating it does not prohibit OHV use on existing roads.
- The proposed course uses existing routes which have been used for same purpose in the past.

- The Proclamation does not call for halting any existing uses while a plan is being developed.
- Some commenters believed all traditional and current activities would continue to be allowed .
- Singling out this event to halt while other uses continue would be inconsistent and arbitrary.
- OHV racing is part of the Monument's historical and cultural heritage.
- If the Monument is in good condition given past uses, no new impacts should be expected.
- Any resource impacts would be short-term and would not affect other Monument values.
- People have made plans around the Proposed Action.
- Some believe opponents of race in Monument are opposed to motorized public lands use in general.
- Some believe opposition is from people lacking actual knowledge of the area.
- Some believe BLM should give more weight to comments from people with local knowledge.
- The race would introduce people to the Monument who might not otherwise come to appreciate it.

I appreciate hearing from so many individuals and organizations with an interest in participating in managing our public lands. Some of the reasons above agree with statements in the EA, while others simply represent the commenters' opinions. As such, they do not require specific responses. However, I would like to acknowledge the writers' enthusiasm for the sport of OHV racing, and their strong commitment to conducting the sport in an environmentally responsible manner. Nearly all specifically expressed their love of Nevada's deserts and/or the Monument area, awareness of the sensitivity of the resources they hold, and commitment to conserving them while passing on those values to future generations.

I would like to respond to two possible misconceptions regarding public lands management. First, the Proclamation that established the Monument did not state that all traditional and current activities would continue to be allowed. It identifies objects within the Monument that are to be protected; specifically withdraws the Monument lands from some uses, such as mineral and geothermal leasing; specifically provides for other uses to continue, such as livestock grazing and military aircraft overflights; and is silent on others, such as organized OHV events. It does state that motorized vehicle use will be permitted only on existing roads, and calls for preparing a transportation plan; it does not guarantee that every road will remain open or state that every existing use of roads may continue. These decisions will be made via the resource management planning process currently underway, and I encourage all interested persons to be involved in that process.

Second, while I appreciate specific information provided by persons with local knowledge, I must also consider opinions expressed by persons who have never visited the area. America's public lands belong to all of our citizens and all have a voice in how they are managed.

Basin and Range National Monument: Concerns and Added Mitigation

Seventeen of the comment letters received expressed concern about potential effects of a race event passing through the newly-established Monument. Many of these comments were substantive and have been considered in my decision.

The preliminary EA released for public comment found effects of the Proposed Action to be temporary and/or minimal throughout the proposed event course, including effects to Monument objects and values named in the Presidential Proclamation (Proclamation) that established it; and found that the Proposed Action appeared to be consistent with direction the Proclamation provided. I am confident in these conclusions, given that the route through the Monument is entirely on existing county-maintained roads; mandatory stipulations address all resource concerns raised; and BITD has an excellent reputation for enforcing stipulations and promoting conservation values, especially in recent years. The great majority of commenters agreed with these conclusions. However, some commenters were concerned about the route through the Monument and called for specific mitigation measures to further ensure protection of Monument values.

In response to these concerns, BLM worked with BITD to develop Monument-specific mitigation to the Proposed Action, the effects of which were analyzed for the revised EA. The details of this mitigation are provided above and have been added to EA Section 1.1, Proposed Action. Again, the essential element of the mitigation is that the Monument traversal would not be part of the race but would be *noncompetitive*, with controlled speed and with no passing allowed. This would further reduce or nearly eliminate most potential impacts, as detailed in the revised EA. The mitigated Proposed Action was also designed to present fewer logistical challenges to the event organizers and participants than the Transfer alternative analyzed in the EA; and to provide an opportunity to reinforce participants' awareness of Monument values.

Following are summarized representative comments specific to the Monument, with my responses.

Comment: BLM must *avoid and mitigate loss to Monument resources*. Mitigation measures must be described and analyzed in detail and must include commitments for action. The EA should show how BLM will administer the SRP so that Monument objects and values will be protected.

- **Response:** The mitigated Proposed Action addresses this.

Comment: The EA does not show a proper *analysis of the Monument objects* with sufficient safeguards to protect them.

- **Response:** The preliminary EA references the various resource analysis sections that pertain to Monument objects and values. The revised EA, in section 3.17, makes the conclusions easier to see by summarizing in that section the results of the effects analyses as they pertain to the Monument. Safeguards have been added in the form of the mitigation measures described above.

Comment: The proposed route through the Monument uses roads that are too narrow in some places for two vehicles to travel abreast, so when competitors *pass* slower cars, they must drive off the roadway.

Race start times should be staggered and observers should be positioned to prevent drivers from passing in the Monument.

- **Response:** Staggered start times are part of the Proposed Action. Under the mitigated Proposed Action, the Monument traversal would be noncompetitive and passing would not be allowed, nor would there be a motive to pass. Both BLM staff and Event staff will be positioned at crossroads and other strategic locations along the event course to enforce this rule.

Comment: In the Monument, all vehicles must stay on roads at all times along the race course and in *pits*. Clean-up of *wrecked and disabled vehicles* should be done from existing roadways as much as possible.

- **Response:** No pits were proposed within the Monument. Under the mitigated Proposed Action, the speed limit would minimize the possibility of wrecked vehicles; inspecting for signs of impending mechanical failure before allowing them to enter the Monument would minimize the likelihood of disabled vehicles; and any disabled vehicles would be removed via the existing, well-maintained Seaman Wash Road.

Comment: All *road intersections* within the Monument that are not guarded by terrain nor have wide turn angles must be barricaded to prevent cutting corners too tightly or from driving too fast and overshooting the corner.

- **Response:** The mitigated Proposed Action's speed limit through the Monument is expected to prevent this. The commenter specifies five locations where the Caliente Field Office will consider whether further safeguards would be appropriate.

Comment: No *practice runs* for the drivers should be permitted inside the Monument.

- **Response:** No pre-run or fun run was proposed in the Monument for this event, and none will be permitted.

Comment: *Photography vehicles* should not be allowed to exit the roadway inside the Monument. Private photography companies and other must stay on designated roads.

- **Response:** With regard to the professional photographers who would be issued a film permit as analyzed in the EA: As noted in Film Permit Stipulations, EA Appendix D, "vehicle use shall be limited to existing roads. The Permittee shall not leave the road surface." This applies throughout the event course. With regard to spectators photographing the event: Spectators are not encouraged along the event course. For reasons of safety, race personnel strongly discourage spectators from congregating anywhere except in designated spectator areas. Also, no support crews would be allowed in the Monument except in an emergency or if specifically summoned by race monitoring personnel to assist a vehicle in distress.

Comment: It appears that, after exiting the North Pahroc Hills area via the Little Boulder Road, the proposed race course would *cross Highway 318 into the Monument in an area without an existing road* (2S 61 E Section 26) between Highway 318 and the Old White River Road, to access the Black Horse

Road. BLM should not permit any travel on routes that were not existing at the time of the designation of the Monument.

- **Response:** Where the proposed route crosses Highway 318, the route would be entirely within the Nevada Department of Transportation (NDOT) right-of-way for approximately 0.25 miles before entering the Monument and intersecting the course on a county-maintained road. The proponent must coordinate with NDOT for the proper permits. During the event NDOT personnel will be stationed at all of the highway crossings, per a separate agreement between the promoter and NDOT.

Comment: It appears that a small portion of the proposed route— approximately 1 mile in length— departs from the graded Black Horse Road on the north side of Fossil Peak to *travel up a wash in T 2S 61 E Section 30.*

- **Response:** The proposed route follows Black Horse Road, which is a county-maintained road, throughout the area in question. Higher resolution mapping overlaying aerial photography of this segment is available upon request.

Comment: All vehicles exiting the Little Boulder Road pit and entering the Monument must be certified washed to *remove weed seeds.*

- **Response:** As stated in the EA Section 3.5, a Noxious and Invasive Weed Risk Assessment was completed for this event, and the environmental protection measures and BMPs listed in the Noxious and Invasive Weed Risk Assessment and the SRP stipulations in Appendix D of the EA are found to be adequate to reduce the likelihood of introduction and spread of noxious or non-native invasive weeds.

Comment: The correct mileage of road that will be used during the proposed event within the Monument is 42.9 miles. This includes the southwestern boundary, which should adhere to the special race restrictions.

- **Response:** The BLM does not consider the road along the southwestern boundary of the Monument to be included within the Monument boundary. Therefore, the event route includes approximately 37 miles within the Monument.

Comment: The race involves approximately 985 vehicles including pit and media vehicles. Pit vehicles will necessarily be travelling (leap---frogging) to new pits and checkpoints, mostly over two lane roads. An estimated 6000 people including 5000 spectators and pit personnel, 500 event staff and 120 media personnel are expected to attend. The volume of people and vigor of these activities are unsuitable for the fragility of the Alamo area and for the National Monument.

- **Response:** The figures quoted were BITD's predicted maximum totals. No single area of the proposed course sees these numbers of persons or vehicles. Event vehicles would be started at 30- to 60-second intervals. Designated spectator areas would be located at pits, which in turn are at carefully-planned locations along the approximately 643-mile route, all located so as to facilitate flow of vehicle traffic on existing roads while minimizing possible resource effects. There are no pit areas or designated spectator areas within the

Monument, and support vehicles would not be allowed in the Monument. Determining whether or not these areas are suitable (i.e. whether impacts are significant and whether Monument objects are harmed) for this type of event is one of the main purposes of the EA.

Comment: *The EA should be postponed until after the Monument RMP is completed.* The event should not be permitted in the Monument before a Monument management plan, including “maximum public involvement,” is prepared.

- **Response:** The BLM may evaluate and consider permitting proposed activities within the Monument prior to completing a Monument management plan. BLM Manual 6220 specifically provides for reviewing discretionary uses on a case-by-case basis and considering their consistency with the Monument proclamation before a new Monument management plan is completed. Relevant sections include “D. Management of Newly Designated Monuments and NCAs. Upon designation of a new Monument or NCA or similar designation, or where the following actions have not been carried out for existing components, the BLM will: 1. Review policies and governing resource management plans for consistency with the designating legislation or proclamation.” and Section 3.2, “Through the NEPA process, the manager with decision-making authority for a Monument... will evaluate discretionary uses and will analyze whether the impacts of the proposed use in the Monument... are consistent with the protection of the area’s objects and values.” Any decision to permit, deny, or further mitigate any alternative based on the EA analysis and subsequent comments will not prejudice the Monument planning process, which is ongoing and will include multiple opportunities for public involvement.

Comment: The Federal Land Policy and Management Act (FLPMA) requires BLM to manage public lands under multiple use principles unless an area has been designated by law for specific uses, in which case BLM must manage the land for those specific uses. In other words, *BLM will manage national monuments not under the FLPMA multiple use mandate*, but rather under the Proclamation that established the Basin and Range National Monument. BLM must manage the Monument primarily for the protection and preservation of its natural, cultural, historic and scientific values, and only allow uses other than those needed for protection of monument objects when those uses do not conflict with the directives of the Proclamation.

- **Response:** BLM authority to manage the public land is recognized under FLPMA 302(a) and is subject to the provisions of the Monument Proclamation, as the commenter notes. BLM Manual 6220 provides guidance to BLM personnel on managing National Monuments and states in Section C, Compatibility of Uses: “1. Site-specific activities in Monuments... will be managed in a manner that is compatible with the protection of the objects and values for which these areas were designated. Multiple uses may be allowed to the extent they are consistent with the applicable designating authority, other applicable laws, and with the applicable land use plan. 2.. Through the NEPA process, the manager with decision-making authority for a Monument... will evaluate

discretionary uses and will analyze whether the impacts of the proposed use in the Monument... are consistent with the protection of the area's objects and values." The Monument Proclamation is the applicable designating authority and the Ely District Record of Decision and Approved Resource Management Plan (RMP), approved in 2008, is the applicable land use plan. The EA, together with the FONSI and Decision Record, documents the NEPA process whereby the manager with decision-making authority analyzed the impacts of the proposed use and considered whether it is consistent with the Proclamation, the RMP and other applicable laws. BLM Manual 6220 also states (emphasis added), "if the Act of Congress or presidential proclamation that designates a Monument... conflicts with FLPMA's multiple use mandate, the designating language will apply." The responsibility for determining if the designating language conflicts with multiple use is granted to the same local BLM decision-making authorities, in BLM Manual 6220 A. 1.4. "Responsibility. C. District and Field Managers shall: 1. Ensure that all activities on Monument and NCA lands are consistent with the relevant designating legislation or proclamation, national and state office policies and guidance for Monuments and NCAs, and approved land use plan decisions." As the responsible decision-maker, I find that the Proposed Action, including Monument-specific mitigation, is consistent with the Proclamation Section 3.17 of the revised EA details how Monument objects and values will be protected.

Comment: The Proclamation states that a *transportation plan* will be prepared. The event should not be permitted in the Monument before the transportation plan is prepared.

- **Response:** The BLM may evaluate and consider permitting proposed uses of existing Monument roads prior to completing a Monument transportation plan. BLM Manual 6220 provides guidance for Monument management and states in section 1.6 N. Travel and Transportation Management, "The BLM will complete a travel management plan and route identification for each Monument.... In general, use is to be restricted to identified roads, primitive roads, and trails, except for authorized and administrative use and specific exceptions identified in the designating legislation or proclamation." The Proclamation states "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. The Secretary shall prepare a transportation plan that designates the roads and trails where motorized or non-motorized mechanized vehicle use will be permitted." The Proposed Action would use existing county-maintained roads (EA Section 2.1). There is no directive prohibiting motorized vehicle uses of those roads pending development of a transportation plan.

Comments and responses regarding issues not specific to the Monument

The following summarized comments and responses do not pertain specifically to the Monument segment but rather to the proposed event and event course overall, and/or to the other alternatives.

Monitoring and enforcement

Comment: BLM must develop a specific plan for *monitoring impacts* from the event and documenting the results. The EA doesn't state how much of the 643 miles of the course will be evaluated. BLM should produce a report for public review documenting monitoring results in the Monument. *Monitoring results should inform future analyses* for similar events.

- **Response:** Per BLM policy (H-2930-1 Recreation Permit and Fee Administration Handbook) the amount of permit monitoring is commensurate with the resource values at risk and the permittee's past record of compliance. The objective of event monitoring is to ensure that an event is conducted in a safe and organized manner and in accordance with BLM regulations and permit stipulations, terms, and conditions. Failure to comply with stipulations or conditions may result in administrative penalties, civil suits, or criminal sanctions. Monitoring is also conducted to verify approved routes prior to the race and to identify and document actual resource impacts for post use analysis, recommendations and the development of future alternatives and stipulations, where applicable; and to evaluate the permittee's performance. Typical monitoring methods include photo documentation, GPS mapping, video recording, and personal observations in a post-use report format.

Compliance monitoring during the event will involve BLM staff and managers, law enforcement rangers, recreation specialists, and other personnel in conjunction with BITD staff, to ensure that BITD is enforcing the stipulations; BLM personnel will also take action immediately when necessary. BLM personnel will patrol strategic points along the course, with an increased presence in the Monument.

In addition to monitoring compliance during the event, BLM will conduct pre- and post-race monitoring along the entire event course to determine and document pre- and post-race conditions. Areas identified as needing rehabilitation will be revisited to ensure this has been accomplished within the required four-week timeframe.

Comment: The EA states "Participants deviating from the proposed route would be disqualified" but does not specify what participant behavior will be classified as "traveling off course" and what precise conduct requires a "*disqualification.*"

- **Response:** As described in the revised EA, GPS monitoring units would be carried on each vehicle. These would help ensure that the rule prohibiting course-cutting would be strictly enforced throughout the event course. Virtual checkpoints would be programmed into GPS units at locations that are unknown to participants. If a vehicle were to stray from the course enough to be detected by the GPS unit (about 15 feet), race monitoring personnel would be alerted and an alarm would sound at the BITD Operation Center. Vehicles may be penalized if observed intentionally pulling off of the established

roadway except when necessary in circumstances such as an emergency, i.e. to protect life or property, or to avoid wildlife.

Soils, air quality, water quality, vegetation, weeds, and wildlife

Comment: *Soil compaction, erosion, and loss of topsoil, native habitats and organisms* can occur. The area east of US Highway 95 has highly erodible soils in several areas. The USGS has reported effects of soil compaction, diminished water infiltration, diminished presence and impaired function of soil stabilizers, and accelerated erosion rates. *Passing* widens the disturbed area along roads, and should only occur at sites identified and flagged by the BLM. *Roads are widened*, especially at turns, by racers at high speeds, especially at turns. One commenter cites USGS reports on OHV racing effects from 1990 and 2007, at <https://pubs.usgs.gov/of/2007/1353/report.pdf> and <http://pubs.usgs.gov/of/1990/0023/report.pdf>.

- **Response:** The event route uses existing roads and previously-disturbed pit areas with the exception of a new 2-acre new pit area. However, the revised EA acknowledges that soils and vegetation adjacent to the course could be newly damaged in the event that a vehicle leaves the edge of the established roadway, whether by losing control, in an emergency, or due to unauthorized passing of vehicles or temporary obstacles on narrow road segments. It is expected that this would occur rarely and at dispersed locations rather than as a repeated impact to single areas; in these instances damage would be slight and vegetation would recover within a year. Also, fast-moving vehicles may widen some sharp turns, leading to localized areas of soil erosion and compaction and longer-term vegetation loss at these sites. These turns are identified in advance and drivers are alerted to them via course maps, GPS, and flaggers standing at the turns. For these reasons, minimal damage to soils and vegetation near the edge of the route is expected. Participants are not expected to damage soils and vegetation by intentionally leaving the course and creating a new route, because vehicles are tracked by GPS and disqualified by BITD if they leave the course. BLM personnel, in turn, monitor for compliance with this and all stipulations before, during, and after the race. Compliance monitoring is described in Section 2.1 under Monitoring and is designed to minimize impacts identified during previous off-road race events, such as those described in the U.S. Geological Survey Open-File Report 90-23. Effects to soils, vegetation, wildlife, and BLM Sensitive species are analyzed in detail in the Environmental Assessment. These effects would be further minimized in the noncompetitive traversal of the Monument with the addition of the 35 mph speed limit and the no passing rule.

The revised EA deletes reference to any proposed course using “roads, trails or washes” to clarify that all alternatives would use only existing roads that have been used for OHV racing in the past, and does not include trails for nonmotorized use nor vegetated, undisturbed washes.

Comment: The EA must *describe the geological and soil resources* that will be impacted to reveal if any of the course is on erodible or sensitive soil types, or whether or not potential for damage to soils was a criteria used in selecting routes to be used.

- **Response:** The primary criterion for selecting routes to be used was that they have been previously used for the same purpose, off-highway vehicle racing, in order to minimize new impacts to soils. A few limited locations along the route have highly friable soils; these soil surfaces have already been disturbed by the passage of vehicles. Detailed descriptions of the soils in this proposed action area can be found in the respective county soil survey, issued by the U.S. Dept. of Agriculture, Natural Resources Conservation Service.

<http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/technical/ecoscience/desc/>
<http://www.nrcs.usda.gov/wps/portal/nrcs/surveylist/soils/survey/state/?stateId=NV>

Comment: *Fluids that leak* into the soil can affect plants, wildlife, and water.

- **Response:** Fluid leakage and spills are addressed in EA Section 2.13 and are minimized in pit areas by the requirement that fuel would be kept in proper containers, fuel-absorbing carpet or mats would be under all race vehicles during fueling, and any spill would be contained and cleaned up immediately. The possibility of leakage from moving vehicles is minimized in the Monument by the mitigation measure requiring that vehicles be inspected for leakage prior to entering. Any vehicle leaking fluids or otherwise showing signs of impending mechanical or tire failure would not be allowed to enter the Monument.

Comment: Nevada Department of Wildlife (NDOW) commented that the 2016 big game hunting year begins in August with the *archery season*, with dates depending on species (pronghorn antelope, mule deer, elk); hunt unit; and hunting seasons set by the Nevada Board of Wildlife Commissioners every two years. Archery hunter access and quality of hunt experience should be considered and analyzed.

- **Response:** This information has been added to Section 3.1; and the statement in Section 3.9, Recreation, acknowledging effects to hunters has been edited to specify archery hunters.

Comment: NDOW commented that characterization of *greater sage-grouse* Other Habitat Management Areas along the route as used exclusively as winter habitat may not be entirely accurate, and provided more detail in follow-up conversations with NDOW's Brad Hardenbrook.

- **Response:** Sections 3.1 and Appendix C are edited in the revised EA to reflect that although there is a remote possibility that greater sage-grouse would be present, BLM and NDOW biologists do not anticipate they would be present along the route in August, given this year's (2016) conditions.

Comment: *Fugitive dust* is created in the short term, and is increased in the long term due to event-caused erosion. OHV courses displace enormous amounts of soil and generate many tons of airborne particulates which affect air quality for many miles downwind of the course. As fugitive dust settles and is deposited, sometimes far away from its origin, it coats plants and soils that can change plant communities and have ecosystem effects.

- **Response:** Air quality impacts of fugitive dust are disclosed in the EA, Section 3.11. Fugitive dust may affect pollinators and pollination decreasing with distance from the event route, but effects would be temporary. Effects to BLM Sensitive plants from fugitive dust are analyzed in Section 3.1. Aeolian deposition of soils is a natural process in desert environments and the additional input from a one-day event would be minor in proportion and not result in any changes to soils that would not otherwise naturally occur. The speed limit and no passing rule would further reduce erosion and fugitive dust in the noncompetitive Monument traversal.

Comment: A few comments expressed concern about *water quality* effects to springs, water recharge and surface watercourses, especially resulting from fugitive dust.

- **Response:** . In response to these comments a water quality section has been added to the revised EA as Section 3.16, and I have considered this factor in my decision. No surface waters are directly intersected by the course. However, a number of undeveloped, named and unnamed seeps and springs occur within 0.25 mile of the proposed race route (all alternatives) in the Caliente, Tonopah, and Carson City Field Offices and Basin and Range National Monument. Fugitive dust from the event could temporarily impact water quality and aquatic invertebrates. The event occurs on existing roads and trails subjected to fugitive dust from routine vehicle traffic on a year-round basis, and these aquatic resources are routinely subjected to natural wind-borne dust events in the desert environment. No BLM sensitive or federally listed threatened and endangered (including proposed and candidate) fish or invertebrate species are known to occur in any of these seeps and springs. Fugitive dust would be further reduced in the noncompetitive Monument traversal, as noted above.

Comment: *Vehicle emissions* affect human, wildlife or plant terrestrial or aquatic populations and communities.

- **Response:** The event would not be expected to add appreciably to ambient levels of vehicle emissions beyond a temporary (1-2 day) increase. Several roads and highways carrying regular vehicle traffic year-round traverse the same regions as the event course. As an example, U.S. Highway 95, the highway route from Las Vegas to Reno, passes through Nye, Esmeralda, Mineral, Churchill and Lyon counties along with the proposed event route. Traffic on U.S. 95 alone in these five rural counties averages 2346 vehicles per day through the five counties, or 856,108 vehicles per year (NDOT 2015). BITD predicts a maximum total of 985 vehicles involved in the 2-day event as competitor, support or media vehicles. These numbers total 0.1% of the average number using U.S. Highway 95 annually through the event region. This information has been added to the air quality analysis in the EA to better describe the proportional effects of the event.

Comment: A few commenters expressed concern regarding *toxic dust* .

- **Response:** The event route would not cross any mine tailings or known toxic soils.

Comment: *The event would disturb wildlife.* The BLM must include the impacts, direct and indirect, of noise on species in any disclosures of the race's impacts on species; commenters specify birds, bighorn sheep, Mojave fringe-toed lizard, and prairie falcon. The noise is dangerous and can have long-term or permanent hearing loss affecting animal behaviors, even to the point of being unable to hear predators. Animals will experience increased stress.

- **Response:** Effects to wildlife, migratory birds, and BLM sensitive species, including bighorn sheep, are analyzed in EA Section 3.1. The prairie falcon is not specifically addressed in the Environmental Assessment as it is not a BLM Sensitive species; effects to raptors are analyzed in general. The Mojave fringe-toed lizard is endemic to southern California and a small area of western Arizona, and does not occur in Nevada. Effects of noise on wildlife are analyzed in detail in EA Section 3.2. Disturbance to wildlife would be minimized in the noncompetitive Monument traversal, with the speed limit and no passing rule.

Comment: *Habitat fragmentation* would reduce animal movement, which increases local extirpations.

- **Response:** As noted in EA Section 3.1, the event would take place on existing roads, so would not increase fragmentation.

Comment: OHVs can contribute to *direct wildlife mortality* through collisions, nest destruction, and collapsing burrows.

- **Response:** These potential effects have been disclosed in the EA, and are not expected to lead to population-level effects (Section 3.1). The speed limit in the Monument would further reduce the low likelihood of collisions with wildlife.

Comment: *Desert tortoise* is particularly at risk as the EA acknowledges they may be harmed or harassed. Although direct encounters between racers and desert tortoises are unlikely, the EA further states increased road use may increase litter and the attractiveness to desert tortoise predators which would be a potentially long-lasting post-race issue.

- These potential effects of one segment of the Beatty-to-Dayton alternative have been disclosed in the EA, as the commenter notes. Stipulations that would be applied to that alternative if it were selected were developed in consultation with U.S. Fish and Wildlife Service. These include "Permittees shall be responsible for trash and litter clean-up along the course and in spectator and pit areas. Stakes, flagging materials, temporary facilities, litter, and all other event-related materials shall be removed from the course and pit, parking, and spectator areas. The race courses and parking areas shall be restored, at a minimum, to pre-race conditions within 15 days after the event. Garbage and food will be removed from the site of the event and will be disposed of in authorized sanitary landfills" (EA Appendix D).

Comment: *Plant surveys* are incomplete and inadequate along the route.

- **Response:** The following paragraph was added to Section 3.1 of the revised EA under Affected Environment, Proposed Action to BLM Sensitive Plant and Animal Species: “Known BLM sensitive plant species and populations, and buffered probability areas along the proposed route, were identified from comprehensive data in the BLM diversity database and data from the Nevada Natural Heritage Program (Nevada Natural Heritage Program 2016). The BLM Ely District completed an inventory of rare plants in the Caliente Field Office and Basin and Range National Monument in 2016.” BLM Sensitive plant species are identified and analyzed in in Section 3.1.

Comment: *Joshua trees* have been uprooted by vehicles at Sarcobatus Flat.

- **Response:** Sarcobatus Flat is along the Beatty-to-Dayton route. The revised EA emphasizes that all cacti and yucca are protected by Nevada state law. The BLM would monitor the event to ensure compliance and report any violations. BITD would disqualify vehicles that intentionally leave the race route, so destruction or removal of cactus or yucca is unlikely. Post-race monitoring would include reporting any loss of cactus or yucca to the Nevada Division of Forestry, and compensation for BLM Forest Products could be required at the discretion of the BLM Authorized Officer. This information, summarized here, has been added to the revised EA Section 3.1.

Comment: *Weeds:* Although the EA calls for race and support vehicles to be washed prior to arrival for the race to reduce the incidence of introduction of non-native noxious weeds, there is no acknowledgement that disruption of soil and scattering of weed seeds already present on the course will exacerbate existing weed problems. Spectator and staging areas and the areas disturbed along the race course must be mapped and date certain plans be made for their restoration, including an invasive/noxious weed control plan.

- **Response:** As stated in the EA, a Noxious and Invasive Weed Risk Assessment was completed for this event (on file at Ely and Battle Mountain districts). The environmental protection measures and BMPs listed in the Noxious and Invasive Weed Risk Assessment, the Greater Sage-grouse habitat required design features, and the SRP stipulations in Appendix D of the EA are aimed at reducing the likelihood of introduction and spread of noxious or non-native invasive weeds. Each pit location would be fenced, flagged or signed to confine disturbance to the designated area. Special Recreation Permit stipulations require post-race evaluation and rehabilitation or reclamation to be completed within four weeks after the event. New soil disturbance would be very unlikely in the noncompetitive Monument traversal, with the speed limit and no passing rule.

Comment: *Specific wildlife observations:* The commenter has observed pronghorn near the intersection of Bird Spring Road at Jackrabbit Pass Road; and cattle on the roadway along Jackrabbit Pass Road. Drivers should be warned of the possible presence of large animals in this area.

- **Response:** We appreciate the information and will pass it on to BITD to share with participants. In the Monument, the speed limit will help minimize this hazard.

Cultural Resources

Comment: The BLM's assertion that it need not conduct *archaeological survey*, as required by Section 106 of the National Historic Preservation Act, on lands that have been used for off-road vehicles in the past is disturbing. The existence of a surface road or trail does not mean that significant cultural resources are not present, nor does it imply that those resources lack the physical integrity necessary to be eligible to the National Register of Historic Places. Lack of basic Level III survey data negates the BLM assertion that the proposed race will have no effect on cultural resources. A survey is necessary to evaluate potential effects on the entire area of potential impact.

- **DRAFT Response:** The National Historic Preservation Act (NHPA) Regulations call for a Program Alternative (Subpart C- § 800.14). In Nevada this Program Alternative between the SHPO and BLM is called the State Protocol Agreement. As in most states with a Program Alternative, in Nevada, "Issuing recreation permits authorizing Off Highway Vehicle (OHV) events over courses where Section 106 consultation has already been completed and no changes in the course, spectator areas, pit areas, or other surface disturbing activities is allowed." This statement mutually acknowledges and reinforces the fact that for these type of permits BLM Nevada has long ago met the Advisory Council on Historic Properties (ACHP) described "Reasonable and Good Faith" Identification Standard in Section 106 Review, as the law requires. There are no historic properties in danger of impact by the proposed action.

Comment: From the EA, it is impossible to tell how close the race course is to rock art sites in the *Pahroc Rock Art ACEC*, so we do not know the probability that these resources will be adversely impacted by the proposed race. The purpose of designating the ACEC was to protect the sites. This activity would seem to be in direct conflict with that purpose. In the past, did all racers and spectators stay on the designated routes? Have you recorded the sites in sufficient detail to be able to recognize any new damage to them? Have you assessed the potential impact of increased visitation, dust from vehicles, and accelerated erosion of sediments caused by increased vehicle traffic? Vehicles will race through parts of Delamar, Pahroc, and Hell's ½ Acre, which are rich in cultural sites. Artifacts, rock alignments and other subtler cultural indications are unlikely to be noticed by race drivers. Participants will unintentionally effect concealed or unobtrusive cultural resources the monument is expressly meant to protect.

- **Response:** By law the EA cannot state how close the race course is to rock art sites, although the revised EA does state that no sites are near enough to be in danger of impact. NHPA Sec 304 requires the BLM to "withhold from disclosure to the public the location, character, or ownership of a historic resource." The entirety of the Pahroc ACEC has been surveyed and inventoried to a Class III standard. Racers would be required to adhere to the designated course and disqualified if they diverged from it, as indicated by electronic tracking devices on each vehicle; and spectators are strongly discouraged from occupying any area outside of designated spectator areas at start/stop

and pit locations. The BLM is not aware of any conclusive studies that demonstrate that indirect impacts from fugitive dust stirred up by activity similar to the Proposed Action has any more impact on distant rock art than the dust-devils, cyclones, and 70 – 90 mph siroccos that intermittently appear in the southwest and directly impact rock art.

Comment: The EA assumes that all racers will adhere to the designated course and that the trails to be used for the race *do not overlie any cultural resources*.

- **Response:** There are no historic properties in danger of impact by the proposed action. The highly disturbed, actively county-maintained 12 to 20' wide roads are regularly bladed by the county. If there were ever any eligible historic properties underlying these roads at a depth that could be affected by the passage of vehicles, they would already have been affected to a greater degree by decades of blading and would no longer be in a condition to be eligible.

Recreation

Comment: A race would disrupt other recreational uses such as hiking and camping. Public land is multi-use and motor vehicle use excludes other uses. Safety of visitors, air quality, noise nuisance and chaos are examples of the exclusion of other visitors to public lands.

- **Response:** The EA discloses the proposed event's impacts to other public land users. Most such impacts are limited to one event day at any given point along the course.

Comment: Require a 25 mph speed limit for all sport events [comment does not appear to be specific to the Monument].

- **Response:** Over most of the event route the Proposed Action is a race, which could not be implemented with a speed limit. We have considered the effects of traveling at speed as described in the Proposed Action. The mitigation added to the Proposed Action imposes a speed limit within the Monument.

Comment: All racers should be required to have the \$20 registration permit/sticker from the State of Nevada.

Response: The Nevada OHV Registration is not required for vehicles participating in an organized race event. NRS 490.082.3.g(2).

Road conditions and road rehabilitation

Comment: *Racing damages roads* (washboarding, rutting). Road rehabilitation has been inadequate for past BITD events. Roads are heavily impacted and cannot be restored to pre-race condition simply by re-grading, but remain permanently in a degraded state. To restore the roads to pre-race condition requires hauling in material to replace displaced material, then using water to wet the material and compact it. Usually the promoter just runs a grader over the course to smooth out the peaks and valleys. The result is often a depressed trough of soft material the width of a grader blade with high berms on each side which

is just passable by a four-wheel drive high-clearance vehicle. The eroded depressions fill up with water after rain, leading to further erosion.

- **Response:** Off-highway road use – both organized and casual – alternating with road maintenance can change road surfaces over time. Some of this change may be accelerated due to races, and some is due to other uses. In the short term, roads would be in better condition post-event than pre-event, due to the maintenance required within four weeks of the event. Many roads along the route are county-maintained and the counties either conduct post-race maintenance themselves or oversee it to ensure that it is conducted to county standards. Others are maintained to BLM standards. Maintenance often includes hauling in gravel as needed. Within the Monument, the roads are all hard, gravel-surfaced, county-maintained roads; and for the Proposed Action with mitigation, would be further protected from damage by the speed limit.

Comment: *Conduct pre-race and post-race course condition reviews* with race promoter, interested ranchers, BLM staff, Lincoln County Road Department and county officials. This will assist in determining who caused what and who should be responsible to restore or repair any disturbances, and assure the quality of restoration.. It is especially important to include the Lincoln County Road Department. In calling for repairs to the race course and disturbances used in this event, the BLM should require the promoter to provide repairs done to pre-race condition, NOT to the satisfaction of the authorized BLM official.

- **Response:** The authorized BLM official legally has the ultimate responsibility for requiring or authorizing actions on BLM land, and actively solicits stakeholders' input and participation.

Comment: Regarding post-race evaluation or reclamation, one commenter requests specific mention of "vehicular trespass into wilderness resources and the action of *'wilderness appropriate' rehabilitation or reclamation*" if needed.

- **Response:** Vehicle trespass is highly unlikely because event participants leaving the course would be disqualified, as discussed above. BLM will take care to ensure wilderness characteristics and values are maintained where they exist.

Comment: BLM has *increased the time permitted* for remediation actions from two weeks to four weeks. This time extension implies that more rehabilitation will be required than can be accomplished in two weeks. It also increases the amount of time that damaged resources will remain un-remediated and, presumably, the time that public access to these damaged areas will be curtailed so as to not aggravate the damage.

Response: BLM edited slightly differing standard stipulations from three BLM Districts into a single set of stipulations upon which the three Districts agreed. These included differing times for road rehabilitation requirements; the Districts agreed upon four weeks as the maximum to be allowed. Public access is not curtailed in the interim.

Comment: Stipulations in the EA state in one place that BITD "*must*" undertake rehabilitation efforts and at others only state that they "*may*" take them.

- **Response:** All stipulations are mandatory. The “may” statement cited indicates a variety of different techniques (grade, drag, disc or seed) that “may” be required In order to accomplish the rehabilitation that “must” be done if the Authorized Officer determines that it is needed.

Comment: Require a *performance bond* if the promoter does not clean up and repair any damage.

- **Response:** BLM has the option of requiring a performance bond but usually does so only in cases when a proponent’s likelihood of complying with stipulations is unknown. The promoter of this event has held similar events in the past and anticipates planning others in the future; has an excellent record of cleaning up and repairing damage after past events; and if found to be in noncompliance with any stipulations, would be denied a permit for future events.

Comment: *Trash* (tires, rims, vehicle parts, containers) has been left behind after other BITD events.

- **Response:** BITD has improved its antilittering enforcement over the years and now requires stamping race vehicle numbers on tires and wheels before the race, and imposes a mandatory one-hour time penalty for any tires and wheels left on the race course.

Safety

Comment: The EA states that *spectators are “confined to pit areas and start/finish areas”* and elsewhere states that road crossings are popular viewing areas for race spectators.

- **Response:** The statement about spectators at crossroads is edited in the revised EA to clarify that this is uncommon and not encouraged: “A few spectators may occasionally attempt to view the race from crossroads.” Note that the statement regarding spectators at crossroads is followed in the effects analysis by “Spectators would not be allowed along the entire course but would be confined to pit areas and start/finish areas.” Event personnel are stationed at crossroads to help ensure that only event participants enter the event course. Although the course is not formally closed to nonparticipants, event personnel strongly caution non-participants to stay away from the course for reasons of safety. Similarly, spectators are discouraged along the event course and those that do gather are kept a safe distance from the course.. For reasons of safety, race personnel strongly discourage spectators from congregating anywhere except in designated spectator areas at pit stops and start/finish points. Each point where the proposed route crosses a major highway is associated with a pit stop, and BLM personnel monitoring past similar events have observed that very few spectators congregate elsewhere.

Comment: *Other off-highway races have led to injury or death* for observers and participants, including the recent deaths of an 8 year old spectator and two race drivers; public safety may be negatively impacted by the event.

- **Response:** Public safety is addressed in the EA (Section 3.12), several stipulations, and BITD’s Emergency Action Plan. The recent deaths took place at the Baja 500 race in

Mexico, apparently lacking the strict safety provisions in place for BITD events. News reports and video footage indicate that crowds of spectators were standing directly alongside the course, which would not be allowed for this event. BLM personnel including law enforcement rangers would reinforce safety standards with immediate action as needed.

Rangeland Management

Comment: *Rangeland fences and gates* may be damaged.

- **Response:** Stipulations for this event require the promoter to repair any damages to fences, posts, gates or range improvements that occurred as a result of the race/event.

Comment: Post-race seeding should be part of the course condition rehabilitation, with a mix of native and non-native beneficial grasses and forbs.

- **Response:** If any area were to need reseeding, a seed mix would be prepared based on input from BLM range management specialists and from stakeholders, taking into account site conditions, ecological site description, and seed availability.

Comment: Section 3.6, Grazing Impacts, states ranchers may be able to turn off *water sources* for their livestock. Water could be shut off only if it is provided by a well, a pipeline, or a trough that is fenced. Open space reservoirs, natural springs, and summer storm accumulations are not able to be shut off or eliminated from livestock use. Cattle historically use these sources by season and availability. Route the course at least one-quarter mile away from all livestock water sources.

- **Response:** The promoter has coordinated with permittees regarding watering locations along the event course.

Socioeconomics

Comment: The statement that *communities will benefit* is false because there are no communities near the event start point or near the Monument.

Response: There are several communities near the event start point, and others near other parts of the event course that would benefit. Tonopah, for example, is at the end point for Day 1 and start point for Day 2 so is expected to receive a strong economic boost from overnight visitors in terms of retail sales, food, lodging, etc.

NEPA Compliance

Comment: BLM has violated NEPA by *not providing enough time* to allow the EA to contribute to the decision-making process. If the EA were to result in finding significant impacts, there would be no time for an EIS before the proposed event start date. (Some commenters inferred a deliberate delay with intent to approve the SRP without proper analysis, while others were concerned that it would not be approved.)

- **Response:** This was the first time since 2006 that the Proposed Action route, crossing three BLM Districts, was proposed for a BITD event; and the first time that a National Monument has been involved. The time required for a thorough NEPA review process

was greater than has been typical. If the BLM were to find that all three action alternatives involve significant impacts that could not be avoided or mitigated, the BLM would either require an EIS or select the No Action alternative and the event could not occur on the dates proposed. This is an inherent risk in planning or participating in events on public lands.

Comment: Commenters state that BLM appears to have violated NEPA by *prejudging the selection of alternatives* before rendering a final decision. Commenters quote various sources saying BLM gave private assurances to BITD that that the course BITD had proposed would be approved, prior to completing the EA or considering public comments; and/or that the proponent had already ruled out the Beatty-to-Dayton alternative, and this was known to BLM.

- **Response:** The quotes in question are attributed to members of the public and were found in news media, on the BITD website, and on online discussion forums. BLM cannot control statements made by members of the public, which reflect those persons' opinions, and interests. The proponent submitted to BLM a signed amendment to his SRP application including all three action alternatives analyzed in the EA. I actively considered the Proposed Action and alternatives, plus possible additional mitigation measures formulated in response to comments, throughout the public comment period and subsequent comment review before reaching a decision.

Comment: *BLM must prepare an EIS* for the proposed route through the National Monument because it may have significant impacts, given "context" of the Monument; "intensity" due to number of persons and vehicles involved; and "controversy" based on expressions of public opinion.

- **Response:** "Intensity" refers to intensity of effects which would result if the action, including all stipulations, resource protection and mitigation measures, were implemented. BLM NEPA Handbook H-1790-1 provides guidance for the CEQ regulations governing a finding of significance including the following: "Degree to which effects are likely to be highly controversial (40-CFR-1508.27(b)(4) ... Controversy in this context means disagreement about the nature of the effects, not expressions of opposition to the proposed action or preference among the alternatives. There will always be some disagreement about the nature of the effects for land management actions, and the decision-maker must exercise some judgment in evaluating the degree to which the effects are likely to be highly controversial."

Comment: An additional comment period providing for public review of the FONSI is necessary for a "*precedent-setting case*."

- **Response:** As stated in this Decision Record, the BLM explicitly intends that any decision either permitting or denying the SRP will not be construed as setting a precedent regarding Monument management or evaluating future similar proposals.

Comment: *The need for stipulations* shows that impacts would be significant.

- **Response:** The stipulations, designed for resource protection, are part of the Proposed Action and the two other action alternatives. As such, they are included in the EA's

effects analyses to be taken into account in any subsequent finding of significance or of no significant impact. They would be attached to any SRP issued and the proponent's compliance would be mandatory (EA Appendix D).

Comment: The stipulations would address the concerns detailed in the EA only if they were *implemented to perfection* under BLM oversight.

- **Response:** All SRP stipulations are mandatory and it is the permittee's responsibility to implement them, with the likely consequence that BLM would not permit future proposed events otherwise. BLM personnel provide additional enforcement with pre- and post-race monitoring and a strong on-the-ground presence during the event.

Comment: Since the proposed 2016 course differs from the 2015 course, it would be inappropriate for BLM to *rely on past analyses* to evaluate potential race impacts. The EA should be rewritten to address these deficiencies and reissued for public comment.

- **Response:** The 2016 EA is a new EA, begun after the BLM conducted a review of NEPA adequacy and determined that the 2016 proposal was not already adequately addressed in past EAs addressing previous versions of the race. As the 2016 EA does not rely on past analyses, the commenter's intent is unclear.

Comment: This EA does not include an alternative calling for re-use of the *same course that was used in 2015*, which in the commenter's opinion would be a better option than either of the alternatives proposed.

- **Response:** The southern part of the Beatty-to-Dayton alternative uses the same route used in 2015. From the Tonopah area north, the route is the same as the Proposed Action.

Comment: The EA failed to provide a thorough and comprehensive analysis of the effects and impacts from this proposed race as outlined in Sections 3 and 9 of EO 11644 as amended by EO 11989. Simply providing cursory rationales for choosing an alternative does not satisfy or meet the EO requirements or intent to minimize impacts. The BLM should develop alternatives that are consistent with EOs 11644 and 11989. The "no action" alternative is the only one appropriate under *Executive Orders pertaining to motorized use* and in light of environmental impacts that would occur.

- **Response:** Section 3 of EO 11989 directs an agency to designate specific areas and regulations that prohibit off-road vehicle use. If off-road activities are located in a designated Wilderness Areas or Primitive Areas, areas of the National Park system, Natural Areas, or National Wildlife Refuges and Game Ranges, the respective agency would determine if the activity would adversely affect the natural, aesthetic, or scenic values of the designated areas. The proposed activities would be located on existing vehicle routes and not located in any of the designated areas mentioned. Section 9 of EO 11989 directs agencies to determine if off-road vehicles would cause considerable adverse effects on soil, vegetation, wildlife, wildlife habitat or cultural or historic resources on public lands or trails; if adverse effects would occur, it is the responsibility of the agency's decision maker to determine whether or not to permit off-road vehicle access in those areas. Again, the proposed event does not involve off-road use, but uses

existing roads. The EA did not include selection of an alternative. This Decision Record presents my decision and rationale.

Maps

Comment: The EA *only includes grainy and/or small-scale maps* of the proposed route, and does not include any GIS data. It is difficult to determine the exact location of the proposed route. One commenter said they requested appropriate GIS shapefiles showing the precise route via the website for this project. Due to the lack of site specific information on the race's course, the commenter requests a new EA be prepared and the public provided with the information required for site specific analysis.

- **Response:** We are posting somewhat larger-scale maps on the project website along with the revised EA. We did not receive a request for GIS data via the project website; also, the website comment form is intended for receiving comments, not information requests. The project website does include the letter we posted and distributed at the start of the comment period, directing persons wanting more information to call the phone numbers provided.

Wilderness Characteristics

Comment: One commenter believed BLM is mistaken in *using "road" as a general term*, based on the definition in BLM Manual 6310 Appendix C , which provides direction for wilderness characteristics inventories.

- **Response:** The BLM Manual 6310.07 "road" definition begins by stating, "Road: For the purpose of inventorying wilderness characteristics only, the BLM will continue to base the 'road' definition on FLPMA's legislative history" (emphasis added. BLM Manual 6310.07 then quotes the legislative history and defines "road" for this purpose as improved and maintained by mechanical means to ensure relatively regular and continuous use, and further defines each term used in the definition. The EA is not a wilderness characteristics inventory, so does not use this definition. There is no requirement that recreational events be permitted only on vehicle routes that meet the wilderness characteristics inventory "road" definition.

Comment: One comment expressed concern about a particular proposed route segment that follows a sand and gravel wash through the *North Monte Cristo wilderness characteristics inventory unit*, believing the unit has wilderness characteristics. At the time of a non-profit group's advisory inventory, the segment was not an "established road" per 6310 definition; the route may have been "established" during the 2016 DITD event, and appears to have been bladed or graded during the past several years. The commenter asks BLM to fully evaluate this segment and its status as an "established route" and to provide information as to who bladed it and why. The commenter requests BLM consider an alternative that avoids this segment.

- **Response:** This segment has been used for past BLM-authorized off-highway races and has been mechanically maintained as an authorized BLM action to return routes to drivable condition, as stipulated. Therefore it meets the "road" definition for wilderness characteristics purposes.

Decision

After carefully considering the comments and input received from the public, together with additional proposed mitigation measures, it is my decision to approve the Proposed Action analyzed in the revised 2016 Best in the Desert “Vegas to Reno the Long Way” Event Environmental Assessment (revised EA), here incorporated by reference, with the Monument-specific mitigation described herein. I have found that this action would not have significant environmental impacts and does not require an Environmental Impact Statement; see Finding of No Significant Impacts (FONSI), attached.

This decision addresses the 2016 event only. It is not intended as a multi-year decision.

This decision is expressly not to be construed as setting any precedent for future management of the Basin and Range National Monument, nor for evaluating any future similar proposals. The process of developing a management plan for the Monument, with full public involvement, is currently underway. My decision will not affect whether or not the management plan or other future case-by-case decisions will allow similar events in the Monument, although monitoring results from this event will be taken into account to inform these decisions.

Conformance: BLM’s authority to issue these permits is granted under 43 CFR § 2920.0–3, Sections 302, 303 and 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732, 1733, 1740) which authorize the Secretary of the Interior to issue regulations providing for the use, occupancy, and development of the public lands through leases, permits, and easements.

As documented in the revised EA, the event is in conformance with the BLM land use plans for the three districts the event route traverses: the Ely District Record of Decision and Approved Resource Management Plan (RMP), approved August 2008; the Tonopah RMP and Record of Decision, approved October 1997; and the Carson City Field Office Consolidated RMP, approved May 2001. It is in conformance with the RMPs as amended by the Nevada and Northeastern California Greater Sage Grouse (GRSG) Approved Resource Management Plan Amendment and Record of Decision, approved September 2015, and the Record of Decision and Land Use Plan Amendment for the Nevada and California GRSG Bi-State Distinct Population Segment, approved May 2016.

It is also in conformance with the Presidential Proclamation: Establishment of the Basin and Range National Monument, issued July 2015; BLM Manual 6220 – National Monuments, National Conservation Areas, and Similar Designations, released July 13, 2012; and all other applicable national, tribal state and local plans and policies.

Rationale: The Proposed Action with Monument-specific mitigation meets the purpose and need identified in the EA: to identify a race route across public lands, including associated commercial filming activities, that is compatible with other public land uses and values while fulfilling BLM’s responsibility to respond to the SRP application and film permit application. I find that the mitigation addresses public concerns regarding potential effects to the Monument, while also providing an outstanding recreation opportunity for participants along with the potential for economic benefit to local communities. The mitigated Proposed Action was also designed to present fewer logistical challenges to the event organizers and participants than the Transfer alternative analyzed in the EA; and to provide an opportunity to reinforce participants’ awareness of Monument values. The Beatty to Dayton alternative

was not selected because of the potential for adverse effects to desert tortoise populations requiring additional race stipulations to ensure compliance with the Biological Opinion (EA Appendix D), as compared to the other alternatives, which have no desert tortoise habitat..

Permits authorized: With this decision I authorize the issuance of a Special Recreation Permit (SRP) to Best in the Desert Racing Association, and the issuance of a Minimum Impact Film Permit to Lucas Oil Production Studios, specifically as follows:

Special Recreation Permit

I direct the BLM Carson City District to issue a Special Recreation Permit (SRP) to Best in the Desert Racing Association for the 2016 “Vegas to Reno the Long Way” event to be conducted on August 19-20 2016 as described in the Revised Environmental Assessment (DOI-BLM-NV-B020-2016-EA, August 2016, incorporated by reference) under the Proposed Action, Section 2.1. The SRP will include:

- All Environmental Protection Measures described in the EA, Section 2.1;
- All Additional Mitigation Measures for the Basin and Range National Monument listed in the EA, Section 2.1;
- All Stipulations included in the EA, Appendix D, with the following two exceptions:
 - The SRP will not include the Desert Tortoise stipulations, as only the Beatty-to-Dayton alternative (not selected) would have intersected desert tortoise habitat.
 - The SRP will not include the Film Permit stipulations, as the Film Permit is issued separately to another permittee.

This decision is issued full force and effect in accordance with 43 C.F.R. §2931.8.

APPEAL PROVISIONS

If you are adversely affected by this decision, you may appeal the decision. This decision will go into effect immediately and will remain in effect while appeals are pending unless a stay is granted under §4.21(b) of this title.

A person who wishes to appeal to the Interior Board of Land Appeals must do so under 43 CFR 4.411 and must file in the office of the officer who made the decision (not the board), in writing to Michael Herder, District Manager, Ely District Office, 702 N. Industrial Way, Ely, Nevada 89301. A person served with the decision being appealed must transmit the notice of appeal in time to be filed in the office where it is required to be filed within thirty (30) days after the date of service.

The notice of appeal must give the serial number or other identification of the case and may include a statement of reasons for the appeal, a statement of standing if required by § 4.412(b), and any arguments the appellant wishes to make. Attached Form 1842-1 provides additional information regarding filing an appeal.

No extension of time will be granted for filing a notice of appeal. If a notice of appeal is filed after the grace period provided in §4.401(a), the notice of appeal will not be considered and the case will be closed by the officer from whose decision the appeal is taken. If the appeal is filed during the grace period provided in §4.401(a) and the delay in filing is not waived, as provided in that section, the notice of appeal will not be considered and the appeal will be dismissed by the Board.

The appellant shall serve a copy of the notice of appeal and any statements of reason, written arguments, or briefs under §4.413 on each adverse party named in the decision from which the appeal is taken and on the Office of the Solicitor, Pacific Southwest Regional Solicitor, U.S. Department of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, California 95825 1890. Service must be accompanied by personally serving a copy to the party or by sending the document by registered or certified mail, return receipt requested, to the address of record in the bureau, no later than 15 days after filing the document.

In addition, within thirty (30) days of receipt of this decision you have the right to file a petition for a stay together with your appeal in accordance with the regulations at 43 CFR 4.21. The petition must be served upon the same parties specified above.

Pursuant to 43 CFR 4.471(c), a petition for stay, if filed, must show sufficient justification based on the following standards:

- 1) The relative harm to the parties if the stay is granted or denied;
- 2) The likelihood of the appellant's success on the merits;
- 3) The likelihood of immediate and irreparable harm if the stay is not granted; and,
- 4) Whether the public interest favors granting the stay.

43 CFR 4.471 (d) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted. At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.422(c)(2)).

Minimum Impact Film Permit

I direct the BLM Tonopah Field Office to issue the following minimum impact commercial filming permit for the 2016 “Vegas to Reno the Long Way” event to be conducted on August 19-20 2016 as described in the Revised Environmental Assessment (DOI-BLM-NV-B020-2016-EA, August 2016, incorporated by reference) under the Proposed Action, Section 2.1, including all Film Permit Stipulations therein. This decision is issued full force and effect in accordance with 43 C.F.R. 2920.2-2.

Film Permit and Land Use Application N-94710, Best in the Desert 2016 “Vegas to Reno The Long Way”

Issued to: Lucas Oil Production Studios, Inc., 302 N. Sheridan St., Corona, CA 90028 :

Enclosed is your copy of the Land Use Permit for N-94710 to film on lands administered by the Bureau of Land Management. The permit is a minimum impact permit issued pursuant to 43 CFR 2920.2-2. The issuance of this permit constitutes a final decision by the Bureau of Land Management in this matter. The enclosed permit has been issued for a two-day term and will expire on August 21, 2016.

Your permit is subject to the terms and conditions contained therein. Cost recovery and rental fees were received in our office.

APPEAL PROVISIONS

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. This decision shall take effect immediately upon the date it is signed by the Authorized Officer and shall remain in effect while any appeal is pending unless the Interior Board of Land Appeals issues a stay. Any appeal of this decision must follow the procedures set forth in 43 CFR Part 4. Within 30 days of the decision, a notice of appeal must be filed in the office of the Authorized Officer at 1553 S. Main St., Tonopah, NV 89049. If a statement of reasons for the appeal is not included with the notice, it must be filed with the Interior Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy St., Suite 300 - QC, Arlington, VA 22203 within 30 days after the notice of appeal is filed with the Authorized Officer.

If you wish to file a petition for stay pursuant to 43 CFR Part 4.21(b), the petition for stay should accompany your notice of appeal and shall show sufficient justification based on the following standards.

Standards for Obtaining a Stay


Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- 1) The relative harm to the parties if the stay is granted or denied;
- 2) The likelihood of the appellant's success on the merits;
- 3) The likelihood of immediate and irreparable harm if the stay is not granted; and,
- 4) Whether the public interest favors granting the stay.

If a petition for stay is submitted with the notice of appeal, a copy of the notice of appeal and petition for stay must be served on each party named in the decision from which the appeal is taken, and with the IBLA at the same time it is filed with the Authorized Officer. A copy of the notice of appeal, any statement of reasons, and all pertinent documents must be served on each adverse party named in the decision from which the appeal is taken and on the Office of the Regional Solicitor, Pacific Southwest Region, U.S. Department of the Interior, 2800 Cottage Way, Room E-27531712, Authorized Officer, and/or IBLA.

Approval from Authorized Official

With my signature I authorize the BLM Carson City District Office to issue a Special Recreation Permit and the BLM Tonopah Field Office to issue a Film Permit as described above.



 Michael J. Herder
 Ely District Manager

8/12/2016

 Date