

MEMORANDUM OF AGREEMENT
BETWEEN THE BUREAU OF LAND MANAGEMENT, CALIENTE FIELD OFFICE
AND THE
NEVADA STATE HISTORIC PRESERVATION OFFICER
REGARDING
ROUND 3 LINCOLN COUNTY CONSERVATION RECREATION AND DEVELOPMENT
ACT (LCCRDA) LAND SALES

WHEREAS, the Bureau of Land Management (BLM), Caliente Field Office (CFO) has determined that the Round 3 Land Sales pursuant to the Lincoln County Conservation Recreation and Development Act (Public Law 108-424) (hereinafter referred to as the Undertaking) is an Undertaking as defined in the National Historic Preservation Act of 1966, as amended (NHPA; 36 C.F.R. § 800.16(y)). BLM is responsible for ensuring compliance with Section 106 of the NHPA, 54 U.S.C. § 306108, and its implementing regulations, 36 C.F.R. § 800; and

WHEREAS, BLM plans to dispose of 14 parcels of public land totaling 380 acres, more or less, pursuant to the LCCRDA (See Appendix A for maps and legal locations); and

WHEREAS, BLM has defined the Undertaking's area of potential effect (APE) as the actual lands to be disposed of as described in the legal descriptions provided in Attachment A; and

WHEREAS, BLM has completed a Class III inventory of the described parcels as documented in *A Class III Cultural Resources Inventory of 572 Acres within the Lincoln County Land Sale Inventory Area, Lincoln County, Nevada* (8111 CRR NV 040-15-2096); and

WHEREAS, BLM, in consultation with the Nevada State Historic Preservation Officer (SHPO), has identified seven (7) historic properties eligible for the National Register of Historic Places (NRHP) under the Secretary's Significance Criteria A, C, & D within the APE for the Undertaking: 26LN3670, 26LN3678, 26LN4981, 26LN7318, 26LN7319, 26LN7321 (architectural resource S1490), and 26LN7974 (see table 1 for more details); and

WHEREAS, BLM, in consultation with the SHPO, determined that the Undertaking will not pose an adverse effect to the following historic properties: 26LN3670, 26LN7318, and 26LN7974 (see table 1 for more details); and

WHEREAS, BLM, in consultation with the SHPO, determined that the Undertaking will pose an adverse effects to four (4) historic properties 26LN3678, 26LN4981, 26LN7319 and 26LN7321 (S1490) (see table 1 for more details); and

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Table 1: Summary of Historic Property NRHP Eligibility and Project Effect Determinations

Site Number	Description	NRHP Eligibility Determination	NRHP Criterion	Effect Determination
26LN3670 (update)	Historic railroad with features	Eligible	A	No Adverse Effect
26LN3678 (update)	Prehistoric artifact scatter with features	Eligible	D	Adverse Effect
26LN4981 (update)	Prehistoric artifact scatter with features	Eligible	D	Adverse Effect
26LN7318	Historic aerial tram	Eligible	A, C	No Adverse Effect
26LN7319	Historic artifact scatter	Eligible	D	Adverse Effect
26LN7974	Historic Power line	Eligible	A	No Adverse Effect
26LN7321 (S1490)	Vernacular Shed	Eligible	C	Adverse Effect

WHEREAS, BLM consulted with the Tribal Governments listed below regarding potential effects to sites of religious or cultural significance associated with the disposal of these parcels of land. No sites of religious and cultural significance were identified by these tribes during this consultation process.

Battle Mountain Band Council, Confederated Tribes of the Goshute Reservation, Nevada-Utah, Duckwater Shoshone Tribe, Elko Band Council, Ely Shoshone Tribe of Nevada, Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Moapa Band of Paiute Indians, Paiute Indian Tribe of Utah, Paiute Indian Tribe of Utah: Cedar Band of Paiutes, Paiute Indian Tribe of Utah: Indian Peaks Band of Paiutes, Paiute Indian Tribe of Utah: Kanosh Band of Paiutes, Paiute Indian Tribe of Utah: Koosharem Band of Paiutes, Paiute Indian Tribe of Utah: Shivwits Band of Paiutes, South Fork Band (Te-Moak Tribes of the Western Shoshone Indians of Nevada), Te-Moak Tribes of the Western Shoshone Indians of Nevada, Wells Indian Colony Band Council, Yomba Shoshone Tribe; and

WHEREAS, in accordance with Component 5 of the Programmatic Agreement between the Bureau of Land Management, the Advisory Council on Historic Preservation (ACHP), and the National Conference of State Historic Preservation Officers (2012), this Undertaking does not meet the thresholds for ACHP notification; and

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

STIPULATIONS

BLM shall ensure that the following measures are carried out:

I. HISTORIC PROPERTIES TREATMENT PLAN (HPTP) DEVELOPMENT AND IMPLEMENTATION

A. Upon execution of the MOA, and prior to the initiation of any transfer of a parcel containing an historic property, BLM shall develop a HPTP designed to lessen or mitigate Undertaking-related effects to historic properties. The HPTP shall be consistent with the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 C.F.R. 44716-37) and the *Mitigation Standards for Historical Resources of Local and State Significance* (BLM, 2014).

B. For properties eligible under Criteria A through D, mitigation other than data recovery may be considered in the HPTP (e.g., Historic American Buildings Survey/Historic American Engineering Record/Historic American Landscapes Survey (HABS/HAER/HALS) recordation, oral history, historic markers, exhibits, interpretive brochures or publications). Where appropriate, the HPTP shall include provisions (e.g., content and number of copies) for a publication for the public.

C. When data recovery is proposed, the BLM, in consultation with the SHPO, shall ensure that the HPTP that is consistent with the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44716 37) and the ACHP's guidance available online at <http://www.achp.gov/archguide/> in addition to the agency standards.

D. BLM shall submit the draft HPTP to the SHPO for a thirty (30) calendar day review and comment period. If the SHPO fails to respond to the BLM within the above time frame, the BLM shall assume concurrence with the planned mitigation and proceed accordingly.

E. BLM shall address all SHPO comments on the draft HPTP in the final HPTP. BLM shall provide the final HPTP to the SHPO and other consulting parties as appropriate.

F. Within thirty (30) calendar days of completion of fieldwork as defined in the HPTP, BLM will provide the SHPO, and other consulting parties as appropriate, with a

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preliminary fieldwork summary report outlining fieldwork activities.

G. BLM shall provide the SHPO, and other consulting parties as appropriate, with a draft mitigation report and any draft documents for all historic properties within six (6) months after the completion of the fieldwork associated with the activity, unless otherwise negotiated.

H. The BLM shall ensure that all records and materials resulting from identification and treatment efforts are curated in accordance with 36 C.F.R. 79 in a BLM-approved facility in Nevada. Materials covered by the Native American Graves Protection and Repatriation Act (NAGPRA) will be handled in accordance with 43 C.F.R. 10. All materials collected will be maintained in accordance with 36 C.F.R. 79 or 43 C.F.R. 10 until the final treatment report is complete.

I. The BLM shall ensure that all reports shall be consistent with contemporary professional standards and the Department of Interior's Formal Standards for Final Reports of Data Recovery Programs (48 FR 44716-44740).

II. LAND SALE AUTHORIZATION

The BLM shall authorize the sale of any parcel under the following conditions:

A. The BLM, in consultation with the SHPO, has determined that there are:

1. no historic properties within the parcel proposed for sale; and
2. no properties of traditional religious or cultural importance are located in the parcel proposed for sale; or

B. The BLM, after consultation with the SHPO, has implemented an adequate HPTP for the historic property or historic properties located in the parcel proposed for sale, and:

1. the fieldwork phase of the treatment option has been completed; and
2. BLM has prepared or accepted a summary description of the fieldwork performed and a schedule for reporting that work; and
3. BLM has provided a copy of the summary to the SHPO; and
4. the SHPO has reviewed the summary and if the SHPO concurs or does not

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respond within two working days of receipt, BLM shall assume concurrence and authorize the sale of the parcel.

III. DURATION

This MOA will expire if its terms are not carried out within five (5) years from the date of its execution. Prior to such time, BLM may consult with the SHPO to reconsider the terms of the MOA and amend it in accordance with Stipulation VI below. BLM shall notify the SHPO as to the course of action it will pursue.

IV. ANNUAL REPORTING

Each year following the execution of this MOA until it expires or is terminated, BLM shall provide the SHPO a summary report detailing work carried out pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in BLM's efforts to carry out the terms of this MOA.

V. DISPUTE RESOLUTION

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

A. Forward all documentation relevant to the dispute, including the BLM's proposed resolution, to the ACHP. The ACHP shall provide BLM with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, BLM shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. BLM will then proceed according to its final decision.

B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period; BLM may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, BLM shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.

C. BLM's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

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VI. AMENDMENTS

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

VII. TERMINATION

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

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

Execution of this MOA by BLM and the SHPO and implementation of its terms evidence that BLM has taken into account the effects of this Undertaking on historic properties and afforded the ACHP an opportunity to comment.

SIGNATORIES:

Bureau of Land Management, Caliente Field Office

_____ Date _____

Christopher Carlton, Field Manager

Nevada State Historic Preservation Office

_____ Date _____

Rebecca Lynn Palmer, State Historic Preservation Officer

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Appendix A: Lincoln County Round 3 Land Sale Legal Descriptions and Parcel Maps

Alamo Parcels—N-90795

This portion of the proposed action consists of four (4) parcels totaling 120.00 acres, more or less, of BLM administered lands. The parcels are located north of Alamo, Nevada.

Parcel A—T. 6 S., R. 61 E., sec. 29, SW $\frac{1}{4}$ SE $\frac{1}{4}$ (40 ac)

Parcel B—T. 6 S., R. 61 E., sec. 32, NW $\frac{1}{4}$ NE $\frac{1}{4}$ (40 ac)

Parcel C—T. 7 S., R. 61 E., sec. 5, N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ (20 ac)

Parcel D—T. 7 S., R. 61 E., sec. 5, S $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ (20 ac)

Caliente Parcels—N-92816

This portion of the proposed action consists of two (2) parcels totaling 120.00 acres, more or less, of BLM administered lands. The parcels are located north of Caliente, Nevada.

Parcel A— T. 3 S., R. 67 E., sec. 29, NN $\frac{1}{2}$ SE $\frac{1}{4}$ (80 ac)

Parcel B— T. 3 S., R. 67 E., sec. 28, SW $\frac{1}{4}$ SW $\frac{1}{4}$ (40 ac)

Panaca Parcels—N-90794

This portion of the proposed action consists of two (2) parcels totaling 120.00 acres, more or less, of BLM administered lands. The parcels are located in Panaca, Nevada.

Parcel A— T. 2 S., R. 68 E., sec. 10, S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ (20 ac)

Parcel B —T. 2 S., R. 68 E., sec. 9, SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ (10 ac)

Parcel C— T. 2 S., R. 68 E., sec. 9, NE $\frac{1}{4}$ SE $\frac{1}{4}$ (40 ac)

Pioche Parcels—N90796

This portion of the proposed action consists of two (2) parcels totaling 120.00 acres, more or less, of BLM administered lands. The parcels are located in Pioche, Nevada.

Parcel A— T. 1 N., R. 67 E., sec. 22, Portion south of SR 321 within NE $\frac{1}{4}$ NW $\frac{1}{4}$. (7 ac)

Parcel B— T. 1 N., R. 67 E., sec. 22, Portion south of SR 321 within N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$. (18 ac)

Parcel C —T. 1 N., R. 67 E., sec. 23, NW $\frac{1}{4}$ NW $\frac{1}{4}$ (40 ac)

Parcel D —T. 1 N., R. 67 E., sec. 11, SE $\frac{1}{4}$ SW $\frac{1}{4}$ (40 ac)

Parcel E—T. 1 N., R. 67 E. sec. 11, E $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$. (20 ac)