

RECORD OF DECISION AND SPECIAL RECREATION PERMIT APPROVAL

DOI-BLM-NV-W030-2018-0003-EIS
Special Recreation Permit Number NVW03500-19-01

Burning Man Special Recreation Permit Renewal

July 2019

Prepared by:

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**RECORD OF DECISION
AND
SPECIAL RECREATION PERMIT**

**BURNING MAN SPECIAL RECREATION PERMIT RENEWAL
FINAL ENVIRONMENTAL IMPACT STATEMENT**

**Special Recreation Permit Number NVW03500-19-01
DOI-BLM-NV-W030-2018-0003-EIS**

**Bureau of Land Management
Winnemucca District
Black Rock Field Office
Winnemucca, Nevada**

/s/ Joseph Balash

**Joseph R. Balash,
Assistant Secretary for Land and Minerals Management
Department of the Interior**

7/16/19

Date Signed

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Record of Decision

INTRODUCTION

The Black Rock Field Office (BRFO) of the United States (US) Department of the Interior, Bureau of Land Management (BLM) received an application from Black Rock City, LLC (BRC) to obtain a special recreation permit (SRP) to produce the Burning Man Event (Event) on an annual basis for the next 10 years. The Event is located on public land administered by the BLM Winnemucca District in Pershing County, Nevada, approximately 8.5 miles northeast of Gerlach, Nevada.

The Burning Man Event SRP Final Environmental Impact Statement (Final EIS) analyzed five alternatives:

1. Alternative A (Proposed Action): The BLM would issue an SRP for the Event that allows an annual incremental population increase of 5,000 participants starting in 2019 for a maximum population of 100,000 in 2022 through 2028.
2. Alternative B (Reduced Population Alternative): The BLM would issue an SRP for the Event at a maximum population of 50,000.
3. Alternative C (Alternate Site Alternative): This alternative would be similar to Alternative A (Proposed Action), except the larger 18,940-acre Closure Area boundary and 3,900-acre Event perimeter would shift to the north, and there would be no phased Closure Area.
4. Alternative D (No Population Change Alternative): The BLM would issue an SRP for the Event with the same population cap (80,000), durations, and conditions as the 2018 Event.
5. Alternative E (No Permit/Event Alternative): The BLM would not issue an SRP for the Event.

A description of the Proposed Action and the alternatives analyzed can be found in Chapter 2 of the Final EIS. **Appendix A** of the Final EIS includes maps of the alternatives.

SELECTED ALTERNATIVE

The BLM, in accordance with the Federal Lands Recreation Enhancement Act ([REA]; Public Law (P.L.) 108-447), has selected Alternative D from the Final EIS. This will result in the issuance of an SRP for the Event with the same population cap, similar conditions as the 2018 Event, and with the required mitigations from **Appendix E** of the Final EIS. All SRPs have standard stipulations as authorized through the REA; however, those standard stipulations do not address the complexity of the Burning Man Event. Accordingly, additional stipulations will be added to the SRP and be edited annually dependent on monitoring and necessary adaptive management measures. Under the terms of the SRP, there will be no more than 80,000 total attendees, including Event participants, BRC staff, and BRC volunteers, allowed on the playa from the start of the Closure Order to the end of the Closure Order.

The BLM will implement a phased Closure Area, which will include a 9,570-acre¹ Closure Area footprint during build week and after the Event. During the Event, the Closure Area footprint will be 14,320 acres (see Figures 2-1, 2-2, and 2-3 in **Appendix A** of the Final EIS). **Appendix B** of the Final EIS contains additional stipulations (previously referred to as special stipulations) from the 2018 Event; applicable mitigation measures, as determined by the BLM, are in **Appendix E** of the Final EIS. Stipulations may be amended, added, or changed as determined necessary by the BLM. The duration of the permitted Event will change from 64 days to up to 74 days, to more accurately reflect on-the-ground conditions and to incorporate the Golden Spike Ceremony, which was not previously part of the Closure Order.

The BLM developed the mitigations in the Final EIS in response to the impacts that exist and were disclosed in the Draft EIS and Final EIS, after accounting for the proponent's Plan of Operations and best management practices. As the Plan of Operations changes for each Event, mitigation measures may be adjusted annually.

Elements of the BLM's selected alternative are summarized below (the exact details will be in BRC's Event Plan of Operations).

Population Definition and Reporting

For 2019, as in the 2018 Event, BRC will keep the maximum Event population at 80,000 or less. For 2020, BRC will be required to keep the maximum Event population from exceeding a total of 80,000 for the duration of the Closure Order. A population overage of up to 300 people could be permitted for up to 8 hours for a given year's event; the BLM will set the exact number in the SRP stipulations. The BLM will work with BRC to develop an independent, third-party population monitoring system to count each person entering and exiting the Event through designated points of entry and to report daily numbers to the BLM.

Event Production

The boundary of the Event site will be within an approximately 3,400-acre pentagon (see **Appendix A** of the Final EIS). The Event site will be within the Closure Area, the physical space that will be temporarily closed during the Event. The Closure Order will last up to 74 days. There will be two phases of the Closure Order. Closure Order Phase 1 will last the entire duration and will take effect approximately 40 days before Labor Day; it will encompass 9,570 acres. In addition, Closure Order Phase 2 will occur 14 days before Labor Day and will last for approximately 21 days; it will encompass an additional 4,760 acres, for a total Closure Order size of 14,330 acres (see **Appendix A** of the Final EIS). The Closure Order will shrink back to the Phase 1 size approximately 6 days after Labor Day.

Each year, the Event will start at 12:01 a.m. on Sunday the weekend before Labor Day and end at noon the Tuesday after Labor Day.

¹ Data from geographic information systems have been used in developing acreage calculations and for generating many of the figures in **Appendix A** of the Final EIS. Calculations are dependent upon the quality and availability of data, and most calculations in the Final EIS are rounded to the nearest 10 acres. Given the scale of the analysis, the compatibility constraints between datasets, and the lack of data for some resources, all calculations are approximate.

Within 5 days of the Event's end, all participants and most BRC staff will vacate the site. Within 21 days of the Event's end, BRC staff and volunteers will remove all structures, large equipment, and the perimeter fence. BRC will complete all cleanup work by October 1.

Traffic Management and Access

Before each Event, BRC will submit a traffic plan to the BLM. The plan will include the following strategies:

1. State-licensed flaggers will be used along State Route (SR) 447 and County Road (CR) 34, as determined by the BLM in coordination with the Pyramid Lake Paiute Tribe (PLPT), Nevada Department of Transportation (NDOT), and Nevada Highway Patrol (NHP), to help ensure traffic flows through nearby communities during peak travel times before and after the Event.
2. During Exodus, BRC will employ a metered release protocol, which will ensure that no more than 800 vehicles per hour exit onto CR 34 from Gate Road.
3. BRC will communicate the need for safe travel, including promoting the traffic operations center, advising participants year-round and in real time on traffic trends and best practices, and promoting BRC's RideShare carpool program.

Motorized transportation in the Event perimeter will be restricted to BLM staff, law enforcement, BRC staff, vendors, mutant vehicles, vehicles for disabled persons, and satellite shuttles. The BLM will enforce a 5 miles per hour speed limit on all motorized vehicles inside the city.

Vehicle Passes

BRC will issue a maximum of 33,000 vehicle passes, including for BRC staff and volunteer vehicles.

Art

BRC will review and revise project plans to ensure build design and installation safety. BRC safety teams will continuously inspect the artwork before and during the Event.

Dust Abatement

Private vendors hired by BRC will provide dust abatement along designated routes and streets within the Event site. Dust-abatement trucks will operate from the day the perimeter is established through site cleanup.

Fire

BRC will actively educate participants in the construction and supervision of burn barrels in order to protect the playa surface and to create safe campfire containment. BRC will be responsible for implementing procedures for the complete cleanup of each burn site, including using decomposed granite, a raised platform, or other means to protect the playa surface; removing ash, charcoal, and unburned material such as nails, screws, glass, and any decomposed granite; and grading and raking the surface to eliminate scarring.

Cultural Resources

BRC will inform all participants and staff that collection, excavation, or vandalism of historic and archaeological artifacts or sites is illegal. BRC will notify the BLM immediately upon any discovery of archaeological artifacts or human remains.

Hot Springs Protection

Use of the hot springs is not allowed as part of the Burning Man Event SRP. BRC will educate participants about the potential for environmental damage when using the hot springs.

Event Cleanup

BRC will remove debris in the Closure Area and dispose of it in an authorized facility. Hazardous waste will be disposed of in accordance with state and federal laws.

Off-site cleanup will include litter and debris pickup along roads and highways surrounding the Event site. Litter and debris that BRC collects will be disposed of at authorized facilities in accordance with all applicable laws and regulations.

The BLM, in coordination with the NDOT and PLPT, will monitor the effectiveness of BRC's trash collection plan. Monitoring results may result in the need for adaptive management, which may include additional mitigation measures to reduce the impact from wastes on the playa and surrounding roadways and communities.

Security and Public Safety

BRC will meet with BLM law enforcement and the Pershing County Sheriff's Office year-round to plan operations and infrastructure. BRC will meet with BLM law enforcement and the Pershing County Sheriff's Office daily during and immediately after the Event to evaluate on-site operations, and respond to and adapt on-site operations to possible changing conditions.

BRC will meet with the BLM and those agencies with federal, state, or county jurisdiction, such as the Federal Aviation Administration, Pershing County, Washoe County, PLPT, and the State of Nevada, as needed annually. The BLM will inquire with responsible agencies to ensure their needs are being met.

The BLM and BRC will operate independent communications systems for the duration of each party's respective operational needs. The two systems will operate 24 hours per day to provide security, emergency response, and public safety to ensure coordinated emergency response.

BRC will educate participants and staff about federal, state, and local laws concerning the sale and use of illegal substances.

Hazardous Materials

BRC will manage hazardous materials response. All hazardous waste will be disposed of in accordance with state and federal laws.

Food and Drink Service and Potable Water Hauling

BRC will comply with all State of Nevada requirements for food and beverage service and potable water hauling. Any person who is hauling, delivering, vending, providing, or selling potable water to any individual or organized camp, other than their own private or individual camp, must be permitted by the Nevada Division of Public and Behavioral Health.

Additional Components of the Selected Alternative

In the Final EIS, Section 2.2.3, the BLM analyzed additional components, which are included in this Record of Decision (ROD) and will be implemented now and in future years. The Golden Spike Ceremony, which typically marks the beginning of the Event when anywhere from 200 to 400 people arrive on the playa for the ceremony, will be included in the Event SRP starting in 2019. Historically, the Golden Spike Ceremony has occurred on the Thursday prior to the start of the Event SRP Closure Order.

The BLM and BRC will review and revise the full environmental compliance protocol annually. Per the Federal Land Policy and Management Act of 1976 (FLPMA), the BLM has the authority to institute changes during the Event to maintain public health and safety, as well as resource protection. BRC is responsible for obtaining all other necessary permits as required by federal, state, and local laws.

MITIGATION, MONITORING, AND ADAPTIVE MANAGEMENT

All mitigation and monitoring measures listed in **Appendix E** of the Burning Man Event SRP Final EIS will be implemented in 2019, except for the following mitigation and monitoring measures, which will be implemented in a phased approach when most appropriate and logistically feasible. The BLM has a goal of implementing all mitigation and monitoring measures by 2022.

- An adaptive management approach will be taken regarding security at all portals of entry. A third-party contractor will be employed to screen vehicles, participants, vendors, contractors, and staff and volunteers entering the Event. This mitigation will be implemented as soon as logistically possible, but will not be in effect for the 2019 Event (Mitigation Measure **PHS-1**).
- Beginning 21 days before Labor Day until 7 days after Labor Day during the Closure Order, BRC will provide a licensed ambulance service for emergency services. This mitigation measure will be implemented beginning in 2020 (Mitigation Measure **PHS-6**).
- BRC will increase its environmental compliance teams commensurate with the population size; teams will begin operating during build week and continue through Exodus. This mitigation measure will be implemented beginning in 2020 (Mitigation Measure **WHS-7**).
- BRC and the BLM must implement shielding interventions on mast-mounted work lights. This mitigation measure will be implemented beginning in 2020 (Mitigation Measure **VIS-2**).
- In coordination with Washoe County and the NDOT, BRC will provide cost recovery for the maintenance of CR 34 and SR 447, respectively, associated with Event traffic. This mitigation measure will be implemented beginning in 2020 (Mitigation Measure **ECON-1**).
- BRC must post a reclamation bond sufficient to remove large art installations and theme camp materials left behind after Exodus. This bond is intended to remove the risk of unnecessary or undue degradation to the national conservation area (NCA) and defray the costs to taxpayers. This mitigation measure will be implemented beginning in 2020 (Mitigation Measure **NCA-1**).
- BRC will inform all pilots of flight restrictions associated with wilderness and wilderness study areas. This mitigation measure will be implemented beginning in 2020 (Mitigation Measure **WILD-I/WSA-1**).
- Vendor and film permit applications associated with the Event must be submitted 194 calendar days before Labor Day. The costs of BLM employee labor will be recouped via cost recovery from BRC. This mitigation measure will be implemented beginning in 2020 (Mitigation Measure **REC-1**).

- The proponent will submit to the BLM and Pershing County its final Plan of Operations for each year's Event at least 45 calendar days before the first Closure Order begins for that year's Event. This mitigation measure will be implemented beginning in 2020 (Mitigation Measure **REC-2**).
- BRC will report directly to the BLM the number of vehicles entering the Closure Area under a vehicle pass. The number of vehicle passes will be limited to 33,000, which responds to the findings and recommendations in the traffic analysis prepared for the EIS (Solaegui 2018). This mitigation measure will be implemented beginning in 2020 (Mitigation Measure **TRAN-1**).
- For the 2020 Event, BRC will contract with a third-party ticketing agency to report directly to the BLM the number of individuals entering the Closure Area. The number of participants, BRC staff, volunteers, and vendors will be limited to 80,000 (Monitoring Measure **REC-1**).
- The cultural resources and Native American religious concerns mitigation measures (Mitigation Measures **CULT-1** through **CULT-5**) will be implemented in accordance with the memorandum of agreement (MOA) with the Nevada State Historic Preservation Office (SHPO).

Because of the complex nature of the Burning Man Event, the BLM will employ an adaptive management approach to some mitigation measures. As the first step in this process, the BLM will work with BRC to develop an initial mitigation approach starting with the 2019 Event. Beginning with the 2019 Event, monitoring, as described in Table E-2 of **Appendix E** in the Final EIS, will provide the BLM with the necessary information to determine the effectiveness of the initial mitigation approach. If monitoring results demonstrate that the initial mitigation approach effectively prevents the unnecessary and undue degradation of public lands and protects public health and safety, then no additional mitigation or stipulations will be required. If monitoring results demonstrate that the initial mitigation approach is not effective, then the BLM will apply the mitigation measures listed in **Appendix E**. The BLM may also add or remove stipulations for each annual Event in response to new monitoring data. Adaptive management will apply to the following mitigation measures:

- BRC will be required to implement physical perimeter barriers and controls to reduce the risk of unauthorized entry to the Event (Mitigation Measure **PHS-3**).
- BRC will facilitate structural integrity inspections of all structures over 10 feet tall that are designed for lodging space (Mitigation Measure **PHS-4**).
- To reduce litter and trash in the PLPT Reservation, along SR 447, and other routes accessing the playa, BRC, as part of its annual Event Plan of Operations, must develop a trash collection plan for the major egress routes from the Event (Mitigation Measure **WHS-1**).
- To reduce Event participant, employee, and contractor exposure to dust generated from vehicle traffic on Gate Road, BRC should consider rerouting Gate Road to an area north of Black Rock City (Mitigation Measure **AQ-1**).
- BRC will restore the playa contours by the end of the Closure Order (Mitigation Measure **SOIL-3**).
- The monitoring measures of the Artificial Light at Night Assessment (Craine and Craine 2017) will be implemented by a BLM-approved contractor via cost recovery (Mitigation Measure **VIS-1**).
- The BLM will not implement Monitoring Measure **VIS-3**. Through a third party contractor approved by the BLM and paid for through cost-recovery, annual monitoring of the artificial light at night will occur (Monitoring Measure **VIS-1**), and if the threshold outlined in Mitigation Measure

VIS-I is exceeded, the proponent, in the following year, will develop a lighting plan with measures to reduce the amount of artificial light at night.

RATIONALE

The BLM's decision to issue an SRP for an Event with a maximum population of 80,000 is based on the environmental consequences analyzed in Chapter 3 of the Final EIS and the following rationale:

1. Cooperating agencies and other governmental agencies indicated they could not support the Event growing. Letters from the Mayor of the City of Reno, NDOT, and the NHP indicated they could not provide staff and accommodate growth over the current population level of 80,000 (see **Appendix K** of the Final EIS), particularly since this Event occurs over the Labor Day weekend when other recreation events occur in surrounding areas and communities. Additionally, the Pershing County Board of Commissioners, Pershing County Sheriff's Office, and the PLPT indicated they could not support the current event and requested a reduction in population. The Summit Lake Paiute Tribe, due to the closure of the playa and the inconvenience it causes for travel to their reservation, also requested a smaller population size. While not substantive, the BLM received public comments from Burning Man Event participants who expressed the view that the Event had grown too large and become too commercial; they wanted a smaller Event.
2. This decision responds to issues raised during public scoping and public comments received on the public Draft EIS. Substantial public involvement throughout the National Environmental Policy Act (NEPA) process has informed the BLM's decision (see Final EIS **Appendix K**, Public Comments and BLM Response).
3. The BLM developed mitigations in response to the impacts analyzed in the EIS and cooperating agency and public concerns regarding those impacts. While BRC's Event Plan of Operations and best management practices were taken into account, they do not result in an Event that avoids all the impacts; thus, the BLM developed mitigation and the phased approach through monitoring and adaptive management as described in **Appendix E** of the Final EIS. For example, a common theme in several of the cooperating agency and nongovernmental organization letters was the trash left behind and how long it took to be removed (see **Appendix K** of the Final EIS). Mitigation Measures **WHS-1**, **WHS-5**, and **WHS-7** (see **Appendix E** of the Final EIS) address these impacts. Another common theme was damage to the main roads into the event. Mitigation Measures **TRAN-1** and **ECON-1** address these impacts.
4. At an Event population of 80,000, the BLM and emergency services have a capacity to respond and manage the Event. Some of the imposed mitigations will help state, county, and local government services to successfully support the Event. Growing to a larger Event at current staffing levels would overextend resources and create financial hardships. The mitigation, monitoring, and adaptive management approach in this decision and as described in **Appendix E** of the Final EIS respond to concerns raised during government-to-government consultation and coordination and cooperation with cooperating agencies. These concerns include the associated impacts of solid waste, public health and safety, traffic, infrastructure limitations, socioeconomic impacts, and staffing capabilities.
5. The mitigation and monitoring measures for air quality (see Mitigation Measures **AQ-1**, **AQ-2**, and **AQ-3**, and Monitoring Measure **AQ-1** in **Appendix E** of the Final EIS) are designed to protect worker, volunteer, and participant public health and safety. The Environmental Protection Agency (EPA) noted concerns on the levels of particulate matter observed during the 2017 Event.

The BLM has concerns for worker health and safety, and preliminary studies by the Department of the Interior industrial hygienists raise concerns and show the need for further studies and analysis.

6. The mitigation and monitoring measures for solid waste (see Mitigation Measures **WHS-1**, **WHS-5**, and **WHS-7**, and Monitoring Measures **WHS-5**, **WHS-6**, **NAT-1**, and **REC-3** in **Appendix E** of the Final EIS) are designed to alleviate the problem of trash being left behind along roadways and in communities. The City of Reno, NDOT, Washoe County, NHP, PLPT, and some of the public comment letters all noted this as a major concern.
7. The mitigation and monitoring measures for public health and safety (see **Appendix E** of the Final EIS) were designed in coordination between BLM subject matter experts, the Department of Homeland Security, the Federal Bureau of Investigation, and the Pershing County Sheriff's Office. These are best practices for large public gatherings, specifically outdoor events. The BLM will employ adaptive management practices where appropriate and will liaise with BRC during the implementation of these mitigation measures. For Mitigation Measure **PHS-1**, law enforcement has documented that the current BRC screening system is insufficient for prohibited items. For Mitigation Measure **PHS-3**, while only minor incursions have occurred into the Event, the risk of incursions into large public gatherings is well documented both in the US and abroad (see Public Health and Safety at the Burning Man Event [BLM 2019]). For Mitigation Measure **PHS-6**, cooperating agency coordination and government-to-government consultation have made clear that calls for service related to the Burning Man Event disrupt emergency services to surrounding communities during the Closure Order.
8. The mitigation and monitoring measures for fuel storage (see Mitigation Measure **WHS-8** and Monitoring Measure **WHS-4** in **Appendix E** of the Final EIS) are designed to prevent unnecessary and undue degradation of the natural resources of the Black Rock Desert–High Rock Canyon Emigrant Trails NCA from fuel spills. The BLM has the legal authority and obligation to administer the Black Rock playa in accordance with 40 Code of Federal Regulations 112.
9. This decision is authorized by the National Conservation Act of 2000 designating the Black Rock Desert–High Rock Canyon Emigrant Trails NCA (P.L. 106-554): “The Secretary may continue to permit large scale events in defined low impact areas of the Black Rock Desert Playa in accordance with the management plan pursuant to this Act.” The resource management plan, approved July 2004 for the Black Rock Desert–High Rock Canyon Emigrant Trails National Conservation Area and Associated Wilderness and other Contiguous Lands in Nevada, allows for large gatherings. Existing mitigation measures do not fully alleviate impacts on visual resources in the NCA and adjacent wilderness and wilderness study areas. Current practices are not in conformance with the resource management plan; however, mitigation, monitoring, and adaptive management (see Mitigation Measures **VIS-1**, **VIS-2**, and **NCA-1**, and Monitoring Measures **VIS-1**, **VIS-2**, **VIS-3**, **NCA-1**, and **REC-5** in **Appendix E** of the Final EIS) will reduce the potential for growth of these impacts during future Events.
10. This decision conforms to the BLM's Greater Nevada and Northeastern California Greater Sage-Grouse ROD and Approved Resource Management Plan Amendment, approved in March 2019.
11. Due to the noncompliances issued to BRC and unsatisfactory performance in 2018, and consistent with the REA (P.L. 108-447), the BLM will not issue an SRP for more than 1 year. Should BRC gain compliance, the BLM may then issue an SRP for the remainder of the 10 years. However, in accordance with H-2930-1, Recreation and Fee Administration Handbook, and the REA, the BLM will need to authorize the SRP annually.

12. To reduce impacts on the NCA and surrounding travel corridors, the mitigations and monitoring for this Event were developed and are contained in **Appendix E** of the Final EIS. As described above, some mitigations will be phased in. Phasing is occurring for two main reasons: 1) given the date of the ROD and the start of the 2019 Burning Man Event, the complexity and logistical issues of some mitigations require months to resolve; and 2) some mitigations will be implemented if monitoring and adaptive management illustrate they are needed (see *Mitigation, Monitoring, and Adaptive Management*, above). The BLM has a goal of implementing all mitigation and monitoring by 2022.
13. The decision is the result of and will continue meaningful government-to-government consultation and self-determination for tribes and Native communities. As sovereign nations affected by the Event permitted by the BLM, the BLM has a responsibility to mitigate and reduce effects. The BLM will continue to conduct government-to-government consultation to ensure the mitigations and stipulations address the identified effects: solid waste, public health and safety, traffic, cultural and Native American religious impacts, and socioeconomic impacts.
14. Due to the timing of this decision, as in the 2018 Event, BRC will keep the maximum Event population at 80,000 or less for the 2019 Event. In 2020, a total population cap of 80,000 attendees, which includes paid participants and BRC staff and volunteers, for the duration of the Closure Order will be implemented. Based on environmental monitoring, adaptive management may allow a peak population instead of a total population. Under a total population cap model, the proponent would close the entry gate when 80,000 participants have entered the playa. Even if participants leave the event, no additional participants would be allowed to enter. Under a peak population model, up to 80,000 participants would be allowed on the playa at any given time. As participants leave the event, the proponent would allow that same number of people to enter the playa.
15. The decision to authorize an Event with a population of 80,000 is consistent with the Recreation and Fee Administration Handbook (H-2930-1) because it allows the BLM to adequately administer the SRP. Mitigation and monitoring (see **Appendix E** of the Final EIS) are identified to provide for resource protection, public health and safety, and minimization of conflicts with other NCA users, and to serve the public interest. At the same time, the decision maintains an opportunity for the BLM to authorize the Event consistent with the Department of the Interior's priority of building a meaningful conservation stewardship legacy by expanding public access for sport and recreation opportunities on public lands.
16. Based on the environmental impact analysis contained in the EIS, the BLM has determined that by using the mitigation and monitoring described above and in **Appendix E** of the Final EIS, this decision will minimize environmental impacts on the public lands to an acceptable level, as outlined in the Final EIS.
17. To the maximum extent, this decision, subject to implementation of the mitigation measures in **Appendix E** of the Final EIS and obtaining required permits, is consistent with other federal, state, and local plans.
18. Prior to this decision, the BLM completed the process required by the National Historic Preservation Act (54 U.S.C. 300101 et seq.). A MOA between the BLM and the Nevada SHPO has been executed. That MOA describes required mitigation for the adverse impacts on historic properties and Native American religious concerns in the Closure Area.
19. The decision will not adversely affect any threatened or endangered species.

20. The decision meets the purpose and need for the federal action. The implementation of the mitigation and monitoring measures listed in **Appendix E** of the Final EIS, and with applicable adaptive management, will meet FLPMA goals to prevent unnecessary and undue degradation. The absence of required mitigation and monitoring has the likelihood, over time, of creating unnecessary and undue degradation.
21. All SRPs have standard stipulations from the REA; however, those standard stipulations do not address the complexity of the Burning Man Event. Accordingly, additional stipulations will be added to the SRP. The BLM will review and revise the additional stipulations annually dependent on monitoring and necessary adaptive management measures. **Appendix B** of the Final EIS contains an example of additional stipulations from a previous Event. The BLM has applied additional stipulations to the Burning Man Event SRP since at least the 2012 Event.
22. Future additional SRP stipulations and future applicant-committed environmental protection measures will serve to monitor, reduce, and/or prevent impacts. Monitoring and adaptive management are needed to assess the effectiveness of the stipulations and any future applicant-committed environmental protection measures.
23. Maintaining the 80,000 population limit, per this decision, in conjunction with the identified mitigation, monitoring, and adaptive management listed in **Appendix E** of the Final EIS, provides the opportunity for BRC to proactively eliminate or minimize effects to a manageable or acceptable level. This will be done through BRC's Event Plan of Operations.

Rationale for the BLM's decision to select the No Population Change alternative over the other alternatives is based on the environmental consequences analyzed in Chapter 3 of the Final EIS and the following:

1. With current resources, it would be challenging for the BLM to maintain consistency with FLPMA while at the same time addressing cooperating agency concerns about public health and safety under the Proposed Action. At a population of 100,000 (Alternatives A and C), the BLM could not adequately administer the SRP while providing for public health and safety and preventing unnecessary and undue degradation of lands. At an Event population of 100,000, with current BLM resources, the Event could possibly conflict with the multiple-use mandate of FLPMA because it could preclude other public lands users during the Closure Order. Cooperating agencies and other governmental agencies indicated they could not support the Event growing. Letters from the Mayor of the City of Reno, NDOT, and NHP indicated they could not provide staff and accommodate growth over the current population level of 80,000 (see **Appendix K** of the Final EIS). It is particularly difficult for agencies to staff the Event because it is over the Labor Day weekend when other recreation events in surrounding areas and communities occur.
2. The BLM is aware of BRC's approach to minimizing impacts through its best management practices; however, BRC cannot control all Event participant actions, which has led to the need for the mitigation and monitoring measures included in **Appendix E** of the Final EIS and incorporated in this decision. At an Event population of 100,000 (Alternatives A and C), these effects would be increased. Of particular concern are traffic, trash, air quality, and infrastructure as identified in Chapter 3 of the Final EIS. In the case of trash, the NDOT, NHP, and PLPT expressed concerns about the current level of trash left behind from the Event. It is a reasonable assumption that a population of 100,000 would result in even more trash left behind.

3. Cooperating agencies expressed concerns with Event population growth on traffic and maintenance issues on SR 447, Interstate 80, and CR 34. Traffic and maintenance are concerns at the current population level, and growth of the Event would exacerbate concerns of maintenance costs and overcrowding of surrounding roadways.
4. While some impacts may be reduced with an Event population of 50,000 (Alternative B), for several years BRC has successfully held the Burning Man Event with a population up to 80,000. BRC's best practices, combined with required mitigation measures, monitoring, and adaptive management outlined in the Final EIS will mitigate impacts to the point where a reduced Event population of 50,000 was not selected. At an Event population of 50,000, there would be the potential for an adverse economic impact on northern Nevada. Since 2012, the Event has grown to its current population level, and northern Nevada communities have become accustomed to the associated economic outcomes.
5. The BLM's decision to not select the No Event Alternative (Alternative E) is similar to the rationale for the reduced population alternative. In addition, the Event has occurred on the playa for over 20 years consistent with the BLM's multiple-use mandate under FLPMA. Additionally, the City of Reno has communicated the positive art and cultural aspects in the city from the Event.

NATIVE AMERICAN CONSULTATION

The BLM sent letters on November 27, 2017, requesting consultation on the Proposed Action to the following tribes: PLPT, Reno-Sparks Indian Colony, and Summit Lake Paiute Tribe. The BLM has been actively engaged in government-to-government consultation with tribes throughout the EIS process. During consultation, tribal and cultural committee members expressed concerns regarding unauthorized artifact collection, especially along the travel routes. They also expressed concerns regarding increased visitation and impacts on springs and other culturally important sites surrounding the playa. Members noted that their concerns extend beyond tribal reservation boundaries. Additional information regarding Native American consultation can be found in the Final EIS, Section 4.4.1.

COOPERATING AGENCIES

The cooperating agency relationships established during this project facilitated the exchange of views and expertise between BLM personnel and other government officials and staff. This form of consultation, unique to planning and NEPA processes, was crucial to shaping the EIS. The BLM formalized cooperating agency relationships with eight governmental parties: PLPT, NDOT, Pershing County, Pershing County Sheriff's Office, Federal Bureau of Investigation, Humboldt County, US Department of Homeland Security, and Washoe County.

INTERGOVERNMENTAL PARTNERS

Under FLPMA, the BLM's coordination responsibilities include maximizing consistencies with the plans and policies of other government entities.

The BLM conducted coordination with the Nevada SHPO and the US Fish and Wildlife Service.

NEPA regulations require that EISs be filed with the EPA (40 Code of Federal Regulations 1506.9). The BLM submitted the Draft EIS and Final EIS to the EPA, as required by Council on Environmental Quality regulations. Chapter 4 of the Final EIS explains intergovernmental partners.

PUBLIC INVOLVEMENT

Public Scoping

Public scoping is detailed on Page 4-1 in Chapter 4 of the Final EIS. Public outreach began in November 2017. The BLM published a notice of intent on June 20, 2018. The BLM held two public scoping meetings on July 9 and 10, 2018, in Fernley and Lovelock, Nevada, respectively. A full description of the concerns brought forward during scoping can be found in the project scoping summary report (BLM 2018a).

Issues of concern identified in project scoping include:

- What are the impacts on wildlife and their habitats (aquatic and terrestrial) from air, light, noise, and waste (hazardous and solid) pollution; invasive species; and traffic. How will they be mitigated?
- What are the impacts from the Event on vegetation, wetlands, and riparian areas, and how will they be mitigated?
- What are the impacts on significant cultural and paleontological resources, including National Historic Trails, and can they be mitigated? What are the impacts on Native Americans from spiritual, cultural, and social values and economics?
- Can the BLM provide the support and resources needed to administer the SRP, while providing for public health and safety and preventing unnecessary and undue degradation to BLM-administered lands?
- How does the Burning Man Event affect air, soil, and water resources? Can mitigations be developed to prevent unnecessary and undue degradation?
- What are the regional economic contributions and effects on community services and federal, state, and local budgets?
- How do the public and participants view the Event? Are there any disproportionate impacts from the Burning Man Event on environmental justice and other populations?
- How does the Burning Man Event affect the values of the Black Rock Desert–High Rock Canyon Emigrant Trails NCA, wilderness areas, and wilderness study areas?
- How does the Burning Man Event affect access and transportation, SRPs, and other users and their experiences within the Assessment Area?

Draft EIS

The BLM published the notice of availability for the Draft EIS in the *Federal Register* on March 15, 2019. During the 45-day public comment period, the BLM held two public meetings in Lovelock and Sparks, Nevada.

The BLM received a total of 2,061 submissions; 1,736 of these were considered unique submissions, and 325 were form letter campaigns (discussed further in **Appendix K** of the Final EIS).

Final EIS

The BLM published the notice of availability for the Final EIS in the *Federal Register* on June 14, 2019, and uploaded the Final EIS to the EPA on June 7, 2019. The 30-day review period ended on July 14, 2019.

ALTERNATIVES INCLUDING THE PROPOSED ACTION

A detailed description of the Proposed Action; alternatives, including the No Permit/Action Alternative; and those considered but not carried through this EIS are listed in detail in Chapter 2 of the Final EIS.

SPECIAL RECREATION PERMIT APPROVAL

The 2930-2 Forms for the Special Recreation Permit are provided in **Appendix B** of the EIS.

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