



State Land Use Planning Advisory Council

MEETING PACKET

Monday June 12, 2023

Carson City, NV

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NOTICE OF PUBLIC MEETING AND AGENDA FOR THE

STATE LAND USE PLANNING ADVISORY COUNCIL

A public meeting will be held on:

Monday June 12, 2023 1:00 PM

At the following location:

**Richard H. Bryan Building
Tahoe Hearing Room. 2nd Floor
901 S. Stewart Street. Carson City, NV**

or

via Teams at
<http://tiny.cc/SLUPAC-6-23>

**Meeting ID: 291 076 285 258
Passcode: 5cnktG**

or

**Phone: 775-321-6111
Phone Conference ID: 452 103 693#**

Attendance to this meeting will also be available virtually. For this meeting the State Land Use Planning Advisory Council will be using Microsoft Teams, a third-party app, and does not control its technical specifications or requirements. Your ability to participate in the public comment portions of

a meeting may be impacted by factors including but not limited to the type of device you use, the strength of your internet or cellular signal, and the company that provides your internet or cellular service. The State Land Use Planning Advisory Council is not responsible if you are not able to participate in a meeting through Zoom due to these or any other factors.

Public comment may be submitted via email prior to the meeting, please submit public comments to scarey@lands.nv.gov by 4 PM on June 9, 2023. For questions or additional information, you may contact Scott Carey, State Lands Planner at 775-684-2723 or at scarey@lands.nv.gov.

Please note that times listed are estimates

- 1:00 pm 1) Call to Order**
Roll Call of the Council and Introductions of staff & guests.
- 1:05 pm 2) Public Comment**
This is an opportunity for the public to provide public comment on any item included on the agenda or any other land use planning and any other related topic not included on the agenda. (Pursuant to NRS 241.020, no action may be taken upon a matter raised under this item until the matter has been specifically included on an agenda).
- 1:10 pm 3) Review of Agenda (For Possible Action)**
(Agenda is reviewed for unforeseen circumstances such as the inability of a scheduled speaker to attend, to move an item to a different time during the meeting to accommodate a speaker, etc.)
- 1:15 pm 4) Approval of Meeting Minutes (For possible action)**
 - Approval of minutes from the April 14, 2023
- 1:20 pm 5) Review of Proposed Public Lands Rule and Approval of Comment Letter (For Possible Action)**
Staff and other representatives will provide the Council with an overview of the proposed Public Lands Rule. Following the overview, the Council will have a discussion and provide input on the proposed rule. The Council will also review and consider approval of a letter providing feedback and formal comments on the proposed Public Lands Rule. *Members - State Land Use Planning Advisory Council*
- 2:50 pm 6) Future Agenda Items (For Possible Action)**
The Council will discuss and recommend items to be placed on a future SLUPAC agenda. *Members – State Land Use Planning Advisory Council*
- 2:55 7) Public Comment**
This is an opportunity for the public to provide public comment on any item included on the agenda or any other land use planning and any other related topic not included on the agenda. (Pursuant to NRS 241.020, no action may be taken upon a matter raised under this item until the matter has been specifically included on an agenda).
- 3:00 pm 8) Adjourn (For Possible Action)**

Members – State Land Use Planning Advisory Council

PLEASE NOTE:

(I) Times listed for all items are estimates.

(II) Items on the agenda may be taken out of order at the discretion of the Chair; the public body may combine two or more items for consideration; and the public body may remove an item or defer discussion of an item on the agenda at any time.

(III) Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify Scott Carey in writing at the Nevada Division of State Lands, 901 S. Stewart Street, Suite 5003, Carson City, Nevada 89701 or by calling 775-684-2723 no later than June 9, 2023.

(IV) Meeting minutes and recordings of the meeting are available for inspection by the public within 30 working days after the adjournment of the meeting, the minutes and recordings are retained for at least five years in accordance with NRS 241.035(2).

(V) In accordance with Attorney General File No. 00-047 (April 27, 2001), as restated in the Attorney General's Open Meeting Law Manual, the Chair may limit or prohibit comments that are willfully disruptive of the meeting by being irrelevant, repetitious, slanderous, offensive, inflammatory, irrational or amounting to personal attacks or interfering with the rights of other speakers.

(VI) Documentation and supporting agenda items are available on the Nevada State Clearinghouse Website at <https://clearinghouse.nv.gov> and on the SLUPAC Meeting website at <http://lands.nv.gov/land-use-planning/state-land-use-planning-advisory-council/slupac-meeting-agendas-and-minutes> and will be available at the SLUPAC meeting. For further information you may contact Scott Carey at 775-684-2723 or at scarey@lands.nv.gov.

Notice of this meeting was posted at the following locations:

Department of Conservation and Natural Resources, 901 S. Stewart Street, Carson City, NV 89701

Division of State Lands, 901 S. Stewart Street, Suite 5003, Carson City, NV 89701

Grant Sawyer State Office Building, 555 E Washington Ave, Las Vegas, NV 89101

Nevada State Library and Archives, 100 N Stewart St, Carson City, NV 89701

Nevada State Clearinghouse website at: <https://clearinghouse.nv.gov>

Nevada Public Notice Website at www.notice.nv.gov

STATE LAND USE PLANNING ADVISORY COUNCIL
MEETING MINUTES

April 14, 2023

Nevada Association of Counties, Carson City

NACO Conference Room

304 South Minnesota Street. Carson City, NV 89703

Members Present

Jake Tibbitts, Eureka County (Chair)
 Hope Sullivan, Carson City
 Jim Barbee, Churchill County
 Maureen Casey, Douglas County
 Wilde Brough, Elko County
 De Winsor, Esmeralda County
 Mark Evatz, Humboldt County
 Wallace "JR" Thomas, Lander County
 Mike Reese, Lincoln County
 Wes Henderson, Lyon County
 Cassie Hall, Mineral County
 Kathy Canfield, Storey County
 Jeanne Herman, Washoe County
 Janet VanCamp, White Pine County
 Marla McDade Williams, Nevada Indian Commission
 Jacob Brinkerhoff, Nevada Association of Counties
 Charlene Bybee, Nevada League of Cities & Municipalities

Members Absent

Lorinda Wichman, Nye County (Vice Chair)
 Sami Real, Clark County
 Roger Mancebo, Pershing County

Others Present

Kris Sanchez, Nevada Governor's Office of Economic Development
 Bob Potts, Nevada Governor's Office of Economic Development
 Erin Hasty, Nevada Governor's Office of Economic Development
 Joe Lednicky, University of Nevada Cooperative Extension
 Peter Gower, The Nature Conservancy
 Jeremy Drew, Resource Concepts Inc.
 Sondra Rosenberg, Nevada Department of Transportation
 Candance Stowell, Reno-Sparks Indian Colony
 Dave Weeks, Real Estate Broker
 Brett Waggoner, Nye County
 Dan Nubel, Office of Attorney General
 Ellery Stahler, Nevada Division of State Lands
 Scott Carey, Nevada Division of State Lands

1) Call to Order

The meeting was called to order by **Jake Tibbitts** at 9:01 am. A roll call was held for members of Council and a quorum was established. Introductions were made by others who were present.

2) Public Comment

Nevada Division of State Lands

State Land Use Planning Agency
 901 S. Stewart Street, Suite 5003
 Carson City, NV 89701

Telephone: (775) 684-2723
www.lands.nv.gov/land-use-planning

Jake Tibbitts called for public comment. There was no public comment, and the public comment period was closed.

3) Review of the Agenda

Maureen Casey made a motion to approve the agenda as submitted. The motion was seconded by **Wes Henderson**. There was no discussion on the motion. There was no opposition to the motion and the motion was passed unanimously.

4) Approval of Meeting Minutes

Maureen Casey made a motion to approve the February 3, 2023 meeting minutes as submitted. The motion was seconded by **Jeanne Herman**. There was no discussion on the motion. There was no opposition to the motion and the motion was passed unanimously.

5) County and Member Planning Updates

Jacob Brinkerhoff, Nevada Association of Counties

Jacob stated that NACO is busy with the Legislative session and that they are currently tracking over 400 bills this session. He stated that NACO wrote a letter to the Federal Emergency Management Administration (FEMA) advocating for a statewide emergency declaration for the flooding around Nevada.

Maureen Casey, Douglas County

Maureen stated that County Manager Patrick Cates is going to retire in May and that the county is looking for a replacement. She stated that the County Commission recently had a public meeting in Lake Tahoe to review the county's Vacation Home Rental ordinance. She stated that the county is opposed to SB 319 and prohibiting the use of sirens across the state. She stated that Mono County in California recently approved a cannabis farm along the Douglas County border without notifying the county. She stated Alpine County in California was also not notified by Mono County for a similar farm along its border.

Wes Henderson, Lyon County

Wes stated that the County Commission received a presentation from the Walker River Irrigation District, and they reported that a lot of the snowpack won't be melted until September. He stated that the district has begun to release water out of Topaz Lake and other reservoirs to make room for future storage of the additional water later in the season. He stated that Lyon County continues to work on a lands bill. He stated in May the County Commission will hear a presentation from the National Association of Counties about creating a western lands center. He also stated that the county recently hired a lobbyist to advocate for its interests in Washington DC.

Charlene Bybee, Nevada League of Cities & Municipalities

Charlene stated that Wesley Harper is no longer the Executive Director, and that Mayor Lori Bagwell is the acting director for the Nevada League of Cities & Municipalities. She stated that 5 representatives from Nevada recently attended the National League of Cities Conference in Washington DC. She stated that delegations advocated for more Federal support for homeless, housing, and workforce development issues. She stated that Senator Rosen has released a discussion draft of the Washoe County Lands Bill and is currently seeking comments from the public. She stated that the bill proposes to dispose of 17,000 acres of public lands and to transfer 4,700 acres to different agencies. She stated that all proceeds from the sale of these lands would stay in Washoe County, with 85% of the proceeds going towards conservation and recreation.

Jeanne Herman, Washoe County

Jeanne stated that she has a different perspective of the proposed Washoe County Lands Bill than the City of Sparks and other supporters. She stated that she is concerned about the bill's proposed closure of lands to

multiple use in Northern Washoe County and the impact these closures will have on the mining & ranching industries of the county. She stated that the county has started work on its budget and that residents near Swan Lake are concerned about flooding again. She stated the County Commission voted against the proposed geothermal project near Gerlach.

Hope Sullivan, Carson City

Hope stated that Carson City is updating its zoning code and design standards with the goal of bringing these items for consideration to the Board of Supervisors in July. She stated that the city is also in the middle of its annual Business Improvement District assessment process. She stated that the city is targeting fiscal year 2024 to update its master plan.

Jake Tibbitts, Eureka County

Jake stated that the two General Improvement Districts in the Diamond Valley continue to flood and that the United State Geological Service (USGS) has installed gauges to help Eureka County monitor flows. He stated that the county is seeing new impacts from these flooding events in areas that have been developed since the last big floods in the 1980's. He stated that FEMA is working to remap these areas and that the county expects new flood insurance rates once the new maps are completed. He stated that the flooding has pushed the county to look at its flood planning efforts and new infrastructure that may be needed to mitigate the impacts of future floods. He stated that State Route 278 has been closed for the past couple of days due to a washout the was caused by flooding. He stated that this road provides the main connection from Eureka to Carlin and that NDOT is working to repair the road. He stated that the county is currently involved as a cooperating agency for the environmental review for 6 mining projects. He stated that the county has also been invited to become a cooperating agency for the Stagecoach wind energy project in White Pine County, the Western Solar PEIS, the Sage Grouse land use plan amendments, and the proposed grazing regulations. He stated that he believes that the Council should have a future discussion about helping build capacity for the State Land Use Planning Agency and for local governments to help review all the NEPA projects around Nevada.

Hope Sullivan asked how long a typical NEPA review for a project would take.

Jake Tibbitts stated that on some of these projects it can take years to complete the NEPA review process and that the county will also participate in the process outside of being a cooperating agency.

Jacob Brinkerhoff asked what the 6 mining projects currently under review in the county are.

Jake Tibbitts stated that there is the Goldrush Mine near the El Cortez Range, the Gibellini Vanadium Project near the Nye County border, the Robertson Mine in Crescent Valley, the Juniper Expansion to the Bald Mountain Mine in White Pine County, underground expansion to the Ruby Hill Mine, and the South Railroad project in Elko County.

Maureen Casey asked how the current flooding is affecting the mines throughout the county.

Jake Tibbitts stated that the flooding has not affected the underground mines at this point but that the Gold Barr Mine has been flooded out and damaged roads in the area. He stated that the flooding had stranded miners at the facility who had to be rescued by boat.

Jim Barbee, Churchill County

Jim stated that Churchill County has begun preparations for spring flooding including the construction of a new weir to divert flood waters around Fallon. He stated that the county opened up the existing weir constructed during the 2017 flood event and this weir has already diverted 60,000-acre feet of water from Lake Lahontan. He stated that FEMA did not recognize the county as part of the Statewide disaster declaration issued by Governor Lombardo. He stated that the county is moving forward with \$5 to \$5.5 million worth of flood mitigation projects without the support of FEMA. He stated that with these projects complete, the county will be able to divert the maximum capacity of water that is let out of the Lahontan Dam. He stated that the county is raising

the berm at the Carson Lake Pasture to allow for more water to be diverted to this area during floods. He stated that most of the flood maps for the county were completed in the 1970's and that the county has been working with FEMA to update its flood maps for the past 6 years. He stated that the county continues to work implementing its lands bill and is coordinating with the BLM to develop processes for land conveyance and for checkerboard property resolutions along Interstate 80.

Wilde Brough, Elko County

Wilde stated that a new Love's truck stop has opened in Jackpot and that the community continues to see strong sales at the cannabis dispensary. He stated that the City of Wendover has started construction of its new downtown and that retail lots are now available for sale. He stated that there is a new owner of the Winecup Gamble Ranch, and that the county expects to see large scale solar development after the completion of a transmission line in this area. He stated Elko has started the planning phase for a new events center that would include new swimming pools. He stated that there is an effort underway to designate the historic Wendover Airfield as a national monument.

De Winsor, Esmeralda County

De stated that county experienced large snowfalls in the Dyer area which resulted in the county having to dig some residents out. He stated that despite large snowfall in the mountains Esmeralda County has not experienced the large flooding that was expected. He also stated that Rhyolite Ridge lithium project continues to go through the permitting process with the BLM.

Mark Evatz, Humboldt County

Mark stated that all of the SNOTEL sites across Humboldt County have received or exceeded record snowfall during this winter. He stated that this increased snowfall has resulted in localized flooding and impacts to the county's roads. He stated that Lithium Nevada has broken ground on its project at Thacker Pass and that construction should last about a year. He stated that Sam Burton started in late March as the new BLM Winnemucca District Office Manager. He stated that the county continues to work on a sewer treatment facility for the Grass Valley community to address nitrate issues and groundwater impacts. He stated the goal of the project is to connect 40% of the septic systems in the community into the new sewer treatment facility. He stated that the City of Winnemucca is working with Lithium Nevada to purchase land at the Winnemucca airport to construct a transload railroad facility. He stated that this proposal has created some concern within the community about developing heavy industrial uses in the area. He also stated there have been new large scale solar projects proposed throughout the county.

Marla McDade Williams, Nevada Indian Commission

Marla stated that the Commission has been active on several pieces of legislation during the legislative session. She stated that there is currently an environmental justice bill that would require the Nevada Office of Minority Health and Equity to conduct a review to consider the impacts of certain projects on disparate populations. She stated that there is a cultural resources bill that would establish a process for local law enforcement to notify Tribe's when there is an inadvertent finding of human remains. She stated that the Legislature is considering funding for a new school for the community of Owyhee in Elko County. She also provided an update on SB391 which would prohibit the use of sundown sirens and the importance of this bill to the Tribe's throughout the state.

Wallace "JR" Thomas, Lander County

JR stated that yesterday the County Commission declared a state of emergency for the feral horses in the county. He stated that the County Commission also declared a state of emergency for flooding taking place in southern Lander County. He stated that the county met with BLM and the mines regarding the permitting process for the Robinson Mine south of Battle Mountain.

Jake Tibbitts asked what the county's goal is by declaring a state of emergency for feral horses.

JR Thomas stated that the wild horses greatly exceed the Appropriate Management Level (AML) for the ranges throughout the county. He stated that the wild horses are destroying the water holes and the range and that the county hopes that this declaration will help reduce the population of the horses.

Mike Reese, Lincoln County

Mike stated that the County Commission declared its second state of emergency in the past month over flooding caused by melting snow. He stated that Lincoln County does not have its own gas tax and that 100 percent of the county's road funds come from the state gas tax. He stated that the county is concerned about the Governor's proposal to freeze the state gas tax and that it may cause a potential loss of revenue to the county's road budget. He stated that the BLM Caliente District Manager is leaving at the end of April and that the county is looking forward to working with the new District Manager moving forward.

Kathy Canfield, Storey County

Kathy stated that Storey County has been busy during the current Legislative session and that the County Manager and Commissioners have been very active tracking bills. She stated that the county is working on its master plan update which is being completed by staff. She stated that the county will be seeking assistance for a consultant to assist with a housing needs assessment as part of its master plan update. She stated that Mike Bullian started last month as the county's new Emergency Management Director and that he has been busy with flood events. She stated that the county is working with the Carson Water Subconservancy District on a new drainage plan for the Virginia City and Six Mile Canyon areas. She stated that the county has experienced a lot of road damage from all the snow this winter and that the roads will be repaired in the summer. She stated that the county is working on a new flood hazard mitigation plan for the Long Valley Creek area using a planning grant received from the Nevada Division of Emergency Management.

Janet VanCamp, White Pine County

Janet stated that White Pine County has been dealing with flooding in Lund and in the Cross Timbers area and that flooding in these areas has been kept under control by the county's road department. She stated that housing continues to be a huge need throughout the county. She stated that along with Eureka County, the county has been approached by the developers behind the Stagecoach Wind project in the Newark Valley. She stated that the developers of the White Pine Pumped Storage Project filed an expedited application with the Federal Energy Regulatory Commission in March.

Cassie Hall, Mineral County

Cassie stated that Mineral County is grateful to be included in the ongoing discussions concerning land use planning issues throughout the state and in the rural areas. She stated that the county has been busy having discussions on how to spend state and federal pandemic and infrastructure funds that have been received. She also stated that the county is navigating issues with the BLM and Payments In Lieu of Taxes (PILT) and trying to identify creative solutions to plan long terms to generate revenue.

6) Nevada Association of Counties Presentation

Jacob Brinkerhoff with the Nevada Association of Counties (NACO) provided a [presentation](#) to the Council about NACO and the support they provide to counties on natural resource related issues.

7) Governor's Office of Economic Development Presentation

Kris Sanchez, Bob Potts, and Erin Hasty with the Nevada Governor's Office of Economic Development provided a [presentation](#) about the state's Economic Development Plan and strategy to diversify Nevada's economy.

Following the presentation, the Council asked questions to the Nevada Governor's Office of Economic Development staff and discussed how current efforts to diversify the state's economy can impact a local land use plan.

8) Update on Land Use Planning Bills and Other Policy Issues from the 82nd Session of the Nevada Legislature

Scott Carey with the Nevada Division of State Lands provided an overview of the staff memo and legislation that the State Land Use Planning Agency is tracking that was included as pages 13-34 of the [meeting packet](#).

Following the presentation, the Council had a discussion on land use planning bills and other policy issues that are being considered during the legislative session.

9) State Land Use Planning Agency Update

Scott Carey with the Nevada Division of State Lands provided an update of the State Land Use Planning Agency that was included as pages 35-37 of the [meeting packet](#).

10) Future Agenda Items

Jake Tibbitts suggested a future agenda item about Interstate coordination on land use planning projects that are on the border or impact Nevada. Jake also suggested a future agenda item for the Council to review the proposed Public Lands Rule and submit formal comments.

Hope Sullivan suggested a future agenda items to review the legislation from the 82nd Session of Nevada legislation. Hope also suggested a future agenda item to discuss state licensing reciprocity between Nevada and other states.

Wes Henderson suggested a future presentation about the Federal Historic Routes Preservation Act and to consider a letter of support for this legislation.

Maureen Casey suggested a future presentation from FEMA, Nevada Department of Emergency Management, or Nevada Division of Environmental Protection concerning the flood mapping process.

Scott Carey with the Nevada Division of State Lands stated that since the last meeting the Council received a request from rPlus Hydro LLLP to provide the Council with a presentation about the [White Pine Pumped Energy Storage Project](#) at a future meeting.

11) Scheduling of Future SLUPAC Meeting Dates and Locations

Jake Tibbitts recommended that the Council schedule a special meeting to review and comment on the Proposed Public Lands rule before June 20th. The consensus of the Council was to schedule this special meeting on Monday June 12th at 1:00 PM in Carson City.

Scott Carey with the Nevada Division of State Lands reminded the Council that future meetings are scheduled for the morning of Friday August 4, 2023 in Eureka and Wednesday October 18th at 2:00 PM in Stateline in conjunction with the Nevada State Planning Conference.

12) Public Comment

Jake Tibbitts called for public comment. There was no public comment, and the public comment period was closed.

13) Adjourn

The meeting was adjourned at 12:26 pm.

Respectfully submitted,

Scott Carey

/s/

Meeting Recorder

Please note that minutes should be considered draft minutes pending their approval at a future meeting of the State Land Use Planning Advisory Council. Corrections and changes could be made before approval.

The meeting was digitally recorded. Meeting minutes and recordings of the meeting are available for inspection by the public within 30 working days after the adjournment of the meeting, the minutes and recordings are retained for at least five years in accordance with NRS 241.035(2). Anyone wishing to receive or review the recording may call (775) 684-2723.



Nevada Division of
STATE LANDS

STATE OF NEVADA
Department of Conservation & Natural Resources
Joe Lombardo, Governor
James Settelmeyer, Director
Charles Donohue, Administrator

June 12, 2023

To: State Land Use Planning Advisory Council

From: Scott Carey, AICP, State Lands Planner

RE: Review of Proposed Public Lands Rule and Approval of Comment Letter

Background

In April, the Bureau of Land Management (BLM) published a [notice in the Federal Register](#) that they were proposing new regulations that would establish a framework to ensure healthy landscapes, abundant wildlife habitat, clean water and balanced decision-making on our nation's public lands. The main intent of the proposed regulations are to put conservation on an equal footing with other multiple uses, help guide responsible development, and respond to new pressures on public lands. One of the big provisions of the proposed regulations is conservation leasing, a tool authorized by the Federal Land Policy and Management Act (FLPMA), to facilitate restoration work on public lands in cooperation with community partners. There is currently a 75 day public comment period on the proposed regulations, comments are due to the BLM on June 20, 2023.

For additional information about the proposed Public Lands rule please see the attached BLM fact sheet that is attached to this memo.

At the April 14, 2023 meeting, the Council scheduled a special meeting to review the proposed [Public Lands Rule](#). At this meeting, the Council also directed staff to prepare a letter for the Council's consideration to provide formal comment on the proposed regulations.

Analysis

Given the potential land use planning implications across the state associated with the proposed Public Lands Rule, staff has prepared a proposed comment letter for the Council's consideration. The proposed letter is roughly 6 pages long and contains language that hits the following points.

- 1) Stresses consistency of conservation leases with local land use plan.
- 2) Expresses that the proposed rule should go through the NEPA review process.

- 3) Reiterates the need for the BLM to update Resource Management Plans in Nevada
- 4) Expresses support for increased Tribal engagement and the use of traditional ecological knowledge.
- 5) Reiterates the need for the BLM to combat speculative leasing practices.
- 6) Stresses that mitigation should be completed locally.
- 7) And provides specific comments to the proposed rule that were requested by the BLM.

A copy of the Council's proposed scoping comment letter is attached to this memo. Per NRS 321.750 (4), the Council is authorized to advise any federal or state agency or local government on land use planning and policy. If approved, the Chair would be authorized to sign the letter on behalf of the Council and a copy of the letter would be posted on the Council's website. Additionally, a copy of the letter would be sent to Governor Lombard, Senator Catherine Cortez Masto, Senator Jackie Rosen, Congresswoman Dina Titus, Congressman Mark Amodei, Congresswoman Susie Lee, Congressman Steven Horsford, and Jon Raby, BLM Nevada State Director. Additional copies of the letter may be sent to any other officials or agencies as directed by the Council.

Recommendation: *Staff recommends that the Council review and discuss the proposed comment letter and recommend and changes to the letter. If approved, staff recommends that the Chair be authorized to sign the scoping letter and transmit a copy to the individuals and agencies included in the letter and to others as directed by the Council.*



FACT SHEET: Proposed Public Lands Rule

The proposed Public Lands Rule would establish a framework to ensure healthy landscapes, abundant wildlife habitat, clean water and balanced decision-making on our nation's public lands. The proposal would uphold the Bureau of Land Management's (BLM) multiple use and sustained yield mission, ensuring the health, diversity, and productivity of public lands for the use and enjoyment of present and future generations. By putting conservation on an equal footing with other uses, the proposal would help guide responsible development while safeguarding important places for the millions of people who visit public lands every year to hike, hunt, camp, fish, and more.

This proposal comes at a pivotal moment, as our public lands face new and growing challenges. Climate change is driving unprecedented drought and increasingly intense fires, a loss of wildlife, and an influx of invasive species. At the same time, public lands face growing pressure as recreation increases and development on private land disrupts habitat. This proposal would ensure the BLM is able to respond to these pressures, managing for healthy lands today so that it can deliver its multiple use mission now and in the future.

What would the proposed Public Lands Rule do?

1. Promote restoration of our lands and waters.
 - Consistent with the historic investments made through the Bipartisan Infrastructure Law and the Inflation Reduction Act, the proposal would direct land managers to identify landscapes and develop plans for restoration, prioritizing places based on land and water health, partnership opportunities, and benefits to local communities, among other factors, with opportunities for public input.
 - The proposal would establish consistent frameworks for interested parties to pursue restoration on public lands, including through conservation leasing. Under a conservation lease, an external entity could propose to enter into an agreement with the BLM to help achieve restoration or mitigation outcomes on public lands. For example, a non-profit organization could put people to work restoring mule deer or elk habitat and, through a conservation lease, be assured the work could take hold and flourish. The proposal does not contemplate BLM requiring leasing; rather, it is something an outside entity would request.
 - Conservation leasing is also an important tool for compensatory mitigation, which compensates the public for the impacts of development on public land through investments in restoration and other mitigation measures. The conservation leasing provisions in the proposal come, in part, in response to feedback from state, local, and industry partners who requested a reliable path to pursue compensatory mitigation on public lands to facilitate development projects.

2. Provide for balanced, responsible development.

- To support informed decision-making, the proposal would broaden the use of land health standards beyond BLM's grazing program while providing more information as the public weighs in on management decisions. Incorporating land health standards and guidelines into land management is a best practice employed by state and federal land management agencies, including the U.S. Forest Service.
- By using land health assessments and building conservation decisions into the land management process, the proposal would enable the BLM to better work with local communities and developers to identify appropriate places to site projects and deconflict development proposals.
- The proposal would ensure BLM management decisions continue to be guided by science and data. The BLM would use existing data collections and new information to identify trends and implement adaptive management strategies.

3. Conserve the best intact, healthy landscapes.

- The proposal is pragmatic, directing the BLM to conserve what's already in good shape. It would call on the BLM to maintain intact lands to help support wildlife, migration corridors, and ecosystem function. The proposal follows explicit direction in the Federal Land Policy and Management Act (FLPMA) to protect and preserve lands in their natural condition, where appropriate.
- The proposal would support President Biden's vision for locally driven and locally led conservation, enabling communities, through the land management planning process, to help identify lands for restoration and protection and to provide input on where development may be appropriate.
- The proposal would provide consistent and clear direction to ensure BLM is appropriately managing important historic, cultural, and scenic resources and complying with FLPMA's direction to prioritize protection and designation of Areas of Critical Environmental Concern.

What won't the proposed rule do?

- The proposal does not change the BLM's multiple use mission – indeed, it will ensure the BLM's ability to deliver it in the future. Energy development, mining, grazing, timber, outdoor recreation, and other uses will continue.
- The proposal does not undermine any existing valid rights or require the use of conservation leasing.
- The proposal does not impede development on public lands. It will help facilitate responsible development through informed planning that deconflicts uses, while providing a path for developers to pursue compensatory mitigation.
- The proposal does not change the existing land management planning process; rather, it will create more opportunity and tools for local communities to shape the management of their public lands.

What's next?

This proposal reflects the beginning of an important conversation with BLM's partners and stakeholders. Public involvement through this rulemaking process is crucial to ensure the BLM is making appropriate land management decisions on the ground.

We want to hear from you. To learn more about this proposed rule, or to provide comment, please visit <https://www.regulations.gov>.

JAMES SETTELMEYER
Director
Department of Conservation
and Natural Resources

CHARLES DONOHUE
Administrator

JOE LOMBARDO
Governor



State Land Use Planning Advisory Council
State Land Use Planning Agency

Address Reply to

State Land Use Planning Agency
901 S. Stewart St. Suite 5003
Carson City, Nevada 89701-5246
Phone: (775) 684-2723
Fax: (775) 684-2721
Web: lands.nv.gov/land-use-planning

STATE OF NEVADA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
State Land Use Planning Advisory Council

June 12, 2023

1004-AE92, Director (630)
Bureau of Land Management
1849 C Street NW #5646
Washington, DC 20240

Re: 1004-AE-92 – Conservation and Landscape Health, Proposed Rule

The Nevada State Land Use Planning Advisory Council (SLUPAC), under my signature, is providing this letter, approved by SLUPAC on June 12, 2023, to comment on the Conservation and Landscape Health, Proposed Rule (1004-AE-92).

SLUPAC is the only Governor-appointed council that has a county representative from each of Nevada's seventeen counties as well as the Nevada Association of Counties (NACO), the Nevada League of Cities & Municipalities, and the Nevada Indian Commission. SLUPAC provides recommendations and expertise on land use planning and natural resources issues and advises the State Land Use Planning Agency regarding the development of plans and statements of policy.

SLUPAC appreciates the intent to balance conservation activities with the Bureau of Land Management's (BLM) multiple use mandate on Nevada's public lands through the Proposed Rule.

SLUPAC believes that there are many mechanisms that currently exist to reach the intentions of the Proposed Rule. Examples include, without limitation, the current BLM range improvement regulations, private party binding agreements such as the Barrick (now Nevada Gold Mines) Bank Enabling Agreement, the Nevada Conservation Credit System, and locally led conservation district Resource Needs Assessments and Conservation Action Plans. The BLM should work to bolster and provide capacity to these existing partnerships and work to improve the NEPA process so that the conservation objectives of the Proposed Rule can be achieved.

Consistency with Local Land Use Management Plans

With almost 70% of Nevada's land area under BLM management, the economies and land use plans and policies of Federally recognized Indian Tribes (Tribes), state agencies, and local governments will be impacted by the decisions and land allocations made through, or flowing from, the Proposed Rule. Due to its large Federal land ownership, Nevada will be disproportionately impacted by the proposed public lands rule compared to other states. Some counties in Nevada have as much as 97% of the land

within their jurisdiction managed by the federal government which means that these areas are already compromised to be able to generate economic activity and tax base. Further restricting land uses through leases for non-revenue generating activities will only exacerbate fiscal challenges for these local communities.

Identifying and prioritizing areas where conservation practices can be deployed with as little impact as possible to Nevada's communities, natural lands, cultural resources, recreation, and other future land uses is critical. SLUPAC stresses the importance of close coordination and consistency between local land use master plans and the proposed public lands rule to protect and preserve the resources of the State while providing for the current and future needs of residents. The development of conservation goals on public lands should be prioritized in areas that are consistent with and support local land use plans, goals and policies.

The Federal Lands Policy and Management Act (FLPMA) requires cooperative planning and coordination with state and local government land use plans. BLM land management decisions are to be aligned with local land use plans and policies to the maximum extent that is practicable and consistent with federal laws and regulations. BLM's Proposed Rule does not clearly define how conservation leases and the designation of Areas of Critical Environmental Concern (ACECs) will be coordinated with local land use plans and policies. For example, the Proposed Rule includes a provision that "intact landscapes" be protected "from activities that would permanently or significantly disrupt, impair, or degrade the structure or functionality of intact landscapes". While the goal of this statement is laudable, it is blind to existing land use plans and policies which may identify other uses and activities.

Furthermore, the definition of "intact landscapes" and the protections they would be given under this Proposed Rule are vague, ripe for misinterpretation, and could inadvertently restrict or preclude beneficial land practices if characterized as "land disturbances". For example, as currently written, common and beneficial conservation activities such as pinyon-juniper encroachment removal, livestock grazing, and invasive weed treatments could be prevented from occurring if considered as "activities that would permanently or significantly disrupt, impair, or degrade the structure or functionality of intact landscapes", and essentially undermine the purpose of the Proposed Rule. Therefore, SLUPAC suggests the BLM clarify and clearly define how the Proposed Rule and actions flowing from it will be coordinated and align with local land use plans and policies. Additionally, SLUPAC would like clarification on how the BLM will address any inconsistencies with local plans and policies. There is an imperative need to clarify and better define conservation provisions to avoid misinterpretation and misapplication.

Proposed Rule and the National Environmental Policy Act (NEPA)

The Proposed Rule represents a significant shift in the BLM's land management policy. Given the potential conflict with local land use plans and policies as well as the potential for other socioeconomic and environmental impacts, promulgation of this new rule should undergo a thorough evaluation under a Programmatic Environmental Impact Statement (PEIS).

The Federal Register Notice of Intent for this Proposed Rule states the "BLM intends to apply the Department Categorical Exclusion (CX) at 43 CFR 46.21(i) to comply with the National Environmental

Policy Act.” According to NEPA and the BLM’s NEPA Handbook, a CX should not be allowed. Section 3.2.1 Policies and Rulemaking, the NEPA Handbook states:

- “The CEQ regulations define major federal actions to include adoption of official policy (that is, rules and regulations), adoption of formal plans, adoption of programs, and approval of specific projects.” p. 13

All rulemakings, including the Proposed Rule, are therefore “major Federal actions.” The NEPA Handbook also prescribes a 3-part test to determine whether a rule warrants a full EIS under NEPA:

- “When we propose a policy, we must evaluate it to determine whether it is a major Federal action significantly affecting the quality of the human environment, and thus triggers the need to prepare an EIS (40 CFR 1502.4(b)). This evaluation involves a three-part test to determine whether the following apply: the action must (1) be federally approved or conducted, (2) major, and (3) have a significant environmental impact. However, it is not always as clear whether a proposed policy will affect the human environment. The BLM must evaluate if the proposed action would authorize any activity or commit any resources, thus affecting the human environment (40 CFR 1508.18).” p. 14

SLUPAC maintains that by virtue of creating a new category of “use” under the BLM’s Federal Land Management multiple use mandate, which could be applied across millions of acres under BLM management in Nevada, all three elements of the 3-part test apply. In the same way that the creation of competitive leasing program for solar required an EIS in 2012, so too should the creation of yet another leasing mechanism be subject to NEPA and a full EIS. Therefore, a full EIS is warranted and required.

Furthermore, with multiple landscape level resource management changes currently underway (Western Solar PEIS update, Sage Grouse Plan Amendments, and Revision of Grazing Regulations), the BLM has a responsibility to consider the potential cumulative impacts with this Proposed Rule as stipulated in NEPA.

Undertaking a NEPA analysis would also grant State, Federal recognized Indian Tribes and Local Governments their right under the law to participate in the analysis as Cooperating Agencies (CA) and through required public comment periods. Localized CA engagement would enable the BLM to receive important, community-level socioeconomic data and input regarding the potential impacts of the Proposed Rule, as well as ensure it is consistent with local land use plans and policies as required under FLMPA and NEPA.

Need to Move Forward on Nevada-Wide Resource Management Plan (RMP) Modernization Project

The current average age of a Nevada RMP is currently more than 22 years. Within this time period, new issues have arisen related to land use changes caused by urban development and changing conditions on Nevada’s public lands. Additionally, there have been significant policy changes related to recreation, energy production, mineral extraction, land leasing, agriculture, wildfire management, military activities, transportation, and many other land use planning issues. Nevada’s population and economy continue to grow significantly. As a result, the continuing and fast-paced land use changes on Nevada’s landscapes need to be addressed collaboratively. Updates are needed to Nevada’s outdated

RMP's so that the BLM can be responsive to these changing conditions and the ongoing land use planning challenges throughout Nevada.

During our November 10, 2022 meeting, SLUPAC endorsed the Nevada-Wide RMP Modernization Project proposed by BLM's Nevada State Office. SLUPAC asserts that a significant land use policy or management change such as that proposed in the Proposed Rule should instead be done through a collaborative and comprehensive RMP planning process with a focus on local involvement and coordination. This transparent planning process will be more effective in achieving the conservation goals of the Proposed Rule while balancing the other multi-use resource needs and interests of the state.

Promote Tribal Engagement and Traditional Ecological Knowledge

Local stakeholders, and in particular Federally recognized Indian Tribes have specific knowledge and possess an on-the-ground understanding of Nevada's land use planning policies and management activities. SLUPAC believes it is critical for the BLM to foster close communication and coordinate conservation efforts with Tribes for the benefit of Nevada's natural resources. The efforts of the proposed public lands rule to promote increased Tribal engagement and co-management opportunities are commendable. The inclusion of traditional ecological knowledge of the Tribes in Nevada into the land management decisions will help identify and avoid significant cultural resources and better protect natural resources. SLUPAC supports the BLM working in close partnership with Federally recognized Indian Tribes throughout Nevada in a meaningful, collaborative, and transparent manner to incorporate traditional ecological knowledge and promote co-management opportunities.

Need to Combat Current Speculative Leasing Practices

SLUPAC also encourages the BLM to develop policies that will discourage speculative projects on public land. In recent years across several hundred thousand acres throughout Nevada there has been a rush by developers, private investors, and others to propose large scale renewable energy projects, oil & gas leases, mining projects, special use activities, and other uses that are specious and speculative. Many of these speculative projects have very little chance of ever being completed and take up the valuable time of BLM field office staff. Better vetting, tracking and mapping of speculative projects proposed on public lands is needed to help local stakeholders better understand and plan for more realistic projects across Nevada. Given the impact of speculative projects on the demands of BLM field office staff, SLUPAC is concerned about the conservation leasing activities under the Proposed Rule interfering with other important land management activities. Also, SLUPAC is concerned conservation leases could be used, not for conservation, but as a defensive tool of special interests to prevent otherwise allowable multiple use activities. Therefore, SLUPAC again supports a comprehensive RMP update to balance conservation with other land use uses and to limit speculation.

Provide Beneficial Local Mitigation

SLUPAC notes that the state lacks a comprehensive and integrated dataset with respect to the impacts of all the permitted multiple use activities on Nevada's public lands. As stated, the average age of an RMP in Nevada is 22 years and better planning is needed to adapt to changing conditions and provide balanced responsible development. SLUPAC encourages the BLM to update its RMP's to provide a full accounting and mapping of the multiple use activities that have been permitted or proposed on

public lands in Nevada. This accounting and mapping of these activities will also allow the State, Tribal Nations, and Local Governments in Nevada to better understand the impacts of these uses and provide for mitigation in their own planning processes.

SLUPAC believes that improvements can be made to current management practices to provide a clearer path for compensatory mitigation. Any mitigation that is done to offset the impacts of a project should be done in ways that are consistent with local land use plans and policies. Additionally, mitigation should be done where the project is located and should be to the benefit of a local community that is impacted by the project.

Specific Comments Requested on Proposed Public Lands Rule

The BLM specifically requested comments on several aspects of the conservation lease Proposed Rule. SLUPAC provides the following comments to each of BLM's scoping questions below:

- *The BLM welcomes comments on how applying the fundamentals of land health beyond lands allocated to grazing will interact with BLM's management of non-renewable resources.*
Taken in the context of this Proposed Rule as it is written and described in the Federal Register this is not at all clear. Assessing the land health across the ~248 million acres that the BLM manages seems a worthy, but monumental task – a task that it is not at all clear that the BLM has the capacity to carry out. Non-renewable mineral extraction is critical to the economies of our state, many of our counties, and to our national security. If this Proposed Rule is moved forward the BLM needs to very explicitly define how it will balance the designation of ACECs and Conservation Leasing with multiple-use principles. In most instances, mineral exploration, grazing, and other uses can be done without compromising long term land health. Additionally, it is unclear how BLM would apply land health standards to other non-permitted uses. SLUPAC supports evaluation of land health through a PEIS process with robust public input.
- *Is the term “conservation lease” the best term for this tool?* It seems like an appropriate term if BLM chooses to move forward with a clear definition of conservation.
- *What is the appropriate default duration for conservations leases?* Given the BLM's “multiple-use and sustained-yield mandates to manage public lands for resilience and future productivity” and given the noted accelerated changes that are occurring within ecosystems it seems important for the BLM to maintain a higher degree of flexibility and nimbleness in land management. In some instances, “restoration” activities can be successful in a relatively short period of time; in other instances, the importance and value of a certain leased area may be so diminished by environmental events (such as wildfire) to eliminate any of the affected area's potential to contribute to a “resilient ecosystem” or a conservation lease. In the interest of nimble and responsive management BLM should monitor active conservation leases frequently and make lease durations site specific depending on condition and restoration need
- *Should the rule constrain which lands are available for conservation leasing?* Yes, without succinctly delineating the land that would be available for conservation leasing there is a very real possibility that conservation leases will supersede and crowd out other productive uses. If this Proposed Rule is implemented, the lands available for conservation leases should be defined by

Resource Management Plans, and eligibility for conservation leasing should align with local land use plans and policies. The BLM has an obligation under Section 202(c) of FLPMA to “coordinate the land use inventory, planning, and management activities of the Bureau... with the land use planning and management programs of the State and local governments.” NEPA has a similar mandate to analyze and address inconsistencies with local land use plans and policies. As such, BLM has an obligation to define and inventory which lands will be made available for conservations leasing, and ACECs, and to coordinate those efforts with local land use plans and policies.

- Should the rule clarify what actions conservation leases may allow? Yes, and since there are many existing uses under the multiple use framework that are generally compatible with conservation and restoration, the BLM should be clear and permissive in establishing acceptable actions on conservation leases. For example, grazing is an excellent conservation tool in the prevention of wildfire and other beneficial land management practices. Most outdoor recreation including hunting, fishing, camping, etc. can also be compatible with conservation and restoration, and as such should be included as permissible actions within conservation leasing. Potential conservation lease purchasers should know well in advance the actions and activities to be allowed under a conservation lease. Permissible activities on conservation leases should be widely transparent to the public.
- Should the rule expressly authorize the use of conservation leases to generate carbon offset credits? If a lessee demonstrates clear and convincing evidence that carbon capture or sequestration will be achieved, the generation of offset credits is supportable.
- Should conservation leases be limited to protecting or restoring specific resources, such as wildlife habitat, public water supply watersheds, or cultural resources? Yes, SLUPAC supports clearly identifying the specific resources to protect or restore in order to help mitigate speculative leasing. Conservation leases should be consistent with local land use plans and policies and have clear and measurable objectives towards the restoration of the affected ecosystem and be framed in the context of what is ecologically possible given any specific site’s ecological state. The use of Ecological Site Descriptions and associated State and Transition Models must be used to help guide conservation lease actions and objectives. These objectives should be publicly stated and transparent in the Proposed Rule that seeks to create these conservation lease instruments. Monitoring of conservation leases towards stated and measurable objectives should also be part of the process.

SLUPAC looks forward to continuing to work with the BLM to strengthen a framework to ensure healthy, working landscapes, abundant wildlife habitat, clean water, stable and vibrant socioeconomic conditions, and balanced decision-making on Nevada’s public lands. We appreciate the opportunity to provide these comments on the Proposed Rule and thank the BLM for its consideration of our concerns. If you have any questions or would like additional information concerning SLUPAC, please feel free to contact Scott Carey, State Lands Planner at 775-684-2723 or scarey@lands.nv.gov.

Sincerely,

Jake Tibbitts, Chair
State Land Use Planning Advisory Council

CC:

Governor Joe Lombardo
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Senator Jacky Rosen
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Congresswoman Susie Lee
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