



4310-HC

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

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MO#4500106771]

Temporary Closure and Temporary Restrictions of Specific Uses on Public Lands for the Burning Man Event (Permitted Event), Pershing County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of temporary closure and restrictions.

SUMMARY: Under the authority of the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) Winnemucca District, Black Rock Field Office, will implement a temporary closure and temporary restrictions to protect public safety and resources on public lands within and adjacent to the Burning Man event on the Black Rock Desert playa.

DATES: The temporary closure and temporary restrictions will be in effect from July 31, 2017, to September 20, 2017.

FOR FURTHER INFORMATION CONTACT: Mark E. Hall, Field Manager, BLM Black Rock Field Office, Winnemucca District, 5100 E. Winnemucca Blvd.,

Winnemucca, NV 89445-2921; telephone: 775-623-1500; email: mehall@blm.gov.

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message

or question with the above individual. You will receive a reply during normal hours.

SUPPLEMENTARY INFORMATION: The temporary closure and temporary restrictions affect public lands within and adjacent to the Burning Man event permitted on the Black Rock Desert playa within the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area in Pershing County, Nevada. The legal description of the affected public lands in the temporary public closure area is Mount Diablo Meridian, Nevada:

T. 33 N., R. 24 E., unsurveyed,

sec. 1 and 2, those portions lying northwesterly of East Playa Road;

sec. 3;

sec. 4, that portion lying southeasterly of Washoe County Road 34;

sec. 5;

sec. 8, NE1/4;

sec. 9, N1/2;

sec. 10, N1/2;

sec. 11, that portion of the N1/2 lying northwesterly of East Playa Road.

T. 33 1/2 N., R. 24 E., un-surveyed,

secs. 25, 26, and 27;

sec. 28 and 33, those portions lying easterly of Washoe County Road 34;

secs. 34, 35, and 36.

T. 34 N., R. 24 E., partly un-surveyed,

sec. 23, S1/2;

sec. 24, S1/2;

secs. 25 and 26;

sec. 27, E1/2NE1/4, E1/2SW1/4, SE1/4;

sec. 33, NE1/4NE1/4, S1/2NE1/4, that portion of the SW1/4 lying northeasterly of Washoe County Road 34, SE1/4;

secs. 34, 35, and 36.

T. 33 N., R. 25 E.,

sec. 4, that portion lying northwesterly of East Playa Road.

T. 34 N., R. 25 E., un-surveyed,

sec. 16, S1/2;

sec. 21;

sec. 22, W1/2NW1/4, SW1/4;

sec. 27, W1/2;

sec. 28;

sec. 33, that portion lying northwesterly of East Playa Road;

sec. 34, that portion of the W1/2 lying northwesterly of East Playa Road.

The temporary closure area comprises 14,153 acres in Pershing County, Nevada and is necessary for the period of time from July 31, 2017, to September 20, 2017, because of the Burning Man event, whose activities begin with fencing the site perimeter, Black Rock City setup, followed by the actual event (August 27 to September 4), Black Rock City tear down and cleanup, and final site cleanup. This event is authorized on public land under Special Recreation Permit #NVW03500-17-01.

The public closure area comprises about 13 percent of the Black Rock Desert playa. Public access to the other 87 percent of the playa outside the temporary closure

area will remain open to dispersed casual use.

The event area is fully contained within the temporary closure area. The event area is defined as the portion of the temporary closure area that: (1) Is entirely contained within the event perimeter fence, including 50 feet from the outside of the event perimeter fence; (2) Lies within 25 feet from the outside edge of the event access road; and (3) Includes the entirety of the aircraft parking area outside the event perimeter fence.

The temporary closure and restrictions are necessary to provide a safe environment for the paid participants and members of the public visiting the Black Rock Desert, and to protect public-land resources by addressing law-enforcement and public-safety concerns associated with the event. The temporary closure and restrictions are also necessary to enable BLM law enforcement personnel to provide for public safety and to protect the public lands as well as to support and assist State and local agencies with enforcement of existing laws. The permitted event takes place within Pershing County, Nevada, a rural county with a small population and a small Sheriff's Department. Key BLM staff members—including the authorizing officer for the 2017 event, the event incident commander, and the law enforcement operations chief—met with the Pershing County Sheriff and his planning team to coordinate and plan the 2017 event. The Sheriff's input and comments are incorporated in this closure order.

The event attracts up to 70,000 paid participants to a remote, rural area, located more than 90 miles from urban infrastructure and support, including such services as public safety, emergency medical delivery, transportation, and communication. During the event, Black Rock City, the temporary city associated with the event, becomes one of the largest population areas in Nevada.

A temporary closure and restrictions order, under the authority of 43 CFR 8364.1, is appropriate for a single event. The temporary closure and restrictions are specifically tailored to the time frame that is necessary to provide a safe environment for the public and for participants at the Burning Man event and to protect public land resources while avoiding imposing restrictions that may not be necessary in the area during the remainder of the year.

The BLM will post copies of the temporary closure, temporary restrictions, and an associated map in kiosks at access points to the Black Rock Desert playa as well as at the Gerlach Post Office, Bruno's Restaurant, Empire Store, Black Rock City offices, Friends of Black Rock-High Rock offices, the BLM-Nevada Black Rock Station near Gerlach, and the BLM-California Applegate Field Office. The BLM will also make the materials available on the Winnemucca District's external web page at:

<http://www.blm.gov/nv/st/en/fo/wfo.htm>

In addition to the Nevada Collateral Forfeiture and Bail Schedule as authorized by the United States District Court, District of Nevada and under the authority of Section 303(a) of FLPMA, 43 CFR 8360.0-7 and 43 CFR 8364.1, the BLM will enforce a temporary public closure and the following temporary restrictions will apply within and adjacent to the Burning Man event on the Black Rock Desert playa from July 31, 2017, through September 20, 2017:

Temporary Restrictions:

(a) Environmental Resource Management and Protection:

- (1) No person may deface, disturb, remove or destroy any natural object.
- (2) Fires/Campfires: The ignition of fires on the surface of the Black Rock Desert

playa without a burn blanket or burn pan is prohibited. Campfires may only be burned in containers that are sturdily elevated above the playa surface and in a manner that does not pose a risk of fire debris falling onto the playa surface. Plastic and nonflammable materials may not be burned in campfires. The ignition of fires other than a campfire is prohibited. This restriction does not apply to event-sanctioned and regulated art burns during the event.

(3) Fireworks: The use, sale or possession of personal fireworks is prohibited except for uses of fireworks approved by a permit holder and used as part of a Burning Man sanctioned art burn event.

(4) Grey and Black Water Discharge: The discharge and dumping of grey water onto the playa/ground surface is prohibited. Grey water is defined as water that has been used for cooking, washing, dishwashing, or bathing and/or contains soap, detergent, or food scraps/residue, regardless of whether such products are biodegradable or have been filtered or disinfected. Black water is defined as waste water containing feces, urine, and/or flush water.

(5) Human Waste: The depositing of human waste (liquid and/or solid) on the playa/ground surface is prohibited.

(6) Trash: The discharge of any and all trash/litter or matter out of place onto the ground/playa surface is prohibited. All event participants must pack out and properly dispose of all trash at an appropriate disposal facility off the playa.

(7) Hazardous Materials: The dumping or discharge of vehicle oil, petroleum products, or other hazardous household, commercial, or industrial refuse or waste onto the playa surface is prohibited. This applies to all recreational vehicles, trailers,

motorhomes, port-a-potties, generators, and other camp infrastructure.

(8) Fuel Storage: Each camp storing fuel must establish a designated fuel storage area at least ten (10) feet from combustible materials; twenty five (25) feet from generators, vehicles, or camp trailers/RV's and any sources of ignition (such as cigarettes/open flame); and one hundred (100) feet from other designated fuel storage areas. Fuel containers shall not exceed 80 percent capacity per container. The storage of greater than 110 gallons of fuel in a single camp is prohibited. Storage areas for all fuel must include a secondary containment system that can hold a liquid volume equal to or greater than 110 percent of the largest container being stored.

Secondary containment measures must comply with the following:

- a) The secondary containment system must be free of cracks or gaps and constructed of materials impermeable to the fuel(s) being stored; and
- b) The secondary containment system must be designed to allow the removal of any liquids captured resulting from leaks, spills, or precipitation.

(9) Water Discharge: The unauthorized dumping or discharge of water onto the playa surface, onto city streets, and/or other public areas or onto camp electric systems in a manner that creates a hazard or nuisance is prohibited. This provision does not prohibit the use of water trucks contracted by the event organizer to provide dust abatement measures.

(b) Commercial Activities

In accordance with Handbook H-2930-1 Chapter 1-C. Vending and the 2017 Special Recreation Permit Stipulation for the permitted event, all vendors and air carrier

services must provide proof of authorization to operate at the event issued by the permitting agency and/or the permit holder upon request. Failure to provide such authorization would potentially result in eviction from the event.

(c) Aircraft Landing:

The public closure area is closed to aircraft landing, taking off, and taxiing. Aircraft is defined in Title 18, U.S.C., section 31(a)(1) and includes lighter-than-air craft and ultra-light craft. The following exceptions apply:

- (1) All aircraft operations, including ultra-light and helicopter landings and takeoffs will occur at the designated 88NV Black Rock City Airport landing strips and areas defined by airport management. All takeoffs and landings will occur only during the hours of operation of the airport as described in the Burning Man Operating Plan. All pilots that use the Black Rock City Airport must agree to and abide by the published airport rules and regulations;
- (2) Only helicopters providing emergency medical services may land at the designated Emergency Medical Services helicopter pad or at other locations when required for medical incidents. The BLM authorized officer or his/her delegated representative may approve other helicopter landings and takeoffs when deemed necessary for the benefit of the law enforcement operation; and
- (3) Landings or takeoffs of lighter-than-air craft previously approved by the BLM authorized officer.

(d) Alcohol/Prohibited Substance:

- (1) Possession of an open container of an alcoholic beverage by the driver or operator of any motorized vehicle, whether or not the vehicle is in motion, is prohibited.

(2) Possession of alcohol by minors:

(i) The following are prohibited:

- (A) Consumption or possession of any alcoholic beverage by a person under 21 years of age on public lands; and
- (B) Selling, offering to sell, or otherwise furnishing or supplying any alcoholic beverage to a person under 21 years of age on public lands.

(3) Operation of a motor vehicle while under the influence of alcohol, narcotics, or dangerous drugs:

(i) Title 43 CFR 8341.1(f)(3) prohibits the operation of an off-road motor vehicle on public land while under the influence of alcohol, narcotics, or dangerous drugs.

(ii) In addition to the prohibition found at 43 CFR 8341.1(f)(3), it is prohibited for any person to operate or be in actual physical control of a motor vehicle while:

(A) The operator is under the combined influence of alcohol, a drug, or drugs to a degree that renders the operator incapable of safe operation of that vehicle; or

(B) The alcohol concentration in the operator's blood or breath is 0.08 grams or more of alcohol per 100 milliliters of blood or 0.08 grams or more of alcohol per 210 liters of breath.

(C) It is unlawful for any person to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access with an amount of a prohibited substance in his or her urine or blood that is

equal to or greater than the following nanograms per milliliter (ng/ml):

- (1) Amphetamine: urine, 500 ng/ml; blood, 100 ng/ml;
- (2) Cocaine: urine, 150 ng/ml; blood, 50 ng/ml;
- (3) Cocaine metabolite: urine, 150 ng/ml; blood, 50 ng/ml;
- (4) Heroin: urine, 2,000 ng/ml; blood, 50 ng/ml;
- (5) Heroin metabolite:
 - (i) Morphine: urine, 2,000 ng/ml; blood, 50 ng/ml;
 - (ii) 6-monoacetyl morphine: urine, 10 ng/ml; blood, 10 ng/ml;
- (6) Lysergic acid diethylamide: urine, 25 ng/ml; blood, 10 ng/ml;
- (7) Marijuana: urine, 10 ng/ml; blood, 2 ng/ml;
- (8) Marijuana metabolite: urine, 15 ng/ml; blood, 5 ng/ml;
- (9) Methamphetamine: urine, 500 ng/ml; blood, 100 ng/ml;
- (10) Phencyclidine: urine, 25 ng/ml; blood, 10 ng/ml;

(iii) Tests:

(A) At the request or direction of any law enforcement officer authorized by the Department of the Interior to enforce this closure and restriction order, who has probable cause to believe that an operator of a motor vehicle has violated a provision of paragraph (i) or (ii) of this section, the operator shall submit to one or more tests of the blood, breath, saliva, or urine for the purpose of determining blood alcohol and drug content.

(B) Refusal by an operator to submit to a test is prohibited and proof of refusal may be admissible in any related judicial proceeding.

(C) Any test or tests for the presence of alcohol and drugs shall be determined by

and administered at the direction of an authorized law enforcement officer.

(D) Any test shall be conducted by using accepted scientific methods and equipment of proven accuracy and reliability operated by personnel certified in its use.

(iv) Presumptive levels:

(A) The results of chemical or other quantitative tests are intended to supplement the elements of probable cause used as the basis for the arrest of an operator charged with a violation of paragraph (i) of this section. If the alcohol concentration in the operator's blood or breath at the time of testing is less than alcohol concentrations specified in paragraph (ii)(B) of this section, this fact does not give rise to any presumption that the operator is or is not under the influence of alcohol.

(B) The provisions of paragraph (iv)(A) of this section are not intended to limit the introduction of any other competent evidence bearing upon the question of whether the operator, at the time of the alleged violation, was under the influence of alcohol, a drug or multiple drugs or any combination thereof.

(4) Definitions:

(i) Open container: Any bottle, can, or other container which contains an alcoholic beverage, if that container does not have a closed top or lid for which the seal has not been broken. If the container has been opened one or more times, and the lid or top has been replaced, that container is an open container.

(ii) Possession of an open container includes any open container that is

physically possessed by the driver or operator or is adjacent to and reachable by that driver or operator. This includes, but is not limited, to containers in a cup holder or rack adjacent to the driver or operator, containers on a vehicle floor next to the driver or operator, and containers on a seat or console area next to a driver or operator.

(e) Drug Paraphernalia:

(1) The possession of drug paraphernalia is prohibited.

(2) Definition: Drug paraphernalia means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of any State or Federal law, or regulation issued pursuant to law.

(f) Disorderly Conduct:

(1) Disorderly conduct is prohibited.

(2) Definition: Disorderly conduct means that an individual, with the intent of recklessly causing public alarm, nuisance, jeopardy, or violence; or recklessly creating a risk thereof:

(i) Engages in fighting or violent behavior;

(ii) Uses language, an utterance, or gesture or engages in a display or act that is physically threatening or menacing or done in a manner that is likely to inflict injury or incite an immediate breach of the peace.

(iii) Obstructs, resists, or attempts to elude a law enforcement officer, or fails to follow their orders or directions.

(g) Eviction of Persons:

(1) The public closure area is closed to any person who:

(i) Has been evicted from the event by the permit holder, whether or not the eviction was requested by the BLM;

(ii) Has been evicted from the event by the BLM;

(iii) Has been ordered by a law enforcement officer to leave the area of the permitted event.

(2) Any person evicted from the event forfeits all privileges to be present within the perimeter fence or anywhere else within the public closure area even if they possess a ticket to attend the event.

(h) Motor Vehicles:

(1) Must comply with the following requirements:

(i) The operator of a motor vehicle must possess a valid driver's license.

(ii) Motor vehicles and trailers must possess evidence of valid registration, except for mutant vehicles, or other vehicles registered with the permitted event organizers and operated within the scope of that registration.

(iii) Motor vehicles must possess evidence of valid insurance, except for mutant vehicles or other vehicles registered with the permitted event organizers and operated within the scope of that registration.

(iv) Motor vehicles and trailers must not block a street used for vehicular travel or a pedestrian pathway.

(v) Motor vehicles must not exceed the posted or designated speed limits. Posted or designated speed limits also apply to motorized skateboards, electric assist bicycles, and Go-Peds with handlebars.

(vi) No person shall occupy a trailer while the motor vehicle is in transit upon a roadway, except for mutant vehicles, or other vehicles registered with the permitted event organizers and operated within the scope of that registration.

(vii) During night hours, from a half-hour after sunset to a half-hour before sunrise, motor vehicles, other than a motorcycle or golf cart—which require only one working headlamp, one working tail light, and one working break light—must be equipped with at least two working headlamps and at least two functioning tail lamps, except for mutant vehicles or other vehicles registered with the permitted event organizers and operated within the scope of that registration, so long as they are adequately lit according to Black Rock City LLC Department of Mutant Vehicle requirements.

(viii) Motor vehicles, other than a motorcycle or golf cart, must display a red, amber, or yellow light brake light visible to the rear in normal sunlight upon application of the brake, except for mutant vehicles, or other vehicles registered with the permitted event organizers and operated within the scope of that registration, so long as they are adequately lit according to Black Rock City LLC Department of Mutant Vehicle requirements.

(ix) Trailers pulled by motor vehicles must be equipped with at least two functioning tail lamps and at least two functioning brake lights.

(x) Motor vehicles must display an unobstructed rear license plate in a place and position to be clearly visible and must be maintained free from foreign materials and in a condition to be clearly legible, except for mutant vehicles, or other vehicles registered with the permitted event organizers and operated within the scope of that registration.

(2) The public closure area is closed to motor vehicle use, except as provided below.

Motor vehicles may be operated within the public closure area under the circumstances listed below:

(i) Participant arrival and departure on designated routes;

(ii) BLM, medical, law enforcement, and firefighting vehicles are authorized at all times;

(iii) Vehicles, mutant vehicles, or art cars operated by the permit holder's staff or contractors and service providers on behalf of the permit holder are authorized at all times. These vehicles must display evidence of event registration in such manner that it is visible to the rear of the vehicle while the vehicle is in motion;

(iv) Vehicles used by disabled drivers and displaying official State-disabled-driver license plates or placards; or mutant vehicles and art cars, or other vehicles registered with the permit holder must display evidence of registration at all times in such manner that it is visible to the rear of the vehicle while the vehicle is in motion;

(v) Participant drop-off of approved burnable material and wood to the Burn Garden/Wood Reclamation Stations (located on open playa at 3:00, 6:00, 9:00 Promenades and the Man base) from 10:00 a.m. Sunday through the end of day Tuesday, post event;

(vi) Passage through, without stopping, the public closure area on the west or east playa roads;

(vii) Support vehicles for art vehicles, mutant vehicles, and theme camps will be allowed to drive to and from fueling stations.

(3) Definitions:

(i) A motor vehicle is any device designed for and capable of travel over land and which is self-propelled by a motor, but does not include any vehicle operated on rails or any motorized wheelchair.

(ii) Motorized wheelchair means a self-propelled wheeled device, designed solely for and used by a mobility-impaired person for locomotion.

(iii) "Trailer" means every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle, this includes camp trailers, pop-up trailers, 4'x7' or larger flatbed trailers, enclosed cargo trailers, or RV style trailers.

(i) Public Camping:

The public closure area is closed to public camping with the following exception:

The permitted event's ticket holders who are camped in designated event areas provided by the permit holder and ticket holders who are camped in the authorized pilot camp and

the permit holder's authorized staff, contractors, and BLM-authorized event management related camps are exempt from this closure.

(j) Public Use:

The public closure area is closed to use by members of the public unless that person is traveling through, without stopping, the public closure area on the west or east playa roads; possesses a valid ticket to attend the event; is an employee or authorized volunteer with the BLM, a law enforcement officer, emergency medical service provider, fire protection provider, or another public agency employee working at the event and that individual is assigned to the event; is a person working at or attending the event on behalf of the permit holder; or is authorized by the permit holder to be onsite prior to the commencement of the event for the primary purpose of constructing, creating, designing or installing art, displays, buildings, facilities, or other items and structures in connection with the event; or is a commercial operation to provide services to the event organizers and/or participants authorized by the permit holder through a contract or agreement and authorized by BLM through a Special Recreation Permit.

(k) Unmanned Aircraft Systems:

(1) The use of unmanned aircraft systems (UAS) is prohibited, unless the operator is authorized through and complies with the Remote Control BRC (RCBRC) program and operates the UAS in accordance with Federal laws and regulations, specifically the operational limitations under the Small Unmanned Aircraft Rule (Part 107).

(2) Definition:

(i) Unmanned aircraft means an aircraft operated without the possibility of direct human intervention from within or on the aircraft.

(ii) UAS is the unmanned aircraft and all of the associated support equipment, control station, data links, telemetry, communications and navigation equipment, etc., necessary to operate the unmanned aircraft.

(l) Lasers:

(1) The possession and or use of handheld lasers is prohibited.

(2) Definition:

(i) A laser means any hand held laser beam device or demonstration laser product that emits a single point of light amplified by the stimulated emission of radiation that is visible to the human eye.

(m) Weapons:

(1) The possession of any weapon is prohibited except weapons within motor vehicles passing, without stopping, through the public closure area on the west or east playa roads.

(2) The discharge of any weapon is prohibited.

(3) The prohibitions above shall not apply to county, State, tribal, and Federal law enforcement personnel who are working in their official capacity at the event. “Art projects” that include weapons and are sanctioned by the permit holder will be permitted after obtaining authorization from the BLM authorized officer.

(4) Definitions:

(i) Weapon means a firearm, compressed gas or spring powered pistol or rifle, bow and arrow, cross bow, blowgun, spear gun, hand-thrown spear, sling shot, irritant gas device, electric stunning or immobilization device, explosive device, any implement designed to expel a projectile, switch-

blade knife, any blade which is greater than 10 inches in length from the tip of the blade to the edge of the hilt or finger guard nearest the blade (e.g., swords, dirks, daggers, machetes) or any other weapon the possession of which is prohibited by State law. Exception: This rule does not apply in a kitchen or cooking environment or where an event worker is wearing or utilizing a construction knife for their duties at the event.

(ii) Firearm means any pistol, revolver, rifle, shotgun, or other device which is designed to, or may be readily converted to expel, a projectile by the ignition of a propellant.

(iii) Discharge means the expelling of a projectile from a weapon.

Any person who violates the above rules and restrictions may be tried before a United States Magistrate and fined no more than \$100,000, imprisoned no more than 12 months or both, in accordance with 18 U.S.C. 3571(b), 43 U.S.C. 1733(a) and 43 CFR 8360.0-7. Such violations may also be subject to the enhanced penalties provided by 18 U.S.C. 3571 and 3581. In accordance with 43 CFR 8365.1-7, State or local officials may also impose penalties for violations of Nevada law.

Authority: 43 CFR 8364.1

Mark E. Hall
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Winnemucca District

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