

4310-HC

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

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

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that 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 August 4, 2014 to September 15, 2014.

FOR FURTHER INFORMATION CONTACT: Gene Seidlitz, BLM District Manager, Winnemucca District, 5100 E. Winnemucca Blvd., Winnemucca, NV 89445-2921, telephone: 775-623-1500, e-mail: gseidlitz@blm.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individual during normal business hours. The FIRS 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.

SUPPLEMENTAL 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

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

sec. 1, that portion lying northwesterly of East Playa Road;

sec. 2, that portion 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., unsurveyed,

secs. 25, 26, and 27;

sec. 28, that portion lying easterly of Washoe County Road 34;

sec. 33, that portion lying easterly of Washoe County Road 34;

secs. 34, 35, and 36.

T. 34 N., R. 24 E., partly unsurveyed,

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., unsurveyed,

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, more or less, in Pershing County,
Nevada.

The public closure is necessary for the period of time from August 4, 2014,
through September 15, 2014, because of the Burning Man event activities in the area,
starting with fencing the site perimeter, final setup, the actual event (August 24 through
September 1), initial phases of cleanup, and concluding with final site cleanup.

The public closure area comprises about 13 percent of the Black Rock Desert playa. Public access to other areas of the playa will remain open and the other 87 percent of the playa outside the temporary closure area will remain open to dispersed casual use.

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

The temporary closure and temporary restrictions are necessary to provide a safe environment for the participants of the Burning Man event and to 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 event is expected to attract approximately 68,000 paid participants to a remote rural area, more than 90 miles from urban infrastructure and support, including public safety, transportation, and communication services. During the event, Black Rock City, the temporary city associated with the event, becomes the tenth-largest population area in Nevada. This event is authorized on public land under Special Recreation Permit #NVW03500-14-01.

While a majority of Burning Man event participants do not violate event rules or BLM rules and regulations, a few participants at previous events have caused law enforcement and public safety incidents similar to those observed in urban areas of similar-size populations. Incidents in prior years include: aircraft crashes; motor vehicle accidents with injuries both within and outside the event perimeter; fights; sexual assault; assault on law enforcement officers; reckless or threatening behavior; crimes against

property; crowd control issues; possession and unlawful use of alcoholic beverages; endangerment of themselves or others; possession, use, and distribution of controlled substances; and increased use of public lands outside the event perimeter.

The Burning Man event takes place within Pershing County, a rural county with a small population and a small Sheriff's Department. The temporary closure and temporary restrictions are necessary to enable BLM law enforcement personnel to provide for public safety and to protect the environment on public lands, as well as to support State and local agencies with enforcement of existing laws.

Use of the Black Rock playa by up to 68,000 paid participants creates potential impacts to public resources associated with disposal of wastes and litter. Implementation of the temporary restrictions will increase interaction with and education of users by BLM law enforcement and educational staff which will indirectly increase appreciation and protection of the public resources.

A temporary closure and temporary restrictions order, under the authority of 43 CFR 8364.1, is appropriate for a single event. A temporary closure and temporary restrictions order is specifically tailored to the timeframe 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 information signs and maps about the temporary closure and temporary restrictions at main entry points around the playa, at the BLM Winnemucca District Office, at the Nevada State Office, and at the Black Rock Visitor Center and on the BLM's website: www.blm.gov/nv/st/en/fo/wfo.html.

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 August 4, 2014 through September 15, 2014:

I. Temporary Restrictions:

A. 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 delegated representative may approve other helicopter landings and takeoffs when deemed necessary for the benefit of the law enforcement operation.

3. Landings or takeoffs of lighter-than-air craft previously approved by the BLM authorized officer.

B. Alcohol

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

(a) The following are prohibited:

(1) Consumption or possession of any alcoholic beverage by a person under 21 years of age on public lands.

(2) 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

(a) 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.

(b) In addition to the prohibition found at 43 CFR8341.1(f)3, it is prohibited for any person to operate or be in actual physical control of a motor vehicle while:

(1) 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

(2) 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.

(3) 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):

(a) Amphetamine: urine, 500 ng/ml; blood, 100 ng/ml

(b) Cocaine: urine, 150 ng/ml; blood, 50 ng/ml

(c) Cocaine metabolite: urine, 150 ng/ml; blood, 50 ng/ml

(d) Heroin: urine, 2,000 ng/ml; blood, 50 ng/ml

(e) Heroin metabolite:

(1) Morphine: urine, 2,000 ng/ml; blood, 50 ng/ml

(2) 6-monoacetyl morphine: urine, 10 ng/ml; blood, 10 ng/ml

(f) Lysergic acid diethylamide: urine, 25 ng/ml; blood, 10 ng/ml

(g) Marijuana: urine, 10 ng/ml; blood, 2 ng/ml

(h) Marijuana metabolite: urine, 15 ng/ml; blood, 5 ng/ml

(i) Methamphetamine: urine, 500 ng/ml; blood, 100 ng/ml

(j) Phencyclidine: urine, 25 ng/ml; blood, 10 ng/ml

(c) Tests:

(1) 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 (a) or (b) 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.

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

(3) 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.

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

(d) Presumptive levels

(1) 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 (a) 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 (b)(2) of this section, this fact does not give rise to any presumption that the operator is or is not under the influence of alcohol.

(2) The provisions of paragraph (d)(1) 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:

(a) 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.

(b) 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.

C. 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.

D. 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:

(a) Engages in fighting or violent behavior.

(b) 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.

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

E. Eviction of Persons

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

(a) Has been evicted from the event by the permit holder, Black Rock City LLC, (BRC LLC) whether or not the eviction was requested by the BLM.

(b) 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.

F. Fires

The ignition of fires on the surface of the Black Rock playa without a burn blanket or burn pan is prohibited.

G. Fireworks

The use, sale or possession of personal fireworks is prohibited except for uses of fireworks approved by BRC LLC and used as part of a Burning Man sanctioned art burn event.

H. Motor Vehicles

1. Must comply with the following requirements:

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

(b) Motor vehicles and trailers must possess evidence of valid registration, except for mutant vehicles, vehicles used by disabled drivers and displaying disabled driver license plates or placards, or other vehicles registered with the BRC LLC organizers and operated within the scope of that registration.

(c) Motor vehicles and trailers must possess evidence of valid insurance, except for mutant vehicles, vehicles used by disabled drivers and displaying disabled driver license plates or placards, or other vehicles registered with the BRC LLC organizers and operated within the scope of that registration.

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

(e) Motor vehicles must not exceed the posted speed limit.

(f) No person shall occupy a trailer while the motor vehicle is in transit upon a roadway, except for mutant vehicles, vehicles used by disabled drivers and displaying disabled driver license plates or placards, or other vehicles registered with the BRC LLC organizers and operated within the scope of that registration.

(g) Motor vehicles, other than a motorcycle or golf cart, must be equipped with at least two working headlamps, at least two functioning tail lamps and at least two functioning brake lights, except for mutant vehicles, vehicles used by disabled drivers and displaying disabled driver license plates or placards, or other vehicles registered with the BRC LLC 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.

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

(i) Motor vehicles and trailers must display an unobstructed rear license plate and must be equipped with a mounted lamp to illuminate the rear license plate, except for mutant vehicles, vehicles used by disabled drivers and displaying disabled driver license plates or placards, or other vehicles registered with the

BRC LLC 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:

- (a) Participant arrival and departure on designated routes;
- (b) BLM, medical, law enforcement, and firefighting vehicles are authorized at all times;
- (c) Vehicles operated by BRC LLC staff or contractors and service providers on behalf of BRC LLC. During the event, from 6:00 p.m. Sunday, August 24, 2014, through 6:00 p.m. Monday, September 1, 2014, these vehicles must display evidence of event registration at all times in such manner that it is visible to the rear of the vehicle while the vehicle is in motion;
- (d) Mutant vehicles, art cars, vehicles used by disabled drivers and displaying disabled driver license plates or placards, or other vehicles registered with the BRC LLC organizers and operated within the scope of that registration. During the event, from 6:00 p.m. Sunday, August 24, 2014 , through 6:00 p.m. Monday, September 1, 2014, such vehicles 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;

(e) Motorized skateboards, electric assist bicycles, or Go-Peds with or without handlebars;

(f) Participant drop off of approved burnables 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 9:00 a.m. Sunday, August 31, 2014 through the end of day Tuesday, September 2, 2014, post event; and

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

3. Definitions:

(a) 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.

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

(c) A trailer is any instrument designed to be hauled by a motor vehicle.

I. Public Camping

The public closure area is closed to public camping with the following exception: Burning Man event ticket holders who are camped in designated event areas provided by BRC LLC, and ticket holders who are camped in the

authorized pilot camp. BRC LLC 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 BRC LLC; or is authorized by BRC LLC 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 BRC LLC through a contract or agreement and authorized by BLM through a Special Recreation Permit.

K. Waste Water Discharge

The dumping or discharge to the ground of gray water is prohibited. Gray water is water that has been used for cooking, washing, dishwashing, or bathing and contains soap, detergent, food scraps, or food residue.

L. 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 BRC LLC will be permitted after obtaining authorization from the BLM authorized officer.
4. Definitions:
 - (a) 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.

(b) 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.

(c) 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 \$1,000, imprisoned for no more than 12 months, or both. Such violations may also be subject to the enhanced fines provided for at 18 U.S.C. 3571.

Authority: 43 CFR 8364.1

Gene Seidlitz,
District Manager, Winnemucca District.

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