



Public Employees for Environmental Responsibility

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June 10, 2016

The Honorable Sally Jewell
Secretary of the Interior
U.S. Department of the Interior
1849 C Street, N.W.
Washington DC 20240

Christy Goldfuss
Managing Director
White House Council on Environmental Quality
722 Jackson Place, NW
Washington, DC 20503

Secretary_jewell@ios.doi.gov; christina_w_goldfuss@ceq.eop.gov

Re: Call for Review of BLM's Pre-Approval of 2016 Vegas to Reno Off-Road Race through Basin and Range National Monument

Dear Secretary Jewell and Director Goldfuss:

I am writing on behalf of Public Employees for Environmental Responsibility (PEER) to request your immediate attention on an imminent matter under your jurisdiction. The Nevada Bureau of Land Management (BLM) appears to have approved, prior to any formal analysis or permitting, a massive off road race course running directly through the newly created Basin and Range National Monument.

As explained below, these actions threaten to:

- Circumvent the presidential proclamation and undermine the President's goals in declaring the Basin and Range National Monument;
- Violate the National Environmental Policy Act (NEPA); and
- Frustrate public involvement by engaging in bad faith, if not downright deceptive, public outreach.

PEER is requesting an urgent review by the Secretary's office in these matters and we also request an investigation by the White House Council on Environmental Quality (CEQ) into the apparent abuses of the NEPA process.

In July 2015, President Obama created the Basin and Range National Monument across 704,000 acres in Nevada, protecting one of the “most undisturbed corners” and the “largest ecologically intact landscapes” within the broader Great Basin region.¹ To preserve this unique and fragile ecosystem, the President’s Proclamation contained specific prohibitions on off road vehicle use: “[e]xcept for emergency or authorized administrative purposes, motorized vehicle use in the monument shall be permitted only on roads existing as of the date of this proclamation.”

In August 2015, the Back in the Desert Racing Association (BITD) held the 2015 Vegas to Reno off road race, permitted through the Carson City BLM District Office and running generally along the southern border of Nevada. The day prior to the race, the director of BITD stated in a closed press conference that the 2016 race course had been deliberately planned to go through the newly created National Monument.² An August 10, 2015 *Reno Gazette-Journal* article stated that “[c]oordination between the field offices and BITD already is in progress to ensure permitting is completed and the public is involved.”³ In fact, the public has not been involved – just the opposite.

Disturbingly, the BLM was coordinating with race organizers to undermine the Proclamation’s clear intention to preserve this undisturbed land barely a month after President Obama designated the Basin and Range National Monument.

Now, a mere two months before the 2016 race is set to begin and with more than 200 racers already registered, *no* public notice has been provided and *no* public comment has been sought in regards to the race.

Notwithstanding this clear lack of permitting action, BITD has already released the 2016 race’s “mileage chart” indicating the exact distance to a tenth of a mile between each stop on the race.⁴

It appears clear from the information on the public record that the BLM violated NEPA by giving at least tacit permission for the 2016 Vegas to Reno race route before undertaking the required environmental assessment. The main purpose of NEPA is to “insure that environmental information is available to public officials and citizens *before decisions are made* [emphasis added] and before actions are taken.”⁵ Prior to the release of a Record of Decision, “no action concerning the proposal shall be taken which would ... [l]imit the choice of reasonable alternatives.”⁶

The BLM’s choice to encourage BITD to move forward with in-monument race planning prior to any official permitting or public input limits the ability of the BLM to honestly select between reasonable course alternatives, including the choice to not permit the race or to determine that the course selection would have appreciable impacts on Monument land. A NEPA assessment cannot be used to “rationalize or justify decisions already made,” yet that is precisely what BLM is doing.⁷ It is obvious that any of its

¹ <https://www.whitehouse.gov/the-press-office/2015/07/10/presidential-proclamation-establishment-basin-and-range-national>

² <http://www.offroadxtreme.com/news/get-excited-big-changes-for-best-in-the-desert-2016/>

³ <http://www.rgj.com/story/news/local/leader-courier/2015/08/09/vegas-reno-race-held-aug/31311421/>

⁴ http://bitd.com/wordpress/wp-content/uploads/2016/06/2016_VtoR_Race_Mileage_No-Pit-Names.pdf

⁵ 40 C.F.R. § 1500.1(b)

⁶ 40 C.F.R. § 1506.1(a)

⁷ 40 C.F.R. § 1502.5

rapidly forthcoming assessments will be written to implement its decision made before August 2015 – to permit the race to run through the National Monument.

Moreover, the BLM has a duty to prevent outside parties from taking unauthorized actions to implement a project subject to NEPA until NEPA procedures are completed. In this instance, BLM allowing the BITD to move forward with race planning violates this mandate.⁸ The BITD has committed significant time and resources into the establishment of the 2016 race course. This commitment has been encouraged by the BLM’s implicit pre-approval of routing the first leg of the course directly through the Monument.

With only 45 working days remaining until the race begins, BLM has eliminated its ability to reach any assessment decision other than a Finding of No Significant Impact (FONSI), as a finding that an Environmental Impact Statement is required would bar the race from taking place as scheduled.

In this instance, a FONSI finding is inappropriate not just because it has been predetermined but because there is little question that the “longest off road race in the country” will create adverse environmental impacts, undoubtedly impacting the “undisturbed” nature of Basin and Range.

According to the CEQ’s own guidelines,⁹ an assessment of the 2016 race route will not meet the criteria required for a FONSI because:

- The Basin and Range area contains significant cultural and historic resources, including rare artifacts and valuable petroglyph sites, and many of these exceptional features are located in the Southern area of the Monument, the closest section to the race start;
- The use of the National Monument for the race is likely to be highly controversial, requiring BLM to undertake a more complete analysis of the race’s impacts;
- Other fast paced off road races have led to injury or death for observers and participants, including the deaths of an 8 year old spectator and two race drivers just this month, and public safety may be negatively impacted by the course;¹⁰
- Permitting the race creates a precedent of permitting off road racing within the Monument in the future – a decision wholly inappropriate in the midst of the Monument management planning process; and
- The cumulative impact of individual race vehicles on the land constitutes a significant environmental harm, and the potential loss or destruction of important natural resources requires the completion of a full environmental analysis.

In addition, since the 2016 course will significantly differ from the 2015 course, it would be inappropriate for BLM to rely on past analyses to evaluate potential race impacts. The environmental

⁸ 40 C.F.R. § 1506.1(b)

⁹ 40 C.F.R. § 1508.27

¹⁰ <http://blackflag.jalopnik.com/three-deaths-confirmed-at-2016-baja-500-include-8-year-1780670922>

analysis conducted must focus on the area as it is now – across a National Monument protecting national treasures.

Additionally, the BLM was directed by the Presidential Proclamation to prepare and implement a management plan for the Monument, with “maximum public involvement” in its creation. The plan is to include specific determinations of road presence and quality as of the date of the Proclamation. On June 2, 2016, the BLM Ely District Office began management plan development by initiating public scoping efforts.¹¹

However, this public outreach included absolutely no information or notice regarding the upcoming race, which will have substantial impact on the Monument’s preservation of undisturbed land. The choice to permit off road racing is directly relevant to the Monument’s management goals, and yet the BLM has decided to forge ahead with a major and damaging activity while operating under a pretense of gathering public input. This deceptive public outreach effort can only be described as bad faith.

Lastly in this regard, the race itself may significantly alter the presence and quality of roads within the monument, flying in the face of the Proclamation’s prohibition on road expansion. Past environmental assessments indicate that road rehabilitation efforts following past BITD races have fallen short and impacts have persisted for more than a year afterwards.¹²

In short, BLM issuing a FONSI on the 2016 Vegas to Reno race route is both a violation of NEPA as well as an egregious breach of public trust.

PEER is calling upon you to exercise your authority in investigate this matter and take steps to ensure that the BLM complies with NEPA. Further, we would ask that you review whether BLM public outreach on this matter is consistent with the Administration’s commitment to transparency.

Finally, we believe that the BLM has fundamentally disrespected the President’s decision to establish a monument and frustrated his clearly stated objectives by “preapproving” this race course. Before considering, let alone permitting, any off road racing in the Basin and Range National Monument, the BLM should fully develop the monument’s management plan, with genuine public input, and a careful and complete evaluation of potential environmental impacts of decisions affecting its administration.

I greatly look forward to your timely response to this request and invite you to contact me with any questions, concerns, or comments. I can be reached at (202) 265-PEER.

Sincerely,

Jeff Ruch
Executive Director

¹¹ <https://www.federalregister.gov/articles/2016/06/01/2016-12938/notice-of-intent-to-prepare-a-resource-management-plan-for-basin-and-range-national-monument-nevada>

¹² https://eplanning.blm.gov/epl-front-office/projects/nepa/36901/44058/47419/Vegas_to_Reno_2013_DNA_Signed.pdf