

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-020-5105-NX-SF31; 08-08807; TAS: 14X5017]

Notice of temporary closures and prohibitions of certain activities on public lands in Pershing County, Nevada.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Temporary Closure.

SUMMARY: Certain lands located in northwestern Nevada partly within the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area will be temporarily closed or restricted and certain activities will be temporarily prohibited in and around the Burning Man event site administered by the Bureau of Land Management Winnemucca Field Office. These closures are authorized under the provisions of 43 CFR 8364.1. The specified closures, restrictions and prohibitions are made in the interest of public safety at and around the public lands location of an event known as the Burning Man Festival. This event is authorized on public lands under Special Recreation Permit #NV-025-06-01 and is expected to attract approximately 50,000 participants.

DATES: August 8, 2008 to September 15, 2008.

FOR FURTHER INFORMATION CONTACT: Dave Cooper, National Conservation Area Manager, Bureau of Land Management, Winnemucca Field Office, 5100 E. Winnemucca Blvd., Winnemucca, NV 89445-2921, telephone: (775) 623-1500.

SUPPLEMENTAL INFORMATION: Two areas are proposed for temporary closures during portions of August and September 2008. The smaller of the two areas, the Event Closure Area, is described in Section I and includes about 4,085 acres that will be subject to additional restrictions. During the 38 day period from August 8 through September 15 this area will be closed to public camping, public use, possession of weapons, possession of fireworks, building of fires on the ground, waste water discharge and other restrictions. The second and larger area is the Public Closure Area as described in Section II and encompasses about 8,750 acres. This area will be closed to camping and discharge of weapons during the same 38 day period. Additional restrictions including public use and aircraft landing will apply during an 11 day period that corresponds to the actual event which is August 22 through September 1, 2008.

I. Event Closure Area: Within the following legally described locations:

Mount Diablo Meridian, Nevada.

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

Secs. 3, 4, 5, and 9; portions within 50 yards of the Event Entrance Road;

Unsurveyed T. 33½ N., R. 24 E.,

Sec. 25;

Sec. 26, portions within event perimeter fence and 50 yards outside the fence;

Sec. 34, portions within 50 yards of the Event Entrance Road;

Sec. 35, portions within event perimeter fence, 50 yards outside the fence and within 50 yards of the Event Entrance Road;

Sec. 36, portions within event perimeter fence, 50 yards outside the fence and the Airport tie-down area.

Unsurveyed T. 34 N., R. 24 E.,

Secs. 25, 26, 34, 35 and 36, portions within event perimeter fence and 50 yards outside the fence.

Unsurveyed T. 34 N., R. 25 E.,

Secs. 21, 27, 28, 33 and 34, portions within event perimeter fence and 50 yards outside the fence.

Between August 8, 2008 September 15, 2008 inclusive:

A. Aircraft Landing

Aircraft as defined in Title 18, United States Code, section 31 (a)(1) and includes lighter-than-air craft, ultra-light craft, and remotely controlled powered craft are prohibited from landing, taking off, or taxiing. The following exceptions apply:

1. Aircraft operations conducted through the authorized event landing strip and such ultra-light and helicopter take-off and landing areas designated for Burning Man event staff and participants, law enforcement, and emergency medical services.
2. Helicopters providing emergency medical services may land in other locations when required for medical incidents.
3. Landings or take-offs 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.

b) This section does not apply to the selling, handling, serving or transporting of alcoholic beverages by a person in the course of his lawful employment by a licensed manufacturer, wholesaler or retailer of alcoholic beverages.

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 in 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:

(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.

c) Tests.

(1) At the request or direction of any law enforcement officer authorized by the Department of the Interior to enforce this regulation, 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 person.

(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, or a drug, or 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 which is physically possessed by the driver or operator, or which 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. Eviction of Persons

1. The Event 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 such eviction was requested by BLM.
 - b) Has been ordered by a BLM law enforcement officer to leave the area of the permitted event.
2. Any person evicted from the event forfeits any privileges to be present within the perimeter fence or anywhere else within the event area even if they possess a ticket to attend the event.

E. Fires

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

F. 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.

G. Motor Vehicles

1. Motor vehicle use is prohibited, except as provided below.

a) Motor vehicles may be operated within the event area under these circumstances:

(1) participant arrival and departure on designated routes;

(2) vehicles operated by BRC LLC staff and displaying appropriate current staff identification;

(3) BLM, medical, law enforcement, and firefighting vehicles;

(4) mutant vehicles, art cars, or other vehicles registered with the Burning Man event organizers and operated within the scope of that registration. Such vehicles must display evidence of registration at all times in such manner that it is visible to the rear of the vehicle while it is in motion;

(5) motorized skateboards or Go-Peds with or without handlebars.

2. Vehicle use that creates a dust plume higher than the top of the vehicle is prohibited.

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.

H. Public Camping

Public camping is prohibited. Burning Man event ticket holders who are camped in designated areas provided by BRC LLC and ticket holders who are camped in the authorized “pilot camp” and BLM-authorized event management-related camps are exempt from the camping closure. BRC LLC authorized staff, contractors, and other authorized participants are exempt from the camping closure.

I. Public Use

No person shall be present within the event area unless that person: possesses a valid ticket to attend the event; is an employee or authorized volunteer with the BLM, a law enforcement agency, emergency medical service provider, fire protection provider, or another public agency working at the event and the employee is assigned to the event; or is a person working at or attending the event on behalf of the event organizers, BRC LLC.

J. Waste Water Discharge

The dumping or discharge to the ground of grey water is prohibited. Grey water is water used for cooking, washing, dishwashing, or bathing and which contains soap, detergent, food scraps, or food residue.

K. Weapons

1. Weapons.

a) The possession of any weapon is prohibited;

- b) The discharge of any weapon is prohibited;
- c) The prohibitions above shall not apply to county, state, tribal and federal law enforcement personnel, or any person authorized by federal law to possess a weapon. Additionally “art projects” that include weapons and are sanctioned by BRC LLC will be permitted after obtaining authorization from the BLM authorized officer.

2. 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, or any implement designed to expel a projectile, and includes any weapon the possession of which is prohibited by state law.
- 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.

II. Public Closure Area: Within the following legally described locations:

Mount Diablo Meridian, Nevada.

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

Sec. 1, N $\frac{1}{2}$, portion west of the east playa road;

Sec. 2, N $\frac{1}{2}$;

Sec. 3, N $\frac{1}{2}$, SW $\frac{1}{4}$, portions outside the Event Area;

Sec. 4, portion east of Washoe Co. Rd. 34 and outside the Event Area;

Sec. 5, E $\frac{1}{2}$, portion east of Washoe Co. Rd. 34 and outside the Event Area;

Sec. 8, NE $\frac{1}{4}$;

Sec. 9, N $\frac{1}{2}$, portion outside the Event Area;

Sec. 10, NW $\frac{1}{4}$.

Unsurveyed T. 33 $\frac{1}{2}$ N., R. 24 E.,

Secs. 26, portion outside the Event Area;

Sec. 27;

Sec. 28, portion east of Washoe Co. Rd. 34;

Sec. 33, portion east of Washoe Co. Rd. 34;

Secs. 34, 35 and 36, portions outside the Event Area.

Unsurveyed T. 34 N., R. 24 E.,

Sec. 23 & 24, S $\frac{1}{2}$;

Sec. 25 & 26; portions outside the Event Area;

Sec. 27, SE $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{2}$, E $\frac{1}{2}$ SW $\frac{1}{4}$;

Sec. 33, SE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$;

Sec. 34 & 35, portions outside the Event Area;

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

Sec. 4, Lots 2, 3, 4 and 5, portions west of the east playa road.

Unsurveyed T. 34 N., R. 25 E.,

Sec. 15, SW $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 16, S $\frac{1}{2}$;

Sec. 21, portion outside the Event Area;

Sec. 22, SW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$;

Sec. 27, W½, portion outside the Event Area;

Sec. 28, portion outside the Event Area;

Sec. 33, portion west of the east playa road and outside the Event Area;

Sec. 34; W½, portion west of the east playa road.

A. Between August 8, 2008 and September 15, 2008 inclusive:

1. Public Camping

Public camping is prohibited.

2. Discharge of Weapons

Discharge of weapons as defined in paragraph (K)(2) of Section (I) is prohibited.

B. Between August 22, 2008 and September 1, 2008 inclusive:

1. Aircraft Landing

Aircraft are prohibited from landing, taking off, or taxiing except as described in paragraph (A) of Section I.

2. Eviction of Persons

The Public Closure Area is closed to any person who:

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

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

Any person evicted from the event forfeits any privileges to be present within the public closure area even if they possess a ticket to attend the event.

3. Fireworks

The use, sale or possession of personal fireworks is prohibited.

4. Public Use

Public use is prohibited, except for:

- a) passage through, without stopping, the Public Closure Area on the West or East Playa Roads;
- b) pedestrians with Burning Man tickets outside the fence.

5. Motor Vehicles

Motor vehicle use is prohibited, except for passage through, without stopping, the Public Closure Area on the West or East Playa Roads. Vehicles passing through the closure area in this manner are limited to a speed that does not create a dust plume higher than the top of the vehicle. Motor vehicle is defined in paragraph (G)(3) of Section (I).

6. Waste Water Discharge

The dumping or discharge to the ground of grey water is prohibited. Grey water is water used for cooking, washing, dishwashing, or bathing and which contains soap, detergent, food scraps, or food residue.

7. Weapons

The possession of any weapon as defined in paragraph (K)(2) of Section (I) is prohibited except weapons within motor vehicles passing through the closure area, without stopping on the West or East Playa Roads.

(Space added to preserve text on signature page.)

PENALTY: Any person failing to comply with the closure orders may be subject to imprisonment for not more than 12 months, or a fine in accordance with the applicable provisions of 18 U.S.C. 3571, or both.

AUTHORITY: 43 CFR 8364.1.

Date:

Gail G. Givens
Field Manager