**FY2017 Nevada**

**Bureau of Land Management**

**Realty Program Review and Evaluation**

**December 5-16, 2016**



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# EXECUTIVE SUMMARY

In September 2016, the Nevada State Director requested the assistance of the Washington Office Lands and Realty Division (WO-350) and Evaluations and Management Services Division (WO-830) to conduct a comprehensive review of the Lands and Realty and Special Legislation Program (henceforth referred to as the realty program).

The Nevada (NV) Leadership team identified review objectives to assess and report on the current condition of the realty program policies and procedures, manager and staff understanding of and compliance with realty program policy, training needs, workloads, budget and performance, and lands record management.

The review team, in collaboration with the NV Lands program managers, developed and solicited a survey to support the review objectives. (See Exhibit A - Survey Results) The team also conducted site visits to the NV State Office (NVSO), district offices (DO) and field offices (FO) to interview managers, staffs, and external customers including utility companies and county officials. Additionally, the team inspected a sample of case files representing the various realty case types for compliance with realty regulations and policies.

Based on the survey results, interviews, and realty case file reviews, the team identified positive performance and operational deficiencies in four main areas:

* FUNDING AND BUDGET
* CASE FILE PROCESSING
* STAFFING, TRAINING AND ORGANIZATIONAL STRUCTURE
* LEGISLATION PROGRAM RECORDS MANAGEMENT

The recommendations (RECs) were ranked according to risk in the realty program (i.e., P1’s are high risk, P2’s are moderate risk, and P3’s are low risk). The table below summarizes the recommendations by risk category for each of the four areas reviewed.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Nevada Realty Review Summary - December 2016** | | | | | |
| **Review Category** | **Findings** | **Priority 1  RECs** | **Priority 2  RECs** | **Priority 3  RECs** | **Total RECs Priorities 1 - 3** |
| Funding and Budget | 1 - 3 | 14 | 9 | 1 | 24 |
| Case Files | 4 - 10 | 32 | 41 | 8 | 81 |
| Training and Staffing | 11 - 13 | 5 | 10 | 1 | 16 |
| Legislation and Program Records Management | 14 | 0 | 0 | 1 | 1 |
|  | Totals | 51 | 60 | 11 | 122 |

The specific details of the findings and recommendations are provided in the findings and recommendations section of this report.

Overall, the review team found areas of positive performance in nearly all field offices. There were a total of fifty-one (51) P1 recommendations spread through the four main realty areas in twenty-two offices within the Nevada State Office’s jurisdiction. A summary of the types of findings for each of the four main review areas is provided below.

**With respect to Funding and Budget, the review team found:**

* Budgets are static or declining
* Funding disbursement schedule does not allow funds to be obligated in a timely manner
* Cost Recovery for processing and monitoring case file actions is not being utilized to its full potential, and in accordance with regulations
* Employees were directed to charge to appropriated subactivities, when cost recovery was more appropriate
* Cost recovery fees were not being collected for processing applications or monitoring the grants (in some case)
* Realty staff use minor categories (Category 1 – 4) more often than they should

**With respect to Case File Processing, the review team found:**

* Incomplete or erroneous information in LR2000
* Missing reports
* Extraneous papers within the case files
* Inconsistent processing between different offices
* Managers that are not well versed in the Lands and Realty program
* Inspection of case files identified a significant number of deficiencies in all realty action case types

**With respect to Staffing, Training, and Organizational Structure, the review team found:**

* High turnover of realty specialists, supervisors, line managers, and other resource staff
* Seasoned and experienced employees are retiring, while newer employees are pursuing other employment opportunities outside NV, causing continuity problems
* more training is needed for line managers, supervisors, and realty staff (above the entry level training)

**With respect to Legislation and Program Records Management, the review team found:**

* Controls to ensure that Special Legislation Program records are managed in accordance with BLM and NARA policy could be strengthened
* Scanning all documents and retaining electronically would decrease volumes of paper records

The Nevada Realty Program Review was comprehensive and detailed. Virtually, every aspect of the realty program was evaluated and the Review Team found positive performance, as well as, areas for improvement.

**Review Team Members:**



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The review team wishes to thank the Nevada State Office for hosting this Realty Program Review and for the support we received from the State, District, and Field Office personnel during the course of the review. We hope these findings and recommendations will assist the Nevada State Office in improving the quality of the Nevada realty program.

# PROGRAM INFORMATION

**Nevada Lands and Realty Program:**

The NVSO, Division of Resources is responsible for the implementation and monitoring of special legislation, State policies and provides technical guidance for various realty actions including:

* Rights-of-way (ROW) and Communication Sites
* Permits
* Airport lease
* Recreation and Public Purposes Act (R&PP)
* Trespass
* Acquisition, Donations, Land Sales, Exchanges, Desert Land Entry, Color-of-Title
* Withdrawals

Land sales in Nevada are governed by various legislation such as:

* Southern Nevada Public Land Management Act (P.L. 105-263)
* Lincoln County Conservation, Recreation, and Development Act (P.L. 108-424)
* White Pine County Conservation, Recreation, and Development Act (P.L. 109-432)
* Lincoln County Land Act of 2000 (P.L. 106-298)

Definitions:

Land Survey Service Requests (LSSR) - The form used to request a legal description review from cadastral surveys.

Land Surveyor Reports (LSR) - Official written representation by a Certified DOI Land Surveyor that the land description and/or land surveys is/are complete and accurate (or otherwise, as stated). An assurance that the land description and/or land surveys is/are free from significant error, patent ambiguities and other void or voidable conditions, subject to stated exception and caveats. See Chain of Surveys, Land Description Review and Patent Ambiguity.

PMDS Actuals and Targets - Workload is planned or targeted down to Program Elements (PEs) for the entire Fiscal Year and based on the funding received. Actuals are the reported widgets when work is actually accomplished throughout the Fiscal Year.

P1 - Critical Actions that need to be addressed as soon as possible.

P2 - Action items or recommendations that should be reasonably easy to implement with resources available and have immediate benefits to the program.

P3 - Action items or recommendations that should be able to be implementable in the field with assistance from the SO such as but not limited to additional funding or temporary staff assistance.

# EVALUATION OBJECTIVES

During the initial scoping meeting for the realty review, the NVSO Leadership team identified the following objectives:

1. Gain an understanding of the clarity and usefulness of existing policies, procedures, and program direction;
2. Identify realty training needs for managers and staff;
3. Assess the lands and realty staff and managers understanding and compliance with policy;
4. Assess the level of satisfaction regarding customer support to external customers;
5. Assess understanding and compliance with cost recovery;
6. Assess understanding and involvement in workload, budget and performance processes;
7. Assess management of lands and realty records;
8. Assess the Special Legislation Program to determine the understanding of the laws, organizational structure, adequate staff, and customer support; and
9. Provide a report of findings and recommendations to the NVSO Leadership team.

# SCOPE AND METHODOLOGY

## Scope

The program review focused on the Nevada Lands and Realty and Special Legislation programs, and included staff at the BLM NVSO, 6 DOs and 14 FOs. Within each of the offices, the scope of the review included evaluating all facets of the Realty Program as stated above, and staffing and budget in the Realty program statewide.

Below is a full listing of offices included in the scope of this program review.

FIGURE 1

|  |  |  |
| --- | --- | --- |
| Nevada State Office | District Offices | Field Offices |
| Division of Resources | Battle Mountain | * Mount Lewis * Tonopah |
| Cadastral Surveys | Carson City | * Sierra Front * Stillwater |
|  | Elko | * Tuscarora * Wells |
|  | Ely | * Bristlecone * Caliente |
|  | Southern Nevada | * Las Vegas * Pahrump * Red Rock * Sloan |
|  | Winnemucca | * Black Rock * Humboldt |

## Methodology

The review team administered a 76-question survey to Lands and Realty and Special Legislation Program employees and managers via email comprised of questions designed to gather information needed to meet the review objectives.

The survey was launched on October 14, 2016, and closed on October 28, 2016. A total of 94 Lands and Realty Program staff and managers were invited to participate in the survey. Of the 94 invited, 71 individuals’ responses were received, resulting in a response rate of 75.5 percent.

A review team of agency Lands and Realty and Special Legislation Program subject matter experts were assembled to conduct site visits in the State of Nevada, to interview staff and managers. The review team developed a standard set of follow-up interview questions based on the survey results, review of case file records, and program knowledge, and then conducted site visits during the weeks of December 5-16, 2016. The site visits included face-to-face interviews with the staff and managers, and outside customers. The realty review team interviewed 148 individuals. Special legislation interviewed 49 individuals.

During the site visits, members of the review team inspected 225 lands and realty case files. The review team selected a sample of lands and realty case files with recent activity, most in the last five years. The intent of the case file selection was to review the most current cases including a variety of case type actions. The DOs and FOs were notified the day prior to the site visits to make the case files available for review. Each case file was reviewed against checklists based on 43 CFR 2090 through 2920, handbooks, manuals, and instruction memorandum. See Exhibit B - Records Review Checklists.

Based on analysis of the survey results, interviews, and the serial register page and file review, the review team prepared this report describing the review objectives, scope and methodology, findings, and recommendations. NVSO Leadership team will review the findings, develop a corrective action plan to address the deficiencies found during the program review, and monitor the progress of corrective actions until corrective actions have been completed.

# AREAS OF POSITIVE PERFORMANCE

* SNDO and LVFO are working on an in-valley Programmatic EA for many ROW realty actions that should provide efficiencies and decrease processing timelines.
* SNDO hosts annual Customer Service Workshops and have good interactions between staff.
* Elko DO, Ely DO and SNDO hired contractors using Unfunded Request (UFR) funds to complete compliance inspections.
* TFO, CCFO, BMFO, and Ely have maps for needed compliance inspections, so staff, including non-realty staff, can do inspections when they are in the area.
* Elko FO has 10-minute stand-up staff meetings every week for a quick review of what the staff members plan to work on, so staff can collaborate on projects.
* TFO has an excellent realty program. Internal records are exemplary, and both external customers and staff have a high regard and respect for the realty specialist.
* NVSO held two Communication Site Workshops.
* Winnemucca’s external customers appreciate good communication and working relationship with realty staff and geologist.
* Caliente’s external customers appreciate the positive relationship that the FO manager and staff have built over the past two years.

# FINDINGS AND RECOMMENDATIONS

## FUNDING AND BUDGET

### Finding 1 - Distribution of 1440 funds

Criteria - Nevada Annual Work Plan (PTA/AWP) provides guidance, priorities and funding allocations.

BLM Manual 2804.14(B) - Cost Recovery Categories, provides guidance on how to collect cost recovery fees using one of the six cost reimbursement categories for ROW application processing and monitoring. The categories reflect progressively more complex level of application processing and monitoring. Categories 1-4 (minor categories) are a one-time fixed non-refundable fee based on estimated amount of Federal work hours needed to complete the application. These category fees range from approximately $120 to $1150. Categories 5 and 6 (major categories) require an advance payment determined upon filing. WO IM 2015-027, *Collection and Expenditure of Cost Recovery Fees for Minor Category ROW and Land Use Permits, and Collection and Expenditures of Film Permit Rent Fees* provide guidance on determining the cost recovery category of the different types of applications.

Condition - The DO and FO managers indicated they did not have adequate appropriated L1440 funds and reimbursable L5102 funds to do the necessary realty work. They also identified that some appropriated funds were released to near the end of the fiscal year, which does not allow the manager sufficient time to appropriately obligate the funds. A concern was also expressed that the L1440 funds were not distributed evenly. The files reviewed indicated Categories 5 and 6, which are L5103 and L5101 accounts, were not being used as often as they could be.

Cause - There is a general lack of understanding and experience by the managers and staff regarding the use of reimbursable accounts versus appropriated L1440 account, and the other funding sources available to process realty work. There was general consensus that the FO staffs do not get enough L1440 funds.

Effect: By not collecting and properly using ROW/Permit cost recovery fees, Nevada will continue to struggle with insufficient funding. Potential future budget cuts in L1440 appropriated funds along with inadequate collection of cost recovery fees will lead to inadequate staffing levels, cause continued increases in backlog, and unhappy lands and realty program customers.

The funds collected under minor cost recovery, L5102, are not being utilized by the FO. Using L5102 funds to process a minor category action will free up some of the L1440 funds for other needs.

**Recommendation 1 - Distribution of L1440 funds**

* Consider having the NVSO release funds earlier in the FY. At the earliest time possible, allocate all of the funds planned for distribution to the DO’s and FO’s. Limit the SO holding of funds scheduled for the field. Allocations that come late in the fiscal year need to be distributed as soon as possible. (P2)
* Consider adopting a Budget Allocation Model (BAM) for the distribution of L1440 funds. BAM measures **the work** rather than the on board staff. This removes any perceived biases in the allocation of the funding. The data derived from the BAM should be the starting point for the allocations. With this information, the program lead can make a more informed allocation of the L1440 funds. See Exhibit C - BAM Worksheet and Exhibit D - BAM Narrative. (P2)
* **For realty actions where, by regulation, BLM does not collect cost recovery, no cost code should be given to Cadastral survey for the review of the legal descriptions as they also get an allocation of L1440 funds. (P2)**
* Utilize Major Categories (L5101 and L5103), to the maximum extent possible, for processing new grants, assignments, renewals, and amendments to existing ROW grants when it is estimated that the combined hours of the Interdisciplinary Team (ID), realty specialists, Management and administrative staff are greater than 50 hours. This will stretch the L1440 funds to more adequately cover the program. (P1)
* The SO budget shop needs to work with the FOs, both realty specialists and management, to determine the amount of L5102, L5440 and L5441 funds for any given office each year. Then the agreed amount for each of these accounts can be allocated to each FO early and efficiently. (P1)

### Finding 2 - Cost Recovery

Criteria - Cost recovery fees are paid by an applicant for the costs that BLM incurs in processing and monitoring their application/grant for a ROW. The following regulations and policies provide guidance on the collection and management of cost recovery fees:

* 43 CFR 2804.14 (ROW processing fees), 2805.16 (ROW monitoring fees), 2884.12 (MLA processing and monitoring fees), 2885.24 (MLA temporary use permit monitoring fees) and 2920.6,
* Instruction Memorandum No. 2015-027, *Collection and Expenditure of Cost Recovery Fees for Minor Category ROW and Land Use Permits, and Collection and Expenditure of Film Permit Rent Fees.*
* Instruction Memorandum No. 2017-019, *Calendar Year 2017 ROW Cost Recovery Fee Schedule and Strict Liability Amount.*
* Regulations authorize the BLM to collect cost recovery fees to process ROW applications and land use permits. These fees are deposited into Major or Minor Cost Recovery accounts, e.g., L1920 (funds received from Federal agencies), L5101, L5102, L5103, and L5440.

Condition - The team found that cost recovery fees were not collected appropriately based on the number of Federal work hours it takes to process an application or to monitor the grant. Instead of setting up a Category 6 (L5101) account and collecting fees for processing an application that would be over 50 Federal work hours, the team found the realty specialists were using minor categories 1-4, which is a one-time fee and non-refundable. The minor category rate is routinely less than labor costs and rarely covers the cost to process a ROW application. This results in overuse of appropriated funds, which are then unavailable for other realty work. The realty specialists feel collecting the Major Category cost recovery is complicated and time consuming and therefore do not establish the appropriate fees for categorical determination. Most of the case files reviewed did not reflect the actual work required on an application. The realty specialists selected category 1-4 (minor categories), where the review team determined the funds collected should have been substantially more. In some instances, categorical determinations are being made without including the time for all personnel involved in the processing and monitoring of the project. There was a lack of pre-application meetings. The review team found many offices were not collecting cost recovery fees properly if at all. It was found that monies deposited in L5102, L1492, L5440, and L5441 were not being utilized effectively. See Exhibits E, F, G and H.

Cause -The review team found that cost recovery fees collected for ROWs were not adequate, which may stem from; 1) a more complicated and time consuming process to set up a Category 6 (major category) accounts, 2) misinformation or lack of understanding on what the project entails from not having pre-application meetings, 3) potentially biased dealing with proponent by not charging appropriately, or 4) lack of knowledgeable staff or adequate training due to high turnover. The review team was informed some managers may improperly manage funds by not allowing staff to appropriately charge their time against cost recovery.

Effect - By not collecting and using the appropriate cost recovery category as established by anticipated hours worked, other funding sources are negatively affected. Offices should be unbiased and collect fees based on the appropriate amount of time it is estimated to process an application and treat all applicants equally. The appropriated funds will always be overspent when inadequate cost recovery fees are collected. It is imperative that the FO/DO managers are aware and realty specialists collect the appropriate fees to fully process the application and monitor the construction, operation, maintenance, and termination of all applications/projects on public lands. Failure to have pre-application meetings can result in incorrect category determinations.

See Exhibit E, L5102 report (2/10/17) from FBMS.

See Exhibit F, L1492 report (12/15/16) from FBMS.

See Exhibit G, L5440 report (2/7/17) from FBMS.

See Exhibit H, L5441 report (2/7/17) from FBMS.

**Recommendation 2 - Cost Recovery**

The review team recommends that the NVSO take actions to strengthen controls to ensure that cost recovery is utilized as intended and in accordance with regulations, policies and procedures, including but not limited to the following:

* All offices **must follow** cost recovery procedures in accordance with guidance established in WO IM 2015-099, *Collection of Major and Minor Category Cost Recovery Rights-of-Way from Federal Agencies,* WO IM 2015-027, *Collection and Expenditure of Cost Recovery Fees for Minor Category ROW and Land Use Permits, and Collection and Expenditure of Film Permit Rent Fees,* and the annual cost recovery IM. (P1)
* Realty specialists should review WO-IM-2006-235 for project codes (WBS) used for tracking cost recovery fees in subactivity L5102. (P1)
* Realty Specialists need to set up L5101 accounts if staffs time to process the application exceed 50 Federal work hours. They must correctly and completely document category determinations with input from ID teams and include the time for cadastral review, management and administration. To establish hours for a category determination, the realty specialist should route the calculation determination sheet for all staff to document the number of hours they estimate it will take to review the project. This is justification for the Category Determination decision that must be filed in the case file. (P1)
* Managers must ensure that all staff working on the project charge to appropriate cost recovery accounts, e.g. L1920, L5101, L5102, L5103, L1492, L5440, and L5441. (P1)
* Staff working on the project complete and update the Reimbursable Project Log 1323-1 form for major category and federal agency accounts, e.g., L1920, L5101, and L5103. Realty specialists will begin cost recovery discussions during the pre-application meetings with the applicant and document in the case file. (P1)
* Apprise DO and FO managers that only the State Director has the authority to waive or reduce the cost recovery fees, in accordance with regulations found at 43 CFR 2804.21. (P1)
* Create a project tracking system of staff cost reimbursable logs and balances for Master Agreement Category 5 and Major Category 6. This can be either a hard copy or an electronic copy. (P2)
* Complete Monthly/Quarterly reports to include labor detail. Consider designating a budget person, or Land Law Examiner (LLE), to run regular reports of Category 5 and 6 account balances and labor details. These reports need to be shared with the project manager, field managers and the applicant. Ensure project logs are signed by the Authorized Officer. (P2)
* See Exhibit E, L5102 report (2/10/17) from FBMS. Underutilizing L5102 funds. (P2)
* Utilize alternate funding sources when appropriate (i.e. L1492 and L5441 funds). (P2)

### Finding 3 - Rental for Permits and Rights-of-Way

Criteria - Regulations require that BLM collect rent from most right-of-way holders. IM’s and policy define the roles and responsibilities for completing rental collection activities and calculations. The Team reviewed an assortment of case files involving rents and pulled a variety of reports from the Collections and Billing System (CBS), Legacy Rehost 2000 (LR2000), and the Lands and Realty Authorization Module (LRAM). The results from the aforementioned data gathering were then evaluated against the regulations and guidance provided for rent for the use of public lands as outlined in:

* 43 CFR 2806
* 43 CFR 2920.8(a)
* BLM MS-2806
* [IM NV-2015-008](http://teamspace/nv/Lists/Nevada%20IMs/Attachments/1166/IM-NV-2015-008.pdf) (Rent for Non-linear Rights-of-Way and Permits)
* H-1372-Collections

Condition:

During interviews, the review team found that

* Most of the realty staff felt that their rentals for authorizations were up to date, and some were familiar with the formal process of sending demand letters and eventually referring bills to Treasury for uncollectable rents. Some mentioned suspending or terminating authorizations, as appropriate, when rents have not been paid. Many employed informal steps such as calling customers and sending additional notices, which is a good practice of customer service. Managers were less familiar with the status of rents and relied on their realty staff for this information.
* Rental calculations, billings, and collection responsibilities seemed to vary by office. In most cases, the realty specialist is responsible for determining initial rent and fees; the land law examiner uses those determinations to create bills, and would also be responsible for Accounts Receivable (annual) bills, and the designated collections officers (H-1372.11) are responsible for collections and receipting. In smaller offices without land law examiners, each realty specialists would either do their own billing, or one realty specialist may handle it for the entire district, especially where Accounts Receivable bills are concerned.
* One FO was unable to process a relinquishment due to rent owed.

During the review of realty case files, the review team found:

* There were some instances where it was discovered that rent was not charged in a timely manner, or sometimes not at all.
* Case files were closed when they expired and then the offices established a new case file (re-serializing) for the “renewal.” Rent cannot be collected if the case file is closed or pending. Closing case files and establishing a new case file and serial number is a requirement for pre-FLPMA authorizations, but not for renewals under FLPMA. Refer to 43 CFR 2807.22(e).
* Rental cannot be collected under the pending action for the renewal/new case. Rentals continue to be charged under the old serial number, which causes confusion and additional work to have those receipts transferred to the new serial number once it is authorized.
* Some offices bill for their initial rent using a DI-1040 (Bill for Collection) instead of generating bills from CBS or LRAM, which is not consistent with BLM policy.

The review team also observed inconsistencies between LRAM and LR2000 Reports.

* Both LRAM and LR2000 are user-reliant systems--the information derived from them is only as good as the information that is entered. As evidenced by the two report summaries below, for basically the same information, the data between the two systems can vary greatly.
* Figure 2 shows the results from an LR2000 report pulled for all case files with action code 097 (Next Bill Date) prior to 2017. Based on this report, it appears that rental for 808 cases are not current. Action code 097 should be updated or changed each year after bills have been submitted and payments received.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **FIGURE 2**  **LR2000 - All Authorized Cases with Next Bill Date in the Past (prior to 2017)** | | | | |
| **Office** | **# of Cases** |  | **Office** | **# of Cases** |
| Unassigned | 1 | Mount Lewis FO | 74 |
| Battle Mountain FO | 1 | Pahrump FO | 20 |
| Bristlecone FO | 6 | Schell FO | 7 |
| Caliente FO | 1 | Sierra Front FO | 8 |
| Div. of Support Svc. | 1 | Stillwater FO | 4 |
| Egan FO | 4 | Tuscarora FO | 123 |
| Elko FO | 34 | Wells FO | 65 |
| Ely DO | 1 | Winnemucca DO | 17 |
| Humboldt River FO | 1 | Winnemucca FO | 55 |
| Las Vegas FO | 386 |  | **TOTAL** | **808** |

Figure 3 shows results from an LRAM report pulled for all case files where the billing year was prior to 2017. Based on this report, it appears that rental for 50 cases are not current.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **FIGURE 3**  **LRAM - All Authorized Cases with Past Billing Year/Schedule (prior to 2017)** | | | | |
| Carson City FO | 10 |  | Sierra Front FO | 1 |
| Elko FO | 19 | Tonopah FO | 2 |
| Ely DO | 5 | Wells RA | 1 |
| Las Vegas FO | 5 | Winnemucca FO | 2 |
| Pahrump FO | 5 | **TOTAL** | **50** |

NOTE: There are more offices listed under Figure 2 than there are under Figure 3. If LRAM cases had zero, the office was not listed. See Recommendation 13 - Org Codes.

Cause - There is a significant discrepancy between user input in LRAM and LR2000. It is difficult to know, without further research, how accurate these numbers are because the results from LR2000 and LRAM are only as good as the information that has been entered into the systems. The team found that there was constant realty staff turnover, understaffing, case work overload and backlog that effects staff’s ability to monitor and collect rents.

Effect - The use of the DI-1040: Bill of Collection instead of bills generated from LRAM or CBS increases potential for errors when accepting and receipting payment. Instead of applying funds directly to a bill in LRAM, the accounts staff must create a new transaction. If they are not familiar with the particular case, they may apply the funds to the wrong program or activity. When rents have been incorrectly calculated and billed, or not billed at all, the BLM’s reputation is negatively impacted with the public. Customer relations can be adversely affected when the BLM attempts to collect past due rents.

See Exhibit F, L1492 report (12/15/16) from FBMS regarding underutilization of L1492 funds.

See Exhibit H, L5441 report (2/7/17) from FBMS regarding underutilization of L5441 funds.

**Recommendation 3 - Rental for Permits and Rights-of-Way**

The team recommends the following:

* Establish clear roles and responsibilities for charging and collecting rent. (P1)
* Provide additional training to realty staff related to billing and accounting procedures. (WO is working with NTC to develop online billing course). (P1)
* Do not close expired case files until the renewal is authorized. (P1)
* Collect rental in accordance with the rules and regulations. (P1)
* Ensure appropriate staff receive training in LR2000, LRAM, CBS, and FBMS. (P2)
* Verify that next billing date is correct in LR2000 (action code 097-Next Bill Date). (P2)
* DO not create new case files, with new serial number, for renewal of FLPMA ROWs. (P1)
* Renewal applications for a pre-FLPMA authorization shall be treated and processed as an application for a new ROW pursuant to FLPMA. This includes creating a casefile under a new serial number. (P1)
* Complete Data clean-up in both LR2000 and LRAM. (P3)
* Utilize alternate funding sources when appropriate (i.e. L1492 and L5441 funds). (P3)

## CASE FILE PROCESSING

### Finding 4A - Establish Case File

Criteria - The BLM Handbook 1274 - *Serialized Case File System* identifies that case files should be established upon receipt of a complete application. Specific requirements for some case types are found within each of the case type handbooks.

Condition - The review team found that some FOs were holding on to numerous applications, instead of establishing a case file. Many applications filed for County road ROWs and Desert Land Entry (DLEs) were not serialized, and therefore not trackable in LR2000 as a workload.

Cause - Not serializing the applications correctly portrays a smaller backlog; however, the BLM cannot track records, distribute funds, or manage backlog of realty work accurately.

Effect - If the application is not complete, it should be returned to the applicant with an explanation, or the realty specialist should work with the applicant to make the application complete.

**Recommendation 4A - Establish Case Files**

The review team recommends that once a complete application is filed, the receiving office immediately sets up a new case file with the serial number obtained from LR2000 and ensure all associated documents are secured within the case file. Remind realty specialists to establish a case file in order to track the progress of an application and to help meet customer service standards. (P1)

### Finding 4B - Case File Management and Documentation

Criteria - The BLM’s policy is to provide official correspondence, e.g., decisions, notices or responses, in writing using the BLM letterhead. Most handbooks and manuals describe the required documentation and file organization for each case type. All case files shall be put in reverse-chronological order. A case file represents a legal record of the action for the agency. The case file shall be maintained as if it would be litigated and should document the process and decisions of the BLM. BLM Manual 1270 - Records Management (Internal), requires that all BLM offices maintain records in an economical, efficient, reliable, retrievable form, protected from unauthorized disclosure, preserved and disposed of only in compliance with Bureau program directives and DRS and NARA approved record schedules and implement records schedules that are approved by NARA and are aligned with the Department.

Condition - The review team found common to all case types the following:

* Some case files requested to be reviewed were not available and could not be found by the DO or FO.
* Some case files lacked official/formal correspondence, e.g., 29-day letter, deficiency notices, cost recovery determinations, grant offer letters, grant issue letters, and non-compliance and temporary suspension letters. The review team found volumes of email in some case file instead of using official correspondence. Several realty specialists said it is because emails were faster and more efficient. The managers do not like to send correspondence and prefer a casual working relationship with the applicants.
* Many case files had loose and extraneous papers, sticky notes and notes.
* Regulations require documents be retained in the case file. For the most part, the case files were organized and tabbed for easy document identification. However, there were misfiled documents and double sided documents.
* Realty Case Files were missing critical documents, including offer letters, NEPA, IDP Review, Section 7 Consultation, Easement Notification, Appraisals, and Articles of Incorporation. See Data Standards Common to all Cases.
* LR2000 errors included: Serial Register Page identifying a Cat 5 when the actual document identified the fees as a Cat 4, wrong case types used (274000 not 274003), not using the appropriate FO, but instead uses BLM UNKNOWN or SUPPORT SERVICES, and documents in file did not match serial register page, i.e., patent issued but not shown in SRP as authorized. Sometimes the data in LR2000 was not updated following the issuance of the authorization (action codes were entered, but the header information/legal descriptions etc. were not).
* Some case files reviewed were expired, and should be closed and managed in accordance with NARA requirements.
* Special Legislation Program Records are not managed in accordance with DOI, BLM and NARA records management standards. Records are stored in the SNDO warehouse. (See Finding and Recommendation 14)

Cause – The cause of these conditions could not be determined due to time constraints, and the review team did not include a records specialist to further analyze the issue. However, the cause could be attributed to staff turnover, possibly lack of training, and a general lack of understanding of records management requirements.

Effect – Improper or incomplete case file documentation creates the risk that if lands decisions are appealed or litigated, BLM will not be able to support and defend lands and realty decisions made.

**Recommendation 4B - Case File Management and Documentation**

The review team recommends the following actions to strengthen controls over case file management and documentation:

* Refer the special legislation program records management issue to the NVSO Records Manager to assess the condition and take actions to bring the management of special legislation program records into compliance with the DOI, BLM, NARA standards. (P1)
* Prepare written letters in response to applicants who send formal written correspondence. (P1)
* Use conversation records to summarize formal and informal conversations. (P2)
* Follow mandatory data standards for best practice. (P1)
* Recommend a checklist be used and included in the casefile to document that the file is complete. (P2)

### Finding 4C - Pre-Application Meetings

Criteria - The BLM Manual 2801.31(A) “All prospective applicants shall be encouraged to set aside a period of time for a pre-application meeting. It may include a combination of meetings and telephone conversations to develop an understanding of the prospective applicant’s needs and to provide information on the BLM’s policies and procedures”.

Condition - The review team found that face-to-face pre-application meetings are not being completed, documented or used to their full potential. Some case files had printed email conversations rather than face-to-face pre-application meeting documentation.

Cause - Some realty specialist are not having face-to-face pre-application meetings because of the time required for the meeting. A holder with many ROWs and applications has created a complacent relationship for the FO/DO and do not feel the need for a pre-application meeting.

Effect - If face-to-face pre-application meetings are not conducted, there is a higher risk of delaying the project or wasting time and money. Pre-application meetings between the BLM and applicants provide the opportunity to gain a clear and mutual understanding, identify potential problems, and resolve questions regarding the project up front. The BLM can inform potential applicants of the BLM’s policies, procedures, and general timelines for processing the realty action. Pre-application meetings contribute to a professional relationship with the public. When pre-application meetings do not occur, the BLM and the applicant are at risk of longer application processing times, inaccurate estimation of cost recovery category determination, and customer dissatisfaction.

**Recommendation 4C - Pre-application Meetings**

Realty Specialist should encourage applicants to meet at the office to allow an opportunity to discuss and describe their proposal, review plans and maps, ensure compliance with BLM RMPs. It’s also an opportunity for BLM to fully explain processing requirements and gather additional information. Follow guidance provided under 43 CFR 2804.10.

### Finding 4D - Data Standards (LR2000)

Criteria - The BLM requires all case files to be serialized and entered into the LR2000 database. Acceptable quality standards depending on a specific case type must be at a minimum 98% for title cases and 95% for non-title cases[[1]](#footnote-0).

Condition - The team identified and was notified of deficiencies in LR2000 addressed below:

As of December 30, 2016, an LR2000 query provided all pending case types by district:

FIGURE 4

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| District Office | All Pending Cases | Majority of All Pending Cases | All Pending Cases for Past 5 yrs | Majority of 5 yr Pending Cases |
| Battle Mtn | 355 | 280 Trespass | 36 | 30 ROW |
| Winnemucca | 195 | 59 Sales, 66 ROW | 55 | 31 ROW |
| Ely | 319 | 51 Classification,  48 DLE,  63 Sales,  48 ROW,  63 Trespass | 66 | 24 ROW  26 Sales |
| Carson City | 142 | 81 ROW | 83 | 64 ROW |
| Elko | 116 | 41 ROW,  20 Acquisitions | 43 | 27 ROW |
| Las Vegas | 859 | 451 ROW,  209 Sales,  77 Trespass | 528 | 332 ROW  101 Sales |

* The realty staff informed the team many applications for ROW’s and DLE’s were not serialized in LR2000. The BLM is unable to accurately determine the actual backlog of cases within any given office. Also reference 4A - Establish Case Files.
* The team noted that some FOs were adding suffixes to the end of the LR2000 serial number inappropriately. For correct suffixed cases refer to the Lands Data Standards (2014). Suffixes should only be used with corrective patents, easements, leases, classifications, R&PPs, short term ROW, (e.g., -01), exchanges, reciprocal ROW, (e.g. PT, FD, P1, F1, etc.). If only a portion of the ROW grant is being converted to a long term or perpetual grant or easement, or if multiple long term or perpetual grants or easements must be issued, serialize a new case (do not use a case suffix) with the same ROW case type and holder for each long term or perpetual grant or easement.

Cause - The staff was concerned that entering the applications into LR2000 would show a significantly increased backlog and would reflect poorly on them as well as their FO. They also expressed a concern of the office would be penalized for not completing the backlog and that the budget would be reduced.

The review team found realty specialists were probably in a hurry or distracted by other workload and forgot to update LR2000. Many staff expressed they felt overwhelmed by the amount of work and lack of staff. They feel most of their time is utilized in processing case file actions rather than data entry. Training on proper use of data standards is deficient.

Effect - By not following the most current LR2000 Data Standards and entering the minimum data requirements for each case file each time an action occurs, the public and BLM staff will not have accurate information or know if an application is being processed. Failure to follow LR2000 Data Standards creates customer dissatisfaction and may affect future funding. By using suffixes on case types where suffixes are not appropriate, one could have difficulty in locating the case file, and may inadvertently create a second case file.

**Recommendation 4D - Data Standards (LR2000)**

The review team recommends the following actions to strengthen controls related to data standards:

* Increase staffs focus on updating LR2000 when an action is completed or no later than one week after occurrence of the action to ensure that accurate BLM-wide reports can be run. The latest serial register page entry should coincide with the last document in the case file, when applicable, and should be secured on the top, inside front cover of the case file. (P1)
* Adjudicate a file against the serial register page to make sure it is complete and up to date, especially when the case actions are completed and before a case is placed in dockets. (P2)
* Follow mandatory data standards and business practices for all case file processing when an action occurs. If LR2000 data standards are accurate, the BLM employee and the public can run a serial register page that has summary of information about the nature and status of an individual application and a report can be produced to provide a complete assessment of the project/program. (P1)
* Maximize the availability of information to the public and BLM employees to assist in workload planning. (P2)

### Finding 4E - Legal Land Description Reviews

Criteria -Guidance is provided under WO IM 2011-122 and 600 DM 5: Standards for Federal Lands Boundary Evidence directs the BLM to provide adequate Cadastral Survey review of Boundary Evidence prior to the approval of significant land resource transactions and commercial projects. The standards provide Department-wide guidance and instruction to reduce conflicts over Federal interest assets and minimize unnecessary land surveys. The standards provide guidance to managers on when and how to involve boundary location subject matter experts at key stages of land and resource transactions.

Condition - Land Surveyor Reports (LSR) (previously Land Description Reviews (LDR)) were not found in any ROW or Comm Site files reviewed. Most of the Sales and Acquisition files did have the Land Survey Service Requests (LSSR), but not the LSR (or LDR).

Cause - Possibly a breakdown in guidance and direction from SO as to when an LDR is required. Another possibility is the LDR and/or LSSR was completed but not filed in the case file.

Effect - Many case files did not include Land Survey Service Requests (LSSR) for legal description reviews. This violates 600 DM 5, and exposes the agency to not only various forms of litigation, but may cause unnecessary delays due to potential land conflicts and additional costs.

**Recommendation 4E - Legal Land Description Reviews**

* SO to provide guidance and direction to the FO as to when an LDR is required. (P1)
* Place the LSR and LSSR in every case file when prepared. (P1)

### Finding 4F: Compliance and Monitoring

In order to determine if ROW holders, permittees, or lessees are in compliance with the terms, conditions, or stipulations of their authorization, the realty staff or designated individuals must do monitoring of the granted authorization. Monitoring and compliance pertain to many case types, but most specifically to ROW, permits, and R&PP leases and patents.

Criteria - Regulations at 43 CFR 2805.12 address compliance, bonding and monitoring fee requirements for the ROW holder. Realty specialists are required to collect the appropriate monitoring fees to monitor the site during construction, operation, maintenance, and termination of the project. The realty specialist should collect bonds depending on the nature of the project or the history of the applicant, to cover any losses, damages, or injury to human health, the environment, and property in connection with the use and occupancy of a ROW, including terminating the grant; and to secure all obligations imposed by the grant and applicable laws and regulations.

Guidance found in Handbook H-2740-1 Chapter VIII (C) requires compliance checks on R&PP leases and patents be scheduled at minimum intervals of 5 years, but can be completed more often if cases require more oversight.

Condition - The review team was informed by some FO staff members and some managers that inspections are not completed when required but rather grouped at the end of the year to achieve their target goals. The case files reviewed indicate compliance/monitoring is not taking place or not being documented. The entries in LR2000 were not updated to show the compliance completed or set up a “next due” date. Although not all projects require bonds, there were a few authorized case files reviewed that seemed like BLM should have obtained bonds from the applicant.

Cause - When there is only one realty specialist per office processing various cases and helping the public, it is difficult to find time or other staff to complete the compliance inspections.

Effect - A failure of following compliance schedules as required by policy, could result in a number of non-compliance issues and possibly unauthorized use (trespass), which only increases the workload and already growing backlog. If a bond is not obtained from the applicant for any noncompliance or default, the BLM may be responsible financially to rehabilitate, clean up, or remove items from the property.

**Recommendation 4F - Compliance and Monitoring**

The review team recommends the following actions to strengthen controls related to compliance and monitoring and follow policy and guidance:

* Complete a compliance form signed and dated by the authorized officer for the case file, prepared at the time of the compliance inspection, summarizing the findings. (P2)
* Assure that compliance codes are noted on the case abstract (LR2000) and set “next due” dates. (P2)
* Expiring and short-term case files should be a priority. (P2)
* Possible use of third party compliance inspectors could be utilized. (P2)
* Combining trips with other resource programs. (P2)
* Train other resource staff to use a standardized form to document monitoring when they are doing other field work in the area. (P2)
* Hire summer interns or contractors, recruit volunteers, use non-realty BLM employees to do compliance and monitoring inspections. (P3)
* Establish a bonding team to assist the field with proper bonding assistance. (P3)

### Finding 4G - Notation to Land Status Records

Criteria- October 10, 1997, the BLM removed 43 CFR 1813, which contained general information about public land records and explained the BLM practices. It was intended to be incorporated in the BLM’s manual and handbook system. This finding addresses notation to BLM lands and realty records based on current business practices within our respective states. Manual 1275 - *Land Status Records* provides the BLM guidance to meet requirements for uniform recordation. The manual describes how the Master Title Plats (MTPs) and Historical Indices (HIs) are to be drafted and maintained but does not explain the process of how to request the records be updated. Most land actions are posted to the MTPs and HIs, as part of the public land records system.

Condition - The review team found authorized actions were not noted to the HIs and MTPs. We found little evidence that requests were made to Title and Records to update the records. Some case files did not have any MTPs or HIs in the case file. We found some patents were issued but not entered into LR2000 nor updated on the MTPs or HIs.

Cause- Staff may not know the process for requesting record notations or possibly forgot, or it was requested and Title and Records did not complete the necessary action. This may occur from not completing all of the steps when processing a case files.

Effect- The MTP and the HI are the only official land records for the lands and realty program. These records must be updated accurately and in a timely manner to provide professional and accurate land status and use information to the public. The case file is not complete until the records are noted. By not having updated Land Status Records, we put ourselves at risk when evaluating all future actions, as the MTPs may not reflect the correct status or uses.

**Recommendations 4G: Notation to Land Status Records**

The review team recommends the following actions to strengthen controls for notation to land status records:

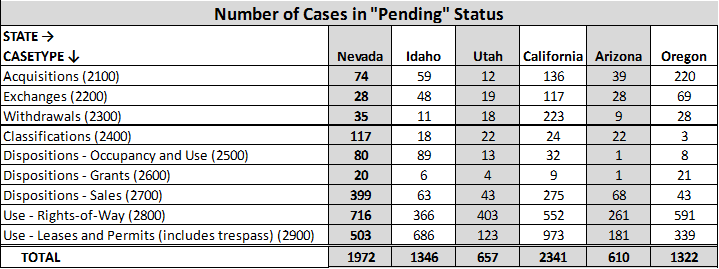
* Provide written guidance on the process for requesting record notations. The team recommends an electronic delivery system. (P1)
* Create a tickler system as a reminder to go back and review the file for completeness. (P2)
* Follow up on all requests sent to Title and Records to ensure notations are done and notification to the requestor when completed. (P2)

### Finding 4H - Backlog of Cases

Criteria - The team found there are no policies that address case file backlogs.

Condition - The backlog described by the FOs and what is in LR2000 seemed to be very different. Based on this data, the state of Nevada does not appear to have any greater backlog than should be expected, based on public land acres managed and urban/rural interfaces. The following Figures illustrate the number of pending cases in adjacent states, based on what is LR2000.

FIGURE 51



1 Figure 5 includes the pending cases in the entire State, instead of each FOs because the organization codes in LR2000 are mixed between the FOs, DOs and Divisions, which does not give an accurate count.

Graph of Pending Case Files (refer to Figure 5)

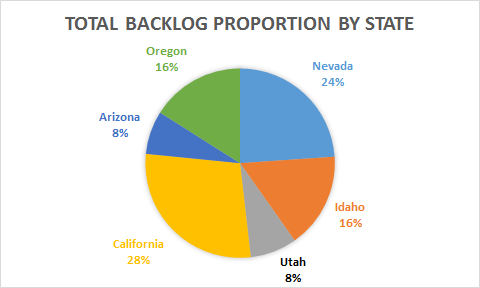
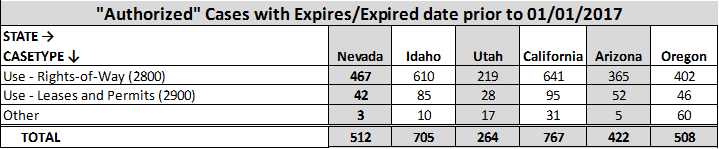


FIGURE 61

1 Figure 6 captures only expiring actions on Authorized cases. Assignments, amendments, or relinquishments are not included.

Cause - Managers and staff expressed an overwhelming backlog and felt they will never catch up. The staff also informed the team that some applications were not serialized in LR2000 in order to keep the backlog down, specifically DLE and County road applications.

Effect - The backlog affects job satisfaction, morale and stress levels for the staff and managers, which results in low quality customer service. Not knowing the actual backlog makes it difficult to establish workload and set priorities. Staffing needs may not reflect the actual workload demands. The dissatisfied customers sometimes take alternate actions such as contacting congressional representatives, trespassing (which causes additional workload), and taking legal actions.

**Recommendation 4H - Backlog of Cases**

The review team recommends the following actions to address backlogs:

* Create a system to determine what cases are expiring in the coming years for workload development and setting priorities. (P2)
* Serialize all complete applications. (See Finding 4A - Establish a Case File) (P2)
* The SO may want to develop a strike team to address the highest backlog needs. (P3)
* Develop Master Agreements when appropriate for multiple case processes to the same holder. (See Finding 2 - Cost Recovery) (P3)
* Use Master Agreements to establish teams focused on the Master Agreement projects which would allow hiring additional staff (rather than use the funds to supplement existing staff cost. This would allow local staff to focus work on Non-Master Agreement work. (P3)

### Finding 4I - NEPA Analysis

Criteria - 516 DM 11 , H-1790-1 --- 40 CFR Part 1500.1 (c), the regulations state that “the NEPA process is intended to help public officials make decisions that are based on an understanding of environmental consequences, and take actions that protect, restore and enhance the environment”.

Condition - During interviews, staff, managers and customers, expressed concern that NEPA was over analyzed, included excessive stipulations, and the Interdisciplinary (ID) Team was not providing timely responses. Instead of using Categorical Exclusion (CX) or Determination of NEPA Adequacy (DNA), every action is analyzed as an EA. When CXs or DNAs are used it takes months to complete them. EAs completed on similar action between FOs resulted in one office having very few stipulations and the adjoining office having pages and pages of stipulations. Several individuals felt that E-planning is slowing down the process.

Cause - It appears staff sometimes use a full set of stipulations rather than developing stipulations that address the particular project. In some offices everyone is required to review and respond to a NEPA document even if their program is not affected. Management involvement, providing leadership, in the ID team may be lacking.

Effect - The over analysis of the NEPA process results in a backlog in case processing which affects customer service standards and employee morale.

**Recommendation 4I - NEPA Analysis**

The review team recommends the following actions to strengthen controls for NEPA Analysis:

* Reduce NEPA documentation by tiering (40 CFR 1502.20) from EIS RMP to reduce paperwork. (P2)
* Increased management involvement in the ID Team to provide leadership and guidance, keeping the team on track. (P2)
* Involve only the resources staff needed for the specific action (i.e. grazing is not in the city of Las Vegas). (P2)
* Only include stipulations needed to resolve the actual impacts. (P2)
* ID team input should focus on the site specific impact for each project, rather than larger areas (by legal description) to avoid over analyzing. (P2)
* Additional NEPA training for staff and managers - DOILearn Offers NEPA training. (P2)
* Complete Programmatic EA in SNDO. Consider programmatic EAs in other offices as appropriate. (P3)
* Mentor with other State Planning and Environmental Coordinators to develop efficiencies. (P2)
* All resource specialists should be present at the pre-application meeting. (P1)

### Finding 5A - Customer Service Standards

Criteria - ROWs are authorized under FLPMA Title V. The Customer Service Standards in 43 CFR 2804.25(c) requires the BLM to notify the ROW applicant within 30 days, for applications processed under Categories 1-4, if processing time for the ROW application will take longer than 60 days. This notice shall also include an expected timeline for completion of the application. WO IM 2006-067 provides the guidance and direction of the process, format, and use of the 30-day notification, also known as the “29-day letter”.

Condition - The review team was informed by the customers that phone calls were not being returned and found that regulatory Customer Service Standards were not being met. The 29-day letter was not sent in the majority of case files reviewed across the State. In lieu of the required 29-day letter, most offices sent out a general letter (altered 29-day letter) upon receipt of the application notifying the customer of the substantial amount of time it would take without any indication of a timeline. The altered 29-day letters included in the case files and sent to applicants, contained language that deviated significantly from the required form letter, essentially diluting the 29-day letter intent.

Cause - The team's interview with the realty staff indicated that 29-day letters were not sent because they felt it took too much time to process the letters and would still not meet the deadlines.

Effect - When the BLM does not follow the customer service standards, it reflects an inconsistency in business practices. It impairs the BLM's ability to provide the level of customer service intended in the customer service standards. The deviations between the 29-day letter template, and the altered 29-day letters observed by the review team, create the risk of public perception that BLM is inconsistent in its messaging. Customers are disenchanted with the BLM service in that calls are not returned and they have no idea when they can expect a decision on their application.

**Recommendation 5A - Customer Service Standard**

The review team recommends that NVSO takes actions to strengthen controls to ensure that BLM NV managers and staff meets customer service standards in 43 CFR 2804.25(c), 43 CFR 2884.21(b), and WO IM 2006-067 including issuing a 29-day letter notifying the applicant when they may expect a final decision on their application. (P1)

The review team recommends that NVSO takes actions to set standards for the field to follow in responding to phone calls and emails from customers and reinforce the importance of this on a regular basis, especially to management. (P1)

### Finding 5B – Bonding for FLPMA and MLA ROW

Criteria - 43 CFR 2805.20 and 43 CFR 2887.11(e) states that if BLM determines it to be necessary, applicants must obtain, and/or certify that they have obtained, a surety bond or other acceptable security to protect the public interests. A bond would cover any losses, damages, or injury to human health, the environment, and property in connection with the applicant's use and occupancy of the ROW. Bonding includes all aspects of a project, including terminating the grant, and securing all obligations imposed by the grant and applicable laws and regulations. The BLM manual 2805.12(D)(1)(a)(1), may require a bond as a result of the decision making process along with the applicant’s compliance history and financial stability, nature of the project, and/or liability risk.

WO IM 2011-096, reiterates policy and provides guidance for ensuring that BLM FO/DO are in compliance with bonding requirements for wind energy ROW authorizations. In accordance with WO IM 2015-138, and WO IM 2015-138, Change 1, each authorized solar and wind energy ROW project file must be reviewed to ensure compliance with BLM bonding policies and verify that the performance and reclamation bond held by the BLM is adequate to cover the terms and conditions of the ROW grant. Once the review is completed the State Director will certify to the Assistant Director, Energy, Minerals and Realty Management, on behalf of the BLM Director.

Additionally, the Final Rule for Competitive Processing, Terms and Condition for Leasing Public Lands for Solar and Wind Energy Development and Technical Changes and Corrections was issued on December 19, 2016 that identifies mandatory bonding requirements, including a minimum bond amount. This final rule states that the BLM will not issue a Notice to Proceed or give written approval until the grant holder complies with the bonding requirements. This rule clarifies that when required by the BLM, a bond must be obtained before beginning ground-disturbing activities.

Condition - During the review of case file records for FLPMA and MLA ROW case files, the review team found little evidence that bonding has occurred. When asked to see where bonds were kept, there was confusion amongst staff. For instance, staff did not know where the bonds were located, what safe they were in, or who had the key to the door where the safe was located.

Cause - FOs are not appropriately using or maintaining bonds for realty actions. Staff seems unaware of the requirements for keeping, recording, or safeguarding bonds. This may be due to a lack of training.

Effect - Failure to collect and maintain bonds, as appropriate, leaves the agency at risk. In the absence of a bond that protects the BLMs financial interest, the BLM is exposed to financial risk in the event of injury to human health, damage to the environment and property in connection with the realty action. The agency may then have to use appropriated funds to remedy the condition left by an applicant.

**Recommendation 5B - Bonding for FLPMA and MLA ROW**

The review team recommends the following actions to strengthen controls related to bonding for FLPMA and MLA ROW:

* The review team recommends that the NVSO take actions to strengthen controls to ensure that bonds are obtained where appropriate prior to authorization, and that bond amounts are determined by the authorized officer based on applicant history, nature of project (size, complexity, potential for resource damage) and/or liability risk. (P1)
* Ensure that bonds collected identify the associated case file, and are stored in a safe. (P1)
* Inventory bonds collected on an annual basis. (P2)
* Ensure staff and managers are appropriately trained in the policy regarding bonding, and the risks to the BLM when these financial securities are not in place. Realty staff should also be trained how to appropriately estimate bonds, record them when received, safeguarding them for their lifecycle, and how to relinquish bonds when appropriate. Although bonding is included as a segment in the Beginning Lands and Realty course, the team recommends that staff also take the Basic Adjudication course for more detailed training concerning bond processing. (P2)
* When an authorization is not bonded, there should be sufficient documentation in the file as to why the Authorized Officer feels a bond is not needed. (P2)

### Finding 5C - Proper Communications Site Lease Authorization

Criteria - WO IM 97-71 provides guidance on which authorization to use. Specifically, policy was established requiring when to use of a Communications Use Lease (2800-18) instead of a ROW grant (2800-14). Regulations for Communication Site Rights-of-Way are found in 43 CFR 2806.30 - 2806.44.

Condition - During the review, one Communication Site case file was inappropriately authorized under a ROW grant authorization instead a Communications Site lease.

Cause - Due to the high staff turnover and lack of training, new realty specialists do not know the difference when issuing a linear right-of-way vs. a communication site.

Effect - This is problematic because a ROW grant does not allow for subleasing whereas a ROW lease does and in this particular case, the holder was subleasing not allowing the BLM to collect the appropriate rentals,

**Recommendation 5C - Proper Communication Site Lease Authorization**

The review team recommends the following actions to strengthen controls related to proper communications site lease authorization:

* Additional Communication Site Training is necessary to ensure the correct authorization is used. Training is available through the National Training Center. The staff can reach out to the SO lead or the WO Communication Project Managers in coordination with your SO. (P1)
* Review existing cases and take actions to ensure that future communication site authorizations are issued under a Communications Site Lease unless it is appropriate for it to be a Grant. (P2)
* A very positive note is that NV has help customer service workshops in which the WO communications specialist staff have participated. The recommendation is to continue this practice to strengthen staff and applicants knowledge. (P2)

### Finding 5D – Communication Site Files Missing FCC Licenses

Criteria - BLM Manual 2860.21 states that, “Prior to issuing a grant for a communication site, the applicant should provide evidence that an FCC license will be obtained.”

Condition - In some of the Communication Site case files reviewed, a valid FCC license was missing.

Cause - There are a couple of factors which may be involved; 1) failure to have the license or FCC application in the file could have been an oversight during the development of the casefile, 2) lack of sufficient training could have played a role.

Effect - It is a regulatory requirement by the FCC that anyone who uses the electromagnetic spectrum for commercial uses and non-commercial uses must have a license to do so. Unlicensed use may interfere with emergency response and public safety communications as well as other licensed users/right of way holders.

**Recommendation 5D: Communication Site Files Missing FCC Licenses**

The review team recommends that the NVSO take actions to strengthen controls to ensure that applicants provide evidence of and maintain FCC licenses in accordance with FCC regulations and BLM, and that a copy of FCC license be filed in the case record as soon as it is received. (P2)

### Finding 5E – Communication Site Plans

Criteria - BLM Handbook 2860-1, WO IM 2010-182

Condition - Communication Site Management Plans were not found in any of the case files reviewed. This may have been due to the small sample size of files reviewed or the cases were not a part of a complex site requiring a Communication site plan, completed plans are not placed in the case files of affected leases or Communication Site Plans are not being completed.

A review with WO communications specialists showed that from 2012 to 2015, 29 site plans were initiated and the majority were completed from 2012 - 2015. Over the last two years only one request for assistance has been received by WO (an assistance request from Carson City.) The LVFO has requested WO assistance this year to inspect and update the plan for a large problematic site called Black Mountain.

Cause - Due to the complexity of Communication Site Plans, the process typically involves assistance from the Washington Office Project Managers or a senior realty specialist with experience developing such plans. The plan can take a year or more to complete, depending on any issues that were found during site inspections. Not all communications sites warrant Communication site plans. The lack of request may be attributed to no new site plans needed due to the 30 completed plans in the last five years or individual offices completing plans on their own without WO assistance (the LVFO has done this recently).

Effect - Not utilizing plans for sites with several users can create conflicts as grants are assigned, amended, or renewed.

**Recommendation 5E – Communication Site Plans**

The review team recommends the following actions to strengthen controls for communications site plans:

* Ensure Communication Site Management Plans are completed for sites with complex or multiple site users. The WO AWP has directives regarding the completion of Communication Site Plans. (P1 – Note: This recommended action is complicated and likely to take significant time or additional assistance.)
* Ensure existing Communication Site Plans are kept up-to-date. (P3)
* Review current Communication Sites to determine which locations need Communication Site Management Plans. (P2)

### Finding 6 – Film Permits

Criteria - Special permits to use the public lands for commercial film production are authorized under FLPMA Section 302(b), and issued under 43 CFR 2920, Leases, Permits and Easements. On May 26, 2000, the President signed Public Law 106-206, authorizing the Department of the Interior (DOI) to regulate commercial filming activities on Federal lands. The agency guidance implementing PL 106-206 was issued under WO IM 2004-073, which provides for the collection of cost reimbursement and rental fees and made available to be used by the agency without further appropriation by Congress. Additionally, WO IM 2015-027 provides clarification on collection and expenditure of cost recovery and rental fees for minor category film permits.

IM-NV-2010-064, dated August 19, 2010, provides general guidance to maintain consistency in managing the commercial filming program on public lands in Nevada.

Condition - The team found that in some cases the processing and monitoring fees (L5440), along with adequate bonding, were not collected or appropriately estimated to process applications, monitor the filming production, and reclaim the public lands. Each office must determine when casual use activities apply with regard to filming. Additionally, the fees collected (L5440) and the rental collected (L5441) are not being utilized. (See Exhibits G and H - 5440 and 5441 FBMS Reports)

It was also found in some offices that filming permits were being issued over several years, which is beyond the duration allowed in the regulations.

Cause - New staff and/or lack of training is most likely the primary cause.

Effect - Failure to obtain a bond could result in the agency being responsible for repair of damage to lands committed during film production. Not collecting adequate processing and monitoring fees impacts the FO budget.

**Recommendation 6 – Film Permits**

The review team recommends the following actions to strengthen controls related to Film Permitting processes:

* Provide additional training for staff members that process film permits. Currently, there is an online course for film permit processing in DOI Learn. (P2)
* Train realty staff members and other BLM employees to identify and know the difference between casual use and actual commercial type photography and film production. (P2)

* Ensure that staff prepares and managers review all applications to ensure that processing and monitoring fees are appropriate for each application. (P1)
* Ensure those reclamation bonds are determined in the amount necessary to reclaim the public lands to its original condition, if applicable. (P2)
* The NVSO utilizes L5440 and L5441 funds and allocate the funds to the appropriate field office. The NVSO develops a process for the field offices to request these funds from the FO/DO to the NVSO. (P1)
* The NVSO increase awareness throughout the state that L5440 and L5441 funds are available for use by the field. (P2)

### Finding 7A - Pending files - Sales and Special Legislation (Also See Exhibit I)

Criteria - The BLM’s authority to sell public lands and interests in lands fall under Sections 203 and 209 of the Federal Land Policy and Management Act (FLPMA) of 1976. The proceeds from FLPMA land sales are deposited into the U. S. Treasury and are not available to the BLM or the Counties. Congress introduced several specially legislated bills to promote disposal of the Federal lands, which includes; Southern Nevada Public Land Management Act (SNPLMA); Lincoln County Conservation, Recreation, and Development Act; White Pine County Conservation, Recreation, and Development Act; The Lincoln County Land Act of 2000; and the Omnibus Public Land Management Act of 2009, Sec. 2601, Carson City, Nevada, Land Conveyances. The special legislation allows portions of the proceeds to be deposited in special accounts and distributed for the benefit of the State, counties, local communities, and certain Federal agencies. The review team found that the Planning and Environmental Coordinator, who is not properly trained in realty sales, was the lead for completing a realty sale.

Condition - During the review, the team found a large number of pending land sale case files. A majority of the pending files were over 5 years old. For example, in LR2000, one DO showed 4 sales pending for approximately 29 years. The table below shows the current status as reflected in LR2000.

COMPARISON OF 2700 CASES TYPES BETWEEN STATES

FIGURE 7

(CR Case Aging Pending and Case Info by Case Type as of 2/9/17))

|  |  |  |  |
| --- | --- | --- | --- |
| STATE | CASES PENDING | CASES AUTHORIZED | PERCENT OF PENDING |
| Arizona | 69 | 734 | 9 |
| California | 275 | 901 | 30 |
| Colorado | 51 | 440 | 11.6 |
| Idaho | 63 | 636 | 10 |
| Montana | 13 | 1363 | 1 |
| New Mexico (KS TX OK) | 58 | 730 (36) | 8 |
| Nevada | 372 | 2016 | 18.5 |
| Oregon (WA) | 86 | 475 | 18 |
| Utah | 86 | 363 | 24 |
| Wyoming | 75 | 411 | 18 |

Cause - The team identified reasons for the pending workload are due to the implementation of the various special legislations, which creates a higher percentage of pending cases compared to other states. In addition, in accordance with NV policy, public lands that are not sold remain available for disposal on a continuing basis which adds to the pending cases that remain open. Cases are not being completed due to high turnover of realty staff and/or staff are unable to complete the sale due to the lack of training.

Effect - Leaving cases open indefinitely for sale create a growing backlog of case files. Some of these cases can get old or stale and may not track with changing market value of the parcel. Not being able to close the sales also affects the budgets of the BLM and the State and local governments as provided for in the special legislation.

**Recommendations 7A - Pending files - Sales and Special Legislation (Also See Appendix A)**

The review team recommends the following actions to strengthen controls for pending files processing:

* The NVSO or appropriate office perform periodic audits of pending 2700 case type to ensure LR2000 is updated properly and the mandatory data standards are entered. (P2)
* The NVSO or appropriate office close out cases for lands not sold within a designated time frame that the NVSO develops based on their knowledge of the local sales environment. If there is an interest later for the same lands, the case file record can be reopened. (P2)

### Finding 7B - Qualified Conveyees - Sales and Special Legislation

Criteria - Regulations at 43 CFR 2711.2 requires the conveyee to be (a) A citizen of the United States 18 years of age or over; (b) A corporation subject to the laws of any State or of the United States; (c) A State, State instrumentality or political subdivision authorized to hold property; and (d) An entity legally capable of conveying and holding lands or interests therein under the laws of the State within which the lands to be conveyed are located.

Condition - Many cases did not have corporate documentation or proof of citizenship. Realty specialists are not obtaining proof of an individual's citizenship or corporate documents showing companies can hold title to lands.

Cause - Either the information was obtained and not properly filed or it was never obtained from the applicant.

Effect - It is critical to have the necessary documents in the file to ensure the United States is not selling public lands to foreign entities or companies that are not in legal standing or other entities qualified to hold title to public lands.

**Recommendation 7B - Qualified Conveyees - Sales and Special Legislation**

The review team recommends the following actions to strengthen controls to ensure that only qualified conveyees can purchase lands and patents:

* Realty specialists ensure that all conveyees are qualified to purchase lands and patents are only issued to qualified conveyees by collecting the necessary corporate documentation or proof of citizenship. (P2)
* All land sale cases include a checklist to ensure all required documentation is collected. (P2)

### Finding 7C: Conveyance Documents - Sales and Special Legislation

Criteria - The BLM’s Handbook 1860-1865 (the guidance is currently being updated and merged into 1860) provides guidance for preparing and formatting the document and requirements for the content.

Condition - During the case file review, the team found Nevada’s conveyance documents include the word “patent” at the top of the document. The word “patent” on the conveyance document appears to be only used by Nevada. The team also found that LR2000 and land status records were not updated to show the patent was issued. Some FO/DO did not follow the BLM handbook with regard to formatting the patent, which caused inconsistencies with the agency process.

Cause - It was reported that “patent” has always been placed at the top of the patents. They are following prior (incorrect) formatting.

Effect - Using the word “patent” at the top of patents is inconsistent with BLM policy. By not completing the LR2000 data entry land ownership is portrayed incorrectly in LR2000 and MTPs and HIs are not always updated. Copies of patents may have been misplaced and not included in the case file, and the case files will require some form of data clean-up.

**Recommendation 7C: Conveyance Documents - Sales and Special Legislation**

The review team recommends the following actions to strengthen controls related conveyance documents:

* The team recommends adhering to the BLM Manual, Handbook and guidance to remain consistent with agency processes. The SO should discontinue typing in “patent” on the legal instruments. (P1)
* Ensure the conveyance document is protected, securely fastened in the case file, and ensure the BLM records are updated immediately after each action including LR2000, the MTPs and HIs. (P1)

### Finding 7D: Collection of Contributed Funds for Direct Sales

Criteria - Regulations are found at 43 CFR 2711, 43 CFR 2720, Manuals and Handbooks 2710 - Public Sales, and 2711 - Public Sales Procedures. The BLM’s policy is to request that the proponent submit costs to process a direct sale. Funds received for a direct sale should be deposited into a 7122 account (or a Special Legislation account), not a 5101 account because this is for ROWs.

Condition - Neither the case file nor the serial register page show receipt of contributed funds for direct sales.

Cause - Lack of training regarding the collection of contributed funds and using the wrong accounts. Using appropriated funds (L1440) to process direct sales instead of contributed funds.

Effect - Using appropriated funds (L1440) decreases the availability of appropriated funds in that office for other realty actions.

**Recommendation 7D: Collection of Contributed Funds for Direct Sales**

The review team recommends the following actions to strengthen controls related to collection of contributed funds for direct sales:

* Realty specialists take Intermediate Lands' training before processing land tenure action case files. Intermediate Lands' training is specifically geared toward land tenure actions and realty specialists should attend this course prior to processing land sales. (There is an intermediate Land Tenure course - 2000-10, scheduled June 26-30, 2017 (focused on Land Exchanges) in Salt Lake City.) (P2)
* Realty specialist review handbooks, manuals, and policy guidance. (P2)
* Provide the necessary training for Realty specialists to ensure compliance with mandatory LR2000 data standards and continually update the records as the application progresses through the process. (P2)
* Staff code their time to the appropriate functional areas when working on land sales, especially on special legislation land sales. (P1)

* Provide budget training for staff and managers. This training could be done by NVSO Realty or Budget. This training should at a minimum include instruction for L5101, L5102, L5103, L1492, L5440, L5441, L7122 and L7150 accounts. (P1)
* The NVSO request codes for LR2000 to track LCCRDA and WPCCRDA funding, so they can be tracked in LR2000. Currently, there are no codes in LR2000 to track LCCRDA and WPCCRDA cases. (P1)

### Finding 7E - Reserve Access in Sales

Criteria - Where needed, the BLM should retain access to insure that retained BLM lands do not become landlocked when BLM is conveying other parcels out of Federal ownership.

Condition - The team was informed that in some cases access has not been reserved when lands are disposed.

Cause - In attention to detail and current land status of lands surrounding those being disposed of.

Effect - By not reserving access through lands that have been disposed, the BLM has no legal access to portions of Red Rocks and potentially other areas not reviewed.

**Recommendation 7E - Reserve Access**

Include in a disposal checklist the requirement to determine if access needs to be reserved across lands being conveyed to maintain legal access to other affected Public lands. (P1)

### Finding 8A - R&PP Case File Management

Criteria - Regulations for R&PP uses are found in 43 CFR 2400 (Classification), 43 CFR 2740 (Sales) and 2912 (Leases). Realty specialists are trained to process R&PP applications by following guidance found in H-2740-1. The R&PP Act authorizes the sale or lease of public lands for recreational or public purposes to State and local governments and to qualified nonprofit organizations. Examples of typical uses under the act are historic monument sites, campgrounds, schools, fire stations, law enforcement facilities, municipal facilities, landfills, hospitals, parks, and fairgrounds.

Condition - During our review the team found deficiencies and inconsistencies in processing applications for R&PPs. When the realty specialist receives an application for a lease or a conveyance, the lands need to be classified. Only one case file will be established for classification but another LR2000 record will be established using the same serial number for the lease (2912) and/or conveyance (2740) and using a 2-digit number (01, 02) for the suffix. The team found some cases where more than one serial number was used for the lease and conveyance, having individual serial numbers instead of suffix. By not following the data standards it is difficult to track or find related files and creates confusion for future realty specialists responsible for the file.

Some R&PPs were coded as SNPLMA but were not within the designated disposal boundary. The team found one lease expired and was not renewed. All landfills should be patented with modified reversionary clause. Landfills that were leased prior to the change in regulations that require patenting of landfills should patented when the lease comes up for renewal. Compliance inspections were not done, cases are missing plan of developments, lack of compliance with county zoning, missing required notices, NEPA, etc. Refer to “Finding 4 - Common to all Case Files”.

Some offices want to have R&PP applications processed by the recreation staff. Additionally, the team found two offices where either an archaeologist or geologist was processing an R&PP without any training.

It was confusing to the team when the case file jurisdiction in LR2000 did not match the actual FO boundary. Refer to “Finding 13 - Org Codes in LR2000 and PMDS”.

Cause - The review team found that the regulations and policies are not being adhered to and/or may not be understood. Interruptions while working on the case files results in staff forgetting to do certain actions. These interruptions come from customers, need to help other staff, and from a demanding workload.

The case file jurisdiction changed due to reorganization and was not updated because of either lack of training in LR2000 entry or inattention to the data standards.

Effect - When several cases are opened under different serial numbers for R&PP classification, lease or conveyance, it is difficult to track the files. This could lead to an additional case file being opened and tracking workload inaccurately.

**Recommendation 8A -R&PP Case File Management**

The review team recommends the following actions to strengthen controls for R&PP management:

* Realty specialist must take training before processing R&PP case files. Realty specialists shall attend Beginning Lands' course prior to processing an R&PP application. (P1)

* R&PP actions are complex actions and should only be processed by trained realty specialists. (P1)

* Realty specialist must follow handbooks, manuals, and policy guidance. (P1)

* Realty specialists should adhere to the mandatory LR2000 Data Standards and continually update the records as the application progresses through the process. This includes the proper use of suffixes. The data standards are mandatory in order to meet specific business requirements in the Lands and Realty program. (P1)

### Finding 8B - Collection of Contributed Funds

Criteria - Handbook 1684-1 Fund Code Handbook serves as the source for proper funding practices. Appropriations Funding Source under Miscellaneous Trust funds are provided for resource development, protection and management improvement of the public lands with money and services contributed to the BLM from non-Federal sources, and uses subactivity 7122 – Resource Development Protection/Management FLPMA. L5101 - Major Category ROW, is used only for ROW application processing, granting, compliance, monitoring, etc.

Condition - The team found that it was a common practice to prepare a cost recovery agreement and deposit funds into a 5101 account to process R&PP applications. The funds to process an R&PP action should be collected in a 7122 contributed funds account.

Cause - Lack of training regarding the collection of contributed funds and using the wrong accounts.

Effect - There is an inability to keep track of the contributed funds if they are not placed in the correct account.

**Recommendation 8B - Collection of contributed funds**

The review team recommends the following actions be taken to strengthen controls for collection of contributed funds:

* Train staff and managers in budgeting/collection of contributed funds. This training could be done by NVSO Realty or Budget. This training should at a minimum include instruction for L5101, L5102, L5103, L1492, L5440, L5441, L7122, and L7150 accounts. (P1)
* Staff must code their time to the appropriate functional areas when working on contributed fund R&PP actions. (P1)

### Finding 9 - Trespass

Criteria - Regulations for trespasses are found in 43 CFR 2808 and 43 CFR 9239, and H-9232-1 Trespass Abatement Handbook.

Condition - H-9232-1 (1989) Trespass Abatement Handbook requires all trespass case files be serialized. There are numerous cases still pending in LR2000 dating back to the 1980’s.

The cases reviewed had very little documentation. Some of the northern FOs had photos while the other FOs did not have photos. Most of the cases were established and filed, and there was no further follow-up with the suspected trespasser.

Serial register pages were severely lacking data. Without the information on the serial register page, the only way to know the nature of the trespass is to look in each case file.

Cause - Resolution of small trespass actions is not a priority for most offices.

Effect - A very large backlog of pending trespass cases that will remain open and add to the ever growing backlog of cases. Ignoring trespass processing can evolve into more serious land management issues.

**Recommendation 9 - Trespass**

The review team recommends the following actions to strengthen controls related to processing trespass cases:

* Follow through with a compliance inspection for open cases. Consider interns or contractors to complete compliance inspections. It is believed that many of these old cases could be closed with little to no interaction with the alleged trespasser. If the trespass is merely a cleanup action, either contractors or an idle fire crew could go out and pick up the garbage. This could significantly reduce the number of open/pending trespass cases. (P2)
* Develop a GIS map with the location of compliance inspections for authorized cases, and ask other resource specialists to assist with photos and rehab of existing disturbed areas. (P2)
* Focus on processing high risk trespass actions, unauthorized use, occupancy or development. Funding to process these actions is collected from the trespasser, thereby covering the work to resolve the trespass. Additionally, the trespasser is responsible for the damage on the public lands and this collection is placed in the L5320 account. (P2)
* Consider L5320 Repair of Damaged Lands funding to cleanup a site See Exhibit J, L5320 report (2/10/17) from FBMS. The State is underutilizing 5320 funds. (P2)

### Finding 10 - Airport Lease Rentals

Criteria – The Act of May 24, 1928 (45 Stat. 728; 49 U.S.C. 211-214), as amended by the Act of August 16, 1941 (55 Stat. 621), authorizes the Secretary of the Interior in his discretion and under such regulations as he may prescribe, to lease for use as a public airport, any contiguous, unreserved and unappropriated public lands, not to exceed 2,560 acres in area (surveyed or unsurveyed).

Since 1987, regulations at 43 CFR 2911.1(e) – Airport rentals requires fair market value with a minimum annual rental payment of $100. State or political subdivisions thereof, including counties and municipalities, shall pay to the lessor an annual rental calculated at the appraised fair market value of the rental of the property less 50 percent, with a minimum annual rental payment of $100. Rental will be reconsidered and revised at 5-year intervals to reflect current appraised fair market value.

Prior to 1987, annual rental was $10 for airport leases less than 640 acres, and not less than $5 for each additional 640 acres or fraction thereof. The annual rental rate applied to all lessees, whether a private operation, state, or a political subdivision.

Condition - Airport lease rentals were incorrectly calculated and collected**.** The rental was collected sporadically, under collected or not collected at all. Out of 21 authorized airport leases the team reviewed, 2 airport leases that are charging $10 per year in rent.

One case was authorized in the 1960s. The $10 rent continued to be collected through 2001. Then the rent was adjusted to $100, instead of adjusted to fair market value. Another case reviewed had collected rent of $10 per year from 1985-1993, and then the rents jump around and are not collected annually. It is not clear how these rents were determined, but the team suspects they were not appraised, as there were no appraisals in the casefiles and the amount charged is the minimum.

The team found that five airport leases charged $10 per year and were later adjusted to FMV.

Cause - The team determined the realty specialists were not aware of the change in regulations and continued to collect rent at $100 or $10 instead of obtaining an appraisal indicating fair market value.

Effect - By not adjusting the rental to show fair market value when the regulations changed, potentially thousands of dollars yearly in rent are not being collected for airport leases.

**Recommendation 10 - Airport Lease Rentals**

The review team recommends that the following actions be taken to strengthen controls related to airport lease rentals:

* Review existing airport leases to ensure that rent is properly calculated and charged correctly in accordance with current rates. (P1)
* Consider a Statewide appraisal to determine FMV rent for each airport lease and prepare a phasing in process for the new rentals, if needed. (P3)
* Ensure staff is trained on appraisals, including working with Office of Valuation Services (OVS) and using the Interior Valuation Information System (IVIS) to request appraisals. (P1)
* Brief managers on the airport regulations to prepare for the anticipated large rental adjustments. (P1)

## STAFFING, TRAINING AND ORGANIZATIONAL STRUCTURE

### Finding 11 - Realty Program Staffing

Criteria – BLM Manual 1201, section 4.45 “Workload Analysis” states that levels of intensity, priorities, and risk should be used in making decisions and recommending actions, allocating positions and dollars, and implementing organization objectives to ensure that organizations provide a realistic basis upon which personnel and dollars are assigned throughout the organization, encourage an optimum distribution of staffing, emphasizing allocation of the maximum number of positions to program accomplishments and the minimum number to supervision and administration, provide the basis for determining the priority needs for staffing between unrelated fields, ensure that staffing needs are fully supported and included in program budgeting documents and ensure that an equitable staffing distribution exists between offices which have different amounts of responsibility and different workload priorities. BLM Manual 1201 section 4.46 “Workforce Planning” further explains that workforce planning aligns the future workforce with the BLM’s work priorities and core work skill needs while providing the current workforce with opportunities to improve and learn new skills. The focus is getting the right number of people with the right competencies in the right jobs at the right time while ensuring that workforce issues are integrated with planning, budget, and management decisions.

Condition – The Nevada State Leadership team has conducted workforce planning exercises and balanced the available funding with staffing and workload and has determined that the existing table of organization represents the best balance for the funding available. Generally, the review team believes that the number of staff in the realty program as identified on the Table of Organization (TO), outside the SO, is adequate. However, in Districts with two FOs it is hard to keep these positions filled and the realty specialists, regardless of which FO they are assigned to, end up doing work in both FOs. The realty staff then reports to two field managers and participates on two ID teams, which is not efficient. Each field manager has their way of doing things in their office. In addition, the roles of the LLEs and Realty Specialists were not clearly defined which added confusion to the process. The exception to the level of staffing would be at the SO. Having one additional realty specialist on staff in the SO would provide additional depth of experience and assistance to the FOs.

In our field office visits we found a few non-realty staff leading some realty actions. There was a geologist doing a land exchange, an archaeologist doing an R&PP patent, a planning and environmental coordinator is doing a land sale, and a geologist doing a legislative land transfer. These actions would be considered complex land actions and should be processed or mentored by an experienced realty specialist.

Cause – Without completing a workload analysis the review team does not have adequate or sufficient information to opine on the adequacy or efficiency of the Nevada organizational structure. However it is reasonable to suggest that in the dynamic operating environment of Lands and Realty programs that something has changed, such as increased demand for realty services from the public, district reorganizations, funding reductions or other economic circumstances that have created an imbalance between workload and workforce. Retention is a big problem for the lands and realty program. Interviewees expressed that hiring from a national certification, and moving someone from a more urban setting to a much more rural setting is not working.

Effect - Having staff other than realty specialists work on realty actions is a management risk. They do not possess any training nor have a network of realty professionals to assist with processes. Having complex cases assigned to someone outside of Lands and Realty could create legal problems. The land exchange will more than likely be delayed or stalled as the land exchange has strict document requirements and must be reviewed and approved by the WO.

Hiring from a national cert, on average, appears to result in an average of about a two year retention of those hired. This means the field is continually rehiring and training for the same positions.

**Recommendation 11 - Realty Program Staffing**

The review team recommends that the NVSO consider the following actions to address the realty program staffing issue:

* Conduct a workload analysis of the NV Realty Program to assess the current workload of the NVSO, Districts, and Field Offices, and re-engage in workforce planning activities to determine if the current realty environment has changed significantly enough to warrant a reorganization of NVSO, District, and Field Office realty program organizational structure. (P1)
* Develop Roles and Responsibilities for the State Program Lead and staff. The State Lead functions should include, but not be limited to, the following: implementing State Director priorities; providing statewide program oversight and leadership; serving as primary technical expert in their program or discipline; being a conduit for information exchange between the Washington Office (WO) and FOs; and representing Nevada BLM with other federal and nonfederal entities. Documenting these roles and responsibilities should help with the relationship between the State Lead and the District and FOs. (P1)
* Based on the number of actions processed and pending cases (not the number of acres managed), the staffing levels as identified in the TO appear to be adequate. With the exception of assigning a Legal Instruments Examiner (LIE) or Land Law Examiner (LLE) to each of the districts (see Case Management section), no additional field personnel is recommended. (P2)
* Consider having one LIE or LLE assigned in each district to support the FOs. This person would be responsible to ensuring serial register pages are complete and meet data standards, cases are organized properly and all documents are included, complete and signed. Additionally this person could be responsible for collections and billing, and all accounting matters associated with a case file, including monitoring all cost recovery accounts. This will assure moneys owed to the United States are collected and furthermore, assure BLM Nevada gets funding back from various sub-activities (L5102, L5440, L5441 and L1492). This position could easily cover its own costs as well as help fund other realty staff. (P1)
* Consider one additional position at the NVSO. This position can assist with implementation of the LSSR legal description reviews, and PMDS/MIS/Budget training, mentoring of new field realty trainees and establishing a statewide mentorship program, and/or be a sub-lead for specific realty case types. (P2)
* Consider student interns for new hires in FOs under the Pathways program or upward mobility positions. Outreach to local schools can be the best place to find interns. They are part time while they are still in school, they are very eager to learn, cost the agency very little, and if the intern works out well, can be converted to a Career Conditional Full Time Employee (FTE), and is less likely to leave as they are coming from the local community. (P2)

### Finding 12 - Training for Staff and Managers

Criteria - There are many realty classes offered at NTC, in DOILearn and in the Knowledge Resource Center (KRC).

Condition - Most of the realty staff statewide are getting training at the National Training Center (NTC) in Beginning Lands. We only found a few that have not been yet. We found that any further training beyond Beginning Lands was rare. Realty specialists are not going to Intermediate Lands, which covers the land tenure adjustment action (disposals and acquisitions).

Many managers lacked any substantive knowledge when it comes to Realty actions. Only four managers told us they had attended National Lands Training for Line Officers (NLT) (2000-23), the Realty course for managers. Some managers didn’t know the term land tenure, nor understand there are regulatory customer service standards for ROW. Additionally, we found that one Field Manager was filling in as a realty specialist, because they felt they had sufficient knowledge after attending NLT.

Cause - The majority of respondents thought the reason was a funding issue. It may be true for some classes; however some of the classes are funded or partially funded by the WO. Staff and managers alike did not know about WO funding for training.

Effect - Only one office, Elko DO, has realty on staff that have never been to Beginning Lands, this may be a management risk; However, upon review of the case files it appears the simpler actions are being processed appropriately. However, more complicated actions, including trespass, are not being pursued, and may be due to the lack of training by staff and management.

Managers that are not well equipped with regard to realty actions could potentially create significant risk in the form of litigation actions, audits, and congressional inquiries for the BLM.

The following are the Realty related classes offered by NTC, DOI Learn and KRC:

* Basic Adjudication Fundamentals
* Peer-to-Peer Adjudication Workshop
* Beginning Lands
* Environmental Site Assessments for Assistant Environmental Professionals
* Intermediate lands (focuses on land tenure actions)
* Withdrawals Beyond Mechanics
* Managing Major Rights-of-Way
* Communication Sites
* Complex Land Tenure
* Online Entering Specialized Data into LR2000
* Online Legal Land Descriptions
* Online Communication Site Billing
* Online Withdrawals
* Online Processing Film Permits
* Online Federal Register Notices
* Online Interpreting and Writing Land Descriptions
* (In development, summer 2017) Online LRAM Billing
* (In development, fall 2017) Online Cost Recovery

**Recommendation 12 - Training for Staff and Managers**

The review team recommends the following actions related to training staff and managers:

* Consider designating an existing NVSO Realty program staff member to develop a realty training plan for NV realty staff, supervisors, and line managers in NV to meet realty program objectives. (P2)
* Ensure realty specialists attend both Beginning Lands and Intermediate Lands within the first three years of their appointment. Additionally, we suggest a needs assessment be developed by the DOs to determine if and when any of the other additional classes are needed. Once the need is determined, work with the NVSO to see if funding is available for some or all of the training, such as WO funds for communication site training (L1492). (P1)
* Encourage realty specialists to identify training needs in individual development plans (IDP). It is strongly recommended that each realty specialist create IDPs and manager support for implementation. (P2)
* Realty specialists should be cross-trained with other specialties, LLE, LIE or budget staff to ensure that data entry, billing and process actions continue to be completed even when staffing is short. The NVSO can also assist in coordinating this cross-training. (P2)
* Program Leads, DMs, ADMs, FMs, and AFMs who supervise the realty staff attend NLT training within the first 3 years of their appointment as budgets permit. Refresher training should be considered for those managers for whom more than five years have passed since they completed the training. This training is half funded by the WO. (P2)
* Implement a mentoring training program. The AZSO has a mentoring program through the NTC, and the review team recommends that the NVSO consider contacting the AZSO for input on developing a mentoring training program. (P2)
* The NVSO can provide better leadership and mentoring to the field realty specialists. We recommend an annual field visit to each DO/FO by the NVSO realty staff. This visit should focus on specific questions and concerns of the realty staff. The review team recommends funds be held at the NVSO to facilitate the field visits. (P2)

### Finding 13 - Org Codes in LR2000 and PMDS

Criteria - 135 DM Chapter 5: Field Organization, BLM Manual 1274, LR2000 Data Standards, Performance Management Data System (PMDS)

Condition - In all of the offices, there has been a blurring of the org codes in both LR2000 and PMDS. In LR2000 some cases are assigned to DOs instead of FOs, and in Las Vegas they are assigned to Support Services. In reality, the realty work should be primarily in the FOs. Additionally, the FOs are not kept current in LR2000. We found Elko and Battle Mountain DOs with assigned cases to them from when they used to be FOs.

Much like LR2000, PMDS also has many targets set at the DOs, when the work is actually being completed at the FOs. In LR2000, we are able to pull reports based on the Program Elements (PEs). In the realty program, we have a significant advantage over other programs in easily reporting actual work in PMDS through the use of LR2000.

There appears to be a huge emphasis placed on targets and actuals in PMDS. In some offices, they look at their work at the beginning of the fiscal year and assign each target a serial number to be completed.

Cause - Having cases assigned to various offices, rather than the office charged with oversight of the case file, makes it impossible to track the workload or accomplishments. It appears that some of this is a result of LR2000 maintenance issues after reorganization.

Assigning serial numbers to the targets set in PMDS does not allow for flexibility in the program to adjust to the customer needs. Most actions in the realty program are customer driven (ROW and Permits) and rarely are these targets exactly met.

Effect - By not assigning the cases to the appropriate FOs it makes it impossible to understand where the backlog is or where the actual work resides.

Credibility in PMDS is negatively affected when work targets are not set at the appropriate office. Additionally, NV leadership needs to message the DOs and FOs that many PEs in realty are customer driven, and hitting the target should not be the sole goal. Good customer service should be emphasized.

Because the org codes in both LR2000 and PMDS are so co-mingled, it is impossible to reconcile the 2 systems. (See Exhibit K- PMDS-LR2000 Reconciliation)

**Recommendation 13 - Org Codes in LR2000 and PMDS**

The review team recommends the following actions to strengthen controls related to Org codes in LR2000 and PMDS:

* Cleaning up the org codes will be very difficult in LR2000. It is suggested that the NVSO work with the NOC to find a way to begin this process. Once the org codes are cleaned up, it will be imperative to train the staff doing the data input to use the correct org codes. (P3)

* Using the correct org codes for PMDS should be much simpler. Although FY 2017 is already in motion, it is recommended that the Budget Officer and the State Lead coordinate on disseminating the information to the FOs with regard to setting most realty targets at the FOs beginning in FY 2018. (P1)
* Consider PMDS training for staff and managers. In order to accurately account for the workload, it is imperative that those setting the targets and reporting the accomplishments know and understand the meaning of each program element being reported. (P2)

## SPECIAL LEGISLATION PROGRAM RECORDS MANAGEMENT

### Finding 14 - Special Legislation Program Records Management could be Improved

Criteria - BLM Manual 1270 - Records Management (Internal), requires that all BLM offices maintain records in an economical, efficient, reliable, retrievable form, protected from unauthorized disclosure, preserved and disposed of only in compliance with Bureau program directives and DRS and NARA approved record schedules and implement records schedules that are approved by NARA and are aligned with the Department.

Condition - All Special Legislation Records are being kept on site in the implementing offices. The review team was made aware that Special Legislation Program records are stored in boxes in the SNDO warehouse.

Cause - Although the cause of the condition was not determined, the condition may be attributed to lack of adequate training and guidance offered to office staff that create and maintain the special legislation program records or lack of awareness that the records existed.

Effect - Storing the records in the SNDO warehouse exposes the BLM to risk of loss or damage from the elements, disaster events such as fire and flooding. Administratively, the records represent the history of decisions and administrative record for those decisions, and the ability to retrieve those records may be impaired, exposing the BLM to the risk of litigation or public scrutiny. Additionally, the absence of records inventories and disposal schedules impairs the BLM’s ability to manage records from their initial creation to their final disposition and execute judicious preservation and disposal of records.

**Recommendation 14 - Special Legislation Program Records Management could be Improved**

* The review team recommends that the NVSO and SNDO strengthen controls to ensure that Special Legislation Program records are managed in accordance with BLM and NARA policy. This may include a NVSO records manager gap analysis of current condition and the records management policies and develop corrective actions to ensure compliance with records management policy. Additionally, consider scanning all documents and retaining electronically (currently stacks of boxes in the SNDO Warehouse). Proper management of records must be exercised to ensure legality, integrity, access and security standards are met. (P3)

## APPENDICES

### Appendix A - Nevada Special Legislation Program Review Report

### Nevada Special Legislation Program Review Final Report

**January 11, 2017**

**Program Information**

**S**ince 1998, five separate Special Legislation Acts have been passed by Congress that benefit the State of Nevada and are administered by the BLM. The five acts are:

* Southern Nevada Public Land Management Act of 1998 (P.L. 105-263)
* Lincoln County Land Act of 2000 (P.L. 106-298)
* Lincoln County Conservation, Recreation, and Development Act of 2004 (P.L. 108–424)
* White Pine County Conservation, Recreation, and Development Act of 2006 (P.L. 109-432)
* Omnibus Public Land Management Act of 2009 (P.L. 111.11)

Each act provides for the orderly disposal of certain Federal lands in Clark County, Lincoln County, White Pine County and Carson City, Nevada. Of the revenue generated through each act 85 to 95 percent is deposited into a Special Account for each act to fund specified kinds of projects. The projects include parks, trails, and natural areas that benefit certain cities and counties in Nevada; capital improvements for certain federally managed areas in Nevada and Arizona; conservation initiatives on Federal land in certain counties in Nevada; a multi-species habitat conservation plan; inventory, evaluation, protection, management of unique archaeological resources; environmentally sensitive land acquisitions in the State of Nevada; hazardous fuels reduction projects in two areas of Nevada and the Lake Tahoe Basin including the portion of the Basin in California ; implementation of the Eastern Nevada Landscape Restoration Project; and Lake Tahoe Restoration Act projects. The remaining 5 to 15 percent is distributed to the State of Nevada’s general education program and other local entities as identified in each Act. Additionally, the Southern Nevada Public Land Management Act of 1998 (SNPLMA) has several legislative designated set-asides that specifically designate how funds will be expended.

The Special Legislation program does not have a BLM Washington office lead. The program is supported primarily by WO 350, 300 and 100. Management of the overall program, policies and procedures are provided by the NVSO. Day-to-day oversight for the disposal of lands and the implementation of the projects is the responsibility of the district (Southern Nevada, Ely and Carson City) that has oversight for the disposal of lands described in each act. In fiscal year 2016 the program fully or partially funds 351 employees in the State, several individuals at the NOC and one full time solicitor.

A comprehensive program review has never been conduct. Over the years several program reviews of the SNPLMA have been conducted. In 2011 an unofficial review of the SNPLMA program was conducted by the Office of Policy Analysis.

**Review Objectives**

To assess the effectiveness of the Special Legislation program in the State of Nevada to meet the requirements of the Acts, provide transparency about expenditures for our partners and determine if the level of customer service can be improved.

**Scope and Methodology**

**Methodology**

This Program review was comprised of 51 interviews and examination of a sample of project files. Interviews were conducted in person and by phone between December 5, 2016 and January 6, 2017. Interviewees included current and past BLM employees working in or with the Special Legislation (SL) Program, the Managers responsible for those BLM employees, Partners Working Group Members, and Executive Committee Members. A complete list of those interviewed is attached.

**Results**

Overall, people expressed satisfaction with the SL Program and were happy with the support provided by staff, program transparency, and management of the SL Program. The interviews did not reveal any critical failings of the SL Program, although the review did identify areas where there are opportunities for improvement. Examination of project files did not result in any noteworthy findings.

The findings and recommendations have been grouped into categories below:

**Communication: Transparency and Efficiency**

Observations

* Generally, Partners Working Group (PWG) and Executive Committee (EC) Members were satisfied with the quality and quantity of communications received by the SL Program. The few issues identified are listed below.
* Communications from the Program are sporadic, which can make them difficult to manage.
* Meetings occur infrequently and participants are not always clear on roles, sideboards, and objectives.
* Only one member expressed concern about Administration spending for the program. However, some members were unaware that Special Account funds are spent to administer the Program and the majority of the members didn’t think that the spending was transparent.

Recommendations

* To the extent possible, package communications (Decision Memos, status updates, etc.) and send at regular intervals. i.e. Send all updates and decision memos on the 1st and 3rd Friday of each month.
* Begin each meeting with a brief orientation including introductions, the purpose of the Act, their role in the process, the role of the staff, objectives for the meeting.
* Annually present the administration funding for the Program (prior fiscal year actuals and current fiscal year planned) to the EC and PWG.

Observations

The SNPLMA website is one of the primary tools utilized by internal and external partners to receive information about the Program and was referenced by multiple people as the key to the Program’s transparency.

* Most people interviewed were unaware of the new BLM website, and had not been there.
* It is difficult to find the new website and the information posted is less robust than the previous version.

Recommendation

* New website should be immediately reviewed and updated to best convey necessary SNPLMA information. Link to new website should be sent to all internal and external Program partners.

Observations

* Internally, many of the BLM staff who don’t work directly for the SL Program expressed confusion about the scope of the Program’s responsibilities and misunderstanding of the roles of the Program Managers.
* Some managers and staff believe that the role of the SL Program is to coordinate and provide guidance on implementation of all laws impacting BLM Nevada.
* Some managers and staff believe that the role of the SNPLMA Program Managers is to provide BLM guidance for internal SNPLMA project nominations and did not recognize that their positions and to coordinate and oversee projects for all of the eligible agencies.

Recommendation

* Roles and Responsibilities of the Program and the Program Staff should be clearly articulated and communicated throughout Nevada BLM.

Observation

* Washington Office staff are generally happy with the frequency and quality of communication.

Recommendation

* Visits to the WO to communicate directly and provide briefings are important and should happen at least annually.
* Packages submitted to the WO (Rounds and Annual Reports) could benefit from review by a technical writer-editor prior to submission.
* An annual check-in to provide WO-300 with the anticipated workload and timing for the coming year would be helpful for their internal planning processes, and may help facilitate timely movement of packages through the surnaming process.

**Staffing Needs**

Observations

* There are only two Grants and Agreements Specialists in the NVSO with the authority to work on the high dollar agreements associated with SL.
* Their workload is high and they have indicated that they could use additional help.
* It takes up to five years for the training and experience necessary to have the authority for the high dollar agreements that they work on.

Recommendation

* Effort should be made to provide additional support to the existing Grants and Agreements Specialists and to work towards having additional staff with the authority for high dollar agreements.

Observation

* While interviewees were pleased with the support they receive from the NVSO, some identified that they believe an additional position would be beneficial (vice Ralston).

Recommendation

* If you decide to fill the position, careful consideration should be given to the duties, workload, and grade level for this position (ps- this is not a function of the review, 100% my opinion).

**Organizational Structure and Program Complexity**

Observations

* Generally, staff thought that the grades of the SL Program Staff were appropriate. The average ranking of SL Program complexity on a scale of 1-10 was 7.3.
* SL Program staff and Grants and Agreements staff generally ranked the SL Program complexity as a 9-10.
* Managers generally ranked the SL Program complexity as a 7-8.
* Staff who provide support to the SL Program (realty, budget, etc.) generally ranked the complexity as a 5-6.

Recommendation

* As positions are vacated, review workload and complexity of vacant position to assess need for position and if a change in grade is warranted.

Observations

* Multiple members of the SNPLMA Division expressed concern over the management structure of the SL Program and believe that the current structure is a risk for conflict of interest. No other interviewees expressed this concern.
* They did not express any examples where they believe that conflict of interest resulted in an inappropriate decision.
* They did share situations where pressure was applied, and an appropriate decision was made due to integrity of the individual managers involved in the situation.

Recommendation

* Supervision of the SNPLMA Division should be moved out of the Southern Nevada District. It is concerning that the Program Managers feel the pressure of the inherent conflict of interest of the supervisory chain, which in turn may influence their behavior and recommendations. NVSO supervision of the Program Managers would remove one level of potential conflict of interest, but the potential would still exist.

Observations

* There was general consensus that the SNPLMA Division should remain physically located in Southern Nevada.
* Co-location of the Program Managers aids in consistency and provides efficiencies.
* Unless the language in the Acts is identical, there is no efficiency from having a single Program Manager oversee similar categories under different Acts.
* Program Managers proximity to the projects overseen and eligible entities results in improved customer service.
* Specific to Hazardous Fuels and Eastern Nevada Landscape Restoration categories where the majority of the workload is outside of Southern Nevada, interviewees felt that re-location of Program Management positions would only be warranted if workload demanded (i.e. – the category was a full-time job), and noted that some consistency and efficiencies would be lost by re-location.

Recommendation

* Any consideration of re-locating Program Manager positions should be driven by a workload analysis. If re-location is warranted, efforts should be made to have the Program Manager travel to the Southern Nevada District frequently to work with the SNPLMA Division to foster collaboration and team building.

**Information Transfer, Successional Planning, and Training Needs**

Observation

* New PWG and EC members expressed that becoming familiar with the Program and their roles is a steep learning curve, and it takes a long time to get up to speed.

Recommendation

* Recommend developing roles and responsibilities document for PWG and EC Members, and provide an orientation presentation. In addition, you could identify a fellow PWG or EC member as a mentor for the new member.

Observation

* Some PWG Members identified that the two year cycle for Local Government Representatives and a shift to biennial funding Rounds meant that these members were never adequately familiar with the process in order to best contribute to the recommendations.

Recommendation

* Recommend a future PWG agenda item to discuss options including extending term of Local Government Representatives to allow for a shadow year (non-voting), then a two year term as a voting member of the PWG.

Observation

* SNPLMA Program Managers identified that Appropriations Law and Project Manager trainings have been very beneficial to them in their position.

Recommendation

* Recommend that all new Program Managers are offered those courses.

Observation

* The Grants and Agreements staff and SL Program Managers believe that an annual workshop (face-to-face) to discuss new policy and regulation and potential impact to SNPLMA business rules would facilitate communication and improve efficiency.

Recommendation

* Provide supervisory support and necessary travel funding to foster improved collaboration between the SL Program Managers and Grants and Agreements Specialists.

Observation

* Loss of corporate knowledge through change in staff is not unique to the Special Legislation Program, but it is an issue that the Program must contend with.

Recommendations

* Recommend development (and annual updating) of Standard Operating Procedures documents.
* Suggest cross-training SNPLMA Program Managers in other categories. Not only will it reduce the risk of information loss, it will build capacity to aid in managing workload fluctuations.
* Double encumber positions when possible.

**Miscellaneous Observations**

* Many PWG Members were frustrated by the accelerated Round 16. To the extent feasible, ensure adequate notification of funding Rounds to allow eligible entities to properly plan.
* Some PWG Members felt that the Projects of Concern List is good for improved accountability and should continue, others felt that it has served its purpose and is no longer necessary. This may be an appropriate agenda item for discussion at a future PWG meeting.
* Some managers expressed a need for improved coordination and guidance for implementing newly enacted laws such as the Nevada Native Nations Land Act which affects multiple Districts.
* Some managers expressed frustration with the Legislative Referral process. This included concern that the right staff were not being included (i.e. SL Program Manager should be contributing to legislation similar to enacted Special Legislation), legislative maps do not accompany the referral (they are not always available, so there may not be an easy solution), and timeframes are too short (timeframes are outside of the control of BLM Nevada).

Communication to staff regarding appropriate coding for Special Legislation work seems adequate.

## LIST OF EXHIBITS

Exhibit A - NV Lands Realty and Special Legislation Program Survey Results

Exhibit B - Records Review Checklists

Exhibit C - BAM Worksheet NV\_1440\_20\_50\_20\_10

Exhibit D - Realty Funding Codes

Exhibit E - L5102 Report 2-10-17

Exhibit F - L1492 Report 12-15-16

Exhibit G - L5440 Report 2-17-17

Exhibit H - L5441 Report - 2-7-2017

Exhibit I - Not Used

Exhibit J - L5320 Report 2-10-17

Exhibit K - PMDS\_LR2000 Reconciliation

Exhibit L - Case Files Reviewed

Exhibit M - Map of NV DO/FO Jurisdiction

Note: Due to the volume of pages for Exhibits A-M (208 pages), Exhibits will not be included with the report. Exhibits will be provided separately.

1. Refer to the Introduction, Item III: Minimum Acceptable Data Quality Level (page 10) in the 2014 Lands Data Standards [↑](#footnote-ref-0)