

To: Cheryl (Cheri) Vocelka[cvocelka@blm.gov]
From: Todd, Marci
Sent: 2017-03-13T15:35:23-04:00
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Subject: Fwd: [Update] Managing Mineral Materials Sites in National Monuments
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[Saleable Minerals BARNM 3 1 17 LHH.docx](#)
[Considerations for MM on Withdrawn Lands.pdf](#)

Joanne may have already printed this but will you check and ensure I have it. Thx

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From: **Guenaga, Elaine** <eguenaga@blm.gov>
Date: Mon, Mar 13, 2017 at 12:26 PM
Subject: Fwd: [Update] Managing Mineral Materials Sites in National Monuments
To: "Maluotoga, Joanne" <jmaluoto@blm.gov>, Marci Todd <m1todd@blm.gov>

The Ely District Office requested a conference call to discuss how to handle mineral materials within the Basin and Range National Monument, and suggested Southern Nevada DO also be included because of their new national monument. Attached are the questions that were posed, and the preliminary responses, as well as a PowerPoint presentation that various land actions, including national monument designations, and how they affect mineral materials sites.
Best regards,

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From: **Hobbs, Lawrence** <lhobbs@blm.gov>
Date: Fri, Mar 10, 2017 at 12:48 PM
Subject: [Update] Managing Mineral Materials Sites in National Monuments

To: Alfred Elser <aelser@blm.gov>, Alicia Styles <astyles@blm.gov>, Barbara Keleher <bkeleher@blm.gov>, Brian Amme <bamme@blm.gov>, Elaine Guenaga <eguenaga@blm.gov>, George Brown <g1brown@blm.gov>, Ilana Cohen <icohen@blm.gov>, Marci Todd <m1todd@blm.gov>, Michael Herder <mherder@blm.gov>, Mitchell Leverette <mleveret@blm.gov>, Paul Nordstrom <pnordstrom@blm.gov>, Stephanie Trujillo <strujill@blm.gov>, Thomas Barrett <tjbarrett@blm.gov>, Timothy Fisher <tjfisher@blm.gov>, Timothy Smith <tsmith@blm.gov>

Attached is preliminary responses from a 3600 program perspective to the questions posed and supporting background information to assist in the discussion.

Larry

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Saleable Minerals BARNM (3/1/17)

The Basin and Range National Monument (BARNM) Proclamation states “All Federal lands and interests in lands within the boundaries of the monument are hereby appropriated and withdrawn from all forms of entry, location, selection, sale, or other disposition under the public land laws, from location, entry, and patent under the mining laws, and from disposition under all laws relating to mineral and geothermal leasing, other than by exchange that furthers the protective purposes of the monument.”

The Materials Act of 1947 is one form of authorization of saleable minerals on public lands. It states “Nothing in this Act shall be construed to apply to lands in any national park, or national monument or to any Indian lands, or lands set aside or held for the use or benefit of Indians, including lands over which jurisdiction has been transferred to the Department of the Interior by Executive order for the use of Indians.”

Another form of authority for removal of sand and gravel are Title 23 rights-of-way, which continue indefinitely to the Federal Highway Administration. At present, approximately three rights-of-way are currently authorized to Nevada Department of Transportation (NDOT) within the BARNM for the use of sand and gravel for highway purposes.

The Draft RMP for the Cascade-Siskiyou National Monument states that common mineral materials from existing quarries can continue to be used for administrative purposes. It describes BLM use of these types of materials within the monument for administrative use and improvement of facilities (e.g. roads, trails, parking areas, etc.) to reduce environmental effects. Since the BLM is not selling these common materials to the public, use of these materials from the quarries could continue.

The Grand Staircase-Escalante Proposed RMP states that free use permits or contracts for mineral materials authorized under the Materials Act of 1947 would not be renewed. Material sites authorized under Title 23 were addressed differently. The RMP goes on to state “Existing Title 23 rights-of-way within the Monument are inconsistent with the protection of Monument resources. The BLM would request closure of these sites from the Federal Highway Administration and would work with the Federal Highway Administration to find suitable replacement sources of mineral material.”

Most of the roads in Basin and Range National Monument (BARNM) are maintained by Lincoln County through a Road Maintenance Agreement. Very few of the roads in the Monument are designated as BLM-maintained roads. At least three existing gravel pits are currently in place within BARNM, granted to Lincoln County for the purpose of road maintenance. Sand and gravel is needed for road maintenance currently and into the future.

Sand and gravel materials are also an anticipated need into the future for range improvement projects (as part of the ranching lifestyle noted in the Proclamation), upkeep and maintenance of the land artwork *City*, and for private landowners to maintain access.

Questions regarding saleable minerals in Basin and Range National Monument

- 1) Are saleable minerals considered a valid existing right?
 - a. Yes, see
 - i. § 3601.22 What rights remain with the United States when BLM sells or issues a permit for mineral materials? A: *"Your sale contract or use permit is subject to the continuing right of the United States to issue leases, permits, and licenses for the use and occupancy of the lands, if such use would not endanger or materially interfere with the production or removal of materials under contract or permit."*
 - ii. §3604.27 What rights does a free use permit give me against other users of the land? A: *"Permits that BLM issues under this subpart constitute a superior right to remove the materials in accordance with the permit terms and provisions, as against any claim to or entry of the lands made after the date BLM designated the tract for mineral materials disposal. See §3602.12."*
- 2) Is Basin and Range National Monument (BARNM) completely closed to saleable (sand, gravel, cinder, etc.) minerals? If not, what is the potential range of alternatives regarding saleable minerals?
 - a. Yes, closed to all new disposals.
 - b. Existing disposals terminate upon expiration of contract or permit, renewals are not allowed
 - c. Existing contract/permits can be canceled by mutual consent or for failing to comply with, law or the applicable terms and conditions.
- 3) Can BLM renew permits to Lincoln County for sand and gravel to maintain existing roads within the monument OR somehow authorize this use in the future for administrative purposes?
 - a. Renewal not allowed, see above #2
 - b. BLM can issue a FUP permit or ROW to its self with NEPA & proper justifications that *"furthers the protective purposes of the monument."*
 - i. BLM can contract road maintenance work and supply materials but not issue FUP to the county
- 4) Can BLM keep a pit open for BLM administrative purposes?
 - a. Yes see 3 b
- 5) Could an existing pit be expanded if materials run out in the future?
 - a. Yes see 3 b
- 6) Do expired and closed pits need to be reclaimed OR could they be authorized for use at some point in the future?
 - a. Unless retained by the BLM for monument purposes they need to be reclaimed
- 7) Could new pits be authorized, if they allow for proper care and management of monument resources, objects, and values? For example, if an existing pit has an impact on visual resources, could it be re located to a location that offers better visual screening?
 - a. Yes, only to BLM and only for monument purposes