



"Bowby, Brenda" <bowby_brenda@bah.com> on 06/13/2007 04:27:11 PM

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To: <Joseph_Rivers@ymp.gov>
cc:
Subject: Repository and Nye County Land Info

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LSN: ~~Relevant~~ ~~Privileged~~

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Joe,

I've attached some information on the repository land agreements and the Nye County realty actions. If you need anything further or have any questions, please let me know.

Take care



Brenda seis land info.doc

Land Use Agreements Governing the Proposed Repository Land Withdrawal

The proposed withdrawal for the repository includes about 150,000 acres of land currently under the control of the DOE, the U.S. Department of Defense, and the U.S. Department of the Interior. The eastern portion of this land, about 79,700 acres, is located on the western portion of the DOE Nevada Test Site. This portion of the Nevada Test Site was withdrawn from the Nellis Air Force Range by Public Land Order 2568 on December 19, 1961 (26 FR 12292). The southwestern portion of the area consists of an estimated 45,300 acres that are public lands under the administration of the Bureau of Land Management and are open to public access. The northwestern portion of this area, about 23,000 acres, is located on the U.S. Air Force Nevada Test and Training Range. This land was originally withdrawn as a bombing and aerial gunnery range by Executive Order 8578 (5 FR 4313). This land was most recently withdrawn by the Military Lands Withdrawal Act of 1999, Public Law No. 106-65, 113 Stat. 885 [DIRS 159596], which legislatively extended the existing land withdrawal until November 6, 2021.

The land within the proposed repository withdrawal is managed by the following land agreements. Currently, these do not permit the construction and operation of the repository:

- Right-of-way reservation N-48602 was granted to the DOE by the Bureau of Land Management on October 10, 1989, and renewed on June 28, 1994; January 5, 2001; and April 8, 2004. It expires January 6, 2008 (MOL.20070322.0067). This right-of-way reservation covers a portion of the Nevada Test and Training Range. The Bureau of Land Management retains the right to issue right-of-way reservations on the Nevada Test and Training Range, with the concurrence of the U.S. Air Force, under Section 3011(b)(5)(E) of the Military Lands Withdrawal Act of 1999 [DIRS 159596], Public Law No. 106-65, 113 Stat. 885 (October 5, 1999). The current right-of-way reservation covers a portion of the GROA and the northwestern portion of the surrounding land. The land within this right-of-way reservation has been withdrawn from all forms of appropriation under the public land laws, including mining laws and geothermal leasing laws.
- Right-of-way reservation N-47748 (BLM 1988 [DIRS 102218]) was granted to the DOE by the Bureau of Land Management on January 6, 1988, and renewed on January 5, 2001. It expires on January 6, 2008 (Wells 2001 [DIRS 154660], pp. 2 to 6). Most of this right-of-way reservation is located within the southwestern portion of the area. This right-of-way reservation covers public land administered by the Bureau of Land Management (Wells 2001 [DIRS 154660], pp. 1 to 2).
- Public Land Order 7653 is a land withdrawal for a period of 10 years to evaluate the lands for the potential construction, operation, and maintenance of a rail line (Caliente Rail Corridor) for transportation of spent nuclear fuel (SNF) and high-

level radioactive waste (HLW) to a geologic repository at Yucca Mountain. Only a small portion of this 308,000-acre withdrawal includes land within the proposed repository withdrawal.

- Public Land Order 6802 (55 FR 39152) was executed by the U.S. Department of the Interior on September 25, 1990, and extended by Public Land Order 7534 (67 FR 53359) on July 31, 2002. It expires on January 31, 2010. These public land orders cover 4,255.5 acres and withdraw the land from the operation of the mining and mineral leasing laws and overlays a part of right-of-way reservation N-47748 (BLM 1988 [DIRS 102218]). While these public land orders do not grant the DOE additional land-use rights above those specified in the right-of-way reservation, they do preclude the staking and filing of mining claims.

In addition, a Memorandum of Agreement between the predecessor offices of the DOE National Nuclear Security Agency Nevada Site Office and the DOE Office of Civilian Radioactive Waste Management (Aquilina and Nelson 1994 [DIRS 146509]) allows the use of about 58,000 acres on Nevada Test Site land for Yucca Mountain project activities.

Overview and Status of Nye County Land Actions

On March 9, 2001, the BLM issued a notice of realty action (66 FR 14194) announcing the non-competitive sale of public lands (N-66239) and a recreation and public purpose conveyance in Nye County, Nevada (N-54086), which are both located near the intersection of U.S. Highway 95 and Nevada State Route 373, known as Lathrop Wells, Nye County, Nevada.

The first realty action, N-66239, is a non-competitive sale of 353.12 acres of public land to Nye County. Under the conditions of sale, Nye County has the exclusive right to purchase any and all of the proposed land at fair market value for a commercial purpose. To date, Nye County has purchased 10.66 acres. The offer expired on November 28, 2004; however, the case file still lists the realty action as authorized. The case file also notes the land action includes a total of 375 acres.

The second realty action, N-54086, is a conveyance of 470 acres of public land to Nye County for recreational or public purposes. The published intent of Nye County, once the land action is complete, is to lease the land to the Nevada Science and Technology Center, a non-profit corporation, for the development of the Nevada Space Museum, outdoor exhibit areas, and associated facilities. This land action is still pending.

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QA:NA

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