

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
BUREAU OF LAND MANAGEMENT, LAS VEGAS FIELD OFFICE
AND
VIRGIN VALLEY WATER DISTRICT**

I. Background

The Bureau of Land Management (BLM) Las Vegas Field Office (LVFO) manages approximately 296,937 acres of public lands in northeast Clark County, Nevada that were established as the Gold Butte National Monument (Monument) through Presidential Proclamation (Proclamation) under the Antiquities Act on December 28, 2016. The Proclamation (Exhibit A) describes the objects of the monument to be protected, including cultural, prehistoric, historic, natural, and scientific values. The Proclamation established the Monument subject to valid existing rights, including valid existing water rights. The Proclamation, as stated, does not:

“interfere with the operation, maintenance, replacement, modification, or upgrade within the physical authorization boundary of existing flood control, pipeline, and telecommunications facilities, or other water infrastructure, including...water district facilities that are located within the monument.”

Further, the BLM’s understanding of the intent of the Proclamation is that access to and operation or development of necessary water district infrastructure associated with valid existing water rights are allowable uses.

The Virgin Valley Water District (District) is a political subdivision of the State of Nevada and is the water purveyor for the communities of Mesquite and Bunkerville, located in the Virgin Valley of Clark County, Nevada. The District owns, holds, or has existing applications for water rights located within the area of the Monument (Water Rights). The District’s Water Rights are more particularly described in Exhibit B.

The District also owns, holds, or has applied for certain rights-of-way (ROW) and other rights, (i.e., surface flow gages, shallow monitoring wells), necessary to the District’s ability to access, develop, transport, deliver, and make full use of the Water Rights located within the Monument (collectively, the “Access Rights”). The Access Rights include and are necessary to the District’s ability to maintain or install certain facilities, pipelines, and other appurtenances that are required for the District to access and transport the water from certain areas within the Monument to the District’s authorized service area for delivery to the District’s customers. The District’s Access Rights are more particularly described in Exhibit C.

The District acquired the Water Rights and Access Rights at great expense and effort prior to the Proclamation establishing the Monument. The Water Rights and Access Rights are or will be essential to the District’s ability to serve its existing and future water customers.

The LVFO and the District wish to continue their good working relationship under a formal Memorandum of Understanding (MOU) that allows the District to serve the Virgin Valley area by

making use of its Water Rights, while protecting natural resources and promoting responsible stewardship of the public lands.

II. Statement of Purpose:

This agreement is made and entered into by the LVFO and the District, hereafter called Parties.

III. Goal:

The goal of this MOU is to articulate the Parties' common understanding of the intent of the Proclamation with respect to the District's Water Rights and Access Rights within the Monument.

IV. Objectives:

- A. Identify the District's Water Rights.
- B. Identify the District's Access Rights.
- C. Develop a mutual understanding of allowable and approved uses within the monument to provide continuity and assist future agency staff.
- D. Mutually work together to resolve resource issues and to protect the objects of the monument.

V. Definitions

- A. Proclamation [See Exhibit A]
- B. Water Rights [See Exhibit B]
- C. Access Rights [See Exhibit C]
- D. Proclamation Intent Relative to the District's Water Rights [See section VII D]

VI. Authority:

The BLM is authorized to enter into this MOU under the authority contained in Section 307(b), Federal Land Policy and Management Act (FLPMA); P.L. 94-579 (90 STAT. 2763, 43 USC 1733); and Section 202(c)(9) of FLPMA as delegated in BLM Manual 1203 and Nevada Supplement. The District is authorized under the authority of Virgin Valley Water District Act, Chapter 100, Statutes of Nevada.

VII. The Parties agree:

- A. To maintain this agreement into the future to allow for the maintenance and development of the District's Water Rights within the Monument, regardless of personnel, administrative or programmatic changes at the BLM. Nothing herein and nothing associated with the implementation of this MOU shall preclude the District from reasonably accessing, developing, pumping, maintaining, constructing appurtenances, or conveying water consistent with the Water Rights within or from the subject area to the District's service area, whether such Water Rights are for ground water, surface water, springs, or otherwise.
- B. That the District's Water Rights and Access Rights recognized under the Proclamation shall be preserved consistent with the Proclamation's stated intention to not interfere with the operation, maintenance, replacement, modification, or upgrade of water infrastructure located within the Monument; that the District's ability to access, develop, transport, deliver, and make full use of its Water Rights and Access Rights shall be considered

allowable uses within the monument subject to the provisions of the National Environmental Policy Act (NEPA) of 1969, as amended, and other applicable laws; and that this understanding will be codified in appropriate BLM Resource Management Plans and Implementation Plans. This agreement does not reduce, modify, or expand any land use authorization that was previously issued or that could be approved under this agreement. Existing land use authorizations will continue to be managed consistent with their terms and conditions. Any ROW amendment would be processed under current federal laws and regulations such as Title V of FLPMA and 43 CFR §2800.

- C. That the District holds valid existing rights, including Water Rights, that allow for accessing, developing, constructing, pumping, maintaining, or conveying water to the District's authorized service area, whether such water or water rights are existing or are awaiting a final adjudication for ground water, surface water, springs, or otherwise. ROW's, through terms and conditions of the ROW grant, ensure the District's unhindered access, development, and use of water and water rights, including, but not limited to, installing and maintaining wells, storage tanks, pumping facilities, precipitation gauges, temporary use areas, roads, motorized access, pipelines, and related water system infrastructure and appurtenances. Any new/future water sources/water rights that are identified or become available for the District must be applied for and obtained in accordance with the State of Nevada water laws and are not part of this MOU.
- D. That the Proclamation intended that the District be able to access and develop all of their existing Water Rights. In order to accomplish that purpose, the District's Access Rights include applications that were pending at the time of Monument designation and that are being processed by the Las Vegas Field Office. These pending applications, if approved, would become part of the Access Rights managed by the District.
- E. That providing for the future water needs of the Virgin Valley and protecting the Objects of the Monument can be mutually compatible. Careful planning, mitigation, and implementation of the District's projects would ensure water delivery to the communities and that the resources within the monument will continue to be protected and maintained.

VIII. The BLM agrees to:

- A. Designate the Assistant Field Manager, Division of Lands, as the BLM point of contact.
- B. Review, process and make decisions on the District's applications for water projects tied to its Water Rights that were pending as of the date of the Proclamation.
- C. To the extent possible, prioritize processing of the District's applications.

IX. The District agrees to:

- A. Designate the Assistant General Manager as the point of contact for the District.
- B. Coordinate project planning and execution with the BLM, including allowing sufficient time to process authorizations and necessary support.
- C. Coordinate pre-application meeting(s) on the pending Water Rights projects and right-of-ways.
- D. Work with BLM to ensure rights-of-way and projects associated with the District's Water Rights are compatible with protection of the Monument resources and values.

X. Review and Amending MOU:

This MOU will be reviewed periodically and may be amended at any time, providing the amendments are agreed upon in writing by the Parties.

XI. Term of the Agreement:

The Term of the Agreement shall be in perpetuity unless it is terminated by either Party or the Parties deem the Agreement is no longer needed.

XII. Terminating Agreement:


This Agreement shall become effective when it is signed by the Parties hereto and shall continue in force unless terminated in writing by either party through the delivery of a Notice of Intent to Terminate to the other Party's liaison not less than thirty (30) days prior to the termination date contained in such notice. Termination of the Agreement shall have no effect on land use authorizations issued prior to or during the Agreement, unless the District voluntarily modifies or relinquishes such authorizations.

XIII. Constraints and Responsibilities

Nothing in this Memorandum will be construed to limit or expand the authority or legal responsibility of the BLM or to bind either party to perform beyond their respective authority, or require either party to assume or expend any sum in advance of or in excess of appropriations. The parties shall be subject to their respective or applicable legal authorities.

XIV. Approvals:

In witness thereof, the Parties hereto have caused this Memorandum of Understanding to be executed on this 19th day of December, 2018.

A handwritten signature in black ink, appearing to read "Timothy Z. Smith", is written over a horizontal line.

Timothy Z. Smith
District Manager
Southern Nevada District Office
Bureau of Land Management

XIV. Approvals:

In witness thereof, the Parties hereto have caused this Memorandum of Understanding to be executed on this 21st day of December, 2018.



Kevin Brown
General Manager
Virgin Valley Water District

EXHIBIT A - PROCLAMATION

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

December 28, 2016

ESTABLISHMENT OF THE GOLD BUTTE NATIONAL MONUMENT

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

In southeast Nevada lies a landscape of contrast and transition, where dramatically chiseled red sandstone, twisting canyons, and tree-clad mountains punctuate flat stretches of the Mojave Desert. This remote and rugged desert landscape is known as Gold Butte.

The Gold Butte area contains an extraordinary variety of diverse and irreplaceable scientific, historic, and prehistoric resources, including vital plant and wildlife habitat, significant geological formations, rare fossils, important sites from the history of Native Americans, and remnants of our Western mining and ranching heritage. The landscape reveals a story of thousands of years of human interaction with this harsh environment and provides a rare glimpse into the lives of Nevada's first inhabitants, the rich and varied indigenous cultures that followed, and the eventual arrival of Euro-American settlers. Canyons and intricate rock formations are a stunning backdrop to the area's famously beautiful rock art, and the desert provides critical habitat for the threatened Mojave desert tortoise.

Gold Butte's dynamic environment has provided food and shelter to humans for at least 12,000 years. Remnants of massive agave roasting pits, charred remains of goosefoot and pinyon pine nuts, bone fragments, and projectile points used to hunt big horn sheep and smaller game serve as evidence of the remarkable abilities of indigenous communities to eke out sustenance from this unforgiving landscape. Visitors to Gold Butte can still see ancient rock shelters and hearth remnants concealed in the area's dramatic Aztec Sandstone formations. This brightly hued sandstone is the canvas for the area's spectacular array of rock art, depicting human figures, animals, and swirling abstract designs at locations like the famed Falling Man petroglyph site and Kohta Circus. Pottery sherds and other archaeological artifacts scattered throughout the landscape reveal the area's role as a corridor for the interregional trade of pottery, salt, and rare minerals. These world-renowned

archaeological sites and objects are helping scientists to better understand interactions between ancient cultural groups.

By the time Spanish explorers arrived in the region in the late eighteenth century, the Gold Butte area was home to the Southern Paiute people, who to this day, retain a spiritual and cultural connection with the land and use it for traditional purposes such as ceremonies and plant harvesting. Hunters and settlers of European descent followed the explorers, and, by 1865, Mormon pioneers had built settlements in the region.

These newcomers grazed livestock and explored Gold Butte's unique geology in pursuit of mining riches. Their activities left behind historic sites and objects that tell the story of the American West, including the Gold Butte townsite, a mining boomtown established in the early 1900s, but mostly abandoned by 1910. Several building foundations and arrastas -- large flat rocks used for crushing ore -- remain at the townsite today. Settlers built corrals out of wood or stone, some of which are still standing in the Gold Butte area, including one near the Gold Butte townsite and one at Horse Springs, along the Gold Butte Scenic Byway. In the 1930s, the Civilian Conservation Corps was put to work in the area, leaving behind a variety of historic features including a dam and remnants of a camp in the Whitney Pockets area, in the northeastern region of Gold Butte.

The Gold Butte landscape that visitors experience today is the product of millions of years of heat and pressure as well as the eroding forces of water and wind that molded this vast and surreal desert terrain. Rising up from the Virgin River to an elevation of almost 8,000 feet, the Virgin Mountains delineate the area's northeast corner and provide a stunning backdrop for the rugged gray and red desert of the lower elevations. Faulted carbonate and silicate rock form the ridges and peaks of this range, which are regularly snow-covered in winter and spring, while the southern region of Gold Butte is laced with a series of wide granitic ridges and narrow canyons. These broad landscape features are dotted with fantastical geologic formations, including vividly hued Aztec Sandstone twisted into otherworldly shapes by wind and water, as well as pale, desolate granitic domes. An actively-expanding 1,200 square-meter sinkhole known as the Devil's Throat has been the subject of multiple scientific studies that have enhanced our understanding of sinkhole formation.

The Gold Butte landscape is a mosaic of braided and shallow washes that flow into the Virgin River to the north and directly into Lake Mead on the south and west. Several natural springs provide important water sources for the plants and animals living here. The arid eastern Mojave Desert landscape that dominates the area is characterized by the creosote bush and white bursage vegetative community that covers large, open expanses scattered with low shrubs. Blackbrush scrub, a slow-growing species that can live up to 400 years, is abundant in middle elevations. Both creosote-bursage and blackbrush scrub vegetation communities can take decades or even centuries to recover from disturbances due to the long-lived nature of the plant species in these vegetative communities and the area's low rainfall. These vegetation communities are impacted by human uses, invasive species, wildfires, and changing climates. Gypsum deposits are a distinctive aspect of the Mojave Desert ecosystem and result in soil that contains physical and chemical properties that stress many plants, but also support endemic and

rare species. For example, the sticky ringstem, Las Vegas buckwheat, and Las Vegas bearpoppy are unique plants that rely on gypsum soil; the populations in Gold Butte are some of only a handful of isolated populations of these species left in the world. Other rare plants in Gold Butte include the threecorner milkvetch and sticky wild buckwheat, which are sand-dependent species, as well as the Rosy two-tone beardtongue and the Mokiak milkvetch. Scattered stands of Joshua trees, an emblem of the Mojave Desert, dot the landscape along with Mojave yucca, cacti species, and chaparral species, among others.

The often snowcapped peaks of the Virgin Mountains in the northeastern corner of Gold Butte stand in stark contrast to the desolate desert landscapes found elsewhere in the area. Due to their elevation of almost 8,000 feet, these mountains exhibit a transition between ecosystems in the southwest. At the highest points of the Virgin Mountains, visitors can hike through Ponderosa pine and white fir forests, and visit the southernmost stand of Douglas fir in Nevada. In this area, visitors are also treated to a rare sight: the Silver State's only stand of the Arizona cypress. The lower to middle elevations of the area are home to stands of pinyon pine, Utah juniper, sagebrush, and acacia woodlands, along with occasional mesquite stands. By adding structural complexity to a shrub-dominated landscape, these woodlands provide important breeding, foraging, and resting places for a variety of creatures, including birds and insects, and support a number of plant species.

Gold Butte also provides habitat for a number of wildlife species. It has been designated as critical habitat for the Mojave desert tortoise, which is listed as threatened under the Endangered Species Act. These slow-footed symbols of the American Southwest rely on the creosote-bursage ecosystem that is widespread here. A generally reclusive reptile, the Mojave desert tortoise uses the protective cover of underground burrows to escape extreme desert conditions and as shelter from predators.

Other amphibians and reptiles also make their homes in Gold Butte. For example, once considered extinct and now a candidate species for listing under the Endangered Species Act, the relict leopard frog has been released into spring sites in the area in a collaborative effort by local, State, and Federal entities to help revive this still very small population. The banded Gila monster, the only venomous lizard in the United States, has also been recorded in Gold Butte. Many other reptile species -- including the banded gecko, California kingsnake, desert iguana, desert night lizard, glossy snake, Great Basin collared lizard, Mojave green rattlesnake, sidewinder, Sonoran lyre snake, southern desert horned lizard, speckled rattlesnake, western leaf-nosed snake, western long-nosed snake, and western red-tailed skink -- also have populations or potential habitats in the area.

The Gold Butte area serves as an effective corridor between Lake Mead and the Virgin Mountains for large mammals, including desert bighorn sheep and mountain lions. Smaller mammals in Gold Butte include white-tailed antelope squirrel, desert kangaroo rat, and the desert pocket mouse. Several species of bat, including the Pallid bat, Allen's big-eared bat, western pipistrelle bat, and the Brazilian free-tailed bat, are also found here, as well as the northern Mojave blue butterfly.

Bald and golden eagles, red-tailed and Cooper's hawks, peregrine falcons, and white-throated swifts soar above

Gold Butte. Closer to the ground, one can spot a variety of birds, including the western burrowing owl, common poorwill, Costa's hummingbird, pinyon jay, Bendire's thrasher, Virginia's warbler, Lucy's warbler, black-chinned sparrow, and gray vireo. Migratory birds, including the Calliope hummingbird, gray flycatcher, sage sparrow, lesser nighthawk, ash-throated flycatcher, and the Brewer's sparrow, also make stop-overs in the area. These birds, and a variety of other avian species, use the diversity of habitats in the area to meet many of their seasonal, migratory, or year-round life cycle needs.

In addition to providing homes to modern species of plants and wildlife, the area shows great potential for continued paleontological research, with resources such as recently discovered dinosaur tracks dating back to the Jurassic Period. These fossil trackways were found in Gold Butte's distinctive Aztec Sandstone and also include prints from squirrel-sized reptilian ancestors of mammals.

The protection of the Gold Butte area will preserve its cultural, prehistoric, and historic legacy and maintain its diverse array of natural and scientific resources, ensuring that the historic and scientific values of this area, and its many objects of historic and of scientific interest, remain for the benefit of all Americans.

WHEREAS, section 320301 of title 54, United States Code (known as the "Antiquities Act"), authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Federal Government to be national monuments, and to reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected;

WHEREAS, it is in the public interest to preserve the objects of scientific and historic interest on the Gold Butte lands;

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by the authority vested in me by section 320301 of title 54, United States Code, hereby proclaim the objects identified above that are situated upon lands and interests in lands owned or controlled by the Federal Government to be the Gold Butte National Monument (monument) and, for the purpose of protecting those objects, reserve as part thereof all lands and interests in lands owned or controlled by the Federal Government within the boundaries described on the accompanying map, which is attached to and forms a part of this proclamation. These reserved Federal lands and interests in lands encompass approximately 296,937 acres. The boundaries described on the accompanying map are confined to the smallest area compatible with the proper care and management of the objects to be protected.

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.

The establishment of the monument is subject to valid existing rights, including valid existing water rights. If the Federal Government subsequently acquires any lands or interests in lands not owned or controlled by the Federal Government within the boundaries described on the accompanying map, such lands and interests in lands shall be reserved as a part of the monument, and objects identified above that are situated upon those lands and interests in lands shall be part of the monument, upon acquisition of ownership or control by the Federal Government.

The Secretary of the Interior (Secretary) shall manage the monument pursuant to applicable legal authorities, which may include the provisions of section 603 of the Federal Land Policy and Management Act (43 U.S.C. 1782) governing the management of wilderness study areas, to protect the objects identified above. Of the approximately 296,937 acres of Federal lands and interests in lands reserved by this proclamation, approximately 285,158 acres are currently managed by the Secretary through the Bureau of Land Management (BLM) and approximately 11,779 are currently managed by the Secretary through the Bureau of Reclamation (BOR). After issuance of this proclamation, the Secretary shall, consistent with applicable legal authorities, transfer administrative jurisdiction of the BOR lands within the boundaries of the monument to the BLM. The Secretary, through the BLM, shall manage lands within the monument that are subject to the administrative jurisdiction of the BLM as a unit of the National Landscape Conservation System.

For purposes of protecting and restoring the objects identified above, the Secretary, through the BLM, shall prepare and maintain a management plan for the monument and shall provide for maximum public involvement in the development of that plan including, but not limited to, consultation with State, tribal, and local governments.

The Secretary shall establish an advisory committee under the Federal Advisory Committee Act, 5 U.S.C. App., to provide information and advice regarding development of the land use plan and management of the monument.

Except for emergency or authorized administrative purposes, motorized vehicle use in the monument shall be permitted only on roads designated as open to such use as of the date of this proclamation, unless the Secretary decides to reroute roads for public safety purposes or to enhance protection of the objects identified above. Non-motorized mechanized vehicle use shall be permitted only on roads and trails, consistent with the care and management of the objects identified above.

Consistent with the care and management of the objects identified above, nothing in this proclamation shall be construed to preclude the renewal or assignment of, or interfere with the operation, maintenance, replacement, modification, or upgrade within the physical

authorization boundary of existing flood control, pipeline, and telecommunications facilities, or other water infrastructure, including wildlife water catchments or water district facilities, that are located within the monument. Except as necessary for the care and management of the objects identified above, no new rights-of-way shall be authorized within the monument.

Nothing in this proclamation shall be deemed to enlarge or diminish the rights or jurisdiction of any Indian tribe. The Secretary shall, to the maximum extent permitted by law and in consultation with Indian tribes, ensure the protection of Indian sacred sites and traditional cultural properties in the monument and provide for access by members of Indian tribes for traditional cultural and customary uses, consistent with the American Indian Religious Freedom Act (42 U.S.C. 1996) and Executive Order 13007 of May 24, 1996 (Indian Sacred Sites).

Livestock grazing has not been permitted in the monument area since 1998 and the Secretary shall not issue any new grazing permits or leases on lands within the monument.

Nothing in this proclamation shall be deemed to enlarge or diminish the jurisdiction of the State of Nevada, including its jurisdiction and authority with respect to fish and wildlife management, including hunting and fishing.

Nothing in this proclamation shall be construed to preclude the traditional tribal collection of seeds, natural materials, salt, or materials for stone tools in the monument for personal noncommercial use consistent with the care and management of the objects identified above.

Nothing in this proclamation shall preclude low-level overflights of military aircraft, the designation of new units of special use airspace, or the use or establishment of military flight training routes over the lands reserved by this proclamation consistent with the care and management of the objects identified above. Nothing in this proclamation shall preclude air or ground access to existing or new electronic tracking communications sites associated with the special use airspace and military training routes, consistent with the care and management of such objects.

Nothing in this proclamation shall be deemed to revoke any existing withdrawal, reservation, or appropriation; however, the monument shall be the dominant reservation.

Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy, or remove any feature of the monument and not to locate or settle upon any of the lands thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of December, in the year of our Lord two thousand sixteen, and of the Independence of the United States of America the two hundred and forty-first.

BARACK OBAMA

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Exhibit B
Virgin Valley Water District Water Rights

Source Name	Water Right #	Status	Source	Acre-Feet
Cabin Springs Creek	9829	Certificated	Stream	50.60
Mica Notch Spring	9986	Certificated	Spring	201.26
Indian Spring	10422	Certificated	Spring	3.35
Seep Spring	12841	Certificated	Spring	19.33
Dud's Spring	12842	Certificated	Spring	72.40
Nickel Creek	50571	Permitted	Stream	2,154.03

Exhibit C
Virgin Valley Water District Access Right-of-Ways

ROW #	Description	Status
CC-022016	Seep, Dud Springs Line	Current
CC-022455	Cabin Canyon Line	Current
N-49692	Well 31 Line	Current
N-62290	Decker Tank	Current
N-76724	Decker to Scenic Line	Current
N-65522	White Rock Tank	Current
N-91515	Nickel Creek Line	Pending
N-96508	Rain Gauge	Pending

MAP of Pending Access Rights-of-Way

