

I. INTRODUCTION

The Southern Nevada Public Land Management Act of 1998

The Southern Nevada Public Land Management Act (P.L. 105-263) (SNPLMA) was passed by Congress and signed into law in October 1998. The SNPLMA provides for the disposal of public land within a specific area in the Las Vegas Valley and creates a Special Account (SNPLMA Special Account) into which 85% of the revenue generated by land sales or exchanges in the Las Vegas Valley is deposited. The remaining 15% is split between the State (5%) and the Southern Nevada Water Authority (10%).

Additional legislation has amended the SNPLMA by including additional public land in the disposal area, authorizing deposit of certain land sale revenues into the SNPLMA Special Account, adding Conservation Initiatives as a new expenditure category, adding Lake Tahoe Restoration Act projects as another category, and authorizing certain revenues be set aside for specific purposes. The amending legislative acts are:

- Consolidated Appropriation Act of 1999 (P.L. 106-113);
- Ivanpah Valley Airport Public Lands Transfer Act of 2000 (P.L. 106-362);
- Clark County Conservation of Public Land and Natural Resources Act of 2002 (P.L. 107-282); and
- Department of Interior and Related Agencies Appropriation Act (P.L. 108-108).

The SNPLMA, as amended, authorizes the Secretary of the Interior to approve expenditure of the revenue in the SNPLMA Special Account for the following categories:

- Acquisition of environmentally sensitive land in Nevada, with priority given to lands within Clark County;
- Capital Improvements at the Lake Mead National Recreation Area, the Desert National Wildlife Refuge [Complex], the Red Rock Canyon National Conservation Area and other areas administered by the Bureau of Land Management (BLM) in Clark County, and the Spring Mountain National Recreation Area;
- Development of a multi-species habitat conservation plan (MSHCP) in Clark County;
- Development of parks, trails, and natural areas in Clark County pursuant to a cooperative agreement with units of local government or regional governmental entities;
- Conservation Initiatives on Federal land in Clark County, Nevada, administered by the Department of Interior or the Department of Agriculture;
- Federal Environmental Restoration projects under section 6 and 7 of the Lake Tahoe Restoration Act, Environmental Improvement Payments under section 2(g) of Public Law

96-586, and any Federal environmental restoration project included in the environmental improvement program adopted by the Tahoe Regional Planning Agency in February 1998 (as amended) “*in an amount equal to the cumulative amounts authorized to be appropriated for such projects under those Acts*” as directed in Appropriation Bill 108-108, Section 341 & 342 (2003); and

- Reimbursement of costs incurred by the BLM in arranging sales or exchanges under the SNPLMA. Language in Senate Report 106-99 (on S-192) provided clarification to this provision, noting that it was the intent of Congress that this “*shall include not only the direct costs for these sales and exchanges, but also other BLM administrative costs associated with implementing the provisions of the Act.*”

Certain revenues deposited into the SNPLMA Special Account are designated and set aside for specific purposes. These set asides include:

- Acquisition of in holdings within the Mojave National Preserve in California and protection and management of petroglyph resources in Clark County, utilizing revenues from the disposal of lands in the Ivanpah Valley for an airport. These revenues are not available until the lands are transferred to Clark County, Nevada, and a final Record of Decision pursuant to the National Environmental Policy Act of 1969 has been issued which permits development of the airport at the Ivanpah site;
- Acquisition of environmentally sensitive land in the Lake Tahoe Basin pursuant to the Santini-Burton Act of 1980 (P.L. 96-586), utilizing revenue deposited in the SNPLMA special account from the conveyance (e.g., sale, lease, etc.) of parcels within the SNPLMA disposal boundary which are also within the disposal boundary established by the Santini-Burton Act; and
- Development of a MSHCP for the Virgin River and associated groundwater monitoring utilizing revenue from the sale of certain land to the City of Mesquite.

The SNPLMA grants the Secretary of the Interior and the Secretary of Agriculture the authority to determine whether land proposed for acquisition is “environmentally sensitive,” defined in the Act as land that would:

“...promote the preservation of natural, scientific, aesthetic, historical, cultural, watershed, wildlife and other values contributing to the public enjoyment and biological diversity; enhance recreational opportunities and public access; provide the opportunity to achieve better management of public land through consolidation of Federal ownership; or otherwise serve the public interests.”

The SNPLMA requires the Secretary of the Interior to “coordinate the use of the [SNPLMA] special account with the Secretary of Agriculture, the State of Nevada, local governments, and interested persons, to ensure accountability and demonstrated results,” and to cooperate with the Secretary of Agriculture in submitting an annual report to Congress.

As noted above, Appropriation Bill 108-108, Section 341 & 342 (2003), authorizes the Secretary of Interior to transfer funds to the Secretary of Agriculture, or if the Secretary of Agriculture enters into a cooperative agreement with another Federal agency, the head of the Federal agency, for Federal environmental restoration projects under sections 6 and 7 of the Lake Tahoe Restoration Act (114 Stat. 2354), environmental improvement payments under section 2(g) of Public law 96-586 (94 Stat. 3382) and any Federal environmental restoration projects included in the Environmental Improvement Program (EIP) adopted by the Tahoe Regional Planning Agency in February 1998 (as amended). The amount of funds shall be “in an amount equal to the cumulative amounts authorized to be appropriated for such projects under those Acts.”

The Federal Land Transaction Facilitation Act of 2000

The Federal Land Transaction Facilitation Act (P.L. 106-248) (FLTFA), commonly referred to as the "Baca Act", was passed by Congress and signed into law on July 25, 2000. The FLTFA provides for the revenues from the disposal of public land nationwide, identified for disposal as of the date of passage of the FLTFA, to be deposited into a Special Account (FLTFA Account) created by the FLTFA. Ninety-six (96%) of the revenue generated by eligible land sales or exchanges is deposited into the FLTFA Account and the remaining 4% is distributed to the State.

The FLTFA authorizes the Secretary of the Interior and the Secretary of Agriculture to expend the revenue in the FLTFA Account for:

- Acquisition of in holdings within the boundaries of federally designated areas, and lands adjacent to federally designated areas which contain exceptional resources as defined in the Act. Not less than 80% of the amount deposited into the FLTFA Account shall be used for such acquisitions, and not less than 80% of amount allocated for acquisitions must be expended within the State in which the funds were generated. Up to 20% of the amount allocated for acquisitions may be expended in any other State; and
- Reimbursement of administrative and other expenses incurred by the BLM necessary to carry out the land disposal program under the FLTFA. No more than 20% of the amount deposited into the FLTFA Account may be used for this purpose.

The FLTFA directs the Secretary of the Interior to report activities under the FLTFA in the annual publication of the Public Land Statistics. Effective on May 5, 2003, the Bureau of Land Management (BLM), National Park Service (NPS), U.S. Fish and Wildlife Service (FWS), and USDA Forest Service (FS) entered into a national-level Memorandum of Understanding (FLTFA MOU) for the interagency implementation of the FLTFA. The FLTFA MOU further allocated the acquisitions amount to each agency as follows: 60% to BLM, 20% to FS, 10% to FWS, and 10% to NPS. Consistent with the FLTFA, the Secretary of the Interior and the Secretary of Agriculture may mutually decide to allocate funds to a specific acquisition project, notwithstanding the allocations set forth in the FLTFA MOU. In addition, the FLTFA MOU established the Land Transaction Facilitation Council, consisting of the signatories of the FLTFA MOU, and directed the preparation of state-level implementation plans.

Development and Maintenance of the Implementation Agreement

The Implementation Agreement was first developed for the SNPLMA in 1999 by a team of representatives from the BLM, FWS, FS, and NPS. The purpose of the agreement was to address how the Federal agencies could work together to implement the portions of the SNPLMA that require coordination both within the Department of the Interior and between the Department of the Interior and the Department of Agriculture. The team also addressed the requirements related to coordination and consultation with the State of Nevada, local governments, and interested parties. The team assembled a document, entitled *The Federal Partners Charter*, which outlined a collaborative process for developing a recommendation for the Secretary of the Interior regarding the SNPLMA Special Account expenditures. *The Federal Partners Charter* was executed to produce the Round 1 Recommendation for the expenditure of the SNPLMA Special Account.

The lessons learned in executing the process have proven valuable in modifying certain terms of the Charter in order to make the process more efficient and effective. A continuous improvement approach was adopted, and the Charter has been revised on an annual basis.

The first revision, completed in May 2000, added State and local government representatives to the committees that generate the recommendation; added a second public comment opportunity following development of the preliminary recommendation; refined the criteria used to rank nominations for land acquisitions; and renamed the Charter: *The Southern Nevada Public Land Management Act (SNPLMA) Implementation Agreement*.

The second revision, completed in May 2001, added a representative of rural Nevada (appointed by the Governor) to the Partners Working Group; added a fourth representative of local government on the Clark County Projects Sub-Group; added a section on the process and documentation requirements for obligation of and reimbursement from the SNPLMA Special Account following approval; allowed for Federal agencies to be reimbursed for direct labor on capital improvement projects; and changed the SNPLMA Special Account Reserve (SAR) from a percentage (15%) to a fixed amount (\$5 million).

The third revision, modified the land nomination package requirements, including the requirement to include a “willing agency letter” from the Federal agency that would have management responsibility for the property if acquired; provided for acquisitions and projects to be placed “on-hold” due to extenuating circumstances; allowed, where appropriate, for early appraisal of nominated lands prior to availability of funds; modified funding criteria for all categories, including MSHCP requirements; established definitions and criteria for the Conservation Initiative category, and updated appendices to reflect modifications to documentation requirements for task orders and reimbursement requests.

This, the fourth revision, incorporates the state-level implementation of the FLTFA, modifies the land nomination package requirements to incorporate requirements of the FLTFA, adopts definitions and criteria for projects and payment of expenditures for Lake Tahoe restoration projects, and renames the Implementation Agreement: *The Southern Nevada Public Land Management Act and Federal Land Transaction Facilitation Act Implementation Agreement*.

Other significant administrative and management changes include implementation procedures for expenditure of the Mesquite land sale proceeds; addition of references to regional governmental entities where appropriate and inclusion of these entities in the Park, Trail, and Natural Area subgroup due to their addition as eligible entities for SNPLMA funds under the park, trail, and natural area expenditure category; provides that the amount to be requested for the SNPLMA Special Account Reserve (SAR) shall be determined annually for each round rather than pre-established at \$5 million as previously set for the SNPLMA SAR and allows for a separate Special Account Reserve for the FLTFA; refinement of methods of reimbursement for certain project categories; incorporate changes in reimbursement policies for appraisal costs; modifies and clarifies allowable costs in all categories; and provides guidelines regarding project equipment; as well as other clarifications and additions to administrative processes and procedures. The changes in allowed costs, processes, and procedures, authorized in this revision apply to all acquisitions and projects which have not yet been completed or terminated.

This fourth revision also sets out the process whereby Lake Tahoe Restoration Projects will be nominated, selected and recommended parallel to but outside the SNPLMA nomination process carried out by the SNPLMA subgroups and SNPLMA Partners Working Group, with the Final Recommendation for Lake Tahoe being forwarded to the SNPLMA Executive Committee for its consideration and inclusion in the SNPLMA Final Recommendation transmitted to the Secretary of Interior for approval.

II. OBJECTIVES

The objectives of the Implementation Agreement are to:

- Clarify the respective roles of the Federal agencies, the State of Nevada, local and regional governmental entities throughout Nevada, and interested parties in order that they might work together effectively to implement the SNPLMA and FLTFA;
- Effectively involve the State of Nevada, local and regional governmental entities, and interested parties in the process of assembling the recommendation;
- Encourage the Federal agencies to act consistently in their efforts to acquire lands or interests in land as authorized under the SNPLMA and FLTFA, and make other authorized expenditures; and
- Encourage the expenditure of the Special Accounts in a manner that is consistent with the intent of the SNPLMA and FLTFA, and that produces tangible results.

III. ORGANIZATION, RESPONSIBILITIES AND RELATIONSHIPS

Secretary, United States Department of the Interior

The Secretary of the Interior is charged with implementation of the SNPLMA, and the Secretary of the Interior and the Secretary of Agriculture are jointly charged with implementation of the