

May 17, 2024

U.S. Bureau of Land Management (BLM)
Attn: Scott Distel
50 Bastian Road
Battle Mountain, NV 89820
sdistel@blm.gov

Re: Rhyolite Ridge Project DEIS Comment Period; Extension Request

Dear BLM:

The Timbisha Shoshone Tribe, Center for Biological Diversity, Great Basin Resource Watch, Western Shoshone Defense Project, Earthworks, Basin and Range Watch, and Western Watersheds Project hereby request a 45-day extension to the comment period for the Rhyolite Ridge Lithium-Boron Mine Project Draft Environmental Impact Statement (DEIS), DOI-BLM-NV-B020-2021-0020-EIS.

The current 45-day comment period is insufficient in light of the length and complexity of the DEIS and supporting documents. The DEIS itself is 230 pages long. In addition, BLM has included various aspects of its environmental analysis—including critical details about the project’s design and environmental impacts—in 20 accompanying “supplemental” reports, which cumulatively total over 1,300 pages. A 45-day comment period does not provide the interested public, including the undersigned organizations, a sufficient opportunity to review these voluminous documents and offer meaningful, constructive feedback, and is therefore inconsistent with the clear and robust public participation requirements of the Federal Lands Policy and Management Act (FLPMA), and the National Environmental Policy Act (NEPA).

Both FLPMA and NEPA emphasize and mandate public participation, “with their statutory framework largely in unison on such a requirement.” *W. Watersheds Project v. Zinke*, 441 F. Supp. 3d 1042, 1069 (D. Idaho 2020). FLPMA Section 309(e) directs that:

In exercising his authorities under this Act, the Secretary, by regulation, shall establish procedures, including public hearings where appropriate, to give . . . the public adequate notice and an opportunity to comment upon the formulation of standards and criteria for, and to participate in, the preparation and execution of plans and programs for, and the management of, public lands.

43 U.S.C. § 1739(e); *see also* 43 U.S.C. § 1701(a)(5) (FLPMA Section 102(a)(5)): “[I]t is the policy of the United States that . . . the Secretary be required to establish comprehensive rules and regulations after considering the views of the general public”; 43 U.S.C. § 1712(f) (FLPMA Section 202(f)): “The Secretary shall allow an opportunity for public involvement and by regulation shall establish procedures, including public hearings where appropriate, to give . . . the public, adequate notice and opportunity to comment upon and participate in the formulation of plans and programs relating to the management of the public lands.”).

NEPA, meanwhile, aims to “ensure[] that the agency will inform the public that it has indeed considered environmental concerns in its decision-making process.” *Balt. Gas & Elec. Co. v. Nat. Res. Def. Council*, 462 U.S. 87, 97 (1983). To this end, federal agencies “must provide the public with sufficient environmental information, considered in the totality of circumstances, to permit members of the public to weigh in with their views and thus inform the agency decision-making process.” *Bering Strait Citizens for Responsible Res. Dev. v. U.S. Army Corps of Eng’rs*, 524 F.3d 938, 953 (9th Cir. 2008); *see also Trout Unlimited v. Morton*, 509 F.2d 1276, 1282 (9th Cir. 1974) (explaining that an EIS prepared under NEPA “should provide the public with information on the environmental impact of a proposed project as well as encourage public participation in the development of that information”); *Idaho Sporting Cong., Inc. v. Alexander*, 222 F.3d 562, 568 (9th Cir. 2000) (holding that the Forest Service violated NEPA’s public participation requirements because SIRs were not presented at the earliest time possible, as NEPA requires, and because public participation procedures attached to the preparation of the SIRs were not as thorough as NEPA mandates).

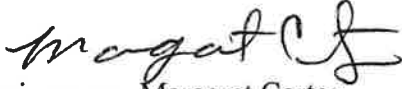
It must be noted that the planning process for the Rhyolite Ridge project has not been carried out in a way that fosters informed decision-making and public participation. First, the process has been unreasonably rushed, with BLM’s own staff remarking, “This is a very aggressive schedule that deviates from other project schedules on similar projects completed recently and concurrently at the District and State.” Email from Scott Distel, BLM, to Doug Furtado, BLM, December 21, 2023.

Second, BLM’s public rollout of the DEIS was disorganized and confusing. BLM issued a press release on Friday, April 12, stating that BLM was “seeking public comment on a draft environmental impact statement for the proposed Rhyolite Ridge Lithium-Boron Mine Project.” The press release also stated that “[p]ublication of the draft EIS for the proposed mine opens a 45-day public comment period, ending on May 27, 2024.” However, BLM did not actually publish the DEIS on that date; nor did BLM issue the legally required notices in the Federal Register. In response to inquiries, BLM stated that it would not publish the DEIS for another week. However, four days later, on Tuesday, April 16, BLM surreptitiously posted the DEIS and accompanying SIRs on its eplanning website with no additional public notification. Again, BLM did not publish the federal register notice that must precede publication of a Draft EIS. Finally, on Friday, April 19th, BLM issued a federal register notice and revised its previously issued press release to state the correct comment deadline, running from the April 19th publication date.

The unusual way in which the DEIS was presented to the public will undoubtedly lead to confusion as to the duration and subject matter of this comment period. As such, a 45-day extension is appropriate to ensure that all members of the interested public, including members of affected local communities and Native American Tribes, have a sufficient opportunity to provide meaningful and informative feedback to BLM on this highly impactful project.

In conclusion, because of the length and technical complexity of the DEIS and supporting documents, as well as the unusual way that BLM has thus far conducted the Rhyolite Ridge permitting process, the Timbisha Shoshone Tribe and the undersigned groups request a 45-day extension of the comment period on the DEIS.

Thank you,



Chairwoman Margaret Cortez
Timbisha Shoshone Tribe

/s/ Scott Lake

Scott Lake
Nevada Staff Attorney
Center for Biological Diversity
P.O. Box 6205
Reno, NV 89513
(802) 299-7495
slake@biologicaldiversity.org



Ian Bigley
Earthworks Southwest Organizer
(775) 772-8393
ibigley@earthworksaction.org



Kevin Emmerich
Basin and Range Watch

Fermina Stevens

Fermina Stevens
Western Shoshone Defense Project



Laura Cunningham
California Director
Western Watersheds Project



John Hadder
Executive Director
Great Basin Resource Watch

CC: Douglas Furtado, BLM Battle Mountain District Manager (dfurtado@blm.gov)
Jon Raby, BLM Nevada State Director (jraby@blm.gov)

Attachment: Email from Scott Distel, BLM, to
Doug Furtado, BLM, December 21, 2023.

From: [Furtado, Douglas W](#)
To: [Raby, Jon K](#); [Prill, Kimberly](#); [Abernathy, Justin](#); [Shepherd, Alan B](#)
Subject: Fwd: Revised RR NEPA Schedule
Date: Thursday, December 21, 2023 4:33:11 PM
Attachments: [20231221_rhyolite_ridge_schedule_revised.pdf](#)

FYI.

Get [Outlook for iOS](#)

From: Distel, Scott J <sdistel@blm.gov>
Sent: Thursday, December 21, 2023 2:28:46 PM
To: Furtado, Douglas W <dfurtado@blm.gov>
Cc: Rebecca Sawyer <rsawyer@ioneer.com>; Matt Weaver <mweaver@ioneer.com>;
browe@ioneer.com <browe@ioneer.com>
Subject: Revised RR NEPA Schedule

Hello Doug,

As requested, please find attached the revised Rhyolite Ridge Lithium-Boron Mine Project NEPA schedule. This schedule was updated on December 21, 2023, and is caveated by the following:

1. This is a very aggressive schedule that deviates from other project schedules on similar projects completed recently and concurrently at the District and State.
2. This schedule significantly changes timelines for BLM IDT and cooperating agencies as provided in previous versions of the schedule, without prior coordination with these groups.
3. The schedule has been updated as directed by the BLM District Manager to have the NOA package routed out of the District Office on or before February 1, 2024. To meet this, it will require all parties involved to meet all deadlines as shown (e.g., Ioneer, Piteau, Westland, BLM [FO, DO, NVSO, HQ], Stantec, Nexus, Solicitor, cooperating agencies, etc.). All must understand that timelines have been cut and several review periods are concurrent that were once separated.
4. For the attached schedule to be met, the following assumptions have been made:
 - o Line 3 – The groundwater model is approved on 12/26/2023, without any edits or comments that need to be addressed.
 - o Line 13 – All comments are received at the end of the five-day timeline, and comments are specific and provide direction on how to be resolved.
 - o Line 14 – Mitigation language, if determined necessary, is provided at the meeting and does not require additional NEPA analysis or baseline.
 - o Line 15 – Cooperating agency and IDT comments are not significant and do not require new analysis or additional information to be incorporated. No comments

- are received that require input from BLM or loneer in responding to.
- Line 19 – Solicitor and NVSO have no significant comments and do not require new analysis or additional information to be incorporated. No comments are received that require input from BLM or loneer in responding to.
 - Line 26 – Public comments are minimal, and no more than 100 individual comments are received (note this states *individual comments*, not comment letters; typically, comment letters have multiple individual comments in them). Public comments do not require additional analysis, mitigation, baseline, or alternatives be added. No comments are received that require input from BLM or loneer in responding to.
 - Line 27 – All comments are received at the end of the five-day timeline, and comments are specific and provide direction on how to be resolved.
 - Line 28 – Cooperating agency and IDT comments are not significant and do not require new analysis or additional information to be incorporated. No comments are received that require input from BLM or loneer in responding to.
 - Line 33 - The Solicitor and NVSO have no significant comments and do not require new analysis or additional information be incorporated. No comments are received that require input from BLM or loneer in responding to.

Thank you,

Scott Distel, M.S.
Supervisory Project Manager
Bureau of Land Management
Battle Mountain District
50 Bastian Road
Battle Mountain, NV 89820
O: (775) 635-4093
M: (775) 455-2938
sdistel@blm.gov