NYE COUNTY BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM REQUEST FORM

Department: Planning/Code Compliance	**Meeting Date:**
Category: Regular Agenda Item	November 15, 2022
Prepared by: Steve Osborne	**Phone:** (775) 751-4246
Presented by: Brett Waggoner	**Phone:** (775) 751-4244

Action requested: (Include what, with whom, when, where, why, and terms)

Discussion and deliberation to adopt, amend and adopt, or reject Nye County Resolution No. 2022-45: A Resolution Adopting a Temporary Moratorium on Renewable Energy Generation Facilities.

Complete description of requested action: (Include, if applicable, background, impact, long-term commitment, existing county policy, future goals, obtained by competitive bid, accountability measures)

The Planning Department is requesting the Nye County Board of County Commissioners pass a resolution instituting a temporary (six-month) moratorium on the processing of any future applications for permits for renewable energy generation facilities in order for the Planning Department to conduct discussions and hearings to determine whether amendments or changes to Nye County Code are necessary in order to protect the public health, safety, and general welfare of the citizens of Nye County.

Recommendation:

Staff recommends adoption of the resolution instituting a temporary (six-month) moratorium.

Financial Impact

Cost:	Fund Name:		Fund #:
Budgeted: ☐ Yes ☐ No ☑ N/A	FY:	☐ One-Time ☐ Recurring	
Comments:			

Review & Approval

Legal Review Required: ☑ Yes ☐ No	Legal Approval Received: ☑	Date: 10/18/22
Financial Review Required: ☐ Yes ☑ No	Submitted to Finance: ☐	Date:
Administrative Manager Review: ☑	Place on Agenda: ☑	Initials: ST

Item # 28

NYE COUNTY RESOLUTION NO. 2022-45
A RESOLUTION ADOPTING A TEMPORARY MORATORIUM ON RENEWABLE ENERGY GENERATION FACILITIES

WHEREAS, the Nye County Code contains standards for the issuance of permits for renewable energy generation facilities; and

WHEREAS, Nye County Code 17.10.025 defines renewable energy to mean a source of energy that occurs naturally or is regenerated naturally, including, without limitation: (1) Biomass; (2) Fuel cells; (3) Geothermal energy; (4) Solar energy; (5) Waterpower; and (6) Wind. The term renewable energy does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy; and

WHEREAS, Nye County Code 17.10.025 defines renewable energy generation facility to mean a project involving an electric generating facility or system that uses renewable energy as its primary source of energy to generate electricity. The term does not include a project involving an electric generating facility or system that uses nuclear energy, in whole or in part, to generate electricity; and

WHEREAS, the Nye County Planning Department has received a number of inquiries related to the creation and zoning of renewable energy generation facilities which has resulted in a number of comments and concerns being made by Nye County citizens and members of the general public; and

WHEREAS, the Nye County Planning Department is under development pressure with inquiries and issues related to renewable energy generation facilities; and

WHEREAS, the Nye County Board of County Commissioners has been reviewing the Nye County Code with respect to renewable energy generation facilities and changes may be necessary to protect public health, safety, and general welfare of the citizens of Nye County; and

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WHEREAS, the Nye County Board of County Commissioners are empowered pursuant to NRS 244.143 to address matters of local concern which includes, without limitation, matters relating to the public health, safety and welfare of Nye County; and

WHEREAS, the Nye County Board of County Commissioners are not precluded from adopting this Resolution as the matter of renewable energy generation facilities is not prohibited pursuant to NRS 244.143 as it does not concern a state interest that requires statewide uniformity of regulation; the regulation of business activities that are subject to substantial regulation by a federal or state agency; or any other federal or state interest that is committed by the Constitution, statutes or regulations of the United States or this State to federal or state regulation that preempts local regulation; and

WHEREAS, the Nye County Board of County Commissioners are authorized and empowered pursuant to NRS 278.020 to regulate and restrict the improvement of land and to control the location and soundness of structures for the purpose of promoting the health, safety and general welfare of the citizens of Nye County; and

WHEREAS, several citizens of Nye County have publicly and privately questioned the provisions of the Nye County Code related to renewable energy generation facilities and the Planning Director is requesting the Nye County Board of County Commissioners pass a resolution instituting a temporary moratorium on the processing of any future applications for permits for renewable energy generation facilities to allow time for the Planning Department to study and research the proper classification, restrictions, and requirements for renewable energy generation facilities, and other similar activities in Nye County and to propose amendments to the Nye County Code to be considered for adoption and implemented to protect the public health, safety and general welfare of the citizens of Nye County; and

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WHEREAS, the Planning Director is requesting a temporary moratorium not to exceed six (6) months; and

WHEREAS, the Nye County Board of County Commissioners after review and duly noticed public hearing does hereby accept and adopt the factual assertions set forth herein; and

WHEREAS, it would appear to be in the best interests of the citizens of Nye County for the Nye County Board of County Commissioners to pass a resolution instituting a six-month temporary moratorium on the processing of any future applications for permits for renewable energy generation facilities in order for the Planning Department to hold discussions and hearings within the Towns of Nye County to determine whether amendments or changes are necessary to protect the public health, safety, and general welfare of the citizens of Nye County.

NOW THEREFORE BE IT RESOLVED, by the Nye County Board of County Commissioners hereby adopt a temporary moratorium for a period not to exceed six (6) months on the processing of any future applications for permits for renewable energy generation facilities, and other similar activities; and

BE IT FURTHER RESOLVED that said moratorium shall become effective immediately upon its passage and shall remain in effect for a period not to exceed six (6) months and

BE IT FURTHER RESOLVED that the Nye County Planning Department is directed to place a hold on any applications for renewable energy generation facilities, and similar activities, during the period in which this temporary moratorium is in effect; and

BE IT FURTHER RESOLVED that the Nye County Planning Department shall schedule, publish, and notice public hearings as necessary for the purpose of studying and drafting proposed amendments and changes to the Nye County Code as it relates to renewable energy generation facilities; that a final resolution on any proposed changes or amendments shall

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be made within six (6) months unless otherwise extended by the Nye County Board of County Commissioners for good cause shown.

APPROVED this 15th day of November, 2022.

NYE COUNTY BOARD OF COUNTY COMMISSIONERS:	ATTEST:
_____	_____
Frank Carbone, Chair	Mark F. Kampf, Nye County Clerk And Ex-Officio Clerk of the Board

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Beatty Town Advisory Board
PO Box 837
Beatty, Nevada 89003
775-553-2050

August 22, 2022

Jon Raby
State Director, Nevada Bureau of Land Management
Sent via email – jraby@blm.gov

RE: Request for Moratorium on Processing Solar Project Applications Around the Town of Beatty Until Statewide Resource Management Plan Revisions are Underway

Dear Mr. Raby,

The Town of Beatty is happy to help contribute to the Nation's renewable energy goals and have been an active participant in discussions on their future in our area. Yet our community is uniquely constricted by federal designations to the west: Death Valley National Park—and to the east: Department of Defense and Department of Energy lands. The Town is economically dependent on tourism, recreational trails, mining, farming, and ranching. An abundant visitor base using local hotels, restaurants, and other services in Beatty, who enjoy the unique history, the famous ghost town of Rhyolite, archaeology, geology, dark night skies, birdwatching, art experiences, museums, desert exploration, and the many other recreation opportunities the area provides are vital to our economy.

Currently many utility-scale solar project applications overlap the Town boundary and the regions where our tourism activities thrive. This presents resource conflicts that we have communicated to the Bureau of Land Management (BLM) in previous letters, concerning specific solar project applications. Yet more solar applications continue to pour in.

Therefore, the Town respectfully requests a moratorium on processing the many solar applications in the region of Beatty until the BLM can revise its land management plans for the local public lands areas that overlap with Beatty's Town boundaries.

Nevada-wide Integrated Resource Management Plan Revisions

The Bureau of Land Management is in the environmental review process to revise land use plans across Nevada[1].

The Federal Land Policy and Management Act (FLPMA) requires the BLM to maintain on a continuing basis an inventory of all public lands, their resources, and other values (Inventories, Section 201). Planning, per FLPMA Section 202 instructs that the Secretary of the Interior shall, with public involvement and consistent with the terms and conditions of the Act, develop, maintain, and, when appropriate, revise land use plans which provide tracts or areas for the use of the public lands.

The purpose of a Resource Management Plan (RMP) is to:

1. Allocate resources and determine appropriate multiple uses for the public lands;
2. Provide a strategy to manage and protect resources;
3. Establish systems to monitor and evaluate the health of resources and effectiveness of practices.

RMPs are like a public lands' version of municipal zoning.

[1] https://lands.nv.gov/uploads/documents/BLM_Resource_Management_Planning_Presentation_(FINAL).pdf

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The BLM has indicated that they will conduct a statewide revision of all Nevada RMPs within the next year or so. Rather than have BLM review solar application after solar application based on outdated resource information, it makes more sense to pause all applications until updated land use plans can be finalized.

Beatty lies within two BLM Field Offices: Tonopah and Pahrump. The Tonopah RMP was last revised in 1997 and the Pahrump Southern Nevada RMP was last updated in 1998. These plans are outdated by about 25 years. The demographics of Nevada have changed in this time and the public lands uses have also changed, uses and their types have increased as well.

As it stands now, BLM is evaluating land uses and making decisions based on values that are 25 years old. Due to immense land requirements, the large-scale renewable energy land rush directly conflicts with other land uses in the area. It is difficult for the agency to approve a large energy project that does not conflict with recreational access, visual resource management, cultural landscapes, and wildlife corridors.

A lot has changed across public lands with respect to renewable energy and local economies since the 1990s. Better land use planning needs to be undertaken with all stakeholders and local communities involved. The Beatty local economy has also changed, to emphasize the eco-tourism economy as a Gateway Town to Death Valley National Park. This is new information since the last RMP management guidelines and should be updated.

In the last 25 years there is a huge amount of new information in the local Beatty area, including the increased tourism economy, dark night skies initiatives, new popular recreation using local public lands, focus on its recreation destination branding, and Indigenous management.

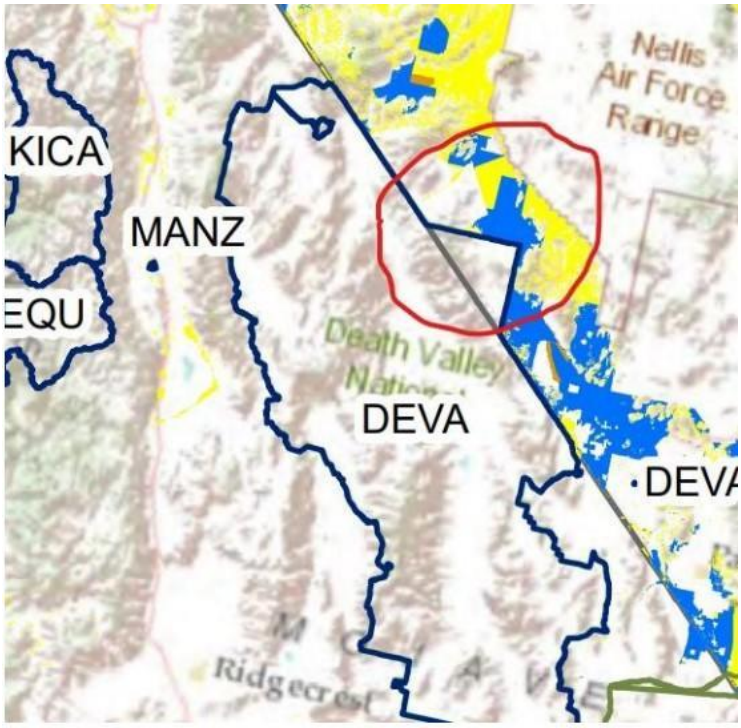
For example, Sarcobatus Flat north of Beatty includes a significant Cultural Landscape important to the Timbisha Shoshone Tribe and dense archaeological sites are found there that need much better analysis from BLM before solar applications move forward. Much of Sarcobatus Flat is located next to Death Valley National Park. Cultural surveys for the Greenlink West transmission project have found a larger than expected number of archaeological resources on Sarcobatus Flat. This needs to be reviewed.

Death Valley National Park buffers deserve to be considered as zones where utility-scale energy projects are off-limits in future land use planning. A revision of the RMP could easily upgrade the Visual Resource Management Class on Sarcobatus Flat next to the national park to VRM Class II. This management objective is to:

> **Retain the existing character of the landscape**. Allowed Level of Change: The level of change to the characteristic landscape should be low. Management activities may be seen but should not attract the attention of the casual observer. (See https://blmwyomingvisual.anl.gov/vr-mgmt/blm/)

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Additionally, since the two RMPs are over 25 years old, they predate the Western Solar Plan which was approved in 2012 and has identified much of the region close to Death Valley National Park as a "High Conflict Area" for large-scale solar energy development. The statewide RMP revision should pause all local solar applications in order to analyze this with public input.



^The blue areas are identified as High Conflict Areas by the Western Solar Plan. Priority Development Area and Variance Area Maps (anl.gov)

Request For a Solar Project Application Moratorium

The Town of Beatty thereby seeks a freeze on all solar project applications within the boundary of the Town on Variance Lands identified in the Solar Programmatic Environmental Impact Statement, until the Nevada state-wide Resource Management Plan revisions are carried out, reviewed, and decided on, when we can participate in the public process to comment on land management in our region, and suggest alternatives for recreation and tourism in their planning process.

The Town of Beatty boundary overlaps these BLM-managed public lands in a large area: approximately 44,000 acres to the north and approximately 16,000 acres to the south. Solar projects would encumber these lands for potential land disposal and restrict previous designations for disposal.

We ask that BLM halt all the solar project applications and wait for the public planning process for the state-wide RMP revisions.

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The Town of Beatty includes a large portion of the Amargosa Solar Energy Zone, designated in 2012 under the Solar Programmatic Environmental Impact Statement. We would support placing solar projects within the already-approved 2012 Amargosa Solar Energy Zone, south of the US Ecology site along US 95 in Amargosa Valley (See https://blmsolar.anl.gov/sez/nv/amargosa-valley/).

Beatty is working cooperatively to balance many local multiple use industry requests, but we have little else to give. As previously mentioned, the constrictions of federal land management surrounding the town are constantly apparent to Beatty residents, and the limited but important public lands around Beatty that provide important economic drivers are significant to the local economy.

Additionally, Beatty is working on a request to the BLM for a Special Recreation Management Area designation. This will offer some protection to the town as well as Rhyolite and the immediate area and add some security for our eco-tourism and visitor-based economy.

Again, we request a halt to the processing of solar applications in northern Amargosa Valley and in Sarcobatus Flat that are within the Beatty Town boundary and overlap your two BLM field office regions, until new information about significant resources and local economies can be presented in public comment and considered for inclusion in the proposed Nevada state-wide RMP revisions.

Please contact the Beatty Town Office at 775-553-2050 if you have any questions.

Thank you for your attention.

Sincerely,

Erika Olivia Gerling
Beatty Town Advisory Board Chair
beatty@beattynv.com

CC: P. Wickman, BLM, Field Manager TFO; N. Pay, BLM, Field Manager PFO; A. Bulletts, BLM So. NV Field Office; L. Wichman, Nye County Natural Resources; B. Jabbour, Nye County Commissioner; F. Carbone, Nye County Commission Chair; T. Sutton, Nye County Manager; T. Bolling, Nye County Public Works; B. Waggoner, Nye County Planning; P. Goicoechea, NV Senator; G. Hafen, NV Assemblyman; C. Cortez Masto, US Senator; J. Rosen, US Senator; S. Horsford, US Representative R. Palmer, State Historic Preservation Officer; Barbara Durham, THPO for Timbisha Shoshone.