

1 SCOTT LAKE  
NV Bar No. 15765  
2 CENTER FOR BIOLOGICAL DIVERSITY  
P.O. Box 6205  
3 Reno, NV 89513  
Phone: (802) 299-7495  
4 Email: [slake@biologicaldiversity.org](mailto:slake@biologicaldiversity.org)

5 WENDY PARK  
CA Bar No. 237331  
6 CENTER FOR BIOLOGICAL DIVERSITY  
1212 Broadway, Suite 800  
7 Oakland, CA 94612  
Phone: 510-844-7138  
8 Email: [wpark@biologicaldiversity.org](mailto:wpark@biologicaldiversity.org)  
(will comply with LR IA 11-2 within 14 days)

9 *Attorneys for Plaintiff*

10  
11 **UNITED STATES DISTRICT COURT**  
12 **DISTRICT OF NEVADA**

13 CENTER FOR BIOLOGICAL DIVERSITY,  
14 Plaintiff,  
15 vs.  
16 U.S. BUREAU OF LAND MANAGEMENT,  
17 Defendant.

Case No: 2:24-cv-569

**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

18  
19  
20 **INTRODUCTION**

21 1. This civil action requests declaratory and injunctive relief for violations of the  
22 Federal Land Policy and Management Act (FLPMA or Act), 43 U.S.C. § 1732(a). Specifically,  
23 this action seeks to compel preparation of two over-due management plans required to be prepared  
24 under the Act.

25 2. On July 15, 2015, President Barack Obama designated Basin and Range National  
26 Monument. 80 Fed. Reg. 41969-74 (July 15, 2015). On December 28, 2016, President Obama  
27 designated Gold Butte National Monument. 82 Fed. Reg. 1149-55 (Jan. 5, 2017). Both national

1 monuments are located on public lands managed by the U.S. Bureau of Land Management (BLM)  
2 in Nevada. Basin and Range National Monument covers 704,000 acres in Lincoln and Nye  
3 Counties and contains unique desert and high-elevation plant communities, habitat for numerous  
4 wildlife species, petroglyphs, and archeological sites from both Native American and settlement-  
5 era history. *See generally* 80 Fed. Reg. 41969-71. Gold Butte National Monument is located in  
6 Clark County and is 296,937 acres in size. Gold Butte was designated to protect rare plants,  
7 wildlife habitat (including critical habitat for the threatened Mojave desert tortoise), unique  
8 geology, rock art, fossils, and archeological sites. *See generally* 82 Fed. Reg. 1149-54.

9 3. For each national monument, the President directed BLM to “prepare and maintain  
10 a management plan” to “protect[] and restore[]” the various scientific, historic, and archeological,  
11 and paleontological resources located within each designated monument. 80 Fed. Reg. 41972; 82  
12 Fed. Reg. 1151. However, nearly nine years after the designation of Basin and Range National  
13 Monument, there are no management plans in place to protect the natural resources found in either  
14 monument.

15 4. Because Defendant U.S. Bureau of Land Management has failed to prepare  
16 management plans for Gold Butte and Basin and Range National Monuments, the agency has  
17 violated the monument proclamations, FLPMA, and the Administrative Procedure Act (APA).

18 5. Plaintiff seeks an injunction ordering the BLM to complete the Management Plans  
19 promptly.

#### 20 **JURISDICTION AND VENUE**

21 6. This Court has jurisdiction over this action pursuant to the Administrative  
22 Procedure Act (APA), 5 U.S.C. §§701-706, and under 28 U.S.C. §§ 1331 and 1346, because  
23 Defendant is an agent of the United States, and because Plaintiffs’ claims arise under federal law.  
24 The Court may issue a declaratory judgment and further relief pursuant to 28 U.S.C. §§ 2201-02.  
25 An actual justiciable controversy exists between the parties.

26 7. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e)(2), because a  
27 substantial part of the omissions giving rise to the claims occur in this district, and a substantial

1 part of the federal land that is the subject of this action lies in this district. Venue is proper in the  
2 Southern Division of this District, as the challenge involves federal lands and resources in Lincoln,  
3 Nye, and Clark Counties. L.R. IA 1-6.

4 **PARTIES**

5 8. The Center is a non-profit corporation headquartered in Tucson, Arizona, with  
6 offices and staff in several states including Nevada. The Center works through science, law, and  
7 policy to secure a future for all species, great or small, hovering on the brink of extinction. The  
8 Center is actively involved in endangered species and habitat protection nationwide, and has more  
9 than 79,000 members throughout the United States and the world, including 658 members in  
10 Nevada.

11 9. The Center bring this action on its own behalf, and on behalf of its members, whose  
12 diverse interests span natural history, ecology, conservation, wildlife and native plant observation,  
13 nature photography, hiking, camping, backpacking, quiet and solitude in nature, dark skies,  
14 spiritual renewal, and a love of Nevada's natural landscapes, and who enjoy and use federal public  
15 land in Nevada, including lands administered by BLM within Gold Butte and Basin and Range  
16 National Monuments, as places to pursue these activities now and into the future.

17 10. For example, Center member Patrick Donnelly has visited Gold Butte National  
18 Monument and Basin and Range National Monument numerous times and intends to visit both  
19 national monuments again in 2024, including scheduled visits in June and September. He has  
20 engaged in photography, hiking, camping, four-wheel driving, wildlife viewing, and dark sky star  
21 viewing, and enjoyed quiet solitude and spiritual contemplation. He values the monuments for  
22 their lack of development, lack of over-visitation compared to nearby national parks, and the  
23 remarkable natural and cultural features that these monuments are intended to protect. He has  
24 concerns about the lack of management plans for the monuments which may inhibit BLM's ability  
25 to manage them in order to protect the objects for which the monuments were established. For  
26 instance, a lack of sanitary facilities or garbage receptacles has led to a proliferation of human  
27

1 waste and trash issues, including at sensitive sites such as petroglyphs. These issues threaten to  
2 undermine the integrity of the monuments and degrade their values.

3 11. Mr. Donnelly, and other Center members, have been and will continue to be  
4 adversely affected and irreparably injured if Defendant’s ongoing violations of FLPMA and the  
5 APA. These are actual, concrete injuries caused by the Defendants’ violations of the FLPMA and  
6 the APA. The relief sought will redress these injuries to the Center and its members.

7 12. Defendant Bureau of Land Management is an agency within the U.S. Department  
8 of the Interior. BLM and its officers are responsible for administering federally-owned public lands  
9 and natural resources, including the public lands within Gold Butte and Basin and Range National  
10 Monuments.

11 **LEGAL BACKGROUND**

12 13. The Antiquities Act, 54 U.S.C. § 320301, provides that “the President may in the  
13 President’s discretion, declare by public proclamation historic landmarks, historic and prehistoric  
14 structures, and other objects of historic or scientific interest that are situated on land owned or  
15 controlled by the Federal Government to be national monuments.”

16 14. President Obama exercised this authority to establish Basin and Range National  
17 Monument in 2015 and Gold Butte National Monument in 2016. As noted, each Presidential  
18 proclamation requires the preparation of a management plan to protect and restore the “objects”  
19 within the monuments. The Basin and Range Proclamation requires BLM to prepare a  
20 management plan “within 3 years of the date of . . . proclamation,” 80 Fed. Reg. 41972, while the  
21 Gold Butte proclamation requires BLM to prepare a management plan but does not specify a  
22 certain date, 82 Fed. Reg. 1152.

23 15. FLPMA is the “organic act” for BLM and governs the agency’s management of  
24 public lands and resources. In FLPMA, Congress declared that is the policy of the United States  
25 to manage the public lands “in a manner that will protect the quality of scientific, scenic, historical,  
26 ecological, environmental, air and atmospheric, water resource, and archeological values” and that,  
27

1 “where appropriate, will preserve and protect certain public lands in their natural condition.” 43  
2 U.S.C. § 1701(a)(8).

3 16. FLPMA requires that BLM, under the Secretary of the Interior, “develop, maintain,  
4 and[,] when appropriate, revise land use plans” to ensure that land management be conducted “on  
5 the basis of multiple use and sustained yield, . . . except that where a tract of such public land has  
6 been dedicated to specific uses according to any other provisions of law it shall be managed in  
7 accordance with such law.” 43 U.S.C. §§ 1712(a), 1732(a). Under this provision, BLM must  
8 manage Gold Butte and Basin and Range National Monuments in compliance with the terms of  
9 the Presidential Proclamations dedicating these public lands to preservation and restoration of the  
10 specific, identified monument objects.

11 17. National Monuments, including Gold Butte and Basin and Range National  
12 Monuments, are part of the National Landscape Conservation System. 16 U.S.C. § 7202. BLM  
13 must manage lands included in the National Landscape Conservation System to “conserve,  
14 protect, and restore nationally significant landscapes that have outstanding cultural, ecological,  
15 and scientific values for the benefit of current and future generations.”

16 18. The Secretary of Interior issued Secretarial Order 3308 to guide BLM’s  
17 management of lands within the National Landscape Conservation System. Secretarial Order 3308  
18 states in pertinent part that BLM “shall ensure that the components of the [National Conservation  
19 Lands] are managed to protect the values for which they were designated, including, where  
20 appropriate, prohibiting uses that are in conflict with those values.” Secretarial Order 3308 § 4 (a).

21 19. The Administrative Procedure Act (APA) provides for judicial review of federal  
22 agency actions for persons adversely affected or aggrieved by agency action or inaction. 5 U.S.C.  
23 § 702; 5 U.S.C. § 701(b)(2); 5 U.S.C. § 552 (13) (“agency action” includes “failure to act”).  
24 Agency action made reviewable by statute is subject to judicial review. 5 U.S.C. § 704.

25 20. The APA requires a reviewing court to “compel agency action unlawfully withheld  
26 or unreasonably delayed.” 5 U.S.C. § 706.

27

## FACTUAL BACKGROUND

1  
2 21. President Obama designated Basin and Range National Monument on July 15,  
3 2015, recognizing it as an “iconic American landscape” that will “continue to serve as an  
4 irreplaceable resource for archeologists, historians, and ecologists for generations to come.” 80  
5 Fed. Reg. 41969. The Monument is located on BLM public lands in Nye and Lincoln Counties,  
6 in southeastern Nevada.

7 22. Among the objects identified in the President’s July 15 Proclamation are  
8 distinctive vegetation communities, including 2,000-year-old bristlecone pines and the endemic  
9 White River catseye, *id.* at 41969-70; one of the largest ecologically intact landscapes in the Great  
10 Basin region, which provides habitat connectivity and migration corridors for desert bighorn  
11 sheep, mule deer, Rocky Mountain elk, and pronghorn, as well as habitat for dozens of other  
12 wildlife species including birds, mammals, and reptiles, *id.*; unique geologic features such as  
13 “natural arches, caves, and sheer cliffs that offer stunning vistas,” *id.*; archaeological resources  
14 including prehistoric campsites, artifacts, rock shelters, worked bone, shell beads, seed processing  
15 equipment, animal remains, clay stockpiles, and projectile points, *id.*; numerous petroglyph sites,  
16 including the White River Narrows Historic District, Mount Irish Archeological Area, and the  
17 Shooting Gallery rock art site, *id.*; and structures associated with the region’s more recent  
18 ranching and mining history, *id.* at 41971. Basin and Range National Monument also  
19 encompasses the land art installation *City* by Michael Heizer. *Id.*

20 23. The President’s July 15, 2015 Proclamation charges BLM with the “care and  
21 management” of these objects and states that BLM “shall within 3 years of the date of this  
22 proclamation prepare and maintain a management plan and shall provide for maximum public  
23 involvement in the development of that plan including, but not limited to, consultation with State,  
24 tribal, and local governments.” *Id.* at 41972.

25 24. BLM has not prepared a management plan for Basin and Range National  
26 Monument. In 2016 BLM initiated a “scoping” process for a future management plan and  
27 solicited public comment, *see* 81 Fed. Reg. 35043 (June 1, 2016), but since that time, on

1 information and belief, BLM has not taken any additional steps toward developing a management  
2 plan.

3 25. President Obama designated Gold Butte National Monument on December 28,  
4 2016, noting that it contains “an extraordinary variety of diverse and irreplaceable scientific,  
5 historic, and prehistoric resources, including vital plant and wildlife habitat, significant geological  
6 formations, rare fossils, important sites from the history of Native Americans, and remnants of our  
7 Western mining and ranching heritage.” 82 Fed. Reg. 1149-54. The Monument is located on BLM  
8 public lands in Clark County, Nevada.

9 26. Among the specific objects identified in the President’s December 28, 2016  
10 proclamation are Mojave desert vegetation communities including creosote brush, bursage, and  
11 blackbrush scrub, *id.* at 1150; gypsum deposits that support rare and endemic plant species  
12 including the sticky ringstem, the Las Vegas buckwheat, and the Las Vegas bearpoppy, *id.*; other  
13 rare plants such as the threecorner milkvetch, sticky wild buckwheat, rosy two-tone beardtongue,  
14 and the Mokiak milkvetch, *id.*; Joshua tree woodlands, *id.*; rare high-elevation forests, including  
15 Nevada’s southernmost stand of Douglas fir and the State’s only stand of Arizona cypress, *id.*;  
16 critical habitat for the threatened Mojave desert tortoise, *id.* at 1149-50; habitat for a wide variety  
17 of other reptiles, big game, small mammals, bats, and migratory birds, *id.* at 1151; “significant  
18 geologic formations,” including the 8,000-foot-high Virgin Mountains, granitic ridges, narrow  
19 sandstone canyons, and a “1,200 square-meter sinkhole known as the Devil’s Throat” that “has  
20 been the subject of multiple scientific studies that have enhanced our understanding of sinkhole  
21 formation,” *id.* at 1150; “rare fossils,” including “recently discovered dinosaur tracks dating back  
22 to the Jurassic Period,” *id.* at 1151; important sites from Native American history, including  
23 prehistoric roasting pits, ancient rock shelters, pottery shards, and a “spectacular array of rock art,  
24 depicting human figures, animals, and swirling abstract designs at locations like the famed Falling  
25 Man petroglyph site and Kohta Circus,” *id.* 1149; and settlement-era historic sites, *id.*; The  
26 proclamation further acknowledges that “the Southern Paiute people, who to this day, retain a  
27

1 spiritual and cultural connection with the land and use it for traditional purposes such as  
2 ceremonies and plant harvesting.” *Id.*

3 27. The President’s December 28, 2016 Proclamation charges BLM with protecting  
4 these objects and states that BLM “shall prepare and maintain a management plan for the  
5 monument and shall provide for maximum public involvement in the development of that plan  
6 including, but not limited to, consultation with State, tribal, and local governments.” *Id.* at 1152.

7 28. BLM has not prepared a Management Plan for Gold Butte National Monument. In  
8 2022 BLM initiated a “scoping” process and solicited public comment for a “Gold Butte National  
9 Monument Implementation Plan,” but BLM’s “National NEPA Register” website now indicates  
10 that the process is “canceled.” See <https://eplanning.blm.gov/eplanning-ui/project/2021951/510>.

11 **FIRST CLAIM FOR RELIEF**  
12 **(Failure to Prepare a Management Plan for Basin and Range National Monument,**  
13 **43 U.S.C. § 1732(a); APA, 5 U.S.C. § 706(1))**

14 29. Each and every allegation set forth in this Complaint is incorporated herein by  
15 reference.

16 30. BLM has a mandatory duty to prepare a Management Plan consistent with the terms  
17 of the Presidential proclamation designating Basin and Range National Monument, 80 Fed. Reg.  
18 41969-74. The deadline for completion of this plan was July 15, 2018. *Id.* at 41972. BLM has not  
19 prepared a management plan for Basin and Range National Monument. The duty to prepare a  
20 management plan remains in effect.

21 31. By failing to prepare a management plan for Basin and Range National Monument,  
22 BLM has unlawfully withheld or unreasonably delayed compliance with the Presidential  
23 Proclamation and FLPMA, within the meaning of the Administrative Procedure Act. 5 U.S.C. §  
24 706(1).  
25  
26  
27



**SECOND CLAIM FOR RELIEF**  
**(Failure to Prepare a Management Plan for Gold Butte National Monument, 43 U.S.C. § 1732(a); APA, 5 U.S.C. § 706(1))**

32. Each and every allegation set forth in this Complaint is incorporated herein by reference.

33. BLM has a mandatory duty to prepare a Management Plan consistent with the terms of the Presidential proclamation designating Gold Butte National Monument, 82 Fed. Reg. 1149-54. It has been over seven years since the Gold Butte National Monument was designated, and BLM has not prepared a management plan. The duty to prepare a management plan remains in effect.

34. By failing to prepare a management plan for Gold Butte National Monument, BLM has unlawfully withheld or unreasonably delayed compliance with the Presidential Proclamation and FLPMA, within the meaning of the Administrative Procedure Act. 5 U.S.C. § 706(1).

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully request that the Court enter judgment providing the following relief:

A. Declare that BLM has “unlawfully withheld or unreasonably delayed” compliance with its mandatory duty to prepare a Management Plan for Gold Butte National Monument;

B. Declare that BLM has “unlawfully withheld or unreasonably delayed” compliance with its mandatory duty to prepare a Management Plan for Basin and Range National Monument;

C. Order BLM, through a permanent injunction, to prepare a Management Plan for Gold Butte National Monument by a date certain;

D. Order BLM, through a permanent injunction, to prepare a Management Plan for Basin and Range National Monument by a date certain;

E. Award Plaintiffs their costs of litigation, including reasonable attorneys’ fees and costs; and

F. Grant Plaintiffs such additional relief as the Court may deem proper.

1 Dated March 25, 2024

Respectfully submitted,

2 /s/ Scott Lake

3 Scott Lake  
4 Center for Biological Diversity  
5 P.O. Box 6205  
6 Reno, NV 89513  
7 (802) 299-7495  
8 [slake@biologicaldiversity.org](mailto:slake@biologicaldiversity.org)

9 /s/ Wendy Park

10 WENDY PARK  
11 CA Bar No. 237331  
12 CENTER FOR BIOLOGICAL DIVERSITY  
13 1212 Broadway, Suite 800  
14 Oakland, CA 94612  
15 Phone: 510-844-7138  
16 Email: [wpark@biologicaldiversity.org](mailto:wpark@biologicaldiversity.org)  
17 (will comply with LR IA 11-2 within 14 days)

18 *Attorneys for Plaintiffs*

19  
20  
21  
22  
23  
24  
25  
26  
27