

**Bureau of Land Management
Winnemucca District Office
Categorical Exclusion**

[X] HRFO (1000)	[] BRFO (3000)	[] District ()
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CX#: DOI-BLM-NV-W010-2012-0028-CX	Date: 2-9-2012
Regulatory Authority (CFR or Law): 3602	Lease / Case File / Serial #: N-091077
BLM Manual:	
Subject Function Code: 3602	
Project Lead Preliminary Review: Is the project located within a Sage Grouse 75% Bird Breeding Density Area? – NO.	

1. BLM District Office: Winnemucca District Office
2. Name of Project Lead: Daniel Atkinson
3. Project Title: Buena Vista Gravel Pit Sales
4. Applicant: Buena Vista Land and Livestock

5. Project Description:

The Proposed Action is to authorize the purchase and removal of up to 10,000 cubic yards of sand and gravel to multiple users from the Buena Vista gravel pit located in Pershing County, Nevada. Buena Vista Land and Livestock has requested to purchase and remove 100 cubic yards of pit-run sand and gravel from the Buena Vista pit for use on their private property. This is an existing gravel pit that has been used by the Pershing County Road Department and local ranchers for the past several years. The removal of this material would create minimal new surface disturbance. Material would be loaded into belly- or end-dump trucks using either a front-end loader or backhoe. Access would be along existing roads. Standard stipulations would be attached to the contracts.

Project dimensions (length, width, height, depth): 350' by 550' Acreage: 5 acres

Will the project result in new surface disturbance? Yes X No

Has the project area been previously disturbed? Yes X No N/A . If yes, what percent of the project area has been disturbed? 95%. If only part of the project area has been disturbed, indicate disturbed area on map. Describe disturbance (and attach photo of disturbed area if you have one): See attached map.

6. Legal Description: T30N, R36E, section 30, within L3 and L4

USGS 24k Quad name: Kyle Hot Springs
100k map name: Fish Creek Mountains
Land Status: BLM X Private Other

Part I: Plan Conformance Review

The proposed Action is subject to the:

- Paradise-Denio Management Framework Plan
- Sonoma-Gerlach Management Framework Plan
- Black Rock Desert-High Rock Canyon Emigrant Trails NCA and Associated Wilderness and Other Contiguous Lands in Nevada RMP

(The Proposed Action has been reviewed for conformance with this plan (43 CFR 1610.5, BLM Manual 1617.3).

Objective M-3: Provide sand, gravel, and other mineral materials as needed for constructions purposes to federal, state, local government, private industries, and individuals.

Part II: NEPA Review

Categorical Exclusion Review: This Proposed Action qualifies as a categorical exclusion under:

43 CFR 46.210 DOI Implementation of NEPA of 1969, Listing of Departmental Categorical Exclusions (*formerly 516 DM2 Appendix 1*) (Define Exclusion – see lists available at: S:\NEPA_2010\NEPA Templates 2010\CX\CX Lists\ DOI CXs)

516 DM11.9, (BLM) F.10 - Disposal of mineral materials, such as sand, stone, gravel, pumice, cinders, and clay, in amounts not exceeding 50,000 cubic yards or disturbing more than 5 acres, except in riparian areas.

ESA and BLM Sensitive Status Species

Evaluation Criteria	Yes	No
1. Are species listed under the Endangered Species Act likely to occur in the project area? If yes, list the species in Table 1 below. Verify with USFWS or use approved list.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Are BLM NV Sensitive Species, based upon the current IM, likely to occur in the project area? If yes, list the species in the Table 1 below.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Could the proposed action result in “take” under the Migratory Bird Treaty Act? If yes, attach appropriate mitigation measures.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Table 1. Special Status Species that may occur in the project area:

ESA	BLM	Common (<i>Scientific</i>) Name	May Be Affected?	Mitigation for BLM Sensitive Species (<i>Attach ESA Section 7 Compliance to Form</i>)
<input type="checkbox"/>	<input type="checkbox"/>	Townsend’s big-eared bat <i>Corynorhinus townsendii</i>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Table 2 Migratory Bird Treaty Act Consideration

Potential MBTA Species w/in the Project Area Common (<i>Scientific</i>) Name	May Be Affected?	Proposed Mitigation
Cooper's Hawk	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
black-throated sparrow (<i>Amphispiza bilineata</i>), Brewer's blackbird (<i>Euphagus cyanocephalus</i>), Brewer's sparrow (<i>Spizella breweri</i>), burrowing owl (<i>Athene cunicularia</i>), canyon wren (<i>Catherpes mexicanus</i>), gray flycatcher (<i>Empidonax wrightii</i>), green-tailed towhee (<i>Pipilo chlorurus</i>), loggerhead shrike (<i>Lanius ludovicianus</i>), rock wren (<i>Salpinctes obsoletus</i>), sage sparrow (<i>Amphispiza belli</i>), sage thrasher (<i>Oreoscoptes montanus</i>), western meadowlark (<i>Sturnella neglecta</i>), and vesper sparrow (<i>Pooecetes gramineus</i>)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	New surface disturbance minimal. See attached.

The Proposed Action has been reviewed to determine if any exceptions described in 43 CFR 46.215 Categorical Exclusions: Extraordinary Circumstances apply. (See attached page)

Mitigation Measures/Remarks:

Permittees must strive to conduct their mining activities outside of the migratory bird nesting season which runs from March 1st through August 31st. In the event the permittee finds it can't avoid activity during this time, the permittee must at least plan ahead and clear the native vegetation in those areas outside of the nesting season to deter birds from nesting there. Vegetation must be cleared only in the footprint of the projected disturbance for that year. For example, a pit would be cleared of only several acres of previously disturbed habitat at any one time (the projected years need) instead of clearing the entire permitted area at once. Once cleared of vegetation, any material taken from the area must be within the area devoid of vegetation. The Permittee must take measures to deter weeds and native vegetation from returning to the disturbed area such as applying a BLM approved herbicide or blading the area again as needed.

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(Mitigation Measures/Remarks cont.)

Should a need for mineral materials arise during the nesting season in an area that has not been cleared of vegetation, any authorized permit / contract holder may request approval from the BLM to initiate a pre-disturbance migratory bird nesting survey. A pre-disturbance migratory bird nesting survey shall be conducted by a qualified biologist within potential breeding habitat prior to any surface disturbance proposed during the avian breeding season (March 1st through August 31st). Surveys must be conducted no more than 10 days and no less than 3 days prior to initiation of disturbance. Surveys must follow established BLM standards and protocols, and should be approved by the BLM biologist prior to being implemented. If active nests are located, the BLM biologist must be notified immediately and appropriate protection measures which may include avoidance or restriction of activities will be established. If no active nests are present in the area surveyed, vegetation should be cleared within 10 days of survey completion.

Part III: DECISION: I have reviewed this plan conformance and NEPA compliance record and have determined that the proposed project is in conformance with the approved land use plan and that no other environmental analysis is required. Project authorization is subject to mitigation measures identified above.

Remarks reserved for authorized officer:

Authorized Official: \S\ Michael Truden Date: 5/3/2012
(Signature)

Administrative Review or Appeal Opportunities

A person who wishes to appeal to the Interior Board of Land Appeals must do so under 43 CFR 4.411 and must file in the office of the officer who made the decision (not the board), in writing to Michael Truden, Humboldt River Field Office, 5100 East Winnemucca Boulevard, Winnemucca, Nevada 89445. A person served with the decision being appealed must transmit the notice of appeal in time to be filed in the office where it is required to be filed within thirty (30) days after the date of service.

The notice of appeal must give the serial number or other identification of the case and may include a statement of reasons for the appeal, a statement of standing if required by § 4.412(b), and any arguments the appellant wishes to make. Form 1842-1 provides additional information regarding filing an appeal.

No extension of time will be granted for filing a notice of appeal. If a notice of appeal is filed after the grace period provided in §4.401(a), the notice of appeal will not be considered and the case will be closed by the officer from whose decision the appeal is taken. If the appeal is filed during the grace period provided in §4.401(a) and the delay in filing is not waived, as provided in that section, the notice of appeal will not be considered and the appeal will be dismissed by the Board.

The appellant shall serve a copy of the notice of appeal and any statements of reason, written arguments, or briefs under §4.413 on each adverse party named in the decision from which the appeal is taken and on the Office of the Solicitor, Pacific Southwest Regional Solicitor, U.S. Department of the Interior, 2800

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Cottage Way, Room E-2753, Sacramento, California 95825-1890. Service must be accompanied by personally serving a copy to the party or by sending the document by registered or certified mail, return receipt requested, to the address of record in the bureau, no later than 15 days after filing the document.

In addition, within thirty (30) days of receipt of this decision you have the right to file a petition for a stay together with your appeal in accordance with the regulations at 43 CFR 4.21. The petition must be served upon the same parties specified above.

Pursuant to 43 CFR 4.47I(c), a petition for stay, if filed, must show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted; and,
- (4) Whether the public interest favors granting the stay.

43 CFR 4.471 (d) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.422(c)(2)).