

**Bureau of Land Management
Winnemucca District Office
HRFO (W010)**

Categorical Exclusion

CX#: DOI-BLM-NV-W010-2012- 0053-CX

Date: 8/6/2012

Lease / Case File / Serial #:

Regulatory Authority (CFR or Law): 43 CFR 4700

BLM Manual: 4700

Subject Function Code: 4700

Is the project located within a Preliminary Priority Habitat? Yes No

Is the project located within a Preliminary General Priority Habitat? Yes No

Is the project located within a National Landscape Conservation System feature (NCA, Wilderness, WSA, ISA, Scenic or Historic Trails)? Yes No

1. BLM District Office: Winnemucca District Office

2. Name of Project Lead: Mandy DeForest

3. Project Title: Little Owyhee – Snowstorm HMAs Emergency Water Hauling

4. Applicant: BLM

5. Project Description: (briefly describe who, what, when, where, why, how)

The proposed action is to enhance up to four existing watering locations within the Little Owyhee and Snowstorms HMAs with temporary troughs and/or water storage tanks to provide wild horses within the area much needed water. The existing watering locations are naturally occurring springs, reservoirs and rivers. Due to the lack of moisture and wild horse numbers over AML, these sources are providing little to no watering opportunities for wild horses or wildlife. There are currently large numbers of horses that are dependent on these dried or drying up sources of water. Without adequate amounts of water wild horses may die, and as drought continues horses will die. The temporary troughs and/or storage tanks would provide the horses with a more continuous source of water until they are gathered. Due to the wild horse numbers being over AML, water hauling may have to continue through the winter until the water resources have had an ample opportunity to recover.

Little Mud Springs – Proposed action would include installing a temporary trough, water storage tank, and improving road access from Chimney Reservoir Road to Little Mud Springs. The temporary trough would be placed within the existing disturbed area around the existing water trough. The storage tank would be placed within close proximity to the temporary trough.

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The existing water trough would be replaced and also filled when water is hauled. Road improvements would include some blading, grading and gravelling of the existing road to ensure the road holds up under continuous water hauling.

Un-named Reservoir - Proposed action would include installing a temporary trough, water storage tank, and improving road access from the Button Field to un-named reservoir. The temporary trough would be placed within the existing disturbed area creating the reservoir. The storage tank would be placed within close proximity to the temporary trough. Road improvements would include some blading, grading and gravelling of the existing road to ensure the road holds up under continuous water hauling.

Four-mile Butte Reservoir - Proposed action would include installing a temporary trough, water storage tank, and improving road access from Button Field to Four-mile Butte reservoir. The temporary trough would be placed within the existing disturbed area creating the reservoir. The storage tank would be placed within close proximity to the temporary trough. Road improvements would include some blading, grading and gravelling of the existing road to ensure the road holds up under continuous water hauling.

Rodear Flat Water Gaps - Proposed action would include installing a temporary trough, water storage tank, and improving road access from Button Field to Rodear Flat. The temporary troughs would be placed within the existing disturbed area created by the water gaps. The storage tanks would be placed within close proximity to the temporary troughs. Road improvements would include some blading, grading and gravelling of the existing road to ensure the road holds up under continuous water hauling.

Project dimensions (length, width, height, depth): See Below

Total Acres: Less than one acre per trough and storage tank (2 acres).

BLM Acres: 5 acres

Road Lengths:

To Little Mud Springs is approximately 10 miles

To Four Mile Reservoir is approximately 5 miles

To Rodear Flat and the Un-named Reservoir is approximately 5 miles

Road Width is approximately 10-12 feet wide. Maximum acreage would be three acres of road that may need light maintenance.

Temporary Trough Size: 800-1000 gallons (8 foot diameter)

Storage Tank Size: 2,500 gallons (2 at each site) Storage tanks may be set on ground, on stands or on flatbed trailers. Storage tanks must be set to gravity feed into troughs.

Will the project result in new surface disturbance? Yes No

Has the project area been previously disturbed? Yes No N/A

If yes, what percent of the project area has been disturbed? 100% . If only part of the project area has been disturbed, indicate disturbed area on map. Attached are photos of Little Mud Springs, and Rodear Flat.

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6. Legal Description:

Little Mud Springs	T. <u>42</u> N., R. <u>42</u> E., sec. <u>14</u>
Un-named Reservoir	T. <u>41</u> N., R. <u>45</u> E., sec. <u>19</u>
Four Mile	T. <u>42</u> N., R. <u>45</u> E., sec. <u>06</u>
Temporary Trough	
Rodear Flat	T. <u>41</u> N., R. <u>45</u> E., sec. <u>16</u>

USGS 24k Quad name: Whiskey Springs, Rodear Flat, Humboldt Hill

100k map name: Quinn River Valley

Land Status: BLM Private Other_____.

7. **Add project to your version for the NEPA Geodatabase.** Using the NEPA Geodatabase and templates (T:\NV\GIS_Work\WMDO\Templates) **create PDFs** of 1:24,000 Project Location Map and 1:100,000 general vicinity map. For more guidance, see S:\NEPA\NEPA_2012\NEPA 2012 Templates\Proposed Action\CX Proposed Action Form and Instructions).

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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 is in conformance with the applicable Land Use Plan (LUP) because it is specifically provided for in the following LUP decision(s):

WHB-1: Maintain wild horses on public lands, where there was wild horse or burro use as of December 15, 1971, and maintain a natural ecological balance on the public lands.

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*)
- 516 DM 11.9, (BLM) D. Rangeland Management
 - 3. Temporary emergency feeding of livestock or wild horses and burros during periods of extreme adverse weather conditions.

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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 type="checkbox"/>	<input checked="" 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 checked="" type="checkbox"/>	Greater sage-grouse	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Risk of drowning in troughs – escape ramps are addressed below.
<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/> Yes <input 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?	Recommended Mitigation
black-throated sparrow (<i>Amphispiza bilineata</i>), Brewer’s blackbird (<i>Euphagus cyanocephalus</i>), Brewer’s sparrow (<i>Spizella breweri</i>), canyon wren (<i>Catherpes mexicanus</i>), gray flycatcher (<i>Empidonax wrightii</i>), green-tailed towhee (<i>Pipilo chlorurus</i>), rock wren (<i>Salpinctes obsoletus</i>), sage sparrow (<i>Amphispiza belli</i>), sage thrasher (<i>Oreoscoptes montanus</i>), western	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Risk of drowning in troughs – escape ramps are addressed below.

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meadowlark (<i>Sturnella neglecta</i>), and vesper sparrow (<i>Pooecetes gramineus</i>)		
	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	
	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	
	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	

Mitigation Measures/Remarks:

Bird ladders will be placed in the temporary troughs for birds and small mammals to have an escape route.

Hauling of water would provide more available water for wild horses at the existing waters and therefore the natural waters (springs/seeps) that are currently being impacted by the horses would have more water available for sage-grouse, chukar and other wildlife species.

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)

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. (This is a NEPA Decision. A separate program implementation decision is necessary.)

Based on 43 CFR 4700, it is my decision to allow for implementation of the project, as described, with the mitigation measures identified above. This is a combined NEPA and program implementation decision.

43 CFR 4700: It is the policy of Congress that wild free-roaming horses and burros shall be protected from capture, branding, harassment or death; and to accomplish this they are to be considered in the area where presently found as an integral part of the natural system of public lands.

Authorized Official /s/ Michael Truden Date: 8/13/12
(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 Cottage Way, Room E-2753, Sacramento, California 95825-

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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 4.471(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)).