

**Bureau of Land Management
Winnemucca District Office
BRFO (W030)**

Categorical Exclusion

CX#: DOI-BLM-NV-W030-2012-0018-CX

Date: 8/23/2012

Lease / Case File / Serial #: NVW03500-12-15
Regulatory Authority (CFR or Law): 43 CFR 2930

BLM Manual: Recreation Permit Administration Handbook

Subject Function Code: 8372

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: Greg Page

3. Project Title: Paradise Adventist Academy Apple Gate Lassen Trail Reenactment.

4. Applicant: David R. Vixie

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

The proposed action would be to authorize a 1 year organized group Special Recreation Permit to David R. Vixie (Paradise Adventist Academy) to use designated public lands in Nevada (Winnemucca District Office) to travel and camp by wagon train along the Applegate Lassen Trail. The event would begin on September 16, 2012 at Rye Patch reservoir and finish on September 23, 2012 at Massacre Ranch.

The wagon train would cross over 125 miles of county, private and public roads, which either parallel or cover the Applegate Trail. No subsurface disturbance would be permitted. At no point on the trip would the wagon train pass over or disturb pristine trail traces. All the segments designated in the NCA Resource Management Plan for special protection will be avoided by the wagon train. The pristine segment near Rosebud Canyon would be avoided and the OCTA Class I and Class II segments between Rabbit Hole Creek and the Union Pacific Railroad have been abandoned and are no longer regular routes. A sensitive segment in Upper High Rock Canyon has also been closed to traffic and a trail segment exhibiting wagon ruts in soft rock near Mahogany Creek would not be used.

Project Title: Paradise Adventist Academy Apple Gate Lassen Trail reenactment

The train would consist of 6 wagons, 2 oxen and 11 horses. A total of nine campsites (#1-9) are planned. Campsites would be pre-selected by BLM officials, and all animals would be kept in a portable electric fence corral for camping, to minimize potential impacts to the environment. A typical campsite for the entire group would be approximately 25 yards by 50 yards, and would consist of a kitchen trailer, support vehicles, and the wagons themselves. A BLM representative would travel with the group as a monitor and would verify campsite locations. If the wagon train is running late and cannot make it to one of the planned locations, the BLM ranger would select a suitable area of previous disturbance for the campsite.

Project dimensions (length, width, height, depth): 125 Miles.

Total Acres: No more than 3 staging area acres.

BLM Acres: No more than 3 staging area acres.

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. Describe disturbance (and attach photo of disturbed area if you have one):

24K map name:

Campsite #1 (Willow Springs): Majuba Mountains

Campsite #2 (Barrel Spring): Eugene Mountains

Campsite #3 (North of Railroad Tracks): Cholona Mountains

Campsite #4 (Black Rock Hot Springs): Black Rock Point West Mountains

Campsite #5 (Double Hot Springs): Double Hot Springs

Campsite #6 (Mud Meadows Gravel Pit): Mud Meadows

Campsite #7 (Mahogany Creek): Mud Meadows

Campsite #8 (Steven's Camp): Yellow Hills West

Campsite #9 (Massacre Ranch): Massacre Creek

100k map name:

Campsite #1 (Willow Springs): Eugene Mountains

Campsite #2 (Barrel Spring): Eugene Mountains

Campsite #3 (North of Railroad Tracks): Eugene Mountains

Campsite #4 (Black Rock Hot Springs): Eugene Mountains

Campsite #5 (Double Hot Springs): High Rock Canyon

Campsite #6 (Mud Meadows Gravel Pit): High Rock Canyon

Campsite #7 (Mahogany Creek): High Rock Canyon

Campsite #8 (Steven's Camp): High Rock Canyon

Campsite #9 (Massacre Ranch): Vya

Land Status: BLM Private Other _____.

Project Title: Paradise Adventist Academy Apple Gate Lassen Trail reenactment

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):

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).

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)

H. Recreation Management 1. Issuance of Special Recreation Permits for day use or overnight use up to 14 consecutive nights; that impacts no more than 3 staging area acres; and/or for recreational travel along roads, trails, or in areas authorized in a land use plan. This CX cannot be used for commercial boating permits along Wild and Scenic Rivers. This CX cannot be used for the establishment or issuance of Special Recreation Permits for "Special Area" management (43 CFR 2932.5).

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 checked="" type="checkbox"/> | <input 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 checked="" type="checkbox"/> | <input type="checkbox"/> | Greater Sage-Grouse (<i>Centrocercus urophasianus</i>) | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | The area of the proposed project is habitat for Greater sage-grouse. Disturbance of sagebrush will be avoided to the greatest possible extent. This will be accomplished by using existing roads, trails and other areas devoid of sagebrush. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Pygmy Rabbit (<i>Brachylagus idahoensis</i>) | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | Impacts to pygmy rabbit are expected to be minimal because the trail reenactment is limited to previously disturbed sites and no new surface disturbance will occur. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Oryctes (<i>Oryctes nevadensis</i>), Schoolcraft Catseye (<i>Cryptantha schoolcraftii</i>), Crosby Buckwheat (<i>Eriogonum anemophilum</i>) | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | Impacts to these plants are expected to be minimal because the trail reenactment is limited to previously disturbed sites and no new surface disturbance will occur. |

Project Title: Paradise Adventist Academy Apple Gate Lassen Trail reenactment

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 |
|--|---|------------------------|
| | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| | <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:

Monitoring of cultural resources would be needed.

Disturbance of sagebrush will be avoided to the greatest possible extent. This would be accomplished by using existing roads, trails and other areas devoid of sagebrush.

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 _____, it is my decision to allow for implementation of the project, as described, with the mitigation measures identified above and attached as stipulations, conditions of approval, terms of conditions, etc. This is a combined NEPA and program implementation decision.

Authorized Official \s\ Cory Roegner Acting for Gerald Dixon Date: 09/14/12
(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 Gerald Dixon, Field Manager, 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 95825-1890. 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.

Project Title: Paradise Adventist Academy Apple Gate Lassen Trail reenactment

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)).