

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

Categorical Exclusion

CX#: DOI-BLM-NV-W030-2012- 0021-CX

Date: 5/17/2012

Lease / Case File / Serial #: NVW03500-##-##

Regulatory Authority (CFR or Law): 43 CFR: 2930

BLM Manual: 8320 – Planning For Recreation Resources

Subject Function Code: 8372 – Special Recreation Permits

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: Zach Million

3. Project Title: Bay Area Rocketry Vending Permit

4. Applicant: Michael Gentile

5. Project Description: The proposed action would be to authorize a one year commercial Special Recreation Permit for Bay Area Rocketry to conduct vending services in conjunction with rocket launching Special Recreation Permits. This permit would allow for critical retail and delivery services associated with rocket launching activities.

Project dimensions (length, width, height, depth): See attached maps

Total Acres: 12,499

BLM Acres: 12,499

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):

6. Legal Description: T. 35 N., R. 25 E., sec. 36, SW 1/4 NE 1/4

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T. ____ N., R. ____ E., sec. _____, _____ 1/4 _____ 1/4

USGS 24k Quad name: Trego

100k map name: Gerlach

Land Status: BLM Private Other _____.

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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):

REC -28: Rocket launching activities would be required to use the rocket launching area (12,499 acres) indicated on Map 2-15, unless otherwise approved for public safety, resource concerns, or due to specific operating requirements.

The proposed action is in conformance with the LUP, even though it is specifically provided for, because it is clearly consistent with the following LUP decision(s) (objectives, terms, and conditions):

Black Rock-High Rock RMP – Objective 4: To provide opportunities for a diverse range of permitted activities consistent with the NCA Act while providing public access and solitude for other users.

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) Appendix 3, (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).

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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 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 checked="" type="checkbox"/>	Western snowy plover (<i>Charadrius alexandrinus</i>)	<input checked="" type="checkbox"/> Yes* <input checked="" type="checkbox"/> No	The habitat in the immediate proposed project area is devoid of vegetation and water and cannot support wildlife during the dry seasons of the year. However, during the wet months when the playa is inundated with water, eggs of fairy shrimp and other invertebrates that have been lying dormant within the playa, hatch, providing a food source for migrating birds, particularly shorebirds. Thus, disturbance activities can only occur when the playa is completely dry and will be limited to roads and areas previously and noticeably disturbed to decrease impacts (from soil compaction and contaminants) to the supply of this food source and access to it. *During the wet season
<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	

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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
This list is representative, but not all inclusive of migratory birds that may use the proposed area during the wet-season months.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>The habitat in the immediate proposed project area is devoid of vegetation and water and cannot support wildlife during the dry seasons of the year. However, during the wet months when the playa is inundated with water, eggs of fairy shrimp and other invertebrates that have been lying dormant within the playa, hatch, providing a food source for migrating birds, particularly shorebirds. Thus, disturbance activities can only occur when the playa is completely dry and will be limited to roads and areas previously and noticeably disturbed to decrease impacts (from soil compaction and contaminants) to the supply of this food source and access to it.</p> <p>*During the wet season</p>
Cinnamon teal (<i>Anas cyanoptera</i>) Northern shoveler (<i>Anas clypeata</i>) Northern pintail (<i>Anas acuta</i>) Green-winged teal (<i>Anas crecca</i>) American avocet (<i>Recurvirostra Americana</i>) Willet (<i>Tringa semipalmata</i>) Spotted sandpiper (<i>Actitis macularia</i>) Black-necked stilt (<i>Himantopus mexicanus</i>)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> Yes <input type="checkbox"/> No	

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Mitigation Measures/Remarks: All vending operations would be conducted in accordance with the attached special stipulations, as well as any special stipulations for other permitted events/activities where vending would occur.

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 1601.0-2, 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.

The objective of resource management planning by the Bureau of Land Management is to maximize resource values for the public through a rational, consistently applied set of regulations and procedures which promote the concept of multiple use management and ensure participation by the public, state and local governments, Indian tribes and appropriate Federal agencies.

Authorized Official /s/ Kathy Ataman
(Signature)

Date: 7/19/2012

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 Kathy Ataman, Black Rock 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.

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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.

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)).