

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

Categorical Exclusion/Cultural Resources Inventory Needs Assessment Form

CX#: DOI-BLM-NV-W030-2012- 0022-CX

Date: 7/13/2012

Lease / Case File / Serial #:

Regulatory Authority (CFR or Law): 43 CFR

BLM Manual: 8320 – Planning For Recreation Resources

Subject Function Code: 8366 – Recreation Site Management

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: Trego Hot Springs OHV Prevention Fence

4. Applicant: Black Rock Field Office

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

The proposed action would be to authorize the installation of a wooden protective fence around Trego Hot Springs; 14 miles east of Gerlach, NV in Pershing County. Trego Hot Springs is located just south of the Union Pacific Railroad line, and easily accessed 400 meters north of Jungo Road (BLM 2048). Trego Hot Springs is a popular location for visitors to soak in hot springs, camp, or stage for OHV destinations. Due to a lack of direction and vehicle flow, the area has been severely impacted and degraded by OHV abuse. Social and spur trails spill off the designated route, causing severe soil, vegetative, and cultural resource damage. Implementation would be by BLM staff and volunteers on National Public Lands Day, September 22, 2012.

Implementation of the proposed project would seek to protect and preserve the natural and cultural resources at Trego Hot Springs by limiting the future damage caused by OHV use. Limiting OHV use would also seek to limit user made fire rings, trash dumps, and additional OHV routes.

Project dimensions (length, width, height, depth): The fence would consist of wooden posts (10” diameter), placed in the ground 2 feet deep, with the above ground post being 2 feet high. Top

rails would consist of 4" diameter posts secured on top.

Total Acres: The fence would consist of a total of 683 feet, broken up into three non-contiguous sections around the spring, camping area, and OHV play area. All fencing would be along existing routes.

BLM Acres: NA

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.34 N., R.25&26E., sec.31&36, SW 1/4 SW 1/4
T.____ N., R.____ E., sec.____, _____ 1/4 _____ 1/4

USGS 24k Quad name: Trego Hot Springs

100k map name: Trego Hot Springs

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).

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):

Objective 2, Black Rock-High Rock RMP: To protect the physical and visual integrity of the Applegate-Lassen National Historic Trail from impacts associated with human uses, including organized events.

The proposed action is in conformance with the LUP, even though it is not specifically provided for, because it is clearly consistent with the following LUP decision(s) (objectives, terms, and conditions):

REC-4: Limits on human activities may be set in areas that experience adverse impacts to resources or the visitor experience. These limits may affect areas of use, group size, duration of stay, number of people or vehicles, or types of activities allowed.

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) (**J. Other**) 9. Construction of small protective enclosures, including those to protect reservoirs and springs and those to protect small study 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 (Scientific) Name	May Be Affected?	Mitigation for BLM Sensitive Species (Attach ESA Section 7 Compliance to Form)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Loggerhead Shrike (<i>Lanius ludovicianus</i>), Brewer’s Sparrow (<i>Spizella breweri</i>), Sage Thrasher (<i>Oreoscoptes montanus</i>), Western Burrowing Owl (<i>Athene cunicularia hypugaea</i>)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	See mitigation for MBTA (Table 2)
<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 (Scientific) 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>) Western 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</i>)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Surface disturbance associated with the proposed action would be conducted outside of the migratory avian breeding season (March 1 – August 31). If surface disturbance must be created during the migratory avian breeding season, a survey performed by a BLM biologist would be conducted for active nests. This survey would be conducted no more than 10 days and no less than 1 day prior to initiation of disturbance. If active nests are located, disturbance activities may be postponed, a protective buffer may be established, or other appropriate protective measures would be instituted to avoid disturbance to the nest or reproductive behaviors until the nests are no longer active. If no active nests are present in the area surveyed, implementation of the project should commence within 10 days of survey completion.

<i>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>) 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	

Table 3. General Wildlife that may occur in project area:

Common (<i>Scientific</i>) Name	May be affected?	Comments
Pronghorn Antelope (<i>Antilocapra americana</i>)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	The proposed fence occurs in year-round pronghorn habitat. However, due to the structure and dimensions of the fence, access by pronghorn will not be impeded.

Mitigation Measures/Remarks:

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 regulatory authority or law that allows BLM to take action, 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.

Provide text of regulatory authority being used to allow BLM to take action.

Authorized Official_____/s/Cory Roegner _ Date: ___9/11/2012
(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, 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 95825-1890. 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)).