

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

Categorical Exclusion

CX#: DOI-BLM-NV-W0-010-2012- 0050-CX

Date: 7/3/2012

Lease / Case File / Serial #: N-89477

Regulatory Authority (CFR or Law): CFR 2800

BLM Manual: 2800

Subject Function Code: 2800

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: Debbie Dunham

3. Project Title: Callear ROW

4. Applicant: LeeAnn Callear

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

Mrs. Callear would like to capture the overflow of an existing unnamed spring, which adjoins BLM land, into an above ground perforated pipe without any digging. She would not be installing collector tiles or perforated pipe underground or under the spring. The existing wet area would be left alone so animals can still use it as before.

Mrs. Callear would push the collector-pipe down into the edge of the “wet area” no deeper than one-inch under the existing static water level. This way the over-flow water, which currently is being wasted into the wash, can be used for beneficial use.

Mrs. Callear obtained water rights to this spring on August 10, 2011 (Nevada Permit No. 80164, priority date: September 21, 2010). This is a request for a temporary ROW (3-5 years) to help her meet the beneficial use requirement of the Nevada State statutes.

Once the pipe is laid down they would place a watering trough on their land at the end of the

pipe. Only overflow water would travel down this pipe and into the trough. The water would be used for wildlife, livestock, pets, recreation and a small amount of domestic use (washing, clean-up, miscellaneous cabin construction purposes, etc.). The use would be permanent and year round.

No construction would occur.

After this temporary ROW is approved for a pipeline above ground Mrs. Callear plans to apply for a long-term right-of-way that would be analyzed through an environmental assessment for an underground water pipeline to supply spring water to a small recreational cabin, which has not been built yet, on her 320 acre parcel.

Project dimensions (length, width, height, depth): 230 feet length; 10 feet width;

Total Acres: 0.05

BLM Acres: 0.05

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? 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. 38 N., R. 35 E., sec. 012, NENENW.

USGS 24k Quad name: Osgood Mtns

100k map name: Silver State Draw

Land Status: BLM 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 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):

There is no specific objective for rights-of-way in the Paradise-Denio Management Framework Plan. In accordance with FLPMA Title V Sec. 501, BLM is authorized to grant rights-of-way for “(1) reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other facilities and systems for the impoundment, storage, transportation, or distribution of water”.

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 DM11.9, (BLM) E (18) Temporary placement of a pipeline above ground.

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"/>	Greater sage-grouse (<i>Centrocercus urophasianus</i>)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	None. Area identified as winter habitat.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Western burrowing owl (<i>Athene cunicularia hypugaea</i>)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	See horned lark.
<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
Horned lark (<i>Eremophila alpestris</i>)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>Recommend installing the pipe outside of the migratory bird breeding season (March 1st through August 31st).</p> <p>In order to avoid potential impacts to breeding migratory birds, a careful visual inspection of habitat in the project area should be made prior to any surface disturbance (including cross-country routes) during the avian breeding season (March 1st through August 31st). Nesting activities may include eggs or young present in nest, adult behavioral displays (e.g. dive-bombing, faking injury, won't leave the area, agitated calling, etc.). 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</p>

		established.
Mourning dove (<i>Zenaida macroura</i>)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	See horned lark.
	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> Yes <input type="checkbox"/> No	

Mitigation Measures/Remarks: "See Attached Terms and Conditions"

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.

Authorized Official \s\ Ken Loda, Acting Field Manager Date: September 17, 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 Ken Loda, Acting Field Manager, 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 95825-1890. 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)).