

## **Decision Record**

### **Special Recreation Permit: Tempe Union High School District #213**

**NEPA No.:** DOI-BLM-AZ-P040-2013-001-DNA

U.S. Department of the Interior  
Bureau of Land Management  
Sonoran Desert National Monument

#### **Purpose and Need for the Action**

The Sonoran Desert National Monument (“SDNM”) was established by Presidential Proclamation 7397 on January 17, 2001. The SDNM incorporates within its boundaries a segment of historic trail popularly known as the “Butterfield Trail,” or “Mormon Battalion Trail,” three wilderness areas, and a vast landscape that is popular with the public and is frequently used for recreational, educational, cultural, and spiritual awareness purposes. Common group activities during such events include camping, hiking, orienteering, survival skills training and exhibition, horseback riding, storytelling, and historic handcart trek re-enactments.

The proposed action provides for the issuance of an organized group Special Recreation Permit (“SRP”) to Tempe Union High School District #213, care of Lonnie Slawson. Mr. Slawson proposes to supervise a one night educational and camping event associated with a band class. The applicant's description of activities follows:

"The activity is scheduled for November 17-18, 2012 (SA-SU). We will arrive at the site @0800 on SA and will vacate at @0700 on SU. Currently 20 students are on the roster to complete the activity, which involves constructing a shelter, fire pit and solar still in their assigned field area using minimal (if any) belongings and items found in the land. In addition, a group of @12 adult chaperones and student assistants will also be present at the activity. We request that we be able to park @8-10 vehicles in the area inside the fencing bordering Hwy. 238. We would like to request permission to stage our vehicles further in from the road to an open area @300-400 yards inside the posted signage. This request is based on the premise that while the activity is intended to simulate a survival scenario, we must maintain a base camp in close proximity to the student participants for security and monitoring purposes throughout the entire 24 hour period. The vehicles will not be driven around, just moved in on SA and out on SU to respect the ongoing restoration efforts in the area."

The proposed use area is within an area closed to use by motor vehicles; however, the closure provided for the issuance of special recreation permits to provide for events such as the proposed action. Vehicle authorization will not be provided other than for access to the campsite.

## **Plan Conformance**

The proposed action is in conformance with the “Sonoran Desert National Monument Record of Decision & Approved Resource Management Plan, September 14, 2012,” per the following specific management actions:

RM-2.1.10: At the discretion of the authorized officer, SRPs will be authorized on a case-by-case basis as outlined in 43 CFR 2930.5; in subsequent policies and guidance (See Appendix D, Best Management Practices and Standard Operating Procedures); and in the decisions below. (p. 2-75)

RM2.1.11: Organized groups numbering greater than 25 participants will require a special recreation permit. (p. 2-75)

## **Compliance with the National Environmental Policy Act, and Finding of No Significant Impact**

Commercial special recreation permitting was analyzed for BLM Arizona in the environmental analysis document “Special Recreation Permits for Commercial Recreation Activities on Public Lands in Arizona” (E.A. No. AZ-931-93-001), August, 1993. This document analyzed the environmental effects of commercial recreation permitting on public lands in Arizona, including “base camps of 14 days or less,” and established a standard set of “Arizona BLM Stipulations for Commercial Special Recreation Permits.” These stipulations were designed to protect the lands or resources involved, reduce user conflicts, and minimize health and safety hazards. The inclusion of these standard stipulations mitigated environmental impacts potentially resulting from commercial special recreation permitting to the extent that no significant environmental impacts resulting from commercial special recreation permitting will occur.

The BLM, Sonoran Desert National Monument, has completed a review of the proposed action with respect to the above-cited environmental analysis. Based on this review, “Documentation of NEPA Adequacy, NEPA No. DOI-BLM-AZ-P040-2013-001-DNA,” attached to and incorporated herein, it is my determination that impacts are not expected to be significant; therefore, an environmental impact statement is not required.

## **Persons Consulted**

The following persons consulted on similar previous events. This event and the area being used are recurring, with all previous considerations provided by these individuals incorporated into this permit:

Lower Sonoran Field Office Staff, Hassayampa Field Office Staff @ monthly PDO NEPA meeting.

## **Decision and Rationale on Action**

I have decided to issue a Special Recreation Permit to Tempe Union High School District #213, care of Lonnie Slawson, for an organized group event to take place November 17-18, 2012, at a



In accordance with 43 CFR 4.21(b)(1) 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.

**Contact Person**

For additional information concerning this decision contact Richard B. Hanson, Manager, or David L. Scarbrough, Outdoor Recreation Planner; Sonoran Desert National Monument; 21605 North 7<sup>th</sup> Avenue; Phoenix, AZ 85027; (623) 580-5500.

**PHOENIX DISTRICT BLM  
STANDARD STIPULATIONS FOR  
COMMERCIAL SPECIAL RECREATION PERMITS**

In addition to the conditions and stipulations listed on page 2 of the Special Recreation Application and Permit form, the Washington Office and Phoenix District Bureau of Land Management (BLM) have established the following additional stipulations designed to protect the lands and resources involved, reduce user conflicts, and/or minimize health and safety hazards. The stipulations will be made part of the permit. Failure to comply with these stipulations may result in the loss of permit privileges. These stipulations may be changed at any time upon notice and this permit may be revoked at the discretion of the BLM at any time upon notice.

- **BLM Contact: Dave Scarbrough at 623-580-5651**
- **Law Enforcement Dispatch for reporting illegal activities: 1-800-637-9152 or 623-580-5515 (Dial 9-1-1 for life threatening emergencies)**

**General Administrative:**

1. Estimated fee payments, or the minimum non-refundable annual fee, whichever is applicable, will be submitted in advance to the BLM authorized officer prior to issuance or validation of the permit. Any additional use fees will be due at the end of the six month reporting period in which the fees were accrued. Overpayment of fees will be applied to the following year's estimated use fees. **Use fees for commercial permits are 3% of gross revenue or the minimum annual fee of \$100, whichever is greater.**
2. Post-use reports and estimated fee payments for annual and multi-year permits will be submitted to the BLM on a fiscal year semi-annual basis. They are due within 15 days after the six month use period (**April 15 and October 15**).
3. The permittee shall comply with all Federal, State, and local laws, ordinances, regulations, orders, postings, or written requirements applicable to the area or operations covered by the Special Recreation Permit. The permittee shall ensure that all persons operating under the authorization have obtained all required Federal, State, and local licenses or registrations. The permittee shall make every reasonable effort to ensure compliance with these requirements by all agents of the permittee and by all clients, customers, participants, or spectators under the permittee's supervision.
4. A Special Recreation Permit (SRP) authorizes special uses of the public lands and related waters and, should circumstances warrant, the permit may be modified by the BLM at any time, including modification of the amount of use. The authorized officer may suspend or terminate a SRP if necessary to protect public resources, health, safety, the environment, or because of noncompliance with permit stipulations. Actions by the BLM to suspend or

- terminate a SRP are appealable.
5. No value shall be assigned to or claimed for the permit, or for the occupancy or use of Federal lands or related waters granted thereupon. The permit privileges are not to be considered property on which the permittee shall be entitled to earn or receive any return, income, price or compensation. The use of a permit as collateral is not recognized by the BLM.
  6. Unless expressly stated, the SRP does not create an exclusive right of use of an area by the permittee. The permittee shall not interfere with other valid uses of the Federal land by other users. The United States reserves the right to use any part of the area for any purpose.
  7. The permittee or permittee's representative may not assign, contract, or sublease any portion of the permit authorization or interest therein, directly or indirectly, voluntarily or involuntarily. However, contracting of equipment or services may be approved by the authorized officer in advance, if necessary to supplement a permittee's operations. Such contracting should not constitute more than half the required equipment or services for any one trip and the permittee must retain operational control of the permitted activity. If equipment or services are contracted, the permittee shall continue to be responsible for compliance with all stipulations and conditions of the permit.
  8. All advertising and representations made to the public and the authorized officer must be accurate. Although the addresses and telephone numbers of the BLM may be included in advertising materials, official agency symbols may not be used. The permittee shall not use advertising that attempts to portray or represent the activities as being conducted by the BLM. The permittee may not portray or represent the permit fee as a special Federal user's tax. The permittee must furnish the authorized officer with any current brochure and price list if requested by the authorized officer.
  9. In the event of default on any mortgage or other indebtedness, such as bankruptcy, creditors shall not succeed to the operating rights or privileges of the permittee's SRP.
  10. The permittee must present or display a copy of the Special Recreation Permit to an authorized officer's representative, or law enforcement personnel upon request. If required, the permittee must display a copy of the permit or other identification tag on equipment used during the period of authorized use.
  11. The authorized officer, or other duly authorized representative of the BLM, may examine any of the records or other documents related to the permit, the permittee or the permittee's operator, employee, or agent for up to 3 years after expiration of the permit.
  12. The permittee must assume responsibility for inspecting the permitted area for any existing or new hazardous conditions, e.g., trail and route conditions, land slides, avalanches, rocks, changing water or weather conditions, falling limbs or trees, submerged objects, hazardous wildlife, or other hazards that present risks for which the permittee assumes responsibility.

13. The permittee is responsible for ensuring the safety of all clients and support personnel and providing for appropriate emergency attention.
14. The permittee is required to contact private landowners and other governmental agencies whose property is affected by the use associated with the permit (this includes the Arizona State Land Department for state trust lands). Evidence that authorization has been obtained must be available to the BLM authorized officer upon request.
15. Any changes to the approved Plan of Operations must first be approved by the BLM authorized officer. This includes the use of subcontractors.
16. The permittee is required to provide the BLM authorized officer with a copy of a valid Certificate of Insurance covering the periods of use. The U.S. Government must be named as a co-insured party on the policy. Minimum general liability limits are: \$500,000 per occurrence and \$1,000,000 annual aggregate for bodily injury, and \$30,000 property damage.
17. **It is the responsibility of the permittee to ensure valid insurance coverage, including general public liability, with the limits listed above, is provided for all equipment and services supplied by subcontractors.** A copy of the valid insurance coverage must be made available to the BLM authorized officer upon request.
18. Any violation of the permit terms, conditions and stipulations may be subject to penalties prescribed in 43 CFR 2933.33, which may include fines up to \$1,000 and/or imprisonment up to 12 months. Additionally, any such violation may result in permit probation, suspension or revocation. Examples which can lead to permit violations include, but are not limited to; delinquent post use reports and/or payments, deviations to operating plan not approved by authorized official, violation of laws and regulations, significant resource damage and public endangerment.
19. All signs on public lands must be authorized by the BLM in writing.
20. The permittee shall notify the authorized officer of any accident which occurs while involved in activities authorized by this permit which result in: death, personal injury requiring hospitalization or emergency evacuation, or in property damage greater than \$2,500 (lesser amounts if established by State law). Reports should be submitted within 48 hours in the case of death or injury, or 10 days in accidents involving property damage.
21. Annual permits remain valid if the permittee is in good standing by complying with all terms, conditions and stipulations including timely submission of post use reports, and applicable use fee payments. For multi-year permits, an annual review is done at the beginning of each fiscal year (October 1) and permits are validated for the upcoming fiscal year. For a permit to be validated, the permittee must be in good standing by complying with all terms, conditions and stipulations including timely submission of post use reports, and applicable use fee payments. In addition, certificates of insurance need to be current, and operating plans must be reviewed and updated with any changes before a permit will be

validated for the upcoming fiscal year.

### **Resource Protection:**

1. **All activities are to remain on the approved roads, trails, washes, camping and staging areas.** No deviation to these routes is permitted without prior approval from the BLM authorized officer. Motorized vehicles are not permitted in riparian areas or in running washes except at road crossings.
2. **Employees and clients will be instructed that it is unlawful to disturb, deface, excavate or remove any archaeological or paleontological objects or structures. Simply, look but don't touch! Rock art may be photographed but not touched. Collection of prehistoric or historic artifacts is not allowed.** Any prehistoric or historic cultural site or human remains discovered by the permittee, employees or clients will be left undisturbed and reported as soon as possible to the BLM authorized officer.
3. Permittee must notify the BLM authorized officer of any specific archaeological sites proposed for inclusion on tours. Tours to sites are subject to BLM approval and protective stipulations.
4. **Historical mine sites should not be disturbed. Collecting artifacts from these sites is strictly prohibited.**
5. **Stay out and Stay Alive! Abandoned mines are extremely dangerous and BLM policy is to avoid entry. All persons operating under this SRP, including subcontractors, are prohibited from entering abandoned mines.**
6. Harassment of livestock, wildlife, wild horses or burros, or destruction of private and public improvements such as fences and gates is prohibited. All gates and fences shall be left as found. The taking of any threatened or endangered plant or animal is prohibited.
7. Do not park vehicles or camp in locations that will interfere with use of livestock facilities (such as corrals) or ongoing livestock operations. No use of livestock permittee's management facilities is authorized without prior permission from the livestock permittee.
8. Proposed activities will be conducted in a manner that will not interfere with mining or exploration operations. No minerals are to be collected from areas encumbered by active mining claims unless authorized by the claimant(s).
9. Cutting or removal of live vegetation is not permitted. Trimming of branches up to 4 inches in diameter may be allowed with prior authorization from the BLM.
10. Collection, harassment and disturbance of desert tortoises and Gila monsters is prohibited by

Arizona State Law. If encountered on roads or trails they should be avoided. If a desert tortoise is encountered and cannot be avoided, it should be carefully moved to safety by carrying it horizontal to the ground, not tilted, and placed in the shade the minimum distance needed to remove it from harm's way. Gila monsters should be avoided and not handled. They are venomous and can inflict a serious and painful bite.

11. If the volume of use is determined to be adversely impacting soils or riparian condition through erosion, bank alteration or other means, the BLM may restrict use of affected areas or routes to allow restoration and recovery of degraded areas. During wet periods, certain road and trail segments may be closed to all traffic. The BLM will consider the applicant's needs when designing and implementing restrictions or watershed restoration efforts that could influence the operation.
12. In order to minimize the importation or spread of noxious weeds, before entering public land, all vehicles are to be washed thoroughly (including the undercarriage and engine compartment) to remove all soil and vegetation debris (including seeds and seed heads) acquired from previous use. This washing should occur at the home base of operations of the permittee before traveling to public lands. All vehicles used for activities approved by this permit are subject to inspection by the BLM.
13. The permittee must take reasonable precautions to prevent wildland fires. Build your fire away from trees, shrubs and other vegetation. Do not build fires next to rock and avoid the need to encircle your fire with stones. Use smaller firewood that will burn more completely. Make certain the fire is dead out (run your fingers through the ash), scatter the ash, and "naturalize" the area.
14. The permittee will be committed to preserving and protecting the public lands by learning, practicing and promoting the Leave No Trace principles listed below:
  - < Plan ahead and prepare.
  - < Travel and camp on durable surfaces.
  - < Dispose of waste properly.
  - < Leave what you find.
  - < Minimize campfire impacts.
  - < Respect wildlife.
  - < Be considerate of other visitors.

**Base Camp or Overnight Use (if applicable):**

1. Permittee employees, volunteers and participants are restricted to camp in the designated base camp area(s). No dispersed camping is authorized.
2. The permittee cannot, unless specifically authorized, erect, construct, or place any building,

structure, or other fixture on public lands. Upon leaving, the lands must be restored as nearly as possible to pre-existing conditions.

3. Arizona Revised Statute 17-308 states that it is unlawful for a person to camp within one-fourth mile of a natural water hole containing water or a man-made watering facility containing water *in such a place that wildlife or domestic stock will be denied access to the only reasonable available water.*
4. In other places where access is not denied to wildlife or domestic stock, camps will be located at least 200 feet from water holes, live water sources (springs and streams), or man-made watering facilities.
5. All base and reserve camps will be located at least 200 feet from any archaeological sites, including prehistoric camps, rock shelters, caves, and historic buildings.
6. The base camp(s) and individual use areas will be maintained in a neat and clean condition with no litter.
7. All noncombustible refuse and all unburned combustible refuse must be carried out of the area and disposed of in a county approved disposal site. Burying garbage is prohibited.
8. Permittee is responsible for providing adequate sanitary portable toilets and refuse containers at the base camp(s) and is responsible for ensuring that all local, county and state health and safety standards are met.
9. When breaking camp(s), scatter manure to aid decomposition and discourage flies, and remove excess hay and straw as they do not deteriorate and leave an unsightly mess.

### **Motorized Vehicle Use:**

1. **No motorized vehicles of any type are permitted in riparian areas or in running washes except at road crossings. Substantiated reports of unauthorized use in these areas will result in immediate probation and possible suspension or revocation of permit privileges.**
2. All motor vehicle use will comply with existing BLM and state motorized vehicle laws and regulations on public lands relating to use, standards, registration, operation and inspection. The Code of Regulations (CFRs) govern off-road vehicle use and regulations are prescribed in section 43 CFR 8341.1 and include, but are not limited to, the following:
  - A. No person shall operate an off-road vehicle on public lands:
    1. Without a valid State operator's license or learner's permit where required by State or Federal law;
    2. In a reckless, careless or negligent manner;
    3. In excess of established speed limits;

4. While under the influence of alcohol, narcotics or drugs;
    5. In a manner causing, or likely to cause, significant undue damage to or disturbance of the soil, wildlife, wildlife habitat, improvements, cultural, vegetative resources or other authorized uses of the public lands.
  - B. Drivers shall yield the right-of-way to pedestrians, saddle horses, pack trains, and animal drawn vehicles.
3. Any person who violates or fails to comply with the CFRs subparts 8341 and 8343 is subject to arrest, conviction, and punishment pursuant to appropriate laws and regulations. Such punishment may be a fine of not more than \$1,000 or imprisonment for not longer than 12 months, or both.
  4. Permittee will be committed to preserving and protecting the public lands by learning, practicing and promoting the Tread Lightly principles listed below.
    - < Travel and recreate with minimal impact,
    - < Respect the environment and the rights of others,
    - < Educate yourself, plan and prepare before you go,
    - < Allow for future use of the outdoors, leave it *better* than you found it, and
    - < Discover the rewards of responsible recreation.