

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

Categorical Exclusion

CX#: DOI-BLM-NV-W010-2013-0004-CX

Date: 8/28/2012

Lease / Case File / Serial #: N-91316

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

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1. BLM District Office: Winnemucca District Office
 2. Name of Project Lead: Debbie Dunham
 3. Project Title: AT & T Communication Site N-91316 ROW Renewal
 4. Applicant: Nevada Bell Telephone Company dba AT&T Nevada
 5. Project Description: (briefly describe who, what, when, where, why, how)

Nevada Bell Telephone Company dba AT&T Nevada, would like to renew their existing communication site located on Winnemucca Mountain, Humboldt County Nevada.

This right-of-way (ROW) was previously Nev-049536, issued under the act of March 4, 1911, (36 Stat 1253; 43 U.S.C 961) as amended, but expired 8-23-09. AT & T sent in an application to renew their ROW (SF-299) on May 28, 2008. On August 6, 2008, a Communications Lease Offer letter stated the proponent had sent in the incorrect form (SF-299) for renewal of their ROW. On August 27, 2009, a modified rental and monitoring fee letter was sent to the proponent.

A communication site inspection needed to be done before issuing the ROW. A communication site inspection was done on August 19, 2008. The ROW could not be renewed until the inspection corrections were complete. Those corrections were completed and another inspection was done on September 29, 2010.

This is a pre-FLPMA ROW and FLPMA repealed the Act of 1911, and we no longer renew or

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amend ROWs under this act. Therefore, it was issued a new serial number N-91316.
Due to the factors listed above and personal changes and workloads, the renewal of this ROW was delayed.

Project dimensions (length, width, height, depth): Microwave Relay Communications Facility dimensions - 400 feet long, 200 feet wide; includes: building - 30 feet long and 45 feet wide; 50 foot wood pole (guyed), 20kW Generator, (2) 500 gallon propane tanks, outhouse, and a 60' by 180' fence.

Total Acres: 1.84

BLM Acres: 1.84

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. 36 N., R. 37 E., sec. 12, E2NW.

USGS 24k Quad name: Winnemucca Mt

100k map name: Winnemucca, NV

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 applicable Land Use Plan (LUP) because it is specifically provided for in the following LUP decision(s):

Objective L-4, to provide lands for rights-of-ways on or across public lands.

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):

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) E. 9. Renewals and assignments of leases, permits, or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations.

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"/>	Several bat species	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Bats have been identified as being in the area. However, the nature of the proposed activity should have no impact upon them.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Sage thrasher (<i>Oreoscoptes montanus</i>), Brewer’s sparrow (<i>Spizella breweri</i>), vesper sparrow (<i>Pooecetes gramineus</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	

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>), canyon wren (<i>Catherpes mexicanus</i>), gray flycatcher (<i>Empidonax wrightii</i>), green-tailed towhee (<i>Pipilo chlorurus</i>), rock wren	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>To prevent collisions from birds, the applicant shall install collision deterrent or suitable “bird diverter” devices on all guy wires every 15 feet. These devices and markers will be checked periodically and replaced as needed.</p> <p>When existing communication lines are being maintained or replaced, the communication lines shall be upgraded in accordance with the 2006 APLIC standards.</p>

(Salpinctes obsoletus), sage sparrow (Amphispiza belli), sage thrasher (Oreoscoptes montanus), western meadowlark (Sturnella neglecta), and vesper sparrow (Pooecetes gramineus)		
	<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: During a site visit on November 6, 2012, several concerns about the communication facility were observed. The wood pole appears to be taller than 50 feet, which is taller than described. **Multiple wires on the pole are loose; the wires need to be flush with the pole.** At least 2 wires outside the fenced area are not buried and frayed. **The yellow marking device that should be attached to the guy wires had fallen off; reattach yellow marking device on bottom portion of guy wires. Also see attached terms and conditions.**

Enclosed in the fenced area, there is a power line being used by AT & T but is not in the ROW renewal. Sierra Pacific Power Company provides the power line to AT & T and has a total of three power lines on Winnemucca Mountain, case files N-12896, N-79976, and N-16829. BLM shall notify Sierra Pacific Power Company that the power lines shall be retrofitted/upgraded in accordance with the 2006 APLIC standards when the power lines are being maintained or replaced.

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\Edward Seum, FM
(Signature)

Date: December 12, 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 Edward Seum, 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.

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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 4.47I(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)).