

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

Categorical Exclusion

CX#: DOI-BLM-NV-W030-2013- 0004-CX

Date: 11/13/2012

Lease / Case File / Serial #:

Regulatory Authority (CFR or Law): 43 CFR

BLM Manual: 8400 – Visual Resource Management

Subject Function Code: 8450 – Rehabilitation and Enhancement of the Visual Resources

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: Sulphur Area Abandoned Vehicle(s) Proposed Removal

4. Applicant: BLM, Black Rock Field Office

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

The proposed action would be to authorize the breakdown and removal of 12 abandoned vehicles, and approximately 2 acres of debris from the area adjacent to the Sulphur town site, just north of Jungo Road, and west of the Sulphur Jackson Road (BLM 2049). The vehicles have been stripped of all valuable components (missing the engines, wheels, transmissions, glass, and all trim pieces) and have been subsequently shot, vandalized, and filled with garbage. In addition to the vehicles, the area has been utilized as a dumping ground for other associated recent garbage. Breakdown and removal would occur by BLM agency personnel and Friends of Black Rock-High Rock members March-April 2013, weather and workload depending.

Implementation of the proposed action would seek to improve the visual landscape in the area just south of the mostly untrammelled Black Rock Desert Wilderness. Removal of the abandoned vehicles and associated debris would also help to minimize the growth of dump site in this remote landscape.

Project dimensions (length, width, height, depth): Area is approximately 2 acres.

Total Acres: 2 acres

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BLM Acres: 2 acres

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.29 E., sec.28, SE 1/4 SE 1/4
T.____ N., R.____ E., sec.____, _____ 1/4 _____ 1/4

USGS 24k Quad name: Floka, NV

100k map name: Eugene Mountains, NV

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):

Objective 1, Black Rock – High Rock RMP Visual Resources Section: To provide a primitive and natural visual setting for visitors.

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):

VRM-2: Actions and activities within the planning area outside of the ten Wilderness areas and the LCT Area will be managed to meet the requirements of VRM Class II. (“Class II retains the existing character of the landscape allowing for low levels of change to the characteristic landscape”)

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) 10. Removal of structures and materials of no historical value, such as abandoned automobiles, fences, and buildings, including those built in trespass and reclamation of the site when little or no surface disturbance is involved.

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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 (Scientific) Name | May Be Affected? | Mitigation for BLM Sensitive Species (Attach ESA Section 7 Compliance to Form) |
|--------------------------|-------------------------------------|---|--|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | burrowing owl (<i>Athene cunicularia</i>), loggerhead shrike (<i>Lanius ludovicianus</i>), sage thrasher (<i>Oreoscoptes montanus</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 | |
| <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 |
|---|--|--|
| The following is a representative, but not an inclusive list of migratory birds that may utilize the proposed project area. Prairie falcon (<i>Falco mexicanus</i>), ferruginous hawk (<i>Buteo regalis</i>), western meadowlark (<i>Sturnella neglecta</i>), black-throated sparrow (<i>Amphispiza bilineata</i>), Brewer’s | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | In order to avoid potential impacts to breeding migratory birds, a nest survey shall be conducted by a qualified biologist within potential breeding habitat prior to any surface disturbance proposed during the avian breeding season (March 1 st through August 31 st). Notify BLM biologist at least 10 working days in advance of proposed survey. Surveys must be conducted by a BLM biologist no more than 10 days and no less than 3 days prior to initiation of disturbance. Surveys must follow |

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| | | |
|---|---|--|
| blackbird (<i>Euphagus cyanocephalus</i>), Brewer’s sparrow (<i>Spizella breweri</i>), 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 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>), and vesper sparrow (<i>Pooecetes gramineus</i>) | | established BLM standards and protocols. If no active nests are present in the area surveyed, implementation of the project should commence within 10 days of survey completion. |
| | <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: Dump site is near crucial summer/ year round habitat for Pronghorn antelope (*Antilocapra Americana*). Please try to avoid activities that may disturb and displace antelope if present.

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/ Gerald Dixon Date: 1/3/13
(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 Gerald Dixon- Field Manager, 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.

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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 4.47I(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)).