

**Bureau of Land Management
Winnemucca District Office
Division of Fire and Aviation (NV024)
Categorical Exclusion**

CX#: DOI-BLM-NV-W010-2013-0038

Date: 4/17/2013

Lease / Case File / Serial #: Winnemucca Fire Management Plan

Regulatory Authority (CFR or Law): Federal Land Policy and Management Act, 1976; Healthy Forests Restoration Act, 2003; 43CFR 9200

BLM Manual: BLM Manual 9211

Subject Function Code: 9211

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: Derek Messmer

3. Project Title: Winnemucca Fire Management Plan Annual Maintenance/Update

4. Applicant: BLM

5. Project Description: The Winnemucca Fire Management Plan (FMP) requires annual plan maintenance. This is required to ensure the plan is in accordance with changing conditions due to large fires, drought, changes in fire risks or hazards, vegetation changes, or other updated information that would modify fire suppression targets or priorities within the district. Based on recent large fires occurring in the district, and an increased focus on preserving intact habitat for sage grouse, the plan must be updated to encompass these conditions and policy. The update would adjust fire and fuels targets within various fire management units (FMU).

The targets are used in strategic fire budgeting and planning, as well as outlining priority of suppression resources across the district in the case of multiple fire days. The plan also identifies potential constraints related to specific suppression actions due to resource values contained within the various FMUs (i.e. T&E habitat, Wilderness, etc...).

This plan does not make land management implementation decisions. See below excerpt from plan regarding the relationship to planning:

“This FMP is a strategic document that does not make resource management decisions or project specific implementation decisions and is categorically excluded from further NEPA analysis under 516 DM 2, Appendix 1, Chapter 2, 1.10: “Policies directives, regulations and guidelines of an administrative, financial, legal, technical or procedural nature; or the environmental effects of which are too broad, speculative or conjectural to lend themselves to meaningful analysis and will be subject later to the NEPA process, either collectively or case-by-case”.”

Project dimensions (length, width, height, depth): N/A

Total Acres: This project relates to fire suppression priorities and activities district wide, so encompasses all acres contained in the district.

BLM Acres: District wide

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? N/A% . 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: District Wide

USGS 24k Quad name: District Wide

100k map name: District Wide

Land Status: BLM Private Other

This project updates the Fire Management Plan district wide, so there is no map depicting the district.

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):

Paradise-Denio Management Framework Plan – F-2.1: “Develop a fire management program that is based on the bureau planning system within two years following completion of MFP-III”

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):

Sonoma-Gerlach Management Framework Plan - F-1: To minimize wildfire damage to life, property and resources.

Black Rock Desert-High Rock Canyon Emigrant Trails NCA and Associated Wilderness and Other Contiguous Lands in Nevada RMP FIRE-2: All of the planning area will be placed in one of two management categories shown in Table 2-6 and Map 2-7 with corresponding Appropriate Management Responses based on the criteria in Appendix I.

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*)

1.10 Policies, directives, regulations, and guidelines that are of an administrative, financial, legal, technical, or procedural nature and whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case-by-case.

- 516 DM 11.9, (BLM)

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 type="checkbox"/>	<input checked="" type="checkbox"/>
3. Could the proposed action result in “take” under the Migratory Bird Treaty Act? If yes, attach appropriate mitigation measures.	<input type="checkbox"/>	<input checked="" 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 (The following stipulation(s) is/are recommended to be applied to the authorization) (Attach ESA Section 7 Compliance to Form, if applicable)
<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	
<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 (The following stipulation(s) is/are recommended to be applied to the authorization)
	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> Yes <input type="checkbox"/> No	

	<input type="checkbox"/> Yes <input type="checkbox"/> No	
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Mitigation Measures/Remarks (The following stipulation(s) is/are recommended to be applied to the authorization)

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 §5003.1 (b), 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.

43 CFR §5003.1

(b) Notwithstanding the provisions of 43 CFR [4.21\(a\)\(1\)](#), when BLM determines that vegetation, soil, or other resources on the public lands are at substantial risk of wildfire due to drought, fuels buildup, or other reasons, or at immediate risk of erosion or other damage due to wildfire, BLM may make a wildfire management decision made under this part and parts [5400](#) through 5510 of this chapter effective immediately or on a date established in the decision. Wildfire management includes but is not limited to:

(1) Fuel reduction or fuel treatment such as prescribed burns and mechanical, chemical, and biological thinning methods (with or without removal of thinned materials); and

(2) Projects to stabilize and rehabilitate lands affected by wildfire.

(c) The Interior Board of Land Appeals will issue a decision on the merits of an appeal of a wildfire management decision under paragraph (b) of this section within the time limits prescribed in 43 CFR [4.416](#).

Authorized Official \S\ Gene Seidlitz Date: 4-19-13
(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 Gene Seidlitz, Winnemucca District, 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)).

43 CFR 46.215

Categorical Exclusions: Extraordinary Circumstances

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- | <u>Yes</u> | <u>No</u> | |
|--------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (a) Have significant impacts on public health or safety |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (b) Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (c) Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)]. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (d) Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (e) Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (f) Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (g) Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by the bureau. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (h) Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (i) Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (j) Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898). |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (k) Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007). |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (l) Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112). |

All of the above questions must be answered negatively before the Categorical Exclusion may be approved. This checklist is taken from 43 CFR 46.215

Prepared By: Derek Messmer Date 04/17/2013

Effective 11/15/08
Replaces 6/21/05 #3612

Revised 01/12