

**Bureau of Land Management
Winnemucca District Office
Humboldt River Field Office**

Categorical Exclusion

CX#: DOI-BLM-NV-W010-2013- 0005-CX

Date: 9/6/2012

Lease / Case File / Serial #: N-91041

Regulatory Authority (CFR or Law): 2800

BLM Manual: 2800

Subject Function Code: 2870

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: Julie McKinnon

3. Project Title: Red House Water Well

4. Applicant: Humboldt County

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

Humboldt County Road Dept. has submitted an application for a right-of-way (R/W) to construct a new water well at the intersection of State Hwy 789, Red House Rd., Getchell Rd. and the Midas Road.

The water well site would be a 250' x 250' site to include a well, pump, portable diesel generator and a 12'x12' fenced holding pond to be lined with an HDPE liner and an access road from Jake's Creek Road to the well site. The well head would be connected to a standpipe for direct fill to water trucks with the pond as a secondary source. The proposed location for this well would allow the County to have a water source available in an area where currently there is not a water source nearby and has to be trucked in when they perform any maintenance activities. The well/pond could also possibly be used as a water source during fire season or possibly for wild horses. The site was chosen because there is existing surface disturbance in this area along with existing water well, buried pipeline, power line and roads. Access to the well would intersect with Red House Rd. and State Route 789.

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A previous CX was completed for R/W N-34289 which is in the area of this proposed project.

The County has applied to the Nevada Division of Water Resources for water rights.

The BLM would issue the R/W for a period of 20 years with the right to renew. When the R/W is no longer needed the County would be required to reclaim area and cap the well per Nevada laws if no one else is interested in acquiring the R/W.

Project dimensions (length, width, height, depth): 250' x 250'

Total Acres: 1.43

BLM Acres: 1.43

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. 37 N., R. 42 E., sec. 20, NW 1/4 NW 1/4

USGS 24k Quad name: Red House Flat West

100k map name: Winnemucca

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):

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):

The Paradise-Denio MFP is silent on ROWs. In accordance with FLPMA Section 501(1), the BLM are authorized to grant, issue, or renew rights-of-way over, upon, under, or through such lands...

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) Acquisition of easements for an existing road or issuance of leases, permits, or rights-of-way for the use of existing facilities, improvements, or sites for the same or similar purposes.

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"/>	Western burrowing owl (<i>Athene cuniculariaa hypugaea</i>)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Unless the pond is totally enclosed, recommend that, 1) coarse-textured liner is used; 2) escape ramp(s) (e.g. inverted V-shaped piece of expanded metal with one-foot wings at approx. 30 degree angle, in place from bottom to top of pond) is secured; and 3) pond slopes are constructed in a manner to allow for wildlife ingress and egress from “12-foot by 12-foot” holding pond.
<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
black-throated sparrow (<i>Amphispiza bilineata</i>), Brewer’s 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	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	HCRD would strive to conduct their well drilling activities outside of the migratory bird nesting season which runs from March 1 to August 31. Should they find that they can’t avoid activity during that time, they would plan ahead and clear the native vegetation in those areas outside of the nesting season to deter birds from nesting there. Vegetation should be cleared only in the footprint of the projected disturbance. HCRD should take measures to deter weeds and native vegetation from returning to the disturbed area such as applying a BLM approved herbicide or blading the area again as needed.

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>)		
	<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:

Mitigations: 1) coarse-textured liner is used; 2) escape ramp(s) (e.g. inverted V-shaped piece of expanded metal with one-foot wings at approx. 30 degree angle, in place from bottom to top of pond) is secured; and 3) pond slopes are constructed in a manner to allow for wildlife ingress and egress from “12-foot by 12-foot” holding pond.

HCRD would strive to conduct their well drilling activities outside of the migratory bird nesting season which runs from March 1 to August 31. Should they find that they can’t avoid activity during that time, they would plan ahead and clear the native vegetation in those areas outside of the nesting season to deter birds from nesting there. Vegetation should be cleared only in the footprint of the projected disturbance. HCRD should take measures to deter weeds and native vegetation from returning to the disturbed area such as applying a BLM approved herbicide or blading the area again as needed.

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/Vern Graham_____ Date: _8 Apr 2013_____
(Signature)

Pursuant to 2805.13, a right-of-way grant is effective after both the applicant and the BLM sign it, which carries the “full force and effect” of the decision. Full force and effect means that the decision can be implemented immediately even if the decision is appealed to the IBLA. An affected party has the opportunity to file a petition for a stay with an appeal to the IBLA. Immediate implementation is an option, not a requirement, of the decision.

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 Vern Graham, 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.

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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)).