

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

Categorical Exclusion

CX#: DOI-BLM-NV-W010-2013-0048-CX

Date: 3/11/2013

Lease / Case File / Serial #:

Regulatory Authority (CFR or Law): 43 CFR 4700

BLM Manual: 4700

Subject Function Code: 4700

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: Samantha Gooch

3. Project Title: Snowstorm HMAs Emergency Water Hauling

4. Applicant: BLM

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

The proposed action is to develop up to five watering locations within the Snowstorms HMA with temporary troughs and/or water storage tanks to provide wild horses within the area much needed water. The proposed action is scheduled to begin May 1, 2013. Due to the lack of moisture and wild horse numbers over AML, these sources are providing little to no watering opportunities for wild horses or wildlife. There are currently large numbers of horses that are dependent on these dried or drying up sources of water. Without adequate amounts of water wild horses face declining health, and as drought continues wild horses may perish. The temporary troughs and/or storage tanks would provide the horses with a more continuous source of water until they are gathered. Due to the wild horse numbers being over AML, water hauling may have to continue through the winter until the water resources have had an ample opportunity to recover.

Project dimensions (length, width, height, depth): See Below

Total Acres: Less than one acre per trough and storage tank (2 acres).

BLM Acres: 2 acres

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Temporary Trough Size: 800-1000 gallons (8 foot diameter)

Storage Tank Size: 2,500 gallons, 8 foot diameter, 7 foot height (2 at each site). Storage tanks may be set on ground. Storage tanks must be set to gravity feed into troughs using a float system with 1 1/4" black plastic pipe and a panel cage placed around the valves for protection.

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. Attached are photos of

6. Legal Description:

Point 1 T.40 N., R.43 E., sec.9
Point 2 T.40 N., R.43 E., sec.16
Point 3 T.40 N., R.43 E., sec.22
Point 4 T.40 N., R.43 E., sec.22
Point 5 T.40 N., R.43 E., sec.20

USGS 24k Quad name: Dry Hills North, Chimney Creek

100k map name: Osgood Mountains

Land Status: BLM Private Other_____.

7. **Add project to your version for the NEPA Geodatabase.** Using the NEPA Geodatabase and templates (T:\NV\GIS_Work\WMDO\Templates) **create PDFs** of 1:24,000 Project Location Map and 1:100,000 general vicinity map. For more guidance, see S:\NEPA\NEPA_2012\NEPA 2012 Templates\Proposed Action\CX Proposed Action Form and Instructions).

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):

WHB-1: Maintain wild horses on public lands, where there was wild horse or burro use as of December 15, 1971, and maintain a natural ecological balance on the public 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) D. Rangeland Management
 - 3. Temporary emergency feeding of livestock or wild horses and burros during periods of extreme adverse weather conditions.

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 type="checkbox"/>	<input checked="" 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"/>	Golden eagle (<i>Aquila chrysaetos</i>)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Peregrine falcon (<i>Falco peregrinus</i>)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Loggerhead shrike (<i>Lanius ludovicianus</i>)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Sage thrasher (<i>Oreoscoptes montanus</i>)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Brewer’s sparrow (<i>Spizella breweri</i>)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Pallid bat (<i>Antrozous pallidus</i>)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Townsend’s big-eared bat (<i>Corynorhinus townsendii</i>)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Spotted bat (<i>Euderma maculatum</i>)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Brazilian free-tailed bat (<i>Tadarida brasiliensis</i>)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Western pipistrelle (<i>Pipistrellus hesperus</i>)	<input type="checkbox"/> Yes	

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 checked="" type="checkbox"/> No	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<i>Myotis</i> spp.	<input type="checkbox"/> Yes <input checked="" 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>)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Brewer’s blackbird (<i>Euphagus cyanocephalus</i>)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
canyon wren (<i>Catherpes mexicanus</i>)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
gray flycatcher (<i>Empidonax wrightii</i>)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
green-tailed towhee (<i>Pipilo chlorurus</i>)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
rock wren (<i>Salpinctes obsoletus</i>)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
sage sparrow (<i>Amphispiza belli</i>)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
western meadowlark (<i>Sturnella neglecta</i>)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
vesper sparrow (<i>Pooecetes gramineus</i>)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Mitigation Measures/Remarks:

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Bird ladders will be placed in the temporary troughs for birds and small mammals to have an escape route.

Hauling of water would provide more available water for wild horses at the existing waters and therefore the natural waters (springs/seeps) that are currently being impacted by the horses would have more water available for sage-grouse and other wildlife species.

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 4700, it is my decision to allow for implementation of the project, as described, with the mitigation measures identified above. This is a combined NEPA and program implementation decision.

43 CFR 4700: It is the policy of Congress that wild free-roaming horses and burros shall be protected from capture, branding, harassment or death; and to accomplish this they are to be considered in the area where presently found as an integral part of the natural system of public lands.

Authorized Official /S/ Werner E. Graham_____ Date: May 21, 2013___
(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 Werner Graham, 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.

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)).