

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

Categorical Exclusion

CX#: DOI-BLM-NV-W010-2013- 0030-CX

Date: 2/5/2013

Lease / Case File / Serial #: N-91841

Regulatory Authority (CFR or Law): 43 CFR 2920

BLM Manual: 2920

Subject Function Code: 2920

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: Debbie Dunham

3. Project Title: Nevada Specialty Minerals LLC N-91841

4. Applicant: Nevada Specialty Minerals LLC

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

This project is located on split estate - BLM surface/private minerals. Nevada Specialty Minerals LLC owns the private mineral estate.

Nevada Specialty Minerals LLC would like to collect a bulk sample of approximately 10-15 tons of zeolite for continued testing of cement formulations used in high temperature-high pressure geothermal production wells. This work would be conducted by the University of Alaska, Petroleum Engineering Laboratory under the auspices of a DOE Geothermal Technologies research grant.

IBLA decision 2009-26 (May 21, 2009) and IM-NV-2010-006 requires private mineral owners to obtain a 2920 Land Use Permit "Where privately owned mineral estate underlies acquired Federally-owned surface and the private mineral owner has a reserved right to use so much of the surface as is necessary and convenient for the extraction of the minerals."

Access to the property is from downtown Lovelock going north on State Highway 398 1.5 miles

CX#: DOI-BLM-NV-W010-2013-0030 -CX
Applicant: Nevada Specialty Minerals LLC
Project Title: Nevada Specialty Minerals LLC N-91841

to the intersection of State Highway 399. Turn left and go approximately 10 miles west to Section 29 and follow the 2 track road southwesterly about 3,000 feet to the sample site.

Removal of the bulk sample would require the use of a rubber tired backhoe or a small tracked excavator, either of which would have a hydraulic hammer drill to break up the rock. The material would then be collected and either stored on site or loaded into "super sacks" and removed to an off-site location." Either machine used to collect the sample would be off-loaded on the highway and driven (or walked) to the site along the two track road to the site.

Minimal surface disturbance is anticipated and reclamation would be completed as required by BLM in the permit stipulations. They would reclaim the disturbed area.

They would anticipate starting shortly after the permit is approved. They would need a few days to mob and once the equipment is on-site, it will take 2-3 days to collect and re-claim. Each sample area, estimated to be no more than 3 holes total, would be approximately 30x60x6' for the outcropping mineralization. No water is required for this proposal.

Their estimated start date is the beginning of March 2013.

Project dimensions (length, width, height, depth): 100 X 100

Total Acres: 0.23

BLM Acres: 0.23

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? 3% . 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): About 3% of the project area was disturbed about 30 years ago. See Exhibit B.

6. Legal Description: T.28 N., R. 30 E., sec. 29, NESENW.

USGS 24k Quad name: Trinity Pass, NV

100k map name: Lovelock, 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):

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):

Objective L-1: Provide maximum acreage of public land for multiple use and sustained yield.

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) F. 9. Digging of exploratory trenches for mineral materials, except in riparian areas.

CX#: DOI-BLM-NV-W010-2013-0030 -CX
Applicant: Nevada Specialty Minerals LLC
Project Title: Nevada Specialty Minerals LLC N-91841

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 (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 checked="" type="checkbox"/>	western burrowing owl (<i>Athene cunicularia</i>)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Migratory bird. See attached
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Brewer’s sparrow (<i>Spizella breweri</i>)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Migratory bird. See attached
<input type="checkbox"/>	<input checked="" type="checkbox"/>	sage thrasher (<i>Oreoscoptes montanus</i>)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Migratory bird. See attached
<input type="checkbox"/>	<input type="checkbox"/>	loggerhead shrike (<i>Lanius ludovicianus</i>)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Migratory bird. See attached

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)
black-throated sparrow (<i>Amphispiza bilineata</i>)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Migratory bird. See attached
Brewer’s blackbird (<i>Euphagus cyanocephalus</i>)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Migratory bird. See attached
canyon wren (<i>Catherpes mexicanus</i>)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Migratory bird. See attached

CX#: DOI-BLM-NV-W010-2013-0030 -CX
Applicant: Nevada Specialty Minerals LLC
Project Title: Nevada Specialty Minerals LLC N-91841

gray flycatcher (<i>Empidonax wrightii</i>)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Migratory bird. See attached
green-tailed towhee (<i>Pipilo chlorurus</i>)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Migratory bird. See attached
rock wren (<i>Salpinctes obsoletus</i>)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Migratory bird. See attached
sage sparrow (<i>Amphispiza belli</i>)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Migratory bird. See attached
western meadowlark (<i>Sturnella neglecta</i>)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Migratory bird. See attached
vesper sparrow (<i>Pooecetes gramineus</i>)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Migratory bird. See attached

Mitigation Measures/Remarks (The following stipulation(s) is/are recommended to be applied to the authorization): "See Attached"

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 1st through August 31st). Surveys must be conducted no more than 10 days and no less than 3 days prior to initiation of disturbance. Surveys must follow established BLM standards and protocols, and should be approved by the BLM biologist prior to being implemented. If active nests are located, the BLM biologist must be notified immediately and appropriate protection measures which may include avoidance or restriction of activities will be established. If no active nests are present in the area surveyed, implementation of the project should commence within 10 days of survey completion.

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
(Signature)

Date: May 22, 2013

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. 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.

CX#: DOI-BLM-NV-W010-2013-0030 -CX
Applicant: Nevada Specialty Minerals LLC
Project Title: Nevada Specialty Minerals LLC N-91841

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)).