

FINDING OF NO SIGNIFICANT IMPACT

Burning Man 2012-2016 Special Recreation Permit Environmental Assessment DOI-BLM-NV-W030-2012-0007-EA

Based on the Environmental Assessment (EA) DOI-BLM-NV-W030-2012-0007-EA, dated June 2012, I have determined that the Proposed Action, with implementation of all of the mitigation and monitoring measures developed in the analysis for the Proposed Action (refer to EA Chapter Six), will not have a significant effect on the human environment; therefore, an Environmental Impact Statement (EIS) will not be required.

I have determined that the proposed action is in conformance with the approved Resource Management Plan (July 2004) for the Black Rock-Desert-High Rock Canyon Emigrant Trails National Conservation Area and Associated Wilderness and other Contiguous Lands in Nevada, and is "...consistent with other Federal Agency, state, and local plans to the maximum extent consistent with Federal law and Federal Land Policy Management Act (FLPMA) provisions" (BLM Land Use Planning Handbook H-1601-1). This finding and conclusion is based on my consideration of the Council on Environmental Quality's (CEQ) criteria for significance (40 CFR 1508.27), with regard to both context and intensity factors.

Context

The project area is located in Pershing County, Nevada on the Black Rock Desert playa. The Burning Man event has been held at various locations on the playa since 1990. The playa is within the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area (NCA). The enabling legislation for the NCA contains language that allowed for continued permitting of large-scale events: "It is expected that such permitted events will continue to be administered in accordance with the management plan for the conservation area and other applicable laws and regulations." The Resource Management Plan also allowed for large-scale permitted activities in limited portions of the NCA on the Black Rock Desert playa.

Intensity

1) *Impacts that may be both beneficial and adverse.*

Implementation of the proposed action is anticipated to have beneficial impacts to the assessment area for economics due to the direct and indirect spending associated with the event.

Impacts from implementation of the proposed action that stand out as potentially adverse are in the areas of traffic; public health and safety (see answer to number 2 below); air quality and waste.

The population that causes the roads to deteriorate from NDOT's level of service (LOS) D to E, assuming a maximum exodus of 1,000 vehicles per hour on the last day of the event, was determined through the analysis to be 65,400 people. A number of mitigation measures were recommended through the National Environmental Policy Act (NEPA) analysis to help alleviate impacts from traffic volume. As NDOT strives to maintain LOS D or better on all of its roadways, implementation of recommended mitigation is necessary to maintain acceptable levels of service. A specific mitigation involving the release of no more than 1000 vehicles per hour from Black Rock City during the exodus period was developed through NEPA analysis to avoid deterioration of the external roadway system to an unacceptable level of service (LOS E or F). The key roadways (as shown in Figure 3-10 of the EA) used by Burning Man participants

include portions of Interstate 80, State Route (SR) 445, SR 447, SR 427, County Road 34, and SR 446, in its entirety.

There would be elevated localized emissions of criteria pollutants NO₂, SO₂, CO, PM₁₀, PM_{2.5} and greenhouse gas emissions, principally CO₂, within the Public Closure Area (as shown in Figure 2-1 of the EA). The smaller (PM_{2.5}) particles could be aloft for a very long time and distance, while the largest and most visible particles (over PM₁₀) are likely to settle in and near the assessment area, as defined in the EA. Dust abatement practices during the event and precipitation following the event would both serve to stabilize the playa surface and reduce dust. See answer number five below regarding degree of uncertainty regarding air quality.

Based on interdisciplinary discussions and public comment, it was determined that debris continues to be an issue of the event. Although the proposed action includes measures to prevent, control and clean-up debris, recommended mitigation was developed in the analysis to further reduce impacts related to improper disposal of waste.

Recommended oil drip survey mitigation was also developed in the analysis to build on existing oil drip survey baseline information. The intent of this mitigation is to further quantify and assess how much oil might be deposited on the playa during the event and take action to reduce the amount of hydrocarbon waste if it is shown to be increasing at the playa.

2) *The degree to which the proposed action affects public health or safety.*

Traffic volume and potential for road deterioration are issues that have been evaluated in the EA and for which there are proposed measures as well as recommended mitigation included in the EA to address.

There is potential for natural or man-made emergency that could cause need for evacuation. The most likely would be a weather-related emergency. The EA includes summaries of BRC's contingency plans including BRC's separate contingency plan for an extreme weather event.

The playa dust includes both gypsum, an alkaline dust, and silica, a known carcinogen. These become airborne during high wind events and when the crust of the playa is broken through surface disturbing activities. Event participants would be at risk of inhaling these particulates. Participants are made aware of the potential for high wind events that cause "white out" conditions and methods to reduce exposure, such as the use of dust masks and goggles. Potential impacts to offsite receptors would be lower than that of participants due to dilution and deposition.

Dehydration, sunburn and "playa foot" are other public health issues associated with the implementation of the proposed action. Through years of conducting this event, BRC has been able to much reduce the incidence of dehydration, sunburn and "playa foot" due to its communication and distribution of educational materials on these subjects.

There is risk of vehicle collisions by participants traveling to and from the event (as shown in Figure 3-10 of the EA) involving rangeland animals including cattle, wild horses and burros. There is also risk of collisions with birds both migratory and species such as Sage grouse.

3) *Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.*

The project area is within the NCA. The management plan for the NCA provides for events of this scale, while minimizing impacts on important historic, scenic, cultural, wildlife, and other resources.

There are no park lands, prime farmlands, or wild and scenic rivers within proximity of the event. The playa is classified as a lake by the National Wetlands Inventory. There are no other wetland features within the Public Closure Area or traversed by the event access road. Hydrocarbon waste has the potential to affect water quality and change of composition of the playa lake surface. Recommended mitigation was developed to aid in quantifying the amount of oil drips on the playa and would require operational changes to reduce oil drips as indicated by research results.

In the surrounding region, the proposed action has the potential to increase visitation to “natural” hot springs and result in increased sedimentation of hot spring pools, alteration of channel and flow characteristics, and addition of foreign substances to water sources, which may degrade these wetlands and associated riparian vegetation.

4) *The degree to which the effects on the quality of the human environment are likely to be highly controversial.*

No anticipated effects have been identified that are scientifically controversial. As a factor for determining within the meaning of 40 CFR 1508.27(b)(4) whether or not to prepare a detailed EIS, “controversy” is not equated with “the existence of opposition to a use.” *Northwest Environmental Defense Center v. Bonneville Power Administration*, 117 F.3d 1520, 1536 (9th Cir. 1997). “The term ‘highly controversial’ refers to instances in which ‘a substantial dispute exists as to the size, nature, or effect of the major federal action rather than the mere existence of opposition to a use.’” *Hells Canyon Preservation Council v. Jacoby*, 9 F.Supp.2d 1216, 1242 (D. Or. 1998). Comment letters on the Preliminary EA provided no expert scientific evidence supporting claims that the project will have significant effects, or that it is highly controversial.

5) *The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.*

Concerns were raised by the general public during scoping and the review of the preliminary EA regarding the formation of both the perimeter fence dunes and the small transient dunes on the playa surface, referred to locally as “playa serpents”. The proposed action contains measures for the removal of dune formations caused by the event, including those formed along the perimeter fenceline. Standing water in winter months helps to dissipate these features; during winters with low precipitation, these small dunes remain in place for longer periods. The Desert Research Institute study (Adams and Sada 2010) concluded that human activity is likely the cause of the increased dune formation noted on the playa. It is unclear the extent to which the formation of these features are a result of the Burning Man event or an increase in dispersed or other permitted recreational activities on the playa in general. Additional comparative studies might help to clarify these issues at a future time if these trends continue. The scope, methodology and participants of any future studies would have to be carefully considered.

There is a level of uncertainty with regard to impacts to air quality. It was determined during the development of the EA that, in the case of this project, air quality modeling would not provide information of real value due to the large uncertainty about the nature, number and location of sources within the city. Dust abatement practices during the event and precipitation following the event would both serve to reduce dust.

Concerns have been raised about where dust generated on the playa travels, who/what it affects, where it is deposited and what the effects of the deposited dust are on various resources. This is another topic similar to transient dunes that involves the entire playa and would benefit from future studies. As with any studies regarding transient dunes, the scope, methodology and participants of any future studies would have to be carefully considered.

Although not highly uncertain or involving unique or unknown risks, recommended mitigation was developed in the EA concerning hydrocarbon waste to better quantify and assess how much oil might be deposited on the playa during the event. Also, a recommendation was included in the EA for a monitoring protocol to determine the amount of unburned material left at the sites of BRC "authorized burns". This monitoring recommendation arose from public comment and would be implemented by the BLM.

6) *The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.*

The permit authorization will not establish a precedent for future actions with significant effects and does not represent a decision in principle about a future consideration. All future proposed management actions in the NCA will be subject to NEPA standards and independent decision making. Also, although this environmental analysis evaluates a proposed permit period of five years, annual permits would be required.

7) *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.*

Based on the environmental assessment and implementation of the recommended mitigation measures, no significant cumulative impacts are expected. When evaluated together with other past, present or reasonable foreseeable activities in the area, the authorized activity does not result in cumulatively significant impacts at the local or watershed scale.

8) *The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the NRHP or may cause loss or destruction of significant scientific, cultural, or historical resources.*

No direct impacts are expected within the Closure Area. There is potential for indirect impacts to the many eligible and unevaluated cultural resources located outside the Closure Area as a result of increased visitation at Black Rock Hot Springs, Double Hot Springs, Great Boiling Springs, Soldier (Mud) Meadows, and Trego Hot Springs. The proposed action operating plan would encourage participants to stay at the event and not visit nearby sensitive areas by charging a re-entry fee, stationing a BRC hot spring "steward" at each of the nearby BLM-managed hot springs (to discourage participant use), and through detailed public education efforts during the event. BLM law enforcement personnel would also patrol the areas on BLM managed land to help protect sensitive environmental and cultural resources on a daily basis.

9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the ESA of 1973.

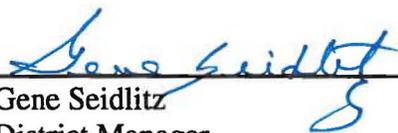
A species list provided by the U.S. Fish and Wildlife Service indicated that the following listed species occur in the assessment area: desert dace (*Eremichthys acros*; Threatened) and Lahontan cutthroat trout (*Oncorhynchus clarki henshawi*; Threatened). Desert dace occur in the hot springs and associated outflows south and west of Soldier Meadows Ranch. Designated critical habitat for this species encompasses 50 feet on each side of thermal springs and their outflow streams. Within the assessment area (Figure 3-3), Lahontan cutthroat trout occur in Colman Creek, North Fork Battle Creek, and Snow Creek. The assessment area also encompasses Donnelly Creek, which is an unoccupied designated recovery stream.

No species listed as threatened or endangered under the Endangered Species Act occur on the playa; therefore, direct impacts would not occur. Winnemucca District conducted a phone conference with the USFWS (Reno, Nevada) on February 3, 2012, regarding potential indirect impacts to LCT and Desert dace and their habitat. The USFWS indicated a "no effect" through this phone conference based on the information that the Winnemucca District has available regarding the event's potential indirect impacts. No formal or informal consultation was necessary with the USFWS for this project.

Species that are candidates for listing under the federal Endangered Species Act (ESA), that were evaluated in the EA, include: greater sage-grouse (*Centrocercus urophasianus*), elongate mud meadows springsnail (*Pyrgulopsis notidicola*), Columbia spotted frog (*Rana luteiventris*), and Soldier Meadows cinquefoil (*Potentilla basaltica*). No direct impacts would occur to these four species. Like the threatened species, there is potential for indirect impact within the assessment area due to increased use of developed and undeveloped recreation sites and other areas within the assessment area.

10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

The proposed action does not violate or threaten any known Federal, State, or local law or requirement imposed for the protection of the environment.



Gene Seidlitz
District Manager
Winnemucca District



Date