Decision Record

Determination of NEPA Adequacy (DNA)

DOI-BLM-NV-W030-2013-0015-DNA

Burning Man Vendor, Special Recreation Permits

I have reviewed the Burning Man Vendor, Special Recreation Permits DNA (DOI-BLM-NV-W030-2013-0015-DNA) and have determined that the proposed action is in conformance with the Resource Management Plan for Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area and Associated Wilderness, and other Contiguous Lands in Nevada, Record of Decision, July 2004.

On the basis of the information contained in the DNA Worksheet, it is my determination that implementation of the proposed action will not have environmental impacts beyond those already addressed in the Burning Man 2012-2016 Special Recreation Permit Environmental Assessment, DOI-BLM-NV-W030-2012-0007- EA; Decision Record dated 06/12/2012 and Finding of No Significant Impact dated 06/12/2012.

The Proposed Action will result in BLM issuing Special Recreation Permit(s) (SRP), allowing Recreational Vehicles vendors (RV's and trailers), Air Carrier vendors, and Camp Service vendors to operate at the Burning Man event on public lands in Pershing County, Nevada for a one-year period (2013). The 2013 Burning Man Event (authorized 7/24/2013) is a temporary city, Black Rock City (BRC), 10 miles northeast of Gerlach that will be developed on the Black Rock Desert playa. The city will accommodate a maximum of 68,000 participants. The commencement and ending dates for the 2013 event are proposed to be August 12 through September 13, with the actual event occurring August 26 through September 2, 2013.

The attached Special Recreation Stipulations for Recreational Vehicle, Air Carrier, and Camp Service Vendors at the 2013 Burning Man event are consistent with, and would apply to, the Special Recreation Permits to be issued separate from this decision.

AUTHORITY:

43 CFR §2930 Permits for Recreation on Public Lands

> 43 CFR §2932 Special Recreation Permits for Commercial Use, Competitive Events, Organized Groups, and Recreation Use in Special Areas.

The statutory authorities underlying the regulations in this part are the Federal Land Policy and Management Act, 43 U.S.C. 1701 et seq., and the Federal Land Recreation Enhancement Act, 16 U.S.C. 6801 et seq.

(a) The Federal Land Policy and Management Act (FLPMA) contains the Bureau of Land Management's (BLM's) general land use management authority over the public lands, and establishes outdoor recreation as one of the principal uses of those lands (43 U.S.C. 1701(a)(8)). Section 302(b) of FLPMA directs the Secretary of the Interior to regulate through permits or other instruments the use of the public lands, which includes commercial recreation use. Section 303 of FLPMA authorizes the BLM to promulgate and enforce regulations, and establishes the penalties for violations of the regulations.

(b) The Federal Land Recreation Enhancement Act (REA) authorizes the BLM to collect fees for recreational use in areas meeting certain criteria (16 U.S.C. 6802(f) and (g)(2)), and to issue special recreation permits for group activities and recreation events (16 U.S.C. 6802(h).

(c) 18 U.S.C. 3571 and 3581 et seq. establish sentences of fines and imprisonment for violation of regulations. [72 FR 7836, Feb. 21, 2007]

APPEAL PROVISIONS

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, District Manager, Winnemucca District 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. Attached 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 4.47I(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)).

Authorized Official: Gene Seidlitz

Gene Seidlitz
District Manager
Winnemucca District

Date: 8/8/13

Attachments:

- List of Applicants
- RV, Air Carrier, and Camp Service Vendor Stipulations
- Appeal Form 1842-1