

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

Categorical Exclusion Form

CX#: DOI-BLM-NV-W010-2013-0058-CX

Date: 6/26/2013

Lease / Case File / Serial #: N/A

Regulatory Authority (CFR or Law): (43 CFR): 3809/3720/3830

BLM Manual: 3720 - Abandoned Mine Land Program Policy

Subject Function Code: Abandoned Mine Land Projects 3720-2

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: Doug Rowles

3. Project Title: Permanent Abandoned Mine Land Closures - Quicksilver Mine FY2013

4. Applicant: Bureau of Land Management (BLM)/Nevada Division of Minerals (NDOM)

5. Project Description: Eleven (11) abandoned mine land (AML) hazards located on BLM land in Pershing County, Nevada, are to be closed. This is a joint project between the BLM and the NDOM. Cultural resource inspections have been conducted at each of the sites by the Great Basin Institute. The Nevada Department of Wildlife conducted biological surveys at each of the sites in March 2012. Bat surveys indicated a need for bat compatible closures for up to seven (7) of the eleven (11) locations. The remaining four (4) sites would be closed permanently by backfilling with waste rock materials and/or foam closure. For this project, NDOM has identified the types of hazards in two categories: 1) Adits/Inclines/Declines, and 2) Shafts. The identified hazards associated with each type are as follows:

1) Adits/Inclines/Declines: PE-0629, PE-0691, PE-0692, PE-0694, PE-0783, PE-0786, PE-0787, PE-0804 (8 total)

2) Shafts: PE-0630, PE-0690, PE-0693 (3 total)

Total AML Closures: 11

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All closure work would be completed by NDOM and their contractor, Environmental Protection Services. Existing access roads would be used. Where no roads access the sites, materials would be brought in via helicopter. Closures would occur over the next several months depending on weather conditions.

Project dimensions (length, width, height, depth): Approximately 20 feet x 20 feet per site. A total of 11 sites equal approximately 4,400 square feet, or 0.10 acres.

Total Acres: 0.10 acres

BLM Acres: 0.10 acres

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? 98%. 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): Existing access roads would be used. Where no roads access the sites, materials would be brought in via helicopter. Bat compatible closures would be installed at seven (7) of the eleven (11) locations. The remaining four (4) sites would be closed permanently by backfilling with waste rock materials and/or foam closure.

6. Legal Description: T. 27 N., R. 34 E., sec. 32
T. 26 N., R. 34 E., sec. 4

USGS 24k Quad name: Buffalo Mountain

100k map name: Lovelock, NV

Land Status: BLM Private Other_____.

7. Add project to your version for the NEPA Geodatabase. Completed on 6/25/2013

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 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 proposed action is consistent with the Winnemucca District, Sonoma-Gerlach Management Framework Plan (MFP; 1982), as this type of action is listed in the MFP in Appendix I – Standard Operating Procedures, Section .42 - Minerals.

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*): N/A
- 516 DM 11.9, (BLM): 516 DM 11.9(J)(8) – Installation of minor devices to protect human life. (e.g., grates across mines.)

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"/>	x
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.	x	<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"/>	x

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 (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"/>	x	Ferruginous hawk (<i>Buteo regalis</i>)	No	
<input type="checkbox"/>	x	Sage thrasher (<i>Oreoscoptes montanus</i>)	No	
<input type="checkbox"/>	x	Brewer’s sparrow (<i>Spizella breweri</i>)	No	
<input type="checkbox"/>	x	Loggerhead shrike (<i>Lanius ludovicianus</i>)	No	
<input type="checkbox"/>	x	Windloving buckwheat (<i>Eriogonum anemophilium</i>)	No	
<input type="checkbox"/>	x	Lahontan beardtongue (<i>Penstemon palmeri</i>)	No	
<input type="checkbox"/>	x	<i>Myotis</i> spp.	Yes	See Mitigation Measures/Remarks
<input type="checkbox"/>	x	Townsend’s big-eared bat (<i>Corynorhinus townsendii</i>)	Yes	See Mitigation Measures/Remarks
<input type="checkbox"/>	x	Pallid bat (<i>Antrozous pallidus</i>)	Yes	See Mitigation Measures/Remarks

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

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

Bats

Potential bat hibernacula are present in or near the project area. No disturbance activities will be permitted from mid-October to April within a quarter-mile of hibernacula, unless pre-disturbance clearance surveys have been conducted in accordance with BLM protocols and approved by the BLM biologist.

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 43CFR 3809/3720/3830, 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.

The following primary laws authorize BLM to reduce environmental degradation, mitigate physical safety hazards, and reclaim abandoned mine lands.

1. Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1701 *et seq.*).
2. Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 U.S.C. 9601 *et seq.*) and the National Contingency Plan (NCP) (40 CFR Part 300).
3. Federal Watershed Restoration and Enhancement Agreements (“Wyden Amendment”) 16 U.S.C. 1011.

The BLM also relies on the following authorities applicable to the evaluation and cleanup of abandoned mine lands. These authorities present procedural and substantive standards and requirements which must be observed in the course of abandoned mine land cleanup and reclamation.

1. National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*).
2. Resource Conservation and Recovery Act of 1976 (RCRA) (42 U.S.C. 6962 *et seq.*).
3. Clean Water Act (CWA) of 1972 (33 U.S.C. 1251 *et seq.*).
4. Endangered Species Act (ESA) of 1973 (16 U.S.C. 1531).
5. National Historic Preservation Act of 1966 (NHPA), as amended (16 U.S.C. 470).
6. Surface Mining Control and Reclamation Act of 1977 (SMCRA) (30 U.S.C. 1201 *et seq.*).

Authorized Official: \\s\ Derek Messmer – FM, HRFO Date: 08/07/2013
(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 Mr. Derek Messmer, 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),

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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)).