

**Bureau of Land Management
Winnemucca District Office
BRFO (W030)**

Categorical Exclusion/Cultural Resources Inventory Needs Assessment Form

CX#: DOI-BLM-NV-W030-2014-0013-CX

Date: 5/22/2014

Lease / Case File / Serial #: NVW01000-14-01

Regulatory Authority (CFR or Law): 43 CFR 2932.5

BLM Manual: H-2930-1 Recreation Permit Administration Handbook

Subject Function Code: 2932

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: Rory Glueckert

3. Project Title: Black Rock Fireworks Display

4. Applicant: Bill Brett

5. Project Description: This is an SRP application for Bill Brett to launch fireworks on the Black Rock Desert Playa located within the national conservation area on July 4th 2014 between 9:00- and 1:00 am July 5th. The proponent would be using consumer class C fireworks that can be purchased by the general public without a license. The proponent estimated at least 250 people would be in attendance. The fireworks display is primarily for the local residents of Gerlach NV. An online pledge drive would be conducted to cover the purchasing cost of the fireworks. The display will encompass a 300 feet wide, 300 feet in length, 90,000 square feet launch area. Participants would be located 75 feet away from the launching area and positioned west of the display in precaution of strong winds. The proponent has attached an emergency plan and a cleanup plan post event to minimize litter and promote leave no trace ethics. A significant proportion of the used fireworks would be "cakes". A cake is a multi-shot aerial device that comes in the form of a cardboard box filled with tubes. Large cakes are less likely to tip over and all small cakes would either be glued together to form a larger cake, secured to a stake or sufficiently out of range of the audience. The cakes primarily would be fired from the ground. The proponent would also use reloadable mortar devices which are fired from a single tube. These tubes would either be in securely staked racks or secured to a rigid board or chained to a track. There would be pinwheels mortars and cakes secured to a trailer to ease the proponents

initial setup. All handheld devices would be fired from specially made holders. The fireworks would be electrically ignited, hand lit with torches, fusee or lit due to impact by other pyro devices. The location would be east of the 12 mile Playa access point, See attached map for exact location and legal description.

Project dimensions (length 300 feet, width 300 feet.

Total Acres: 2.066116

BLM Acres: 2.066116

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. 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):

6. Legal Description: T. 34 N., R.24 E., Sec, 26, NW1/4

USGS 24k Quad name: Trego

100k map name: Gerlach

Land Status: BLM Private Other3T

8. To be completed by Cultural Resource Specialist (CR):

Area of Potential Effect:

APE Acreage: Approximately 2 acres

Records Check:

Records Examined: Winnemucca District cultural resource records.

Results: The project area is within 2 miles from the Nobles Historic Trail.

Inventory Type Needed:

None X

Categorical Exemption (Number _____)

Reconnaissance _____

Class I _____

Class II _____

Class III _____

Architectural _____

Rationale for Inventory Type determination: The project area is on the playa which is heavily disturbed by erosion, flooding, and recreational activities.

Tribal Notification/Consultation Needs: N/A

Rationale:

Tribe(s) to be contacted:

Public Notification Needs: The decision will be posted on the BLM website.

Rationale:

Person(s), group(s) to be contacted:

CRS Approval:

Date:

Field or other appropriate Manager Concurrence:

Date:

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):

Record of Decision and Resource Management Plan for Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area and Associated Wilderness and other Contiguous Lands in Nevada, July, 2004.

Recreation: 2.2.20

Objectives:

- To retain the unique resources and provide opportunities for a diverse range of recreation experiences consistent with the intent of the NCA ACT.
- To provide opportunities for a diverse range of permitted activities consistent with the NCA AACT while providing public access and solitude for users

Special Recreation Permits, Special Recreation Permit Management, REC-22

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):

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, H. Recreation Management (1): Issuance of SRP's for day use or overnight use up to 14 consecutive nights; that impacts no more than 3 staging area acres; and/or for recreational travel along roads, trails, or in areas authorized in a land use plan.

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 (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"/>	Migratory Bird Species: burrowing owl (<i>Athene cunicularia</i>), loggerhead shrike (<i>Lanius ludovicianus</i>), sage thrasher (<i>Oreoscoptes montanus</i>), vesper sparrow (<i>Pooecetes gramineus</i>)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Noise may temporarily disturb birds roosting around the Black Rock Playa. This project is short term in length (one night) and displaced birds will return to the area after noise is gone. No mitigation required.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Special Status Bats	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Noise may temporarily disturb bats foraging, however this project will be short term in length (one night). Displaced bats will return to the area after noise is gone. No mitigation required.
<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/> Yes <input type="checkbox"/> No	

Table 2. Migratory Bird Treaty Act Consideration

Potential MBTA Species w/in the Project Area Common (Scientific) Name	May Be Affected?	Recommended Mitigation (The following stipulation(s) is/are recommended to be applied to the authorization)
The following is a representative, but not an inclusive list of migratory birds that may utilize the proposed project area. Prairie falcon (<i>Falco mexicanus</i>),	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	No Mitigation required.

ferruginous hawk (<i>Buteo regalis</i>), western meadowlark (<i>Sturnella neglecta</i>), black-throated sparrow (<i>Amphispiza bilineata</i>), Brewer's blackbird (<i>Euphagus cyanocephalus</i>), Brewer's sparrow (<i>Spizella breweri</i>), burrowing owl (<i>Athene cunicularia</i>), canyon wren (<i>Catherpes mexicanus</i>), gray flycatcher (<i>Empidonax wrightii</i>), green-tailed towhee (<i>Pipilo chlorurus</i>), loggerhead shrike (<i>Lanius ludovicianus</i>), rock wren (<i>Salpinctes obsoletus</i>), sage sparrow (<i>Amphispiza belli</i>), sage thrasher (<i>Oreoscoptes montanus</i>), western meadowlark (<i>Sturnella neglecta</i>), and vesper sparrow (<i>Pooecetes gramineus</i>)		
	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> Yes <input type="checkbox"/> No	

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

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 516 DM 11.9, H. Recreation Management (1): Issuance of SRP's for day use or overnight use up to 14 consecutive nights; that impacts no more than 3 staging area acres; and/or for recreational travel along roads, trails, or in areas authorized in a land use plan 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/ Shonna Dooman

Date: 6/24/14

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 Shonna Dooman, Black Rock 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)).

43 CFR 46.215

Categorical Exclusions: Extraordinary Circumstances

CX#: DOI-BLM-NV-W030-2014-0013-CX

- | <u>Yes</u> | <u>No</u> | | |
|--------------------------|-------------------------------------|-----|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (a) | Have significant impacts on public health or safety |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (b) | Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (c) | Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)]. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (d) | Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (e) | Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (f) | Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (g) | Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by the bureau. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (h) | Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (i) | Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (j) | Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898). |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (k) | Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007). |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (l) | Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112). |

All of the above questions must be answered negatively before the Categorical Exclusion may be approved. This checklist is taken from 43 CFR 46.215

Prepared By: /S/ Rory Glueckert

Date: 6/15/2014

Effective 11/15/08
Replaces 6/21/05 #3612

**Bureau of Land Management
Winnemucca District Office**

Field Office(s):	<input type="checkbox"/> HRFO <input checked="" type="checkbox"/> BRFO
-------------------------	---

**Categorical Exclusion
Team Review**

Applicant: Bill Brett
Proposal: Black Rock Fireworks Display
CX#: DOI-BLM-NV-W030-2014-0013-CX

Prepared By: Rory Glueckert Date: 6/11/2014

Name /Title	Resource/Agency Represented	Signature/Date	Comments (Attach if more room is needed)
Kathy Ataman	Cultural Resources	/S/ Kathy Ataman 6/12/14	
Mark Hall/ Rory Glueckert	NCA	/S/ Mark Hall 6/12/2014	None Needed
Kathy Cadigan	T&E (plants and animals)	/S/ K Cadigan 6/11/2013	
Derek Messmer	Fire	/S/ Derrick Messmer 6/11/2014	