

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

Categorical Exclusion

CX#: DOI-BLM-NV-W030-2014-0011-CX

Date: 5/28/2014

Lease / Case File / Serial #: N-93046

Regulatory Authority (CFR or Law): 3603

BLM Manual: N/A

Subject Function Code: 3075

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: Daniel Atkinson/Jim Weiser

3. Project Title: Red Mountain Creek Community Pit Designation and Expansion

4. Applicant: BLM

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

The Bureau of Land Management, Winnemucca District Office, Black Rock Field Office (BLM), has identified a need to designate the Red Mountain Creek material site as a Community Pit. Recent requests for material have prompted BLM to establish this community pit as soon as possible to accommodate public needs. The Red Mountain Creek pit is located approximately 18 miles north of Gerlach, in Haulapai Flat, NV. Local area ranchers, farmers, and other users have continued to request sales from this site, so a Community Pit designation is warranted. The Washoe County Road Department has also used this material site in the past and would likely continue to use the pit in the future. Free-Use Permits may also be issued. The material would be loaded into belly- or end-dump trucks using either a front-end loader or a back-hoe. Access would be along existing roads. The surface disturbance related to the Community Pit designation and expansion would not exceed 5 acres. The total disturbance (including existing and proposed new disturbance) would be approximately 15.6 acres. Standard Field Office stipulations would be attached to each contract issued as a result of this community pit designation.

Project Title: Red Mountain Creek Community Pit Designation and Expansion

Project dimensions (length, width, height, depth): Approximately 1,000' L x 850' W x 20' D.

Total Acres: 15.6 (No more than 5 acres from the Proposed Action).

BLM Acres: 15.6 (No more than 5 acres from the Proposed Action).

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? 65% . 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): There is an existing gravel pit of approximately 10.6 acres that would be expanded by the Proposed Action. Please see aerial photo for visual assistance.

6. Legal Description: T35N, R23E, section 15, within E2SESW, W2SWSE.

USGS 24k Quad name: Hualapai Flat North

100k map name: Gerlach

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):

Objective M-3: Provide sand, gravel, and other mineral materials as needed for constructions purposes to federal, state, local government, private industries, and individuals.

Part II: NEPA Review

Categorical Exclusion Review: This Proposed Action qualifies as a categorical exclusion under:

516 DM 11.9, (BLM) F.10 - Disposal of mineral materials, such as sand, stone, gravel, pumice, cinders, and clay, in amounts not exceeding 50,000 cubic yards or disturbing more than 5 acres, except in riparian areas.

Project Title: Red Mountain Creek Community Pit Designation and Expansion

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 checked="" type="checkbox"/>	<input 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 (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"/>	Sand Cholla (<i>Grusonia pulchella</i>)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<p>Prior to any surface disturbing activities, a special status plant survey is required for the entire disturbance area including overland travel. Surveys must follow established BLM standards and protocols. Surveys must be conducted by a BLM approved biologist. Survey results must be reviewed and approved by BLM before surface disturbance can occur. If a special status plant is located, a protective buffer will be delineated in consultation with the authorized officer.</p> <p>A plant survey was conducted by BLM 5-23-2014 and there were no sensitive plants found within project area.</p>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Greater Sage Grouse (<i>Centrocercus urophasianus</i>)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>The proposed project falls within the Massacre PMU, and Wintering Sage grouse Habitat. The area of the proposed project is habitat for Greater sage-grouse.</p> <p>Disturbance of sagebrush should be avoided to the greatest possible extent. This may be accomplished by using existing roads and other areas devoid of sagebrush. Disturbance to meadow and riparian areas also should be avoided as these areas provide important summer habitat for sage-grouse and sage-grouse chicks. (WO-IM-2012-043 P)</p>

Project Title: Red Mountain Creek Community Pit Designation and Expansion

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"/>	Western Burrowing Owl (<i>Athene cunicularia</i>)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	See mitigation for MBTA (Table 2)

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)
<p>The following is a representative, but not an inclusive list of migratory birds that may utilize the proposed project area.</p> <p>Barn Swallow (<i>Hirundo rustica</i>), Black-throated sparrow (<i>Amphispiza bilineata</i>), Common Raven (<i>Corvus corax</i>), European Starling (<i>Sturnus vulgaris</i>), House Sparrow (<i>Passer domesticus</i>), Mourning Dove (<i>Zenaidura macroura</i>), Northern Harrier (<i>Circus cyaneus</i>), Red-tailed Hawk (<i>Buteo jamaicensis</i>), Sage sparrow (<i>Amphispiza belli</i>), Savannah Sparrow (<i>Passerculus sandwichensis</i>), Western Kingbird (<i>Tyrannus verticalis</i>), Western Meadowlark (<i>Sturnella neglecta</i>), Western Burrowing Owl (<i>Athene cunicularia</i>), Prairie Falcon (<i>Falco mexicanus</i>), killdeer (<i>Charadrius vociferous</i>)</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>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. Notify BLM at least 10 working days in advance of proposed survey. Survey results must be reviewed and approved by BLM before surface disturbance can occur. 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.</p>
	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> Yes <input type="checkbox"/> No	

Project Title: Red Mountain Creek Community Pit Designation and Expansion

	<input type="checkbox"/> Yes <input type="checkbox"/> No	
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Mitigation Measures/Remarks (The following stipulation(s) is/are recommended to be applied to the authorization): **The proposed project falls within Crucial Winter Range for mule deer. Please try to avoid activities that may disturb or displace mule deer during November 15 – April 30.**

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.)

Authorized Official \S\ Shonna Dooman
(Signature)

Date: 6/24/2014

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, Acting Field Manager, 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

Project Title: Red Mountain Creek Community Pit Designation and Expansion

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)).