

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

Categorical Exclusion

CX#: DOI-BLM-NV-W010-2013- 0011-CX

Date: 7/31/2014

Lease / Case File / Serial #:

Regulatory Authority (CFR or Law): FLPMA

BLM Manual: 6840

Subject Function Code: 6500

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: Mandy DeForest

3. Project Title: Dragon's Gate Cave Bat Gate Installation

4. Applicant: NDOW/BLM

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

The proposed action is for NDOW to install a bat gate at the mouth of Dragon's Gate Cave system to keep people from entering the caves while allowing bats ingress and egress. The gating is important for human safety and to protect bat habitat. This is a series of caves that are wet and slippery and have steep drops that could adversely impact human safety. This cave system is also one of the few places in Nevada that is conducive to white nose syndrome (WNS) as it has a cool, damp climate and it can be transmitted to bats from people and their equipment that have been exposed to WNS in other areas.

Since the cave has historic and prehistoric significance, Native American religious values and other zoological significance, the gate has been designed with two removable bars that would keep people out of the caves, but could be opened and entered by approved persons that are studying the prehistoric, historic, paleontological, geological, zoological and entomological resources of the cave.

This project was initially approved as a BPS project and funding was provided to NDOW from

CX#: DOI-BLM-NV-W0-2013-0011-CX

Applicant:NDOW/BLM

Project Title: Dragon's Gate Cave Bat Gate Installation

BLM to assist with the installation of the bat gate. Access to the site would be via existing two track roads and hiking. The materials and tools to build the bat gate would be air lifted to the site, however, there may need to be some minor repair to two track roads to get vehicles into the site. Any needed repairs would be within the existing disturbance and kept to the minimal necessary to get the vehicles safely to the site.

Project dimensions (length, width, height, depth): Bat gate is 15 feet by 7 feet

Total Acres: 5

BLM Acres: 5

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? 100% . 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): The disturbed area consists of the roads into the project area.

6. Legal Description: T.31__ N., R.____34 E., sec. 16, NE__ 1/4 NE__ 1/4

USGS 24k Quad name: Star Peak, NV

100k map name: Eugenes, NV

Land Status: BLM Private Other3T

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):

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):

WL 1.27 Maintain and improve habitat for sensitive, protected, threatened and endangered species listed on the U.S. Fish and Wildlife Service Endangered and Threatened List. BLM - Nevada Department of Wildlife Sensitive Species List and those protected by existing Federal and state laws and regulations.

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, (BLM)) 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"/>	<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 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 (Attach ESA Section 7 Compliance to Form)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Sage-grouse	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	No impacts to sage-grouse are anticipated.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	All Bat Species	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	The gate to be installed is bat compatible allowing for ingress and egress.
<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
black-throated sparrow (Amphispiza bilineata), Brewer’s blackbird (Euphagus cyanocephalus), Brewer’s sparrow (Spizella breweri), canyon wren (Catherpes mexicanus), gray flycatcher (Empidonax wrightii), green-tailed towhee (Pipilo chlorurus), rock wren (Salpinctes obsoletus), sage sparrow (Amphispiza belli), sage thrasher (Oreoscoptes montanus), western	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Activities will take place after the “peak” nesting bird season which begins April 15 and goes through July 15. If activities take place prior to July 15, the worker’s would observe the area prior to disturbance and note any unusual bird activities (breeding displays, birds trying to distract worker’s from an area, or being dive bombed, etc). Should these behaviors be observed worker’s should stay clear of the area with any ground disturbing activities.

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:

Activities will take place after the “peak” nesting bird season which begins April 15 and goes through July 15. If activities take place prior to July 15, the worker’s would observe the area prior to disturbance and note any unusual bird activities (breeding displays, birds trying to distract worker’s from an area, or being dive bombed, etc). Should these behaviors be observed worker’s should stay clear of the area with any ground disturbing activities.

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 the Federal Land Policy Management Act (FLPMA) of 1976 (43 U.S.C. 1701 et seq., and the National Historic Preservation Act (U. S. C. 470h-2(a)(1)), 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 authority for this decision is contained in the Federal Land Policy Management Act (FLPMA) of 1976 (43 U.S.C. 1701 et seq.

Section 102. [43 U.S.C. 170 I] (a)(8) "The Congress declares that it is the policy of the United States that the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use."

The National Historic Preservation Act (U. S. C. 470h-2(a)(1))

[U. S. C. 470h-2(a)(1)] "The heads of all Federal agencies shall assume responsibility for the preservation of historic properties which are owned or controlled by such agency."

Authorized Official /s/ James W Schroeder Date: 8/1/2014
(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 James W. Schroeder, 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), 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)).