

**U.S. Department of the Interior
Bureau of Land Management**

**Documentation of Categorical Exclusion
DOI-BLM-NV-L030-2015-0008-CX
February 2015**

Western Pyrotechnics Pyro Playa Events

Lincoln County, NV

Caliente Field Office
Caliente, Nevada
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A. Background

BLM Office: Caliente Field Office **Case File No.** NV-045-015-005
NEPA# DOI-BLM-NV-L030-2015-0008-CX

Proposed Action: Launch non-professional fireworks.

Title/Type: Western Pyrotechnics Association

Location of Proposed Action: Delamar Dry Lake, Lincoln County Nevada.

Legal Description: T. 7 S., R. 63 E., sec. 20 & 29

Proposed Action:

The BLM Caliente Field Office received a Special Recreation Permit (SRP) application from Western Pyrotechnics Association (WPA) who proposes to launch non-professional fireworks at Delamar Dry Lake twice a year during one week in May and one in October for the next Three years (2015-2017). The promoter and club members would access the dry lakebed from the Alamo Canyon Road. The club is expecting to have a total of 10-30 club members present during the event. Camping and the launch site would be to the west side of the island on the dry lake bed.

The WPA has been issued SRPs for an annual pyrotechnic event on the Delamar Dry Lake since 2003. The WPA is a non-profit organization made up of several dozen members who are either licensed pyro technicians and/or work on public displays. Since most of the attendees would be camping on site, it would be occupied 24 hours/day. The hours of operation would be varied. The majority of the fireworks would be lit between 7pm and 11pm, but there would be some daytime shots as well.

The National Environmental Policy Act (NEPA), Categorical Exclusion Documentation and Decision issued by the BLM for these events would be valid for three years, assuming the event and resource conditions do not change enough to require new NEPA analysis.

The range allotments that may be affected by this event include Buckhorn and Oak Springs.

The event is outside of desert tortoise habitat, sage grouse habitat, and wilderness areas. The promoter and all participants would be required to abide by BLM SRP Special Stipulations.

B. Land Use Plan (LUP) Conformance

LUP Name: Ely District Record of Decision and Approved Resource Management Plan

Date Approved/Amended August 20, 2008.

The proposed project is in conformance with the LUP, because it is clearly consistent with the following LUP decisions and/or goals and objectives pg. 80, and REC-5 pg. 79:

Goals: “Provide quality settings for developed and undeveloped recreation experiences and opportunities while protecting resources.

Objectives: “To provide a wide variety of recreation opportunities to satisfy a growing demand by a public seeking the open, undeveloped spaces that is characteristic of the planning area.

REC-5: “Manage areas not designated as Special Recreation Management Areas as extensive recreation management areas. A majority of the planning area is available for dispersed, backcountry, and undeveloped recreational uses.” In addition, management decisions for other resources and concerns that would possibly be impacted by the project were reviewed, and it was determined that the proposed action is in conformance with the Plan.

C: Compliance with NEPA:

The proposed action is categorically excluded from further documentation under the NEPA in accordance with 516 DM 11.9 H(1). “Issuance of a Special Recreation Permit day use or overnight use up to 14 consecutive nights; that impacts no more than three staging area acres; and/or for recreational travel along roads, trails, or in areas authorized in a land use plan.”

This categorical exemption is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed, and none of the extraordinary circumstances described in 43 CFR 46.215 applies. There is no potential for significant impacts to public and private resources. Stipulations issued with the proponent’s permit are attached to this document (see Attachment A). Based on review of the following extraordinary circumstances, the proposed action meets the requirements for a categorical exclusion from further NEPA analysis:

1. Have significant impacts on public health or safety?

Rationale: BLM staff would monitor the event for compliance with all SRP stipulations. Included as part of the SRP are the applicable BLM permit conditions and Special Stipulations common to all Nevada Field Offices.

4. A SRP authorizes special uses of the public lands and related waters and should circumstances warrant, the permit may be modified by the BLM at any time, including modification of the amount of use. The authorized officer may suspend or terminate a SRP if necessary to protect public resources, health, safety, the environment, or because of noncompliance with permit stipulations.

16. The permittee must assume responsibility for inspecting the permitted area for any existing or new hazardous conditions, e.g., trail and route conditions, landslides, avalanches, rocks, changing water or weather conditions, falling limbs or trees, submerged objects, hazardous wildlife, or other hazards that present risks for which the permittee assumes responsibility.

17. The permittee shall be responsible for ensuring that adequate sanitation facilities for participants and spectators are provided.

18. The permittee shall insure that first aid services provided at this event have the capability to insure that any accident victim may be located, treated, and evacuated as needed. A reliable communication system shall be provided sufficient to provide immediate contact for the first aid provider (EMT) to local emergency dispatch centers.

2. 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 (EO 11990); floodplains (EO 11988); national monuments; migratory birds; and other ecologically significant or critical areas.

Rationale: During scoping analysis, the BLM interdisciplinary team, together with representatives of the Nevada Department of Wildlife concluded the event poses no potential for significant impacts to the resources listed in this element. The event is limited to the Delamar Dry Lakebed that is commonly used for other events and the Nellis Air Force base for trainings. The event area avoids and/or does not have potential to significantly affect 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 (EO 11990); floodplains (EO 11988); national monuments; migratory birds; and other ecologically significant or critical areas.

3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102(2) (E)] (43 CFR 46.215 (c)).

Rationale: Since this organized group event would be conducted on the Delamar Dry Lake, does not limit others' access to public lands, and is limited to the dry lake bed, no unresolved or controversial conflicts relating to the uses of available resources are known to exist.

4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks (43 CFR 46.215 (d)).

Rationale: SRP stipulations are incorporated into the permit to protect the environment and minimize risk. BLM attends the event and ensures the promoter complies with the stipulations. If not, the situation is documented in the post-event evaluation.

5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects (43 CFR 46.215 (e)).

Rationale: The proposed action does not establish a precedent for future actions. SRPs are considered a discretionary action. Each permit is processed individually with the interdisciplinary team meeting to evaluate the new proposal to ensure it complies/conforms to existing regulations, laws, and plans. All future similar events would be subject to the same NEPA standards and independent decision/permit approval.

6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects (43 CFR 46.215 (f)).

Rationale: This event would occur on the Delamar Dry Lake as it has since 2003. Other activities that occur on the lakebed include United States Air Force and other event promoters for the past 30 years. The SRP stipulations are incorporated into the permit to protect the environment and minimize risk. BLM attends the event and ensures the promoter complies with the stipulations. If not, the situation is documented in the post-event evaluation.

7. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by the bureau or office.

Rationale: A cultural needs assessment was completed for this event to determine if the proposed action could pose a threat to cultural and historical resources. BLM Archeologists examined records in order to identify known historic properties within one mile of the proposed project and determined that the event would not affect any known historic properties. In addition, the statewide protocol agreement with the State Historic Preservation Office established that events occurring on existing roads and trails are exempt from cultural inventory.

8. 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?

Rationale: The BLM wildlife biologist conducted an informal consultation with U.S. Fish and Wildlife Service (Service). Service file No.: 84320-2013-I-0274

Justification for Response:

The proposed project is not likely to adversely affect the desert tortoise because:

- The event area does not support desert tortoise habitat;
- sufficient measures have been proposed by BLM to minimize potential effects occurring on the access road to the event and provide appropriate BLM oversight of the activities; and
- the project proponent will implement a litter control program to ensure predators are not attracted to the area; an awareness program on desert tortoises will be implemented for personnel who will be onsite.

Conclusion:

Although the desert tortoise is known to occur on the access road to the event, the Service does not anticipate adverse effects to the desert tortoise based on project location and measures proposed by the BLM. Should project plans change, or if additional information on the distribution of listed or proposed species become available, this determination may be reconsidered. Even with this concurrence, workers will be informed to report all observations of desert tortoises.

Additional Measure:

The event promoter shall be required to inform all event participants of the potential occurrence of tortoises on the access road and shall ensure that vehicles do not exceed 25 miles per hour on the access road.

9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment (43 CFR 46.215 (i)).

Rationale: BLM ensures that authorized events occur in compliance with Federal, State, and local laws through close coordination with these government entities prior to authorizing the permit. The event would not cross any lands governed by Tribal governments.

10. Have a disproportionately high and adverse effect on low income or minority populations (EO 12898).

Rationale: The event uses the Delamar dry lakebed. The event does not pose a disproportionately high or an adverse effect to low income or minority populations. The event generates income to local businesses from the participants. Since no adverse effects occur from the permitting of this event, no minority or low income populations would be affected.

11. 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 (EO 13007).

Rationale: There are no identified Indian sacred sites on the lands managed by the Bureau of Land Management, Ely District, therefore, this event would not limit access to, or inhibit the ceremonial use of sites protected by EO 13007.

12. 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 EO 13112).

Rationale: On January 24, 2015, BLM conducted a Noxious & Invasive Weed Risk Assessment. Preventative measures are incorporated into the terms and conditions of the permit to mitigate the possible spread of noxious weeds and non-native invasive species. Vehicles must be properly cleaned prior to racing to prevent spreading the infestation into Lincoln County.

Additional consideration:

When fireworks burn or explode the major byproducts are gases, which are seen as smoke at fireworks displays. The only thing that hits the ground is the broken paper or plastic shell casings, which would be picked up and disposed of by the proponent.

1. The WPA would provide port-a-potties and would clean up all trash during and after the event.
2. All attendees, prior to the event, would receive a copy of the desert tortoise fact sheet provided by the BLM. All attendees would be informed that the first two miles of Alamo Canyon Road from US 93 are in desert tortoise habitat and that the speed limit in that area is 25 MPH. In addition, no driving would be allowed off the designated road in the desert tortoise habitat area. All attendees would take all necessary precautions, not to

disturb any desert tortoise. The event chairperson would coordinate with the BLM to ensure that all safety measures are taken to protect the desert tortoise.

These applicant committed environmental protection measures, along with the Special Recreation Permit Standard Operation Conditions are adequate to prevent significant impacts from the proposed event.

D: Signature

Authorizing Official	<u>/s/ Christopher Carlton</u>	<u>5/12/2015</u>
	Signature	Date

Name: Christopher Carlton
Title: Field Manager, Caliente Field Office

Contact Person

For additional information concerning this Categorical Exclusion, contact Elizabeth Domina at edomina@blm.gov Outdoor Recreation Planner, Caliente Field Office, P.O. Box 237 Caliente, NV 89008 (775)726-8116.



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
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Caliente, Nevada 89008-0237
http://www.blm.gov/nv/st/en/fo/ely_field_office.html

In Reply Refer To:
NV-045-014-005

DECISION

Western Pyrotechnics Association
Attn: Rob Foelak
P.O. Box 7214
Bunkerville, Nevada 89007

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Special Recreation Permit
NV-045-015-005
NEPA # DOI-BLM-NV-L030-2015-
0008-CX

It is my decision to approve the Special Recreation Permit (SRP) and implement the Western Pyrotechnics Association (WPA) Pyro Playa Event as described in the *Documentation of Land Use Plan Conformance and non-statutory Categorical Exclusion of Federal Action* in accordance with 516 DM 11.9 H(1). “Issuance of a Special Recreation Permit day use or overnight use up to 14 consecutive nights; that impacts no more than three staging area acres; and/or for recreational travel along roads, trails, or in areas authorized in a land use plan” associated with the proposal. In accordance with 43 CFR §2931.8, this decision is issued full force and effective immediately.

Background Information:

WPA has applied for a SRP annual pyrotechnic event on the Delamar Dry Lake. This event will occur twice per year for the next three years (2015-2017). The first event will center on the weekend prior to Memorial Day weekend. The second event will center on the first weekend of October.

Scoping and Public Involvement:

An Interdisciplinary team scoped the proposed action for extraordinary circumstances in the Caliente Field Office on February 10, 2015. Team members determined that there would not be significant or otherwise unacceptable impacts to the resources and concerns identified in the attached *Extraordinary Circumstances Review Record*.

Public and Agency Involvement

On July 9, 2013, Section 7 informal consultation with the U.S. Fish and Wildlife Service was completed. It was determined that the proposed action *is not likely to adversely affect* listed species and did not warrant formal consultation.

WPA will contact the Nellis Air Force Base (NAFB) and notified them of the events yearly. NAFB would notify the NAFB Air Traffic Control Facility and coordinate aircraft scheduling.

Rationale for Decision:

As determined on the associated *Documentation of Land Use Plan Conformance and Non-statutory Categorical Exclusion of Federal Action*, the proposed action is in conformance with the Ely District Record of Decision and Approved Resource Management Plan (August 20, 2008) and the qualifications of a categorical exclusion. No further environmental analysis is required based on review of the proposal and the 12 exceptions to categorical exclusions.

Appeal:

This decision may be appealed to the Interior Board of Land Appeals (Board), U. S. Department of the Interior (DOI) Office of Hearings and Appeals, in accordance with the regulations contained in 43 CFR, Part 4. The appellant has the burden of showing that the decision appealed from is in error. If an appeal is taken, a notice of appeal must be filed at the Bureau of Land Management, Caliente Field Office, 1400 S Front St., Caliente, NV within 30 days of either of receipt of the decision if served a copy of the document, or otherwise within 30 days of the date of the decision. If sent by United States Postal Service, the notice of appeal must be sent to the following address:

Bureau of Land Management
Caliente Field Office
P O Box 237
Caliente, NV 89008-0237

The appeal may include a statement of reasons at the time the notice of appeal is filed, or the statement of reasons may be filed within 30 days of filing this appeal. At the same time, the original documents are filed with this office, copies of the notice of appeal, statement of reasons, and all supporting documentation must be sent to each party named in this decision and to the U. S. Department of Interior (DOI) Solicitor at the following address:

Regional Solicitor, Pacific Southwest Region
U.S. Department of the Interior
2800 Cottage Way, Room E-2753
Sacramento, CA 95825-1890

If a statement of reasons is filed separately from the notice of appeal, it also must be sent to the following location within 30 days after the notice of appeal was filed:

Interior Board of Land Appeals
Office of Hearings and Appeals
4015 Wilson Boulevard
Arlington, VA 22203

This decision will remain in effect during the appeal unless a petition for stay is granted. If the appellant wishes to file a petition pursuant to regulations at 43 CFR 2931.8 (b) 4.21 for a stay of

the effectiveness of this decision during the time that the appeal is being reviewed by the Board, the petition for a stay must accompany the notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. If the appellant requests a stay, the appellant has the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or by other pertinent regulation, a petition for a stay of a decision pending appeal shall 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.

Approved By: /s/ Christopher Carlton 5/12/2015
 Christopher Carlton Date
 Field Manager
 Caliente Field Office

