

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

Categorical Exclusion

CX#: DOI-BLM-NV-W010-2015-0020-CX

Date: 2/3/2015

Lease / Case File / Serial #: N-39518

Regulatory Authority (CFR or Law): 2800

BLM Manual: 2800

Subject Function Code: 2800

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: Debbie Dunham

3. Project Title: Orni 3 LLC ROW N-39518

4. Applicant: Orni 3 LLC

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

On October 21, 2014, Orni 3 LLC, submitted an application for renewal of right-of-way (ROW) N-39518, for a 120 kV transmission line. This ROW expired October 24, 2014. This transmission line connects the Desert Peak Geothermal Power Plant to the Brady Power Plant.

Project dimensions (length, width, height, depth): 7087 feet long; 75 feet wide.

Total Acres: 12.20

BLM Acres: 12.20

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):

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6. Legal Description: T.22 N., R. 27 E., sec. 18, SESE; lot 4.
T.22 N., R. 27 E., sec. 20, S2N2, N2SE.

USGS 24k Quad name: Desert Peak, NV

100k map name: Carson Sink, NV

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):

L.4: To provide lands for rights-of-ways on or across public lands.

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, (BLM) E. 9. Renewals and assignments of leases, permits, or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations.

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 (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"/>	Oryctes (<i>Oryctes nevadensis</i>), Nevada dune beardtongue (<i>Penstemon arenarius</i>), Tonopah milkvetch (<i>Astragalus pseudiodanthus</i>)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	See “Mitigation” comments below.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Golden eagle (<i>Aquila chrysaetos</i>), Western burrowing owl (<i>Athene cunicularia hypugaea</i>), Ferruginous hawk (<i>Buteo regalis</i>), Swainson's hawk (<i>Buteo swainsoni</i>), Brewer’s sparrow (<i>Spizella breweri</i>)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	See “Mitigation” comments below.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Dark kangaroo mouse (<i>Microdipodops megacephalus</i>), Desert Kangaroo Rat (<i>Dipodomys deserti</i>)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	See “Mitigation” comments below.

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 list is a representative, but not an inclusive list of migratory birds that may utilize the proposed project area:</p> <p>Prairie falcon (<i>Falco mexicanus</i>), Western burrowing owl (<i>Athene cunicularia hypugaea</i>), sage thrasher (<i>Oreoscoptes montanus</i>), Le Conte's thrasher (<i>Toxostoma lecontei</i>), Brewer's sparrow (<i>Spizella breweri</i>), sagebrush sparrow (<i>Artemisiospiza nevadensis</i>), and common poorwill (<i>Phalaenoptilus nuttallii</i>)</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>See "Mitigation" comments below.</p>
	<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):

No impacts to special status species are expected to occur directly from the proposed action. However, prior to any new surface disturbance activities (or transmission line maintenance, etc.) the following stipulations apply:

-A special status plant survey is required for the entire disturbance area. Timing of the survey will be dependent on the habitat type and the detectability of the target species. If a special status plant is located, a protective buffer will be delineated in consultation with the authorized officer.

-Power and/or communication lines shall be constructed in accordance to standards outlined in "Suggested Practices for Avian Protection on Power Lines, The State of the Art in 2006," (Avian Power Line Interaction Committee (APLIC), 2006, Edison Electric Institute and the raptor Research Foundation, Inc., Washington, DC) and Avian Protection Plan (APP) Guidelines (USFWS, 2005).

-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

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prior to initiation of disturbance. Surveys must follow established BLM standards and protocols, and should be approved by the BLM biologist prior to being implemented. 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.

-Suitable habitat exists for pygmy rabbits and other special status rodents, therefore a survey to determine the presence/absence prior to surface disturbance activities. If burrows or burrow complexes are found, a minimum 400 foot buffer within suitable sage-brush habitat will be applied to ensure that the burrows are not impacted by the proposed project. All survey dates and times will be coordinated with a BLM biologist, who must be notified at least ten days in advance of the proposed survey dates.

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 regulatory authority or law that allows BLM to take action, 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 James W. Schroeder
(Signature)

Date: 05/18/2015

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, 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), 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)).