

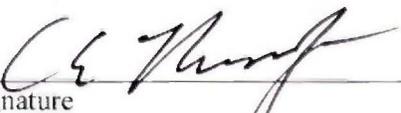
Decision

DOI-BLM-MT-B010-2016-0009-CX

Decision and Rationale on the Action

I have decided to approve the renewal of a Special Recreation Permit to the E bar L Ranch, LLP. They would like to continue offering guided horseback trips along and across the Blackfoot River in the Bear Creek Flats and Turner/DuPont area during their guest season. They use existing roads and trails and would not need to create any new trails. Their guest season starts June 1 and ends September 30.

In addition, I have reviewed the plan conformance statement and have determined that the proposed action is in conformance with the approved land use plan and that no further environmental analysis is required under the National Environmental Policy Act (as documented in the attached CX, NEPA Compliance [Section C]).



Signature
Joe Ashor
Field Manager

4/22/16
Date

Implementation Date

This project will be implemented on May 15, 2016, subject to the attached general terms, conditions and permit stipulations.

Administrative Review

In accordance with regulations at 43 CFR 2931.8, any parties adversely affected by this decision may appeal the decision under 43 CFR parts 4 and 1840. As per 43 CFR 2931.8(b), this decision is effective immediately and will remain in effect while appeals are pending unless a stay is granted under 43 CFR 4.21(b).

Contact Person

For additional information concerning this decision, contact:

Maria Craig, BLM Missoula Field Office
3255 Fort Missoula Road
Missoula, MT 59804
406-329-3914

UNITED STATES DEPARTMENT OF INTERIOR
BUREAU OF LAND MANAGEMENT
Missoula Field Office
3255 Fort Missoula Road
Missoula, Montana 59804-7204

CATEGORICAL EXCLUSION REVIEW AND APPROVAL

A. Background

BLM Office: Missoula Field Office Lease/Serial/Case File No.: _____

NEPA Number: DOI-BLM-MT-B010-2016-0009-CX

Proposed Action Title/Type: The E bar L Ranch, LLP Special Recreation Permit Renewal

Location of Proposed Action (include county): T. 14N., R. 14W., Sections 1, 2, 11 and 12

Description of Proposed Action: The proposed action consists of renewing the Special Recreation Permit held by the E bar L Ranch, LLP. The E bar L Ranch would like to continue offering guided horseback trips along and across the Blackfoot River in the Bear Creek Flats and Turner/DuPont area during their guest season. They use existing roads and trails and would not need to create any new trails. Their guest season starts June 1 and ends September 30. They would like to have between 1 and 3 rides a week. Each ride consists of 1 – 7 guests and 1 – 2 wranglers.

Their ride starts on their property and crosses on to the Turner/DuPont area, crosses the river near the old bridge intersection and then follows trails on Bear Creek Flats. The amount of time spent riding through the area is approximately 20 minutes. On hot days, riders might spend about an hour swimming in the river.

B. Land Use Plan Conformance

Land Use Plan Name: Garnet Resource Area Resource Management Plan, as amended
Date Approved: January 10, 1986

The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decision(s):

The Garnet Resource Area Management Plan, referenced above, specifically allows for the issuance of Special Recreation Use Permits. The plan states, "Recreation special use permits will be evaluated on a case by case basis. This includes permits for commercial use, competitive events and group activities such as trail rides, bicycle tours, and off-road vehicle (ORV) events."

C: Compliance with NEPA

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, H.1:

Issuance of Special Recreation Permits 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. This CX cannot be used for commercial boating permits along Wild and Scenic Rivers. This CX cannot be used for the establishment or issuance of Special Recreation Permits for "Special Area" management (43 CFR 2932.5).

This categorical exclusion 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, as documented below, none of the extraordinary circumstances described in 516 DM2 apply.

Extraordinary Circumstances		
The project would:		
1. Have significant impacts on public health or safety.		
Yes	No X	Rationale: <i>There will be no significant impacts on public health or safety.</i>
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 (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.		
Yes	No X	Rationale: <i>All of the activities are on existing roads and trails that have been identified for this type of use.</i>
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102 (2) (E)].		
Yes	No X	Rationale: <i>There are no unresolved conflicts with this project.</i>
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		
Yes	No X	Rationale: <i>This project would entail no uncertain or potentially significant effects.</i>

5. Establish a precedent for future action or represent a decision in principal about future actions with potentially significant environmental effects.		
Yes	No X	Rationale: <i>No precedents regarding environmental effects would be set with this project.</i>
6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.		
Yes	No X	Rationale: <i>See CFR 1508.7.</i>
7. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office.		
Yes	No X	Rationale: <i>No cultural resources are present or affected by the proposed activities.</i>
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.		
Yes	No	Rationale: Fisheries: There are no expected impacts. Sensitive Plants: There are no issues or concerns regarding special status plants. Wildlife: No wildlife or threatened and endangered species issues or concerns.
9. Violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment.		
Yes	No X	Rationale <i>The project would not violate any Federal law, State, local or tribal law or requirement imposed for the protection of the environment.</i>
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).		
Yes	No X	Rationale: <i>These populations are not present.</i>
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 (Executive Order 13007).		
Yes	No X	Rationale <i>There is no known access or sacred sites used by Indian religious practitioners, therefore, the project would not 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.</i>
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 Executive Order 13112).		

Yes	No	Rationale: <i>No new ground disturbance would occur. Permittee is required to use weed free hay.</i>
	X	

I considered the Proposed Action and the Extraordinary Circumstances and determined there are no significant impacts associated with the project. Use of this CX is appropriate.

D: Preparers

Name	Title	Resource/Agency Represented
Chuck Bridgeman	Supervisory Land Use Specialist	BLM – Missoula Field Office
Maria Craig	Outdoor Recreation Planner	BLM – Missoula Field Office
Jim Sparks	Wildlife Biologist	BLM – Missoula Field Office
Jody Miller	Archaeologist	BLM – Missoula Field Office
Dan Downing	Fisheries Biologist	BLM – Missoula Field Office
Ken Cook	Weeds Specialist	BLM – Missoula Field Office
Maggie Ward	Planning and Environmental Coordinator	BLM – Western Montana District

E: Signature

Authorizing Official:  Date: 4/22/16
 (Signature)

Name: Joe Ashor
 Title: Field Manager



UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
COMMERCIAL LAND-BASED
SPECIAL RECREATION PERMIT STIPULATIONS

BLM National Terms and Stipulations

(1) The permittee shall comply with all Federal, State, and local laws, ordinances, regulations, orders, postings, or written requirements applicable to the area or operations covered by the Special Recreation Permit. The permittee shall ensure that all persons operating under the authorization have obtained all required Federal, State, and local licenses or registrations. The permittee shall make every reasonable effort to ensure compliance with these requirements by all agents of the permittee and by all clients, customers, participants, or spectators under the permittee's supervision.

(2) A Special Recreation Permit authorizes special uses of the public lands and related waters as specified in the permit. 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. Failure to comply may result in criminal, civil, and/or administrative actions (probation, suspension, cancellation). Administrative actions by the BLM to suspend or terminate a SRP may be appealed.

(3) No value shall be assigned to or claimed for the permit, or for the occupancy or use of Federal lands or related waters granted thereupon. The permit privileges are not to be considered property on which the permittee shall be entitled to earn or receive any return, income, price, or compensation. The use of a permit as collateral is not recognized by the BLM.

(4) Unless expressly stated, the SRP does not create an exclusive right of use of an area by the permittee. The permittee shall not interfere with other valid uses of the Federal land by other users. The United States reserves the right to use any part of the area for any purpose.

(5) The permittee or permittee's representative may not assign, contract, or sublease any portion of the permit authorization or interest therein, directly or indirectly, voluntarily or involuntarily. However, the authorized officer may approve contracting of equipment or services in advance, if necessary to supplement a permittee's operations. Such contracting should not constitute more than half the required equipment or services for any one trip and the permittee must retain operational control of the permitted activity. If equipment or services are contracted, the permittee shall continue to be responsible for compliance with all stipulations and conditions of the permit.

(6) All advertising and representations made to the public and the authorized officer must be accurate. Although the addresses and telephone numbers of the BLM may be included in advertising materials, official agency symbols may not be used. The permittee shall not use advertising that attempts to portray or represent the activities as being conducted by the BLM. The permittee may not portray or represent the permit fee as a special Federal users' tax. The

permittee must furnish the authorized officer with any current brochure and price list if requested by the authorized officer.

(7) The permittee must assume responsibility for inspecting the permitted area for any existing or new hazardous conditions, e.g., trail and route conditions, abandoned mines, land slides, 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.

(8) In the event of default on any mortgage or other indebtedness, such as bankruptcy, creditors shall not succeed to the operating rights or privileges of the permittee's SRP.

(9) The permittee cannot, unless specifically authorized, erect, construct, or place any building, structure, sign, or other fixture on public lands. Upon leaving, the lands must be restored as nearly as possible to pre-existing conditions.

(10) The permittee, or a representative thereof, must present or display a copy of the Special Recreation Permit to an authorized officer's representative, or law enforcement personnel upon request. If required, the permittee, or a representative thereof, must display a copy of the permit or other identification tag on equipment used during the period of authorized use.

(11) The authorized officer, or other duly authorized representative of the BLM, may examine any of the records or other documents related to the permit, the permittee or the permittee's operator, employee, or agent for up to 3 years after expiration of the permit.

(12) The permittee must submit a Post Use Report (Appendix A) to the authorized officer by December 31 for every year the permit is in effect. If the Post Use Report is not received by January 31 of the following year, the permit may be suspended. The Post Use Report must include: locations used, participant numbers and revenue collected. The request for deductions based on pre- and post- trip transportation and lodging expenses and percentage of acres of public land used, if being claimed, must also be submitted at this time. Requests for transportation and lodging deductions must be accompanied by copies of supporting receipts documenting proof of payment.

(13) The permittee shall notify the authorized officer of any accident which occurs while involved in activities authorized by this permit which results in: death, personal injury requiring hospitalization or emergency evacuation, or in property damage greater than \$2,500 (lesser amounts if established by State law). Reports should be submitted within 48 hours in the case of death or injury, or 10 days in accidents involving property damage.

BLM Montana Terms and Stipulations

A. General

(1) Permits issued for more than one year are subject to annual validation. To secure validation the permit holder must:

(a) have performed satisfactorily under the terms and conditions of this permit and be in conformance with applicable Federal, State, and local laws, ordinances, regulations,

orders, postings, and written requirements applicable to the area and operation covered by the permit,

(b) ensure that all persons operating under the permit have obtained all required Federal, State, and local licenses or registrations,

(c) have on file, with the office issuing the permit, current insurance identifying the U.S. Government as additional insured as specified in stipulation B below, and

(d) have no outstanding, past due, or unpaid billing notices.

(2) Permittees may not leave unattended personal property on public lands administered by the Bureau of Land Management for a period of more than 48 hours without written permission of the authorized officer, with the exception that vehicles may be parked in designated parking areas for up to 14 consecutive days. Unattended personal property is subject to disposition under the Federal Property and Administrative Services Act of 1949 as amended.

(3) The permit only authorizes the use for the activity, the time(s) and in the area(s) specifically described above.

(4) This permit does not give permission to cross over or use any private land. The permittee will be fully responsible for all trespass on and/or damages to private land which results from the permittee's activity

(5) Placement of caches of supplies and food or equipment for future trips is not allowed unless specifically authorized.

(6) The permittee must allow BLM representatives to complete permit checks to determine the validity of the permit, ascertain the group has a copy of the permit, all required equipment, and to orient trip participants about the use of public lands and safety.

(7) If a permittee's performance is found unacceptable, the authorized officer can modify or revoke this permit at any time.

(8) All motor vehicles will remain on existing roads and trails or in accordance with existing off-road vehicle designations.

B. Insurance

(1) At a minimum, the permittee shall have in force public liability insurance in the appropriate amount as shown on page one.

General Guidelines for Minimum Insurance Requirements

SRP Event or Activity	Per Occurrence	Per Annual Aggregate
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Low Risk: general non-competitive and non-commercial activities such as group camping, group activities, mounted orienteering, backpacking, or dog trials.	\$300,000	\$600,000
Moderate Risk: whitewater boating, horse endurance rides, OHV events, mountain bike races, rock climbing (with ropes), ultra-light outings, rodeos	\$500,000	\$1,000,000
High Risk: bungee jumping, speed record events, unaided rock climbing	\$1,000,000	\$2,000,000 - \$10,000,000

(2) The policy shall state that the insurance company shall have no right of subornation against the United States of America.

(3) Such insurance must name the United States Government as additional insured and provide for specific coverage of the permittee's contractually assumed obligation to indemnify the United States.

(4) The policy shall stipulate that the authorized officer of the Bureau of Land Management shall be notified 30 days in advance of the termination or modification of the policy.

(5) The permit is not valid unless the permittee maintains a current authenticated certificate of the required insurance on file with the office issuing the permit.

(6) The permittee shall indemnify and hold harmless the United States against any responsibility or liability for damage, death, injury, or loss to persons and property which may occur during the permitted use period or as a result of such use.

(7) The permittee shall furnish a copy of the insurance policy directly to the authorized officer.

(8) The name of the insured on the insurance policy must be the same as the name on the permit. Those permittees holding insurance policies which only insure the permittee and not the permittee's employees must ensure that their employees also have the required insurance in effect, and that a certificate of insurance is furnished to the authorized officer.

(9) For multi-year permits, the insurance policy must be provided the first year, but on each subsequent year the authorized officer may accept a valid certificate of insurance.

(10) The insurance need only be valid during periods of actual use.

C. Environmental and Resource Protection

All trips must conform to *Leave No Trace* principles.

(1) For all trips and at all base camps with locations served by a motorized vehicle, the permittee must have a toilet system that allows for the proper carry-out and disposal of solid human body

waste that is adequate for the size of the group and length of the trip. Toilets must be accessible for use by passengers and crew at all sites where a company motorized vehicle is present, except in developed locations where public restrooms are provided. In locations remote from a permittee's vehicle, solid human waste must be cat holed in a sunny location in bare soil or carried out (unless otherwise stipulated). Toilet paper must be carried out and not buried or burned.

(2) Cans, rubbish, and other trash shall not be discarded, buried, or dumped on public lands or related waters. Wet garbage such as egg shells, orange peels, leftover solid food, bones, melon rinds, etc., must be carried out. Trash cleanup at campsites and day use areas will include all litter or discarded items including small items such as bottle caps and cigarette butts.

(3) Washing or bathing with soap is not permitted in tributary streams, springs or other natural water sources. Dishwater must be strained prior to dispersal. Dishwater and bathwater may not be dumped within 100 feet of streams, springs, or other natural water sources. Only biodegradable soap may be used.

(4) The permittee will be responsible to ensure that historical, archaeological, cultural, or ecological values are not damaged, destroyed, or removed by any participants on authorized trips. Unless specifically authorized, collection of plants, rocks, fossils, artifacts, shed antlers, animals or parts of animals is prohibited. Permits for such collecting are issued separately outside of this Special Recreation Permit.

(5) The permittee must conduct operations authorized by the permit in accordance with applicable BLM management plans and the permittee's own operating plan submitted to the BLM in support of this permit.

(6) The number of participants on any trip, including guides, may not exceed the number specified in the permittee's operating plan and approved permit. The exception to this requirement is over-the-road bus tours using state and Federal highway and county roads.

D. Fires

This permit does not waive any applicable restrictions that may affect the use of camp fires or cooking fires. The following stipulations apply unless specifically waived by the Authorized Officer:

(1) At sites accessed by the permittee's motor vehicle(s), the permittee must provide their own fuel wood.

(2) At sites accessed by the permittee's motor vehicle, the permittee must use a fire pan to contain the fires, ash, and charcoal. Charcoal and ash from the fire pan must be hauled out.

(3) Gathering wood from standing trees, live or dead, is prohibited.

(4) Use of dead and down wood is permitted only at backcountry sites not accessed by the permittee's motor vehicle. In such cases, if a fire pan is not used, burn all wood to ash and naturalize the area before leaving.

(5) Scatter fuel wood piles before leaving the site.

(6) Comply with all fire restrictions and orders.

E. Safety and Equipment

(1) The permittee shall provide the equipment necessary to serve the public in a safe manner. The permittee will ensure that trips are conducted in compliance with all laws and regulations relating to vehicle operations, land use restrictions, food handling, and any other applicable regulations.

(2) Every person serving as a guide on public land must at a minimum be trained and currently certified in Basic First Aid and Cardio-pulmonary Resuscitation (CPR). Each guide must have legible copies of certification cards in his/her possession while operating under a BLM Special Recreation Permit in Montana. In addition, certification cards must be filed at the permittee's headquarters and available for BLM review if necessary.

(3) The following equipment must be carried on all commercial trips:

- (a) A first aid kit adequate to accommodate each activity, group, or subgroup will be carried on all trips.
- (b) Adequate repair kits and spare supplies appropriate for the trip and activity.

(4) The following procedures must be followed on all commercial trips:

- (a) Unless specifically authorized in the permit, discharge of firearms is allowed only for legal pursuit of game animals by a licensed hunter.
- (b) Use of explosives and fireworks is prohibited.

MISSOULA FIELD OFFICE SUPPLEMENTAL FOOD/ATTRACTANT STORAGE STIPULATIONS FOR CONSERVATION OF THE GRIZZLY BEAR AND OTHER WILDLIFE

(1) Human, pet and livestock food (except baled or cubed hay without additives), and garbage will be attended or stored in an approved bear-resistant manner:

(a) During daytime hours, at least one adult person (attendee), 18 years of age or older, must be physically present within 100 feet of attractants. During nighttime hours, all attractants will be stored in a bear-resistant manner.

(b) Food, garbage, and other attractants, including all livestock grain and pellets, will be stored using an approved storage technique when camp is unattended.

(2) Attractants (such as food leftovers or cooking grease) will not be buried, discarded, or burned in an open campfire:

(a) Leftover food or food waste products may be placed in an appropriate, sealed container and packed out with garbage.

(b) Leftover food or other attractants may be burned in a contained stove fire.

(c) Attractants may be placed into a suitable container (i.e. tin can) to prevent leaching into the ground and burned over an open campfire. Any remaining attractants unconsumed by burning will be placed with other garbage and packed out.

(3) Approved bear-resistant storage techniques: Any attractants, including food and garbage, stored in one of the following ways if unattended:

(a) Secured in a hard-sided camper or vehicle trunk or cab or trailer cab.

(b) Secured in a hard-sided dwelling or storage building.

(c) Suspended at least 10 feet up (from the bottom of the suspended item) and 4 feet out from any upright support, i.e. tree, pole.

(d) Stored in an approved bear-resistant container.

(e) Stored within an approved and operating electric fence.

(f) Stored in any combination of these methods, or

(g) Stored by methods other than those described in Section #3, a-f, that are approved in writing by the BLM, MiFO Field Manager.

(4) Wildlife carcasses, birds, fish or other animal parts that are within 1/2-mile of any camp or sleeping area will be stored in a bear-resistant manner during nighttime hours:

(a) If a wildlife carcass is within an attended camp during daytime hours it may be on the ground.

SUPPLEMENTAL STIPULATIONS FOR OUTFITTERS USING RIDING OR PACKSTOCK

(1) Livestock use must be specifically provided for in the permit and operating plan.

(2) All riding and pack animals must be fed certified weed-free feed (certified weed-seed free by the County Weed and Pest Control) for 48 hours in advance of and for the duration of the trip on public lands. It is recommended that weed-free oats or pelleted feeds be used rather than hay. Forage products subject to this weed-free rule includes oats, hay, cubes or other pelleted feeds, straw and mulch.

(3) When the permittee is authorized to graze riding or pack stock on public lands, fees for that use will be based on rates prescribed under the grazing regulations, Code of Federal Regulations 4100.

(4) Riding and pack animals may not be tied for more than one hour to live trees.

(5) Do not tie, corral, or picket animals within 200 feet of any lake, stream, spring, main trail, or developed campground. If it is necessary to keep stock tied for any length of time, select a site where damage to vegetation is minimized.

(6) Permittees may not clean out stock trucks or trailers onto public land.

(7) All animals will be under control en route and in camp to protect wildlife, other livestock, and range forage.

(8) Corrals located on public lands may not be available for public or permittee use. Prior authorization is required for the use of such corrals.

(9) Lost or dead animals shall be reported within 48 hours of end of trip. An appropriate response will be determined by the Authorized Officer.

COMPLIANCE

Failure to comply with the stipulations of this permit will result in the cancellation of permit, denial for future permits, and possible legal action.

By signing below, applicant agrees to the Additional Stipulations listed as conditions of the Special Recreation Permit.

Applicant: _____

Date: _____

Total Days:

Total Gross Receipts:

I certify the above report is true, correct and complete accounting of all commercial activities conducted in conjunction with my Special Recreation Use Permit.

Signature, company representative

Date