

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

Categorical Exclusion/Cultural Resources Inventory Needs Assessment Form

CX#: DOI-BLM-NV-W030-2016-0003-CX

Date: 3/2/2015

Lease / Case File / Serial #: N-94601

Regulatory Authority (CFR or Law): 2800

BLM Manual: 2800

Subject Function Code: 2870

Is the project located within a Greater-Sage Grouse
Priority Habitat Management Area ? Yes No

Is the project located within a Greater-Sage Grouse
General Habitat Management Area? Yes No

Is the project located within a Greater-Sage Grouse
Other Habitat Management Area? 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: Julie McKinnon

3. Project Title: Water Pipeline for Quarry

4. Applicant: US Gypsum

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

US Gypsum has submitted an application for a water pipeline and access road. The water pipeline provides water to US Gypsum's quarry for mining operations on private land. This pipeline has been in existence since approximately the early to mid-1960's as evidenced by their certificate of appropriation of water 5304 and its source is a number of springs in the vicinity of the quarry and was upgraded to PVC in the 1990's. The quarry is located south of Empire, Nevada, in about the middle of the Selenite Range, near Luxor Peak.

The pipeline is a 2inch piece of PVC approximately 1,250 feet in length buried within in an existing access road used to access the springs and other private lands above the quarry. The existing access road is approximately 12 wide.

Maintenance activities would include cleaning and replacing the collection boxes, repairing and replacing the buried water pipeline, and maintenance of the access road within the

CX#: DOI-BLM-NV-W030-2016-0003-CX

Applicant: US Gypsum

Project Title: Buried Water Pipeline and Access Road

existing footprint.

If approved, this application would be permitted for 30 years with a right to renew or until relinquished.

Project dimensions (length, width, height, depth): 12' x 1,250'

Total Acres: 0.344

BLM Acres: 0.344

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):

6. Legal Description: T30 N., R. 24 E., sec. 6, NW¼NE¼

USGS 24k Quad name: Kumiva Peak

100k map name: Kumiva Peak

Land Status: BLM Private Other_____.

Part I: Plan Conformance Review

The Proposed Action is subject to the:

- Resource Management Plan for the Winnemucca District Planning Area (May 21, 2015) as amended by the Record of Decision and Nevada and Northeastern California Greater Sage-Grouse Approved Resource Management Plan Amendment (September 21, 2015)
- Black Rock Desert-High Rock Canyon Emigrant Trails NCA and Associated Wilderness and Other Contiguous Lands in Nevada RMP (July 2004)

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

Objective LR 6: pursuant to section 302, 501 and 503 of the FLPMA, grant ROWs over public lands while protecting natural resources.

Action LR 6.1: Grant, issue, or renew ROWs over, upon or through public lands.

The proposed action is in conformance with the RMP, even though it is not specifically provided for, because it is clearly consistent with the following RMP 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. Realty 16: Acquisition of easements for an existing road or issuance of leases, permits, or rights-of-way for the use of existing facilities, improvements, or sites for the same or similar purposes.

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"/>	Sand Cholla, Tonopah milkvetch, Nevada Oryctes, and Nevada dune beardtongue	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	If no new surface disturbance, than no mitigation needed. If new surface disturbance, outside the existing footprint of the road, a special status plant survey is required for the entire new disturbance area prior to construction. 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.
<input type="checkbox"/>	<input type="checkbox"/>	See Migratory Bird List Table 2	<input type="checkbox"/> Yes <input type="checkbox"/> No	See Table 2
<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 (<i>Scientific</i>) Name	May Be Affected?	Recommended Mitigation (The following stipulation(s) is/are recommended to be applied to the authorization)
<p>Migratory bird species associated with areas characterized by sagebrush vegetative communities may include: black-throated sparrow (<i>Amphispiza bilineata</i>), Brewer’s blackbird (<i>Euphagus cyanocephalus</i>), Brewer’s sparrow (<i>Spizella breweri</i>), canyon wren (<i>Catherpes mexicanus</i>), gray flycatcher (<i>Empidonax wrightii</i>), green-tailed towhee (<i>Pipilo chlorurus</i>), rock wren (<i>Salpinctes obsoletus</i>), sage sparrow (<i>Amphispiza belli</i>), sage thrasher (<i>Oreoscoptes montanus</i>), western meadowlark (<i>Sturnella neglecta</i>), Western burrowing Owl (<i>Athene cunicularia</i>) and vesper sparrow (<i>Pooecetes gramineus</i>) (Great Basin Bird Observatory, 2003).</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	<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, 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.</p>
	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	

	<input type="checkbox"/> Yes <input type="checkbox"/> No	
--	---	--

Mitigation Measures/Remarks (The following stipulation(s) is/are recommended to be applied to the authorization):

Any maintenance activity that occurs from March 1st – August 31st would require a migratory nesting bird survey.

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, 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.

If no new surface disturbance, than no mitigation needed. If new surface disturbance, outside the existing footprint of the road, a special status plant survey is required for the entire new disturbance area prior to construction. 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.

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 Resource Management 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 /s/William Mack, Jr. Date: 5/3/16
(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 William Mack, Jr., Black Rock, 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.

CX#: DOI-BLM-NV-W030-2016-0003-CX
Applicant: US Gypsum
Project Title: Buried Water Pipeline and Access Road

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)).

