

Worksheet
Determination of NEPA Adequacy (DNA)
U.S. Department of the Interior
Bureau of Land Management

OFFICE: Black Rock Field Office, Winnemucca District Office

TRACKING NUMBER: DOI-BLM-NV-W030-2013-0013-DNA

CASEFILE/PROJECT NUMBER: LLNVW03500-13-01

PROPOSED ACTION TITLE/TYPE: Burning Man 2013-2016 Special Recreation Permit

LOCATION/LEGAL DESCRIPTION: T. 34 N, R 24 E. sec 36.

APPLICANT: Black Rock City, LLC.

A. Description of the Proposed Action with attached map(s) and any applicable mitigation measures.

The Bureau of Land Management, Winnemucca District (BLM) proposes changes to the Burning Man 2012-2016 Special Recreation Permit Stipulations. Black Rock City LLC (BRC) proposes, based on application NVW03500-13-01, a multi-year (2013-2016) Burning Man Event SRP and associated maximum participant population level of 68,000 for the 2013 event. The event would be held on public lands managed by the BLM in Pershing County, Nevada on the Black Rock Desert playa, approximately 10 miles northeast of the community of Gerlach, Nevada.

In 2012, the Burning Man 2012-2016 Special Recreation Permit Environmental Assessment (EA), DOI-BLM-NV-W030-2012-0007, was completed for the Burning Man Event. The Decision Record (DR) and the Finding of No Significant Impact (FONSI) are dated 06/12/2012. One of the conditions of the DR was that:

“The SRP for the 2012 event may only be for a one-year permit, rather than a five-year permit as proposed. Should Black Rock City LLC comply with the terms and conditions of their 2012 permit, issuance of a multi-year permit for 2013-2016 may be considered.”

The SRP Evaluation completed in 2012 found BRC to be in compliance with special stipulations and eligible for a multiple year permit for the remaining four years that were analyzed in the EA. Although BRC is now eligible for a multi-year permit, “Authorization for any events during the 2012-2016 periods is subject to a separate SRP decision.” (2012 DR Condition)

The 2012 DR and the 43 CFR §2930 *Permits for Recreation on Public Lands* call for an evaluation of stipulations:

“Prior to issuance of any year’s SRP decision, a detailed review and evaluation of the previous year’s event will be conducted; as necessary, the special stipulations will be modified (subject to NEPA) to address issues and concerns raised during the previous event or otherwise identified for the applicable year’s event. (2012 DR Condition)

The federal regulations for Special Recreation Permit administration provide for amending special stipulations "if necessary to protect public health, public safety, or the environment." 43 CFR 2932.56 (a).

In addition to the 13 general terms listed on the back of permit form 2930-01, the authorized officer may require the permittee to comply with any reasonable special stipulations or conditions necessary to protect the lands or resources involved, reduce user conflicts, or minimize health and safety hazards.

To achieve the above goals, the BLM in coordination with BRC reevaluated all the stipulations set forth in the 2012 DR to ensure that a 2013 Special Recreation Permit would adequately address issues of public safety and environmental protection. Following a detailed review and evaluation of BRC’s 2012 SRP, the authorized officer in coordination with BRC, and in consultation with Pyramid Lake Paiute Tribe and Nevada Department of Transportation determined there was need to modify the Burning Man 2012-2016 Special Recreation Permit Stipulations. The commencement and ending dates for the 2013 event are proposed to be August 12 through September 13, with the actual event occurring August 26 through September 2, 2013.

With respect to a determination of maximum population to be allowed for any specific event year, the 2012 DR specified the following condition be applied to any SRP issued.

“Each year’s SRP decision and/or the special stipulations attached thereto will specify the maximum population allowed for that year’s event. The maximum population authorized in any year may not exceed 70,000 participants, as that term is defined in the EA, unless the requisite additional NEPA analysis is completed.” (2012 DR Condition)

To view the Burning Man 2012-2016 SRP Special Stipulations refer to the Winnemucca District NEPA webpage. The following table identifies the Burning Man 2012-2016 SRP Special Stipulations by number and indicates what, if any, changes would be made. A detailed description of proposed changes follows the table:

2012-2016 Stipulation #	Proposed 2013-2016 Changes	2012-2016 Stipulation #	Proposed 2013-2016 Changes
1	No Change.	26	Language change proposed and would be identified as #25.
2	No Change.	27	Would be identified as #26.
3	No Change.	28	Language change proposes would be identified as #27.
4	No Change.	29	Would be identified as #28.
5	No Change.	30	Would be identified as #29.
6	No Change.	31	Would be identified as #30.
7	No Change.	32	Would be identified as #31.
8	Language change proposed.	33	Would be identified as #32.
9	No change proposed.	34	Would be identified as #33.
10	No change proposed.	35	Would be identified as #34.
11	No change proposed.	36	Language clarified and identified as #35.
12	Stipulation language would be altered. See discussion below.	37	Would be identified as #36.
13	Language change proposed.	38	Language clarified and identified as #37.
14	No change proposed.	39	Language clarified and identified as #38.
15	No change proposed.	40	Would be identified as #39.
16	No change proposed.	41	Language clarified and identified as #40.
17	Language change proposed.	42	Language clarified and identified as #41.
18	No change proposed.	43	Stipulation would be removed, see discussion below.
19	No change proposed.	44	Would be identified as #42 and stipulation language would be modified. See discussion below.
20	Stipulation would be removed, see discussion below.	45	Language clarified and identified as #43.
21	Would be identified as #20.	46	Would be identified as #44 with language changes proposed.
			New Stipulation #45
22	Would be identified as #21.	47	Would be identified as #46.
23	Would be identified as #22 Language change proposed.	48	Would be identified as #47.

2012-2016 Stipulation #	Proposed 2013-2016 Changes	2012-2016 Stipulation #	Proposed 2013-2016 Changes
24	Would be identified as #23.	49	Would be identified as #48.
25	Would be identified as #24.	50	Would be identified as #49 with language changes proposed.

The following are the proposed changes to the Burning Man 2012-2016 SRP Special Stipulations and once approved would be referred to as the Burning Man 2013-2016 SRP Special Stipulations.

8. BRC shall post a copy of its permit, these Special Stipulations, and the Federal Register Closure and Restriction Orders in prominent view at Center Camp Playa Info where cooperators and participants have an opportunity to read them. Additionally the documents referenced above shall also be available for participants and staff on the Burning Man website within 15 days of the BLM’s issuance of the permit.

12. This stipulation would be written as follows: Commercial use is prohibited within the Black Rock City closure area unless specifically authorized by BRC and the BLM. Commercial use is defined by 43 C.F.R. § 2932.5, and includes, but is not limited to, commercial film production, food services, waste disposal, recreational/trailer rental and/or air carrier services.

BRC and BLM will monitor all commercial operators entering the event via the Point 1 Gate and the Airport through the Outside Services (OSS) and Airport (AIR) programs.

- A. Prior to the event:
 - i. BRC shall notify all potential OSS and AIR operators in writing that they must obtain a BLM Special Recreation Permit (SRP) in order to enter into contract with BRC.
 - ii. BRC shall also provide the BLM with a list of all potential OSS and AIR operators that BRC recommends be granted a BLM SRP to operate at the event.
 - iii. The BLM will immediately notify BRC if any recommended OSS and AIR operators do not meet the BLM’s SRP requirements at 43 C.F.R. § 2932 and cannot be authorized to operate on public lands during the event.
 - iv. BRC will immediately notify the BLM if BRC terminates any authorized OSS or AIR operator’s contract/agreement.

- v. BRC will describe the procedure for BRC and BLM coordination of authorizing OSS and AIR operators in the 2013 BRC Operating Plan.

B. During the event:

- i. BRC shall require all authorized OSS and AIR operators to display identification as proof of their authorization to operate at the event by BRC and the BLM.
- ii. Any OSS and AIR operators must show proof of their SRP within a reasonable amount of time when asked by authorized BLM and BRC personnel, as required by the Closure Order(s).
- iii. BRC will inform the BLM's Event Project Manager of unauthorized OSS and AIR operators discovered at the event.
- iv. Any OSS and AIR operators found operating unpermitted by BRC and/or the BLM at the event will be found to be in noncompliance and will face eviction and/or citations for noncompliance in accordance with 43 C.F.R. § 2932.

13. BRC shall cooperate with the BLM when requested to assist in removing individuals from the event as provided in 43 C.F.R. § 2932.57(a)(7). If BRC evicts anyone under BRC's internal procedures, BRC will notify the BLM of the eviction and identify the evicted individual(s). BRC shall work with the BLM to develop a joint protocol for evictions, which will be documented in the 2013 BRC Operating Plan.

17. BRC shall ensure there are an adequate number and suitable placement of toilets as needed throughout Black Rock City according to BRC's Operation Plan. Due to the increase in population anticipated in the Environmental Analysis for this event, sufficient portable toilets must be supplied at areas likely to be used after dark. BRC shall ensure the toilets in the open playa are adequately and prominently lit and visible during nighttime activities. BRC shall continue to educate the event participants regarding the importance of appropriate disposal of human waste.

20. It is proposed to remove this stipulation in consultation with NDOT and the Pyramid Lake Paiute Tribe. The stipulation that would be removed is as follows: Speed limit trailers shall be installed in Gerlach, Empire, and Nixon to encourage drivers to maintain the legal speed limit. Speed limit trailers act as a traffic calming device by displaying a driver's speed as they pass by the trailer.

22. BRC shall complete formal agreements with all affected parties, including Pershing County Sheriff's Department, Washoe County Sheriff's Department, Nevada Department of Public Safety-Nevada Highway Patrol, and Nevada Department of Health and Human Safety, for the purpose of addressing concerns and impacts associated with social services (e.g., law enforcement and emergency medical services and physical infrastructure, transportation systems, and human waste disposal).

Written evidence of these agreements showing compliance with this stipulation must be provided to the BLM by BRC 15 days prior to the start of the event.

26. This stipulation would be identified as #25 and written as follows: BRC LLC shall allow any tow truck, licensed to operate in the State of Nevada, access to the event through the 12-mile access vendor's gate for the purpose of removing vehicles in need of repair, and/or to carry out minor repairs to allow inoperable vehicles to be driven away from the event. Such minor repairs include replacing hoses and drive belts, or the repair or replacement of tires.

Within 10 days of the issuance of the permit, BRC LLC shall contact local tow companies known to respond to this event, including those in Gerlach and Fernley, Nevada, and advise them of the process to enter the event without delay in order to respond to calls for service.

28 This stipulation would be identified as # 27 and reads as follows: In cooperation with emergency services providers and law enforcement agencies, BRC shall, within a reasonable time after learning of them, notify the BLM and appropriate agencies of all accidents related to the event that occur before, during, and after the event, that result in death or personal injury requiring hospitalization. Accident reports involving death or injury will be coordinated with the Pershing County Sheriff's Office and the BLM.

36. This stipulation would be identified at # 35 and written as follows: BRC's Traffic Management Plan shall be expanded to include more detail on ingress and egress. This plan will be approved by the BLM authorized officer.

38. This stipulation would be identified at # 37 and written as follows BRC shall cooperate with Washoe County Sheriff's Office and NDOT to request a temporary speed limit reduction through the town of Empire. The BLM recommends that a maximum speed limit of 25 mph. A reduced speed limit would improve the safety of parking along SR-447 through Empire and pedestrians crossing the roadway.

39. This stipulation would be identified at # 38 and written as follows: A copy of all necessary permits for encroachment within NDOT, and county right-of-ways for temporary traffic control measures (i.e. speed limit trailers, etc.) shall be provided to the BLM and to appropriate agencies/jurisdictions by BRC 30 days prior to the start of the event.

41. This stipulation would be identified at # 40 and written as follows: To reduce impacts to the Pyramid Lake Paiute reservation located along the access routes, BRC shall coordinate with the Pyramid Lake Paiute Tribe. BRC shall work with the Pyramid Lake Tribe in developing the applicant's plan to increase public awareness and educational campaigns about Leave No Trace® on tribal land, including for example, signage on roads, Public Service Announcements on BMIR, blog-posts, etc. Also, BRC shall continue to support and promote tribal enterprises that are setup to collect participant trash and recycling for a fee, which also helps with economic benefits of the Region.

42. This stipulation would be identified at # 41 and written as follows: BRC agrees to enter into a formal agreement with the Pyramid Lake Paiute Tribe. BRC shall submit a draft agreement to the BLM before it signs any such agreement.

43. This stipulation would be removed based on consultation with NDOT and the Pyramid Lake Paiute Tribe.

44. This stipulation would be identified at # 42 and written as follows: Black Rock City LLC is responsible for the cost recovery payment, consisting of the actual costs of administering the Special Recreation Permit, including all direct and indirect costs, in addition to the commercial use fees. BRC must sign a Cost Recovery Agreement within 10 days of the issuance of the permit. 100% of the cost recovery fee estimate shall be received prior to the start of the event as provided in the Cost Recovery Agreement.

This stipulation would be identified as #42 and written as follows: The BLM shall collect a commercial use fee from BRC for the use of public lands for the event. The fee, as set by regulation 43 C.F.R. § 2930, will be equal to 3% of the adjusted gross income derived from the use authorized under the SRP. Payment equal to at least 25% of the estimated commercial use fees (3% of estimated gross receipts) must be received by the BLM prior to the start of the event.

Determination of gross income will be based on all payments received by BRC and its employees or agents for goods or services provided in connection with commercial activities authorized by the SRP.

This includes, but is not limited to, ticket sales, coffee and ice sales, fees associated with outside services and private donations received by BRC for management of the event on public lands. The following schedule for payments will be used:

Payment	Due Date	Amount Due
#1	10 days after permit is issued by the BLM	25% of estimated commercial use fees
#2	January 31 st , 2014	The remaining balance of commercial use fees

45. This stipulation would be identified at #43 and written as follows :Black Rock City LLC is responsible for the cost recovery payment, consisting of the actual costs of administering the Special Recreation Permit, including all direct and indirect costs, in addition to the commercial use fees. BRC must sign a Cost Recovery Agreement within 10 days of the issuance of the permit. 100% of the cost recovery fee estimate shall be received prior to the start of the event as provided in the Cost Recovery Agreement.

46. This stipulation would be identified as #44, and written as follows: BRC's operation and compliance with the terms, conditions and stipulations of the Special Recreation Permit, Form 2930-2 will be evaluated through performance inspections before, during, and following the event.

A new stipulation would be identified as #45 and written as follows: The BLM and BRC shall jointly monitor environmental protection measures identified in these Special Stipulations, the temporary closure order, and BRC's operating plan. BRC personnel shall participate in a combined Environmental Compliance Team, which will be responsible for monitoring environmental protection measures within the closure area during the entire event. The Environmental Compliance Team is collaboration between the BLM, BRC's Earth Guardians, BR Rangers, ESD/Fire Safety, and Playa Restoration. Each of these BRC departments will work through a central point person with BLM to document and mitigate all violations of environmental protection measures within 36 hours of the violation being brought to BRC's attention. The 2013 BRC Operating Plan shall describe the monitoring, communication, and mitigation protocols for the Environmental Compliance Team that will include, but are not limited to:

- A. Trash fence integrity;
- B. Appropriate campfire containment measures and prohibitions;
- C. Protection of archaeological resources;
- D. Camping within designated areas only;
- E. Grey and black water dumping prohibitions;
- F. Proper trash removal and cleanup;
- G. Mitigation of vehicle oil dripping;
- H. Promotion of Leave No Trace ethics;
- I. Motorized vehicle, motorcycle and ATV limitations and prohibitions as they relate to environmental compliance and possible impacts; and
- J. Appropriate disposal of human waste.

B. Land Use Plan (LUP) Conformance

The proposed action in conformance with the applicable LUP because it is specifically provided for the following LUP decisions:

Resource Management Plan for Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area and Associated Wilderness, and other Contiguous Lands in Nevada. **Date Approved: July 2004**

The Resource Management Plan (RMP), approved July, 2004 for the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area and Associated Wilderness, and other Contiguous Lands in Nevada, currently guides management of the Black Rock Desert (BLM, 2004a).

The following RMP recreation decisions were cited in the Burning Man 2012-2016 Special Recreation Permit EA, DOI-BLM-NV-W030-2012-0007, and are cited again here because of the relevance of this action to the Burning Man Special Use Permit. As this action is needed for the implementation, and therefore an integral feature of the Burning Man Special Use Permit, these decisions are relevant.

Recreation decisions REC-21 through REC-27 apply to the issuance of special recreation permits:

REC-21: All recreation permittees will be required to adhere to Tread Lightly! and Leave-No-Trace® principles. Permit stipulations will emphasize the Tread Lightly! and Leave-No-Trace® principles.

REC-22: Permits will be assigned to one of four classes of permitted activities (I through IV). A description of the classification system is provided in Appendix J of the RMP. (The Burning Man event is a Class IV event).

REC-23: SRPs will be limited to certain geographic areas based on the permit class that the proposal is given. (See Table 2-9 and Map 2-15 of the RMP). (Class IV events, which are the largest events, are allowed in the Permit area of the Front Country Zone).

REC-24: To maintain solitude on northern portions of the playa, Class III and IV permitted activities will be concentrated on or near the South Playa. Northern portions of the playa may be made available for Class III and IV permits when playa conditions are unsuitable or public safety or public access may be compromised.

REC-25: Special recreation permits will be authorized at times, in locations and for durations consistent with providing opportunities for solitude and full public access to the playa for at least one-half of the summer season (Memorial Day through Labor Day). The number of Special Recreation Permits issued could be limited to protect resources or the visitor experience.

REC-26: Two Class III and IV events may occur simultaneously, but only one may be a Class IV event.

REC-27: No more than two access points to the playa will be closed on the same weekend in conjunction with permitted events. (Issuance of a permit for the Burning Man event would be consistent with the RMP).

C. Identify applicable National Environmental Policy Act (NEPA) documents and other related documents that cover the proposed action.

DOI-BLM-NV-W030-2012-0007-EA, Burning Man 2012-2016 Special Recreation Permit; DR dated 06/12/2012 and FONSI dated 06/12/2012.

D. NEPA Adequacy Criteria

1. Is the new proposed action a feature of, or essentially similar to, an alternative analyzed in the existing NEPA documents(s)? Is the project within the same analysis area, or if the project location is different, are the geographic and resource conditions sufficiently similar to those analyzed in the existing NEPA document(s)? If there are differences, can you explain why they are not substantial?

Yes. The event portion, including proposed population, of this action was analyzed in the 2012-2016 Burning Man EA. The proposed modifications of the stipulations are consistent with and meet intent of the stipulations developed in this EA.

2. Is the range of alternatives analyzed in the existing NEPA documents(s) appropriate with respect to the new proposed action, given current environmental concerns, interests, and resource values?

Yes. Environmental Concerns and Resource Values:

The alternatives analyzed in 2012 are appropriate for this action.

The magnitude and duration of this proposal is within the same scope of the 2012-2016 Burning Man EA and therefore does not warrant further development of alternatives.

3. Is the existing analysis valid in light of any new information or circumstances (such as, rangeland health standard assessment, recent endangered species listings, updated lists of BLM-sensitive species)? Can you reasonably conclude that new information and new circumstances would not substantially change the analysis of the new proposed action?

Yes. At the present time, there is no new information or changed circumstances that would substantially change from the existing analyses. The information used to support the 2012-2016 EA analysis was conducted in 2011 and 2012 making the information very current. Results of monitoring of the 2012 event determined the permittee to be in compliance with the 2012 stipulations that were developed in the existing analysis.

4. Are the direct, indirect, and cumulative effects that would result from implementation of the new proposed action similar (both quantitatively and qualitatively) to those analyzed in the existing NEPA document?

Yes. At the present time, there is no new information or changed circumstances that would substantially change from the direct, indirect or cumulative effects analyzed in the

existing EA's. The magnitude and duration of this proposal is within the same scope of the 2012-2016 Burning Man EA and therefore does not warrant further analysis.

5. Are the public involvement and interagency review associated with existing NEPA document(s) adequate for the current proposed action?

Yes, the public involvement and interagency reviews associated with the existing NEPA documents are adequate for the current proposed action. The decision based on this DNA will be shared with those involved with the Burning Man EA as well as Burning Man Cooperators. The decision record will be posted for the general public in ePlanning with a link from the Winnemucca District webpage.

Burning Man Preliminary EA

On March 16, 2012, the Preliminary EA was posted on the Winnemucca District Office NEPA webpage for a 30-day public review period. In addition, BLM sent out a letter to interested parties requesting substantive comments on the Preliminary EA by April 16, 2012. In response, BLM received 42 comment letters from agencies, organizations, businesses, and individuals. As a result of substantive comments from the applicant, NDOT, Pyramid Lake Paiute Tribe, and individuals, revisions were made to the EA. For a list of notable modifications that were made to the EA in response to substantive comments, see the 2012 DR.

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E. Persons/Agencies/BLM Staff Consulted

Name /Title	Resource/Agency Represented	Signature/Date	Comments (Attach if more room is needed)
Kathy Ataman	Cultural Resources	\S\ Kathryn Ataman 6/11/13	
Gerald Dixon and Greg Page	Native American Religious Concerns	\S\ Gerald Dixon 6/11/13 \S\ Greg Page 6/11/13	
Kathy Ataman	Paleontological Resources	\S\ Kathryn Ataman 6/11/13	
Greg Page	Recreation	\S\ Greg Page 6/11/13	
Angie Arbonies	Rangeland Management	\S\ Angela Arbonies 6/10/13	
Joey Carmosino	Visual Resource Management	\S\ VJ Carmosino 6/10/13	
John Callan/Jim Weiser	Waste, Hazardous or Solid	\S\ John L Callan 6/10/13 \S\ Jim R Weiser 6/10/13	
Eric Baxter	Invasive, Non-native species (plants & animals)	\S\ Eric Baxter 6/10/13	
Rob Burton	Soils	\S\ Rob Burton 6/10/13	
Rob Burton	Vegetation	\S\ Rob Burton 6/10/13	
John McCann	Hydrology	\S\ John W McCann	No comments
Rob Burton	Air Quality	\S\ Rob Burton 6/10/13	
Kathy Cadigan	T&E Species (plants & animals)	\S\ K. Cadigan 6/10/13	
Kathy Cadigan	General Wildlife Habitat	\S\ K. Cadigan 6/10/13	
Melanie Mirati	Wild Horse and Burro	\S\ Melanie Mirati 6/10/13	
Kathy Ataman	NCA	\S\ Kathryn Ataman 6/24/13	
Kristine Struck	Wilderness	\S\ Kristine Struck 6/10/13	
Kristine Struck	Wilderness Study Areas	\S\ Kristine Struck 6/10/13	
Josh Sidon	Environmental Justice	\S\ Josh Sidon 6/10/13	
Josh Sidon	Social Values	\S\ Josh Sidon 6/10/13	
Josh Sidon	Economics	\S\ Josh Sidon 6/10/13	
Allie Brandt	GIS	\S\ Allie Brandt 6/10/13	
Kristine Struck	LWC	\S\ Kristine Struck 6/11/13	
Mark Turney	Public Outreach	\S\ Mark Turney 6/11/13	Not required
	Scoping	\S\ Mark Turney 6/11/13	Not required
	Website	\S\ Mark Turney 6/11/13	Post after completion

	Comment Period	\S\ Mark Turney 6/11/13	Not required
	Press Release	\S\ Mark Turney 6/11/13	Release after completion
Lynn Ricci	NEPA Coordinator	\S\ Lynn B Ricci 6/25/13	

Note: Refer to the EA/EIS for a complete list of the team members participating in the preparation of the original environmental analysis or planning documents.

Conclusion *(If you found that one or more of these criteria is not met, you will not be able to check this box.)*

Based on the review documented above, I conclude that this proposal conforms to the applicable land use plan and that the NEPA documentation fully covers the proposed action and constitutes BLM' compliance with the requirements of the NEPA.

\S\ Greg Page
Signature of Project Lead

\S\ Lynn B Ricci
Signature of NEPA Coordinator

\S\ Gene Seidlitz
Signature of the Responsible Official

7/23/13
Date

Note: The signed Conclusion on this Worksheet is part of an interim step in the BLM's internal decision process and does not constitute an appealable decision. However, the lease, permit, or other authorization based on this DNA is subject to protest or appeal under 43 CFR Part 4 and the program-specific regulations.