



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

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ELY DISTRICT CATEGORICAL EXCLUSION REVIEW AND APPROVAL

Team Leader Kalem Lenard

Date: 11/13/2007

Name of Proposed Action

Western Pyrotechnic Association

CX Number NV-040-08-17 Project or Serial Number

CATEGORICAL EXCLUSION REFERENCE

Cite the Departmental Manual and date, and reference the appropriate categorical exclusion.

Federal Register / Vol. 72, No. 156/ Tuesday, August 14, 2007

Cite the Categorical Exclusion (exactly as it appears in the Departmental Manual)

H. Recreation Management

(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).

DESCRIPTION OF PROPOSED ACTION AND STANDARD OPERATING PROCEDURES

The Western Pyrotechnic Association (WPA) proposes to have an event, limited to group members, where they will launch aerial fireworks in the form of rockets. The event will be held at the Delamar Dry Lake, Lincoln County the dates of Thursday May 14 through Sunday May 19, 2008. The group will be camped at a site adjacent to the

launch area. It is anticipated that there will be a total of 30 members at the site. Public is not invited to the launch site, but may view the activity from a distance.

Special Recreation Permit (SRP) Stipulations 1-16 on the application (form 2930-1), and Special Stipulations 17-49 Attachment A are used as SOP for use of public lands. Use of the dry lake for this type of event will help mitigate fire issues and provide visual assurance of no unauthorized persons in the area. High winds will cause the event to be shut down.

The specialists listed in table 1 (below) were involved in reviewing the proposed action for impacts and the screening questions (Table 2) for Categorical Exclusions.

Table 1: Specialist involved in reviewing the proposed action for exceptions to National Environmental Policy Act Categorical Exclusions

| NAME | RESOURCE ASSIGNED |
|-----------------|--|
| Kari Harrison | Soils, Water Quality, Floodplains, and Riparian/Wetlands |
| Bonnie Waggoner | Invasive, Non-Native Species |
| Troy Grooms | Range |
| Lynn Wulf | Arch/Historic/Paleontological |
| Alicia Styles | Wildlife, Migratory Birds, Special Status Species |
| Kalem Lenard | Recreation, VRM |
| Elvis Wall | Native American Religious |
| Ty Mizer | Fire/Fuels Management |
| Joe David | Environmental Coordination |

**Table 2
SCREENING FOR EXCEPTIONS TO CATEGORICAL EXCLUSIONS**

| The following exceptions apply to actions being considered as categorically excluded. Environmental documents must be prepared if any of these exceptions apply. Place an "X" in appropriate box. Would the proposed action: | Yes | No |
|--|------------|-----------|
| 1. have significant adverse effects on public health or safety? | | x |
| 2. have adverse effects on such unique geographic characteristics as historic or cultural resources, park, recreation or refuge lands, wilderness areas, wild or scenic rivers, sole or principal drinking water aquifers, prime farmlands, wetlands, floodplains, or ecologically significant or critical areas, including those listed on the Department's National Register of Natural Landmarks? | | x |
| 3. have highly controversial environmental effects? | | x |
| 4. have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks? | | x |
| 5. establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects? | | x |
| 6. be directly related to other actions with individually insignificant but cumulatively significant environmental effects? | | x |
| 7. have adverse effects on properties listed or eligible for listing on the National Register of Historic Places? | | x |
| 8. have adverse effects on species listed or proposed to be listed on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species? | | x |
| 9. require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act? | | x |
| 10. threaten to violate a Federal, State, local or tribal law or requirement imposed for the protection of the environment? | | x |

FINDINGS

Based on review of the proposal and the 10 exceptions listed above, this action qualifies as a categorical exclusion and environmental analysis is not required. The proposed action is in conformance with current BLM Land Use Plans.

Approving Official: _____ Date: _____

Jeff Weeks

Assistant Field Manager, Non-Renewable Resources

Attachment A - Special Stipulations*

Stipulations #1-16 are located on the back side of the SRP Permit (form 2930-1).

Standard Race Stipulations

17. For All Events: The permittee shall comply with all Federal, State, County and local governmental agencies having jurisdiction, ordinances, regulations, orders, postings, or written requirements applicable to the area or operations covered by the special recreation permit. The permittee must contact and receive concurrence and license, where required, from all other federal, state, county and local governmental agencies having jurisdiction. 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 or customers under the permittee's supervision.
18. For All Events: A SRP represents a nonexclusive privilege authorizing 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 the amount of use. The authorized officer may suspend a SRP if necessary to protect public resources, health, safety, the environment, or in the event of noncompliance with permit stipulations.
19. For All Events: 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.
20. For All Events: A SRP only authorizes the use, for the time and in the area, as specifically described therein.
21. For All Events: 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.

22. For All Events: The permittee may not assign or sublease any portion of the permit authorization or interest therein, directly or indirectly, voluntarily or involuntarily. However, contracting of equipment or services may be approved by the authorized officer in advance, if necessary, to supplement a permittee's operations. Permit use is not considered here to be a "service" and cannot be contracted. Such contracting should not constitute more than half the required equipment or services. If equipment or services (excludes use under permit) are contracted, the permittee shall continue to be responsible for compliance with all stipulations and conditions of the permit.
23. For All Events: 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.
24. For All Events: The permittee must assume responsibility for inspecting the permitted area for any existing or new hazardous conditions, e.g., 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.
25. For All Events: Unless specifically authorized, a SRP does not authorize the permittee to erect, construct, or place any building, structure, or other fixture on the public lands. Any use of the public lands is subject to the condition that upon leaving, the lands must be restored as nearly as possible to preexisting conditions.
26. For All Events: The permittee must present or display a copy of the special recreation permit to a participant, authorized officer's representative, or law enforcement personnel upon request.
27. For All Events: 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 the expiration of the permit.
28. For All Events: Trash, food items and event-related litter shall be promptly contained and removed from the event area immediately upon completion of the event. The permittee shall dispose of refuse resulting from the permitted use, including flagging, signs, waste materials, garbage, and rubbish of all kinds, and shall guard the purity of streams and other surface waters.
29. For Race Events: Unless otherwise stated the race course shall be confined entirely to a clearly-defined and plainly-marked route as shown on the authorized course maps, consisting of existing roads, washes, old courses and trails. Passing shall be limited to the disturbed areas of these roads, washes, old courses and trails. Passing is not permitted in vegetated

30. For Race Events: The race course and pit area shall be confined entirely to disturbed areas only. The boundaries shall be clearly marked and monitored to the extent necessary to restrict pit crews/spectators and others to the confines of the designated pit and start/finish areas. All course workers must stay in areas assigned. Stakes, flagging materials, equipment, temporary facilities, and all other event-related materials must be removed after the event. The permittee will be responsible for marking the race course and boundaries of spectator parking and pit areas to the satisfaction of the authorized officer. The permittee will not mark the course by painting rocks or plants or other land features.
31. For All Events: The permittee shall do everything possible to insure that event participants and spectators do not harass or collect wildlife, plants, or livestock.
32. For Race Events: Race officials shall monitor the race to prevent damage from course cutting and participants traveling off course. The permittee shall establish race course checkpoints to prevent short-coursing. Any rider caught short-coursing or passing in no passing areas will be disqualified by race officials. The permittee will be responsible for keeping contestants on the designated route/course. Participants who violate any of the mitigation measures or stipulations shall be disqualified from the race. Additionally, any support personnel or spectators found in violation of the stipulations, associated with a rider or riders shall result in the disqualification of that rider or riders. The permittee will be responsible for public safety in the event area.
33. For All Events: The permittee is required to post warning signs, at all known mine shafts and other hazardous areas which occur within 100 feet of the race course or pit/spectator area and will verbally inform race participants of all hazards at the pre-race meeting.
34. For All Events: All children and animals of course workers shall be limited to their designated area only.
35. **Recreation Use Permit First Aid Stipulation for OHV events involving enclosed canopy motor vehicles (Truck and buggy races, and movie stunts):** Permittee shall insure the provision of first aid services capable of locating, rendering aid to, and evacuating any accident victim. First aid service shall include an ambulance unit which is dedicated to the event and has no public call response responsibility, and is permitted by the local authority having jurisdiction. (Use of a public entity is permitted where no suitable private services capable of being Aevent dedicated@ are available or located within 100 miles of the main event site.) This unit shall only be acceptable if staffed and equipped to the local standards as prescribed by the authority having jurisdiction. A means of suppression of a fire in an incipient stage, and for the extraction of victims from within a motor vehicle must be provided, and remain dedicated to the event. This includes the provision of a hydraulically operated gas or electric powered tool system for the cutting and spreading operations related to victim extrication from vehicles. A reliable means for the first aid provider to contact

36. Staking, flagging materials, equipment, temporary facilities, litter and all other event related materials will be removed by the permittee within 15 working days following the event.
37. The race start will start in intervals, depending on class. Mass starts will be held on private ground or in approved sandy soil areas only.
38. The permittee shall make every effort to repair the race route to normal driveable conditions following the event. A Post Race Evaluation of the course will be completed by the Authorized Officer. Upon inspection, a determination will be made on which portions of the course, if any, need to be rehabilitated. The permittee will be required to completely rehabilitate resources listed in the Post Race Evaluation within 45 days of receiving the Post Race Evaluation.
39. This permit does not give permission to cross over or use any private lands during the event. The permittee will be fully responsible for all trespass on and/or damages to private land which result from the conduct of the event.
40. The use of improved trails on BLM land is permitted, but the right to use county, state or federal roads crossing BLM lands is neither granted, nor implied by the issuance of this permit.
41. The permittee will be responsible for the prompt repair of any race-related damages to utilities and related improvements to a condition which is at least as good as the condition just prior to the race. The permittee will be responsible for the repair and/or restoration of any improvements placed on public lands by BLM or its authorized users that may be damaged as a result of the event.
42. The permittee shall be responsible for ensuring that adequate sanitation facilities for participants and spectators are provided.
43. The permittee shall complete the post-race portion of the permit and return it to the Ely Field Office within fifteen (15) calendar days of the completion of the event. In addition, the permittee will immediately notify the Field Manager, or his Authorized Officer of any serious injuries or fatalities which occur in connection with the event. A written incident report will be submitted with the completed post-race portion of the permit. The Ely Field Office will provide a permittee incident report form which details all necessary information to be furnished for any serious injuries or accidents.
44. The permittee will do everything reasonable, both independently and/or upon request of the Authorized Officer, to prevent or suppress fires caused by the race or related activities on or near the lands utilized. Compensation may be required of the permittee for Federal, State, or private interests in suppression and rehabilitation expenses.

45. Use Fees shall be calculated at 3% of the adjusted gross fees collected or \$4.00 per event participant, whichever is greater. Gross receipts include the total income which has been generated from the permitted activity (on public lands) before deducting costs such as insurance, prizes, other permit or license fees, etc. Gross receipts would also include total supplemental monies collected through sponsor contributions, other donations, the sale of clothing, specialized equipment, or food or beverages (on public lands) when sold on an incidental basis at the permitted activity. Use Fees must be paid within (15) days following the event. If a Special Recreation Permit Application fee (\$80.00) has been charged in advance it will be deducted from the adjusted gross fees.
46. The permittee is responsible for clean-up and assumes liability for any and all releases of hazardous substances and or oil (more than one quart) disposed on public land as defined in the National Oil and Hazardous Substances Contingency Plan (40 CFR 300). Permittee will immediately notify the BLM Authorized Officer of any and all releases of hazardous substances and or oil (more than one quart) on public land.
47. The permit holder must follow the operations plan as submitted as part of the application.

Outfitter and Guide Stipulations

48. Permittees and event participants will promote and follow the Leave No Trace and Tread Lightly principles.
49. Permittees and event participants will take all precautions for weed prevention including, washing vehicles and undercarriages prior to attending the event.
50. The operation and maintenance of all sanitation, food-service, and water-supply methods, systems, and facilities shall comply with the standards of the Nevada Division of Health and the United States Public Health Service.
51. The permittee shall dispose of refuse resulting from the permitted use, including waste materials, garbage, and rubbish of all kinds in the following manners, and shall guard the purity of streams and other surface waters:
 - *Tin cans, spent brass, bottles, metal, foil, plastics, and other unburnable materials will be packed out, not buried. Ensure that all burnable materials are completely consumed by fire.
 - *Pit-type toilets or porta-johns, with or without tent covering, are mandatory at all camps having more than 10 people or being used more than one night. Toilet pits will be filled with earth when excrement reaches one foot below ground level, and a new pit will be dug. All pits will be treated with lime when in use, and will be covered with earth to the level of the original ground surface when use is terminated. Pit toilets will not be constructed in any designated wilderness area or WSA without prior written approval by BLM.

*No waste or byproducts shall be discharged if they contain any substances in concentrations that would result in substantial harm to fish and wildlife, or to human water supplies, including springs, streams, lakes, and reservoirs.

52. All types of open fires will be built only in areas that are presently free of vegetation. A general rule of thumb is to use a clear area at least 15 feet in diameter. No new fire rings will be made when existing rings are available in an area. Use of gas stoves or charcoal briquettes is encouraged, and packing of fuels may be necessary to supplement naturally available firewood. The use of fire pans is strongly encouraged.
53. No campfires will be left unattended. Permittees are solely responsible and liable for fire suppression costs for all wildfires which they, individuals under their employ, or event participants start.
54. Wildfires discovered should be reported immediately to the nearest emergency fire control office. The permittee is responsible for keeping all participants and employees informed of the current fire danger, and required precautions that may be placed into effect by BLM or the State of Nevada.
55. An axe, shovel, and water bucket must be available for fire control at the site of the event.
56. No permanent base camps may be established without prior authorization. A permanent campsite is a location used for a period of fourteen (14) consecutive days or longer.
57. No camps or other facilities, either permanent or temporary, will be set up in a designated wilderness area or WSA without prior written approval by BLM.
58. No live trees may be cut for use in constructing temporary facilities unless prior approval is given by the Authorized Official.
59. Cook tents, pit-type toilets, must be located at least 300 feet from the nearest spring source and at least 150 feet from other surface waters (lakes, streams, reservoirs, etc.). Camps must be located so as to avoid conflict with other users and should not block access on roads or trails.

Event Specific Stipulations

Cultural Resource Protection Stipulations

60. All event participants, staff, and volunteers will be informed that collection, excavation or vandalism of archaeological artifacts or sites is illegal on public land.
61. Should any cultural resource (historic or pre-historic site or object) be discovered by participants, staff, or volunteers of the event, on public or Federal land shall be immediately reported to the Authorized Officer and event activities in the discovery ceased. The

Authorized Officer will determine the appropriate actions to protect the site and notify the permittee when activities in the discovery vicinity may resume.

62. The permit holder shall comply with 43 CFR 7.18 and shall not make available to the public any information concerning the nature and location of any archaeological resource.
63. The permit holder will discourage event participants, staff, and volunteers from traveling to other cultural resources in the area during the event.

Desert Tortoise Stipulations

Biological Opinion on Certain Multiple-Use and Desert Tortoise Recovery Activities Proposed in the Caliente Management Framework Plan Amendment (1-5-99-F-450) with incorporated Standard Operating Procedures and Stipulations from the Caliente Management Framework Plan Amendment and Record of Decision for the Management of Desert Tortoise Habitat

REASONABLE AND PRUDENT MEASURES

The Service believes that the following reasonable and prudent measures are necessary and appropriate to minimize take of desert tortoise:

3. Measures shall be taken to eliminate or minimize take of desert tortoises and destruction of tortoise habitat resulting from management of recreation activities.
6. Measures shall be taken to minimize take of desert tortoises from potential tortoise predators attracted to project areas.
7. Measures shall be implemented to educate project personnel on the desert tortoise to eliminate or minimize potential impacts to desert tortoise and its habitat.
8. Measures shall be taken to ensure compliance with the reasonable and prudent measures, terms and conditions, reporting requirements, and reinitiation requirements contained in this biological opinion.

TERMS AND CONDITIONS

In order to be exempt from the prohibitions of section 9 of the Act, the Bureau must comply with the following terms and conditions, which implement the reasonable and prudent measures described above. These terms and conditions are non-discretionary.

3. To implement Reasonable and Prudent Measure Number 3, the Bureau shall fully implement the following terms and conditions to reduce impacts to desert tortoise and its habitat from management of recreation activities:
 - a. All ACECs will be closed to speed-competitive events and speed-based portions of OHV events.

b. For all events: Recreation Use Permits shall be required for all non-speed OHV events with 26 or more vehicles within desert tortoise ACECs and 50 or more vehicles outside desert tortoise ACECs. Following the findings of Clark County's Rural Roads Adaptive Management Program, this restriction may be modified to require permits for 50 or more vehicles both inside and outside ACECs. Events that originate or proceed into adjoining districts will default to the restrictions established in those districts provided the limitations identified in this biological opinion for the Ely District are not exceeded. For example, no events or segments of events may occur in the planning area that involve over 300 vehicles although up to 400 may be allowed in the Arizona Strip District.

c. All permitted events within ACECs will occur only on designated corridors. Events that occur on the Carp/Elgin, Halfway Wash, and East Halfway Wash corridors will comply with terms and conditions of the biological opinion issued for the Las Vegas District RMP (File No. 1-5-98-F-053, as amended or reinitiated); events that occur on the Littlefield corridor will comply with terms and conditions of the biological opinion issued for the Arizona Strip District RMP (File No. 2-21-96-F-132, as amended or reinitiated); and events that enter Utah will comply with the terms and conditions of the biological opinion issued for the Dixie RMP (File No. 6-UT-98-F-005, as amended or reinitiated). Events that occur entirely within the Ely District on the Kane Springs Road corridor, shall comply with terms and conditions of this biological opinion.

d. Within ACECs: No organized events will be permitted from March 15 to June 15, and August 31 to October 15. These dates may vary up to three days to allow a full weekend (i.e., Saturday and Sunday) for an event. Outside of these times, a maximum of 15 events (non-speed events, non-speed portions of speed events, or non-competitive events) may be permitted to pass through ACECs on roads designated open to organized OHV use. No more than 10 such events will be allowed to pass through any one ACEC per year. No more than 300 vehicles of any type will be allowed on any one event. Each event will consist of no more than one pass through the ACEC.

e. For speed events: Minors and responsible adults participating in events shall be informed that they shall not ride their ATVs or motorcycles in the desert after they finish an event. This includes the open desert as well as roads and trails. Failure to comply with this condition by any child associated with a particular rider shall result in the disqualification of that rider.

f. For speed events, including non-speed sections: If a vehicle breaks down, it will be moved to the side of the race course, avoiding damage to vegetation to the extent possible. Participants who stop to rest will pull over onto side roads or areas devoid of perennial vegetation, if possible. Riders who voluntarily retire from the event will either wait along the course for their crew to pick them up, or travel along the course to a pit area. Chase crews will be limited to retrieving vehicles that are broken down along the course. All chase vehicles must have a pit pass, retrieval pass, or other form of access permission from the Bureau.

g. For speed events: No spectators or spectator areas will be allowed in ACECs. Spectator vehicles will be allowed in designated spectator areas only. Spectator areas shall be confined to existing disturbed areas or new areas selected in coordination with the Service. Spectator areas are established for viewing purposes only and vehicles will be prohibited. The promoter will be required to mark the boundaries of the spectator area so that spectators can readily tell where the boundary is located. Rope or wire with warning triangles or other similar sturdy materials shall be used. A monitor will be placed at each spectator area to ensure spectators remain within the designated boundary. Anyone found outside of the designated area will be subject to citation by a Bureau law enforcement officer.

h. For speed events: Pit crews will use only authorized pit areas. Pits shall be confined to existing disturbed areas, unless otherwise approved by the Service. Pit areas will be marked with a sign stating that a pit pass is required. A maximum of 10 pit passes will be issued to each entrant; however, in unusual cases the Bureau may authorize issuance of additional passes to meet the specific needs or conditions. Under no circumstances will the issuance of additional passes create or contribute to expansion of designated pit areas. Pit passes should be identified by color or unique number, the name and date of event, and distinguish the pit to which the pass applies (i.e., main pit or course pit), and will be affixed to the windshield of each vehicle. Vehicles in the pit area without pit passes, will be towed at the owners' expense. Unauthorized duplication of pit passes will result in disqualification of the entrant and this shall be stated on each pass.

i. For speed events including non-speed sections: All event-related activities will be confined to authorized vehicle routes, pit areas, spectator areas, and the course itself, and will not stray into vegetated areas. All major access routes leading into restricted areas will be monitored or marked closed and bannered off. Personnel shall be stationed at these areas, as appropriate, to enforce access restrictions. Directional signs to spectator and pit areas will be posted at all main access points. "Race-in-progress" signs will be posted at each location where the race crosses another road. Other disqualification or hazard zones will be monitored periodically during the event.

j. For all events in ACECs: Bureau staff will be present to check for compliance with stipulations of the race permit. The importance of staying on the race course will be stressed to all participants by the Bureau and promoter.

k. For all events: A sufficient number of Bureau rangers, monitors, and crowd control officials, as determined by the Bureau in coordination with the Service, will be required to enforce compliance with stipulations of the event permit. Monitors may be Bureau or proponent personnel and shall be stationed at all disqualification or hazard areas to record any violations. As a general guideline, the Bureau will provide one law enforcement officer per 50 participants to enforce terms and conditions of this biological opinion, control unauthorized vehicular travel off existing roads, and ensure that habitat damage does not occur. The number of law enforcement officers present may be increased or decreased based on the event proponent's past history of event management and stipulation compliance, the estimated number of spectators, geographic setting of the event, or experience gained from previous similar events, at the discretion of the Bureau's authorizing officer.

l. For all events: Permittees shall be responsible for trash and litter clean-up along the course and in spectator and pit areas. Stakes, flagging materials, temporary facilities, litter, and all other event-related materials shall be removed from the course and pit, parking, and spectator areas. The race courses and parking areas shall be restored, at a minimum, to pre-event conditions within 15 days after the event. Garbage and food will be removed from the site of the event at the end of each day, and will be disposed of in authorized sanitary landfills.

m. For all events including non-speed sections: To reduce casual use of the race course, the race area will be legally closed to casual use on the day of the race. The promoter will be required to station monitors and/or post signs at road intersections, prohibiting public access, where the general public is likely to access the race course. A Federal Register notice providing authority to close race areas in the Ely and Las Vegas Districts will be issued on an as-needed basis. This will allow Bureau law enforcement officers to enforce regulations. A legal notice will be published in the local newspapers, or other appropriate publication, before the permitted events take place.

n. For all events: Any desert tortoises found on or adjacent to the event course shall be moved into undisturbed desert within 1,000 feet by Bureau personnel experienced or trained in the handling of tortoises, or Bureau contractors experienced and trained in the handling of tortoises according to current Service-approved protocol. Currently, the Service-approved protocol is, "Guidelines for Handling Desert Tortoises During Construction Projects (Desert Tortoise Council 1994, Revised 1999)." Tortoises shall be deliberately moved solely for the purpose of moving them out of harm's way. Desert tortoises shall not be placed on lands not under the ownership of the Bureau without the written permission of the landowner. All personnel involved in tortoise capture shall obtain appropriate permits from NDOW prior to handling any desert tortoise. All road repair crews shall be accompanied by Bureau personnel or their designee to ensure that no tortoises or tortoise burrows are harmed during repair operations.

o. For speed events: Publicity runs will not occur within ACECs, and all event-related vehicular activity will be confined to authorized routes and the course itself and will not stray into vegetated areas.

p. For all events: To the extent possible, the event course shall be cleared of all unauthorized vehicles and personnel prior to each event.

q. For all events: Participants in each event who violate any stipulation of that event shall be disqualified from the event. Additionally, failure to comply with permit conditions by any member of the support team or spectators associated with a particular driver or rider shall result in the disqualification of that driver or rider.

r. For all events: Participants will be informed that passing will be limited to the disturbed areas of roads, trails, and washes and will not occur in vegetated areas adjacent to the course.

- s. For speed events: To help control spectators, the event promoter will station at least one person at the primary entrance to the spectator area for at least two hours before the start of the race and 1 hour after the start of the race. This individual will stop all cars coming into the area, give the occupants information on the limits of the spectator area, and advise them where they can and cannot park.
- t. For non-speed portions of speed events in ACECs: Participants will be escorted through the ACEC at a speed of no greater than 25 mph.
- u. For organized non-OHV events within ACECs: The event area will be surveyed for desert tortoise immediately prior to the event. If desert tortoise or sign of is observed, the event will be moved to a different location or set up in such a way as to avoid adverse effects to desert tortoise.
- v. Horse endurance rides will be limited to existing roads and trails. Horse endurance rides are considered speed events and will not be permitted in desert tortoise ACECs.

Recreation Standard Operating Procedures

1. Entrants, pit crew members, crowd control officials, race monitors, checkpoint personnel, and clean-up crews shall be informed, either through a presentation or a pamphlet, of the occurrence of desert tortoises in the race area, and the threatened status of the species. All such personnel shall be advised of the definition of “take,” the potential for impacts to the desert tortoise, and the potential penalties (up to \$25,000 in fines and 6 months in prison) for taking a threatened species in a manner not permitted in the incidental take statement. The permit holder shall provide a written statement for signature acknowledging receipt of information regarding the desert tortoise and any special stipulations in place for tortoise protection from all entrants. All race monitors and check-point personnel shall be provided the race stipulations and the procedures for reporting permit violations.
2. All event-related vehicular activities will be confined to authorized vehicle routes and the course itself, and will not stray into vegetated areas. All major access routes leading into restricted areas will be monitored, or marked closed and bannered off. Road markers, vehicle barriers, or signs will be installed either the day of the race or the day before the race. Promoter shall station personnel at these areas, as appropriate, to enforce access restrictions. Directional signs to spectator and pit areas will be posted at all main access points. Race-in-progress signs will be posted at each location where the race crosses another road. Other disqualification or hazard zones will be monitored periodically during the event.
3. Terms and Conditions e, f, k, l, n and Standard Operating Procedures 1, 4, and 5 shall apply to publicity runs outside ACECs.
4. A representative shall be designated who will be responsible for overseeing compliance with the reasonable and prudent measures, terms and conditions, reporting requirements, and reinitiation requirements contained in the BO. The designated representative shall provide coordination among the permit holder, the Bureau, and the USFWS.

5. All road repair and course cleanup crews shall be accompanied by Bureau personnel or their designee to ensure that no tortoises or tortoise burrows are harmed during repair and cleaning operations.

6. Participants will be informed that passing on buggy, ATV, and motorcycle courses will be limited to the disturbed areas of roads, trails, and washes and will not occur in vegetated areas adjacent to the course.

7. Additional stipulations or modifications may be required based on terms and conditions in the biological opinion issued for a particular event (or programmatic opinion valid at the time of the event).

8. Vehicle off-loading areas would be limited to areas of existing disturbance and of sufficient size to accommodate the number of vehicles involved without expanding the disturbed areas.

6. To implement Reasonable and Prudent Measure Number 6, the Bureau shall fully implement the following terms and conditions for all actions covered under this biological opinion, to reduce impacts to desert tortoise from predators:

A litter-control program shall be implemented to minimize predation on tortoises by ravens drawn to the project site. This program will include the use of covered, raven-proof trash receptacles, removal of trash from project areas to the trash receptacles following the close of each work day, and proper disposal of trash in a designated solid waste disposal facility. Appropriate precautions must be taken to prevent litter from blowing out along the road when trash is removed from the site. The litter-control program should apply to all actions covered under this biological opinion. A litter-control program shall be implemented by the responsible federal agency or their contractor, to minimize predation on tortoises by ravens and other predators drawn to the project site.

7. To implement Reasonable and Prudent Measure Number 7, the Bureau shall fully implement the following terms and conditions for all actions covered under this biological opinion, to educate project personnel on the desert tortoise to minimize or eliminate potential impacts to tortoise and its habitat:

The Bureau shall present a tortoise-education program to all personnel working on projects or activities covered under this biological opinion. This program shall be presented by a qualified tortoise biologist for those projects with the greatest potential impacts to desert tortoises. A video or fact sheet, as approved by the Service, may be presented or provided in lieu of a presentation for those projects with low potential impacts. A tortoise-education program will be given to, but not limited to: OHV event entrants, pit crew members, crowd-control officials, race monitors, checkpoint personnel, clean-up crews, foremen, workers, grazing allotment permittees, landowners that receive lands transferred from the Bureau under this opinion, hazardous materials management staff, fencing crews, fire suppression personnel, and others as appropriate.

The program will include information on the life history of the desert tortoise, legal protection for desert tortoises, penalties for violations of federal and state laws, general tortoise-activity patterns, reporting requirements, measures to protect tortoises, terms and conditions of this biological opinion, and personal measures employees can take to promote the conservation of desert tortoises. The definition of take will also be explained. Specific and detailed instructions will be provided on the proper techniques to capture and move tortoises which appear onsite, in accordance with this biological opinion and Service-approved protocol. Currently, the Service-approved protocol is Desert Tortoise Council 1994, revised 1999. The presentation shall be prepared within one year from the date of this opinion and approved by the Service prior to implementation. Workers will be encouraged to carpool to and from project sites.

8. To implement Reasonable and Prudent Measure Number 8, the Bureau shall fully implement the following terms and conditions for all actions covered under this biological opinion, to ensure compliance with the reasonable and prudent measures, terms and conditions, reporting requirements, and reinitiation requirements contained in this biological opinion:

a. The project applicant shall notify the Bureau's authorized officer at least 10 days before initiation of any project. Notification shall be made to the Bureau's wildlife staff in Caliente at (775) 726-8100, or Ely at (775) 289-1800.

b. The Bureau (775/726-8100- Caliente, or 775/289-1800- Ely), and the Service's Southern Nevada Field Office (702/647-5230) must be notified of any desert tortoise death or injury due to the project implementation by close of business on the following work day. In addition, the Service's Division of Law Enforcement shall be notified in accordance with the reporting requirements of this biological opinion.

c. All appropriate NDOW permits or letters of authorization shall be acquired prior to handling desert tortoises and their parts, and prior to initiation of any activity which may require handling tortoises.

d. The project proponent must submit a document (Attachment) to the Bureau within 30 days of completion of the project, showing the number of acres disturbed; remuneration fees paid; and number of tortoises taken, which includes capture and displacement, killed, injured, and harassed by other means, during project activities covered under this biological opinion.

e. All projects to be covered under this biological opinion shall be reviewed by the Bureau's wildlife staff to ensure that appropriate measures have been incorporated into the Bureau authorization (e.g., material site, land sale, or OHV event) to minimize the potential take of desert tortoise and loss of habitat. If determined appropriate by the authorized officer, the Bureau shall impose additional minimization measures beyond those required in other terms and conditions of this biological opinion, prior to approval or authorization of the proposed action.

f. The Bureau will keep an up-to-date log of all actions taken under this consultation; number of acres affected; results of tortoise survey and removal activities

(including reported number of desert tortoises injured, killed, or removed from the project site); date, rate (per acre adjusted for inflation) and amount of fees paid for each project; and progress of recovery actions. The Bureau will provide the above information to the Service's Southern Nevada Field Office annually. The first report shall be due on February 1, 2000. Subsequent annual reports will be due on February 1st, for the previous calendar year in which actions were covered under this biological opinion. Information will be cumulative throughout the life of this consultation. Annual reports shall include maps showing the location of actions within ACECs authorized under this opinion and other information required in this biological opinion.

g. For those actions identified in this biological opinion that require concurrence between the Bureau and Service, written notification of proposed changes or actions will be made a minimum of 30 days in advance. Both agencies will coordinate to the maximum extent practicable to achieve resolution. This may include informal meetings to discuss proposed actions and reach concurrence, or written correspondence.

h. In accordance with Procedures for Endangered Species Act Compliance for the Mojave Desert Tortoise (Service 1992), a qualified desert tortoise biologist should possess a bachelor's degree in biology, ecology, wildlife biology, herpetology, or closely related fields as determined by the Bureau. The biologist must have demonstrated prior field experience using accepted resource agency techniques to survey for desert tortoises and tortoise sign, which should include a minimum of 60 days field experience. All tortoise biologists shall comply with the Service- approved handling protocol (Desert Tortoise Council 1994, revised 1999) prior to conducting tasks in association with terms and conditions of this biological opinion. In addition, the biologist shall have the ability to recognize tortoise sign and accurately record survey results.

i. A Bureau representative(s) shall be designated who will be responsible for overseeing compliance with the reasonable and prudent measures, terms and conditions, reporting requirements, and reinitiation requirements contained in this biological opinion. The designated representative shall provide coordination among the permittee, project proponent, the Bureau, and the Service.

****Non-compliance with any above permit stipulation will be grounds for denial of future permits, and/or race cancellation.***

Monitoring

Performance evaluation, violations, and penalties:

Performance will be based upon:

1) Stipulation and Operating Plan Compliance;

- 2) Protection of Resource Values; and
- 3) Quality and safety of services provided to the public.

Performance levels are:

A= Acceptable: Permittee is in compliance with permit stipulations; has taken prompt steps to rectify any performance issues and complaints; does not repeatedly violate conditions, or show a disregard for stipulations.

P= Probationary: Where there has been repeated violations or a disregard for permit stipulations, the permittee will be placed in probationary status.

U= Unacceptable: Permittee willfully and/or repeatedly violated permit conditions to provide substandard service to the public. Conduct is lacking in reasonableness or responsibility to the point that it becomes reckless or negligent.

Violations and Penalties:

A= Complaints and issues may be discussed over the phone or in writing. When due dates or completion dates are established, the permittee will be afforded a 15 day grace period, unless otherwise specified.

P= A notice on Noncompliance (Notice) will be issued by the Authorized Officer specifying in what respects the permittee has failed to comply, the terms of the probationary status, and the consequences of further noncompliance.

U= Permit privileges would be revoked for one to three years.

A notice of Noncompliance and Decision to Terminate permit privileges would be issued by the Authorized Officer. The permittee would be allowed the opportunity to appeal the decision under Title 43 CFR, Part 4.

Critical Standards - a breach of critical standards can lead directly to administrative penalties, suspension or revocation of a permit. Critical standards are necessary for the health and welfare of the public and protection of resources.

The permit shall be suspended or revoked if required State or local licenses pertaining to public health and safety are revoked.

Violation of mandatory Federal or State safety requirements will result in probationary status or loss of permit privileges.

The conviction of a violation of any Federal or State law or regulation concerning the conservation or protection of natural resources, the environment, endangered species or

antiquities that is related to permit operations will result in probationary status or loss of permit privileges.

PLEASE RETURN PRIOR TO EVENT

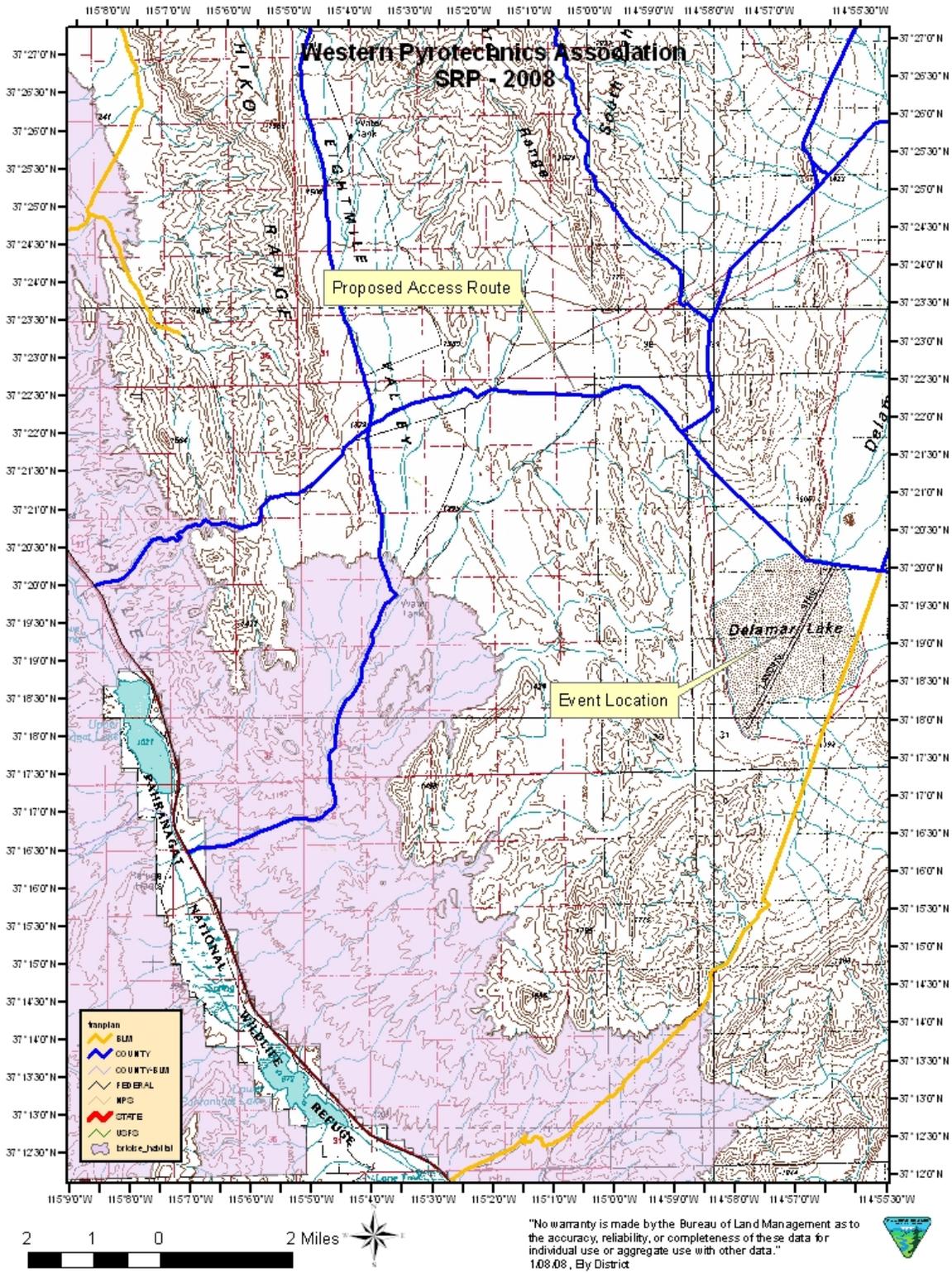
I HAVE READ, UNDERSTAND AND AGREE TO ABIDE BY THESE PERMIT CONDITIONS AND SPECIAL STIPULATIONS. I HAVE THE AUTHORITY TO OBLIGATE THIS ORGANIZATION TO THE ABOVE REQUIREMENTS.

SIGNATURE

DATE

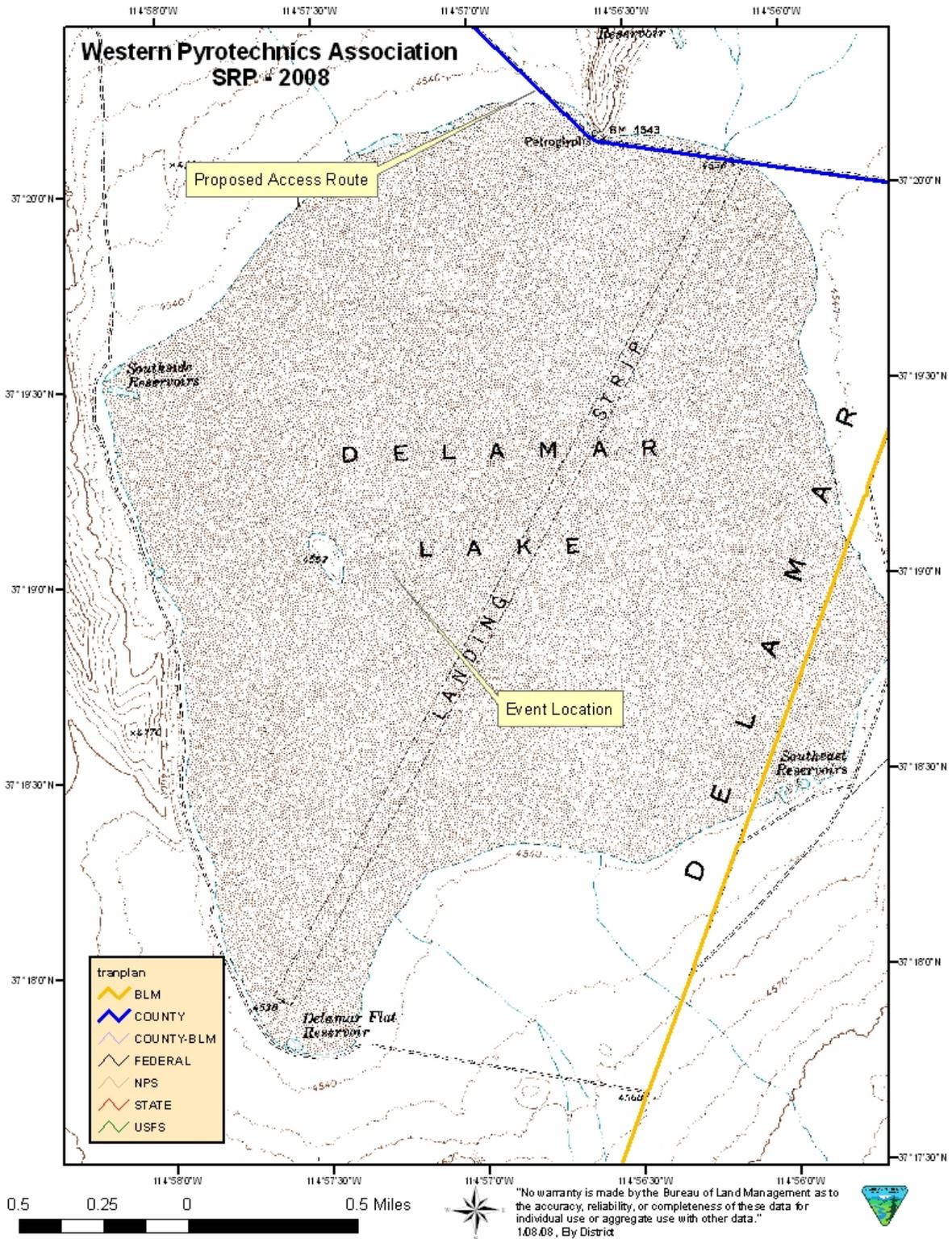
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