



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Schell Field Office
HC33 Box 33500 (702 N. Industrial Way)
Ely, Nevada 89301-9408
http://www.blm.gov/nv/st/en/fo/ely_field_office.html



ELY DISTRICT CATEGORICAL EXCLUSION REVIEW AND APPROVAL

Team Leader Kalem Lenard Date: 01/12/09

Name of Proposed Action

Daryl Folks Trail Ride, SRP #NV-040-09-006

CX Number DOI-BLM-NV-L020-2009-0010-CX 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

Daryl Folks with Eugene Entertainment proposes to hold a two-day non-competitive motorcycle and ATV trail ride on April 25-26, 2009. The 75 anticipated participants would be split into two groups based on skill level and vehicle type and would use 350 miles of routes (see map). The routes generally loop out of the staging area where lunch breaks are also scheduled. There would be one fueling area located off of Bristol Wells road that consists of one pick-up truck with fuel containers. No other fueling or pre-determined stopping locations would be used. All portions of the event would occur on existing roads and trails. ATVs would not travel on single track trails. The majority of the event and the staging area would occur on BLM managed lands. For the portions that cross private land permission must be granted in writing and supplied to the BLM.

Special Recreation Permit (SRP) Stipulations 1-51 are used as SOPs for use on public lands for these events.

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
Mark D'Aversa	Soils, Floodplains, and Riparian/Wetlands
Bonnie Million	Invasive, Non-Native Species
Craig Hoover	Range
Shawn Gibson	Arch/Historic/Paleontological
Paul Podborny	Wildlife, Migratory Birds, Special Status Species
Kalem Lenard	Recreation, VRM
Elvis Wall	Native American Religious
Zachary Peterson	Forest Resources, NEPA
Dave Jacobsen	Wilderness Values, ACEC/Special Designations
Brenda Linnell	Lands and Realty
Dave Davis	Minerals
Melanie Peterson	Wastes, Hazardous and Solid



**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 the appropriate box. Would the proposed action:	Yes	No
1. Have significant impacts on public health or safety?		X
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?		X
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)]?		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. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects?		X
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?		X
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?		X
9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment?		X
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898)?		X
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)?		X
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)?		X

FINDINGS

Based on review of the proposal and the 12 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: Mary D'Aversa Date: 1/26/09
 Mary D'Aversa
 Field Manager, Schell Field Office

Ely District
Decision Record for the Categorical Exclusion
Daryl Folks Trail Ride, SRP # NV-040-09-006
DOI-BLM-NV-L020-2009-0010-CX

Decision:

It is my decision to approve and implement the Daryl Folks Trail Ride, SRP #NV-040-09-006. The proposed action is in conformance with the Ely District Approved Resource Management Plan (August 20, 2008). Per CFR 2931.8 (b) this decision will go into effect immediately and will remain in effect while appeals are pending unless a stay is granted.

Background Information:

Land Use Plan Conformance:

Land Use Plan Name: Ely District Resource Management Plan

Date Approved/Amended: August 20, 2008

The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decision(s): Rec-16, Permit non-competitive off-highway vehicle events on a case-by-case basis.

Scoping:

This categorical exclusion was scoped for extraordinary circumstances in the Schell Field Office on January 12, 2009.

Rational For Decision:

This action meets the qualifications of a categorical exclusion and an environmental analysis is not required based on review of the proposal and the 12 exceptions to categorical exclusions.

Protest and Appeal:

All interested parties will be notified by mail of the decision and will have 30 days after receiving notification to appeal the decision.

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition (request) pursuant to regulation 43 CFR 2931.8 for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall 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 of the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting a stay.

Approved By: Mary D'Aversa
Mary D'Aversa
Field Manager
Schell Field Office

1/30/2009
Date

Attachment A - Special Stipulations*

Standard Race Stipulations

1. This permit is issued for the period specified. It is revocable for any breach of conditions or at the discretion of the Bureau of Land Management, at any time upon notice. This permit is subject to valid adverse claims heretofore or hereafter acquired.
2. This permit is subject to all applicable provisions of the regulations (43 CFR Group 2930).
3. This permit is subject to the provisions of Executive Order No.11246 of September 24, 1965, as amended, which sets forth the Equal Opportunity clauses. A copy of this order may be obtained from the BLM.
4. This permit may not be reassigned or transferred by permittee.
5. Permittee must pay the sum of estimated user fees in advance of permit issuance. Adjustments to use fee charges will be based on actual use reported on the Post Use Report.
6. Permittee must observe all Federal, State, and local laws and regulations applicable to the premises; to erection or maintenance of signs or advertising displays including the regulations for the protection of game birds and animals, and must keep the premises in a neat, orderly manner, and sanitary condition.
7. Permittee must take all reasonable precautions to prevent and suppress forest, brush, and grass fires, and to prevent polluting of waters on or in vicinity of the public lands.
8. Permittee must not enclose roads or trails commonly in public use.
9. Permittee must pay the United States for any damage to its property resulting from this use.
10. Permittee must notify the BLM of address change immediately.
11. Permittee must not cut any timber on the public lands without prior written permission from the BLM.
12. Permittee must indemnify, defend, and hold harmless the United States and/or its agencies and representatives against and from any and all demands, claims, or liabilities of every nature whatsoever, including, but not limited to, damages to property, injuries to or death of persons, arising directly or indirectly from, or in any way connected with the permittee's use and occupancy of the public lands described in this permit or with the event authorized under this permit.
13. Authorized representatives of the Department of the Interior, other Federal agencies, and game wardens must at all times, have the right to enter the premises on official business.
14. Permittee must abide by all special stipulations attached.
15. Permittee must not disturb archeological and historical values, including, but not limited to, petroglyphs, ruins, historic buildings, and artifacts.
16. Permittee must leave in place any hidden cultural values uncovered through authorized operations.
17. 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. 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. 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. A SRP only authorizes the use, for the time and in the area, as specifically described therein.
21. 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. 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. 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. 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. 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. 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. 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. Trash, food items and race-related litter shall be promptly contained and removed from the race 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. 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 areas adjacent to the course. The maximum allowable width of the course shall be no greater than (10) ten feet. Pre-running of the course will not be allowed.
30. 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. The permittee shall do everything possible to insure that race participants and spectators do not harass or collect wildlife, plants, or livestock.
32. 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. 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. 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 emergency dispatch centers shall be required. Additionally, the permittee will arrange with the local Emergency Medical Service/Hospital for coordination of emergency services.

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 permittee will inform all event participants and staff that collection, excavation or vandalism of archaeological artifacts or sites is illegal on public land. Collection or disturbance of artifacts and other archaeological, historical, and materials by the permit holder, its representatives, employees, or event participants shall not be allowed. Offenders shall be subject to prosecution under the appropriate State and Federal laws.

48. Should any cultural resource (historic or pre-historic site or object) be discovered by the permit holder, representatives, or event participants on public or Federal land shall be immediately reported to the Authorized Officer. The permit holder must stop all activities in the discovery vicinity, protect the discovery and notify the BLM Authorized Officer immediately upon discovery of archaeological artifacts or human remains. To determine the appropriate actions to follow to prevent the loss of significant cultural or scientific values, event activities in the discovery vicinity must cease until written authorization to proceed is issued by the Authorized Officer.

49. The permittee 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.

50. The permittee will be responsible for the cost of the evaluation of cultural resources impacted by event or participant activities. Any decision as to proper mitigation measures to be taken will be made by the Authorized Officer, in consultation with resource specialists.

Event Specific Stipulations

None

****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.

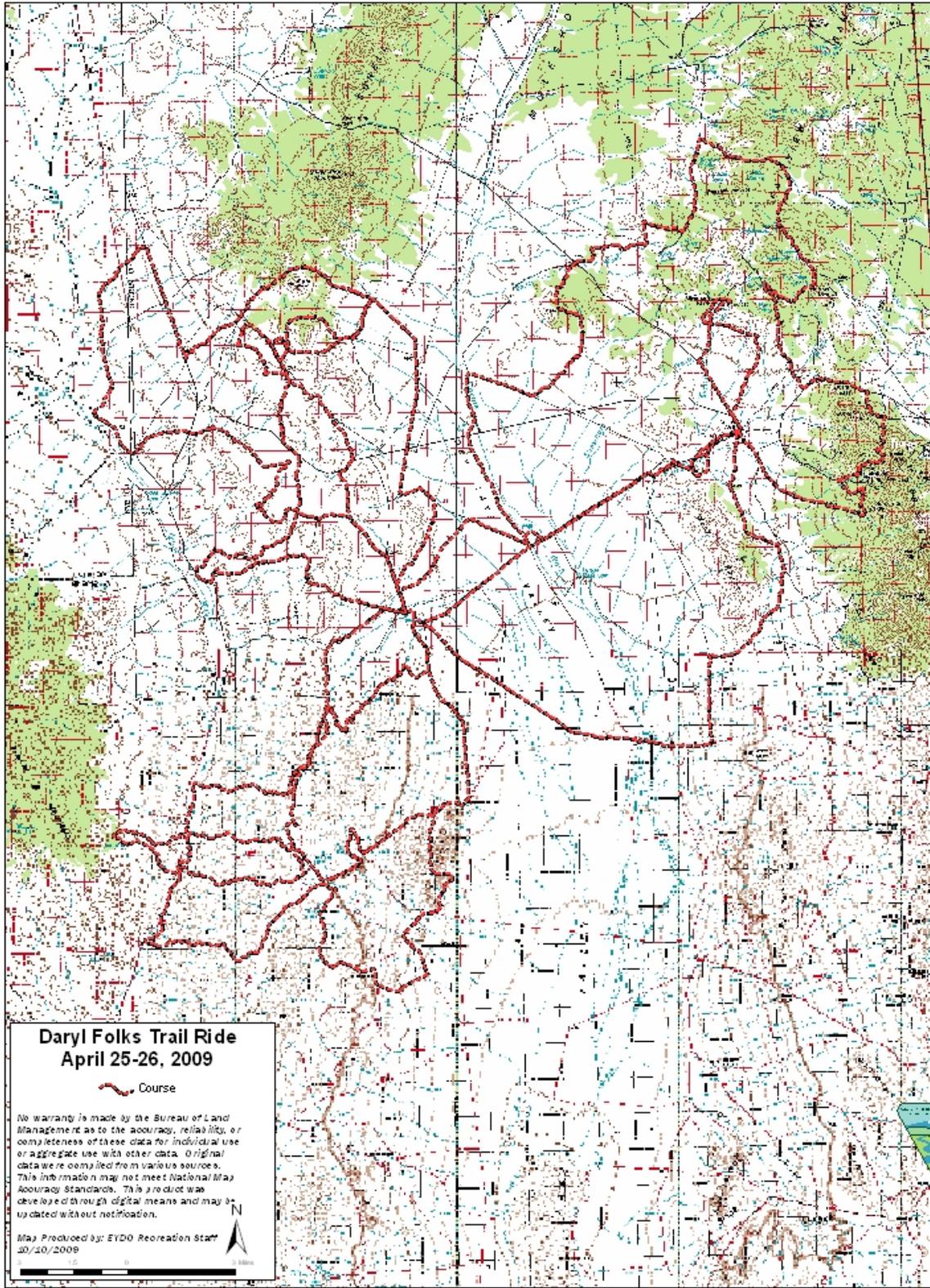
The conviction of a violation of any Federal or State law or regulation concerning the conservation or protection of natural resources, the environment, endangered species or antiquities that is related to permit operations will result in probationary status or loss of permit privileges.

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



BLM

Ely District Office

