

# DECISION MEMORANDUM

*Arizona Fun Rentals*

**DOI-BLM-AZ-P010-2010-005-CX**

U.S. Department of the Interior

Bureau of Land Management

*Hassayampa Field Office*

## Approval and Decision

Based on a review of the project described in the attached Categorical Exclusion documentation and field office staff recommendations, I have determined that the project is in conformance with the *Bradshaw-Harquahala Record of Decision and Approved Resource Management Plan* and is categorically excluded from further environmental analysis. It is my decision to approve the action as proposed.

## Administrative Review or Appeal Opportunities

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 attached Form 1842-1. If an appeal is taken, your notice of appeal must be filed at the *Hassayampa Field Office*, 21605 North 7<sup>th</sup> Avenue, Phoenix, AZ, 85027, 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 (pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) (request) 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 Land Appeals and to the Office of the Solicitor (Department of the Interior, Office of the Field Solicitor, Sandra Day O'Connor U.S. Court House #404, 401 West Washington Street SPC44, Phoenix, AZ 85003-2151) (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.

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:

### Standards for Obtaining a Stay

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellant's success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

\_\_\_\_\_  
Steven Cohn, Field Manager

10/5/10

\_\_\_\_\_  
Date

Attachment: Form 1842-1

**CATEGORICAL EXCLUSION (CX) COMPLIANCE AND DECISION RECORD**  
**U.S. Department of Interior (DOI)**  
**Bureau of Land Management (BLM)**

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**NEPA Document Number: DOI-BLM-AZ-P010-2010-005-CX**

**A. Background**

BLM Office: **Hassayampa Field Office (AZ-210)**

Lease/Serial/Case File No.: AZA-34785

Proposed Action Title/Type: Arizona Outdoor Fun Rentals

Location of Proposed Action: Gila & Salt River Meridian, Maricopa County, Arizona  
T. 9 N., R. 2 E., sections, 27 – 34, T8N, R2E, Sec 3, 4, 6, 7, 8,  
10, 15 18-22, 27-29, 32-34; T8N, R1E, Sec 10, 13-15, 23, 24,  
T7N, R2E, Sec 4-5.

Description of Proposed Action: Authorize a Special Recreation Permit allowing Arizona Fun Rentals, LLC, use of existing/designated/numbered BLM trails in the Table Mesa Road Area. The Table Mesa Recreation Plan of July 2010 addresses recreation and travel plans conducive to the special recreation permit application and approval. The permit applicant rents outdoor recreation equipment to the public and offers guided ATV tours along with training in safety and operation. The average group size is projected to be 6 – 8 people while the limit would be 30 people. The estimated time per tour varies from 4 – 8 hours depending on route, number of people participating, and preference of customer. There are two estimated tours per day and eight to ten hours of that time on BLM trails, road, and staging areas. The staging area is located in various areas identified in the Table Mesa Recreation Plan. Staging consists of up to three full size trucks with trailers carrying ATVs. Leave No Trace and Tread Lightly! principles will be followed, bottled water for customer comfort would be available, and no food will be offered at the staging area.

**B. Land Use Plan Conformance**

Land Use Plan Name: **Bradshaw-Harquahala Record of Decision and Approved Resource Management Plan**

Date Approved/Amended: **April 2010**

This action has been reviewed for conformance, with the above mentioned plan, with respect to the Code of Federal Regulations (CFR) (43 CFR 1610.5). It has been determined that the proposed action does comply with the objectives, terms, and conditions of this plan. Specifically, this type of action is provided for in the RMP decision numbers: RR-30, RR-31, RR-33, RR-36, and RR-37. In addition, 516 DM 11 11.9, Actions for Categorical Exclusion H Recreation Management: 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.

**C. Compliance with NEPA**

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA), in accordance with the list of DOI-wide categorical exclusions located in 516 DM Chapter 2, Appendix 1.

The Departmental Manual [516 DM 2.3 (A)(3) and 516 DM, Appendix 2] requires that before any action described in the list of categorical exclusions is used, the exceptions must be reviewed for applicability in each case.

In this case, the use of a categorical exclusion is appropriate because there are no extraordinary circumstances which may have significant effects on the environment. In other words, the proposed action has been reviewed, and none of the extraordinary circumstances described in 516 DM Chapter 2 apply.

#### **D. Terms and Conditions**

Mitigating measures will be attached to the permit as stipulations. The stipulations for this permit request are located in the attached document (Appendix A).

#### **E. Signature**

Authorizing Official: \_\_\_\_\_ Date: 10/5/10  
(Steven Cohn, Field Manager)

Name: Steven Cohn

Title: Hassayampa Field Manager

#### **Contact Person**

For additional information concerning this CX review, contact Mary Skordinsky at 623-580-5586, or BLM, District Office, 21605 N. 7<sup>th</sup> Avenue, Phoenix, Arizona 85027.

**Note:** A separate decision document must be prepared for the action covered by the CX.

# Attachment 1

<b>EXTRAORDINARY CIRCUMSTANCES REVIEW AND CHECKLIST</b>		
<i>IMPORTANT: Appropriate staff should review the circumstances listed below, and comment for concurrence. Rationale supporting the concurrence should be included where appropriate.</i>		
<b>EXTRAORDINARY CIRCUMSTANCES</b>	<b>YES/NO &amp; RATIONALE (If Appropriate)</b>	<b>STAFF</b>
Does the proposed action...		
1. Have significant impacts on public health and safety?	N	MS
2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness or wilderness study 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 (Executive Order 13186); and other ecologically significant or critical areas?	N	MS
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)]?	N	MS
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks?	N	MS
5. Establish a precedent for future action, or represent a decision in principle about future actions, with potentially significant environmental effects?	N	MS
6. Have a direct relationship to other actions with individually insignificant, but cumulatively significant, environmental effects?	N	MS
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?	N	CMcL
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?	N	CC
9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment?	N	CMcL
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898)?	N	MS
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)?	N	CMcL
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)?	N	MS

MS = Mary Skordinsky  
 CMcL = Chris McLaughlin  
 CC = Corey Carter

## Appendix A

Specific stipulations for this event include:

### **Specific mitigation measures:**

1. Yield to vehicles with horse and stock trailers. Yield to any horseback riders. Do not harass cattle or wild burros. Leave gates as you found them.
2. Stay out of riparian areas along the Agua Fria River.
3. Operators and customers must comply to dust regulations. See links at end of document.

### **Resource Protection:**

1. Employees and clients will be instructed that it is unlawful to disturb, deface, excavate or remove any archaeological or paleontological objects or structures. Simply, look but don't touch! Rock art may be photographed but not touched. Collection of prehistoric or historic artifacts is not allowed. Any prehistoric or historic cultural site or human remains discovered by the permittee, employees or clients will be left undisturbed and reported as soon as possible to the BLM authorized officer.
2. Permittee must notify the BLM authorized officer of any specific archaeological sites proposed for inclusion on tours. Tours to sites are subject to BLM approval and protective stipulations. It is highly recommended that guides receive one of the following training: Site Steward, Leave No Trace, or Tread Lightly!. This is to foster an ethic in visitors to public lands and to sustain the resources that visitors appreciate and want to view and experience.
3. Historical mines shall not be disturbed. Collecting artifacts from these sites is prohibited.
4. Stay out and Stay Alive! Abandoned mines are extremely dangerous and BLM policy is to avoid entry. All persons operating under this SRP, including subcontractors, are prohibited from entering abandoned mines.
5. Harassment of livestock, wildlife, wild horses or burros, or destruction of private and public improvements such as fences and gates is prohibited. All gates and fences shall be left as found. The taking of any threatened or endangered plant or animal is prohibited.
6. Do not park vehicles or camp in locations that will interfere with use of livestock facilities (such as corrals) or ongoing livestock operations. No use of livestock permittee's management facilities is authorized with out prior permission from the livestock permittee.
7. Proposed activities will be conducted in a manner that will not interfere with mining or exploration operations. No minerals are to be collected from areas encumbered by active mining claims unless authorized by the claimant(s).
8. Cutting or removal of live vegetation is not permitted. Trimming of branches up to 4 inches

in diameter may be allowed with prior authorization from the BLM.

9. Collection, harassment and disturbance of desert tortoises and Gila monsters is prohibited by Arizona State Law. If encountered on roads or trails they should be avoided. If a desert tortoise is encountered and cannot be avoided, it should be carefully moved to safety by carrying it horizontal to the ground, not tilted, and placed in the shade the minimum distance needed to remove it from harm's way. Gila monsters should be avoided and not handled. They are venomous and can inflict a serious and painful bite. (See attached guidelines for handling desert tortoises).
10. The permittee will ensure that appropriate safety, fire and environmental protection precautions are in place at fueling areas. The permittee is responsible for, and assumes liability for, the discharge of motor vehicle fluids (defined as but not limited to, the spilling, leaking, pumping, pouring, emitting, emptying, or dumping of gasoline, motor oil, transmission fluids and anti-freeze). It is highly recommended that in areas where vehicle repairs or re-fueling is to take place, some type of ground cover (such as absorbent pads or tarps) be used whenever possible.
11. Discharges are to be cleaned up, removed and disposed of in accordance with applicable local, state and federal laws. Small discharges that can be wiped or dug up by hand, may be cleaned up and disposed of as regular waste. Discharges in larger quantities must be tested and if it exceeds soil remediation levels, it must be treated and disposed of in accordance with ADEQ regulations. The permittee will notify the BLM of all motor vehicle fluid discharges greater than one quart within 48 hours of occurrence.
12. Participants shall be advised that every effort must be made to avoid the discharge of fluids while riding, refueling, and/or making vehicle repairs. Participants and the permittee are encouraged to have hydrocarbon absorbent (such as Peat Sorb or Pig Pads) that can absorb a minimum of one quart of fluid. A cleaning product such as Micro Blaze or Simple Green should also be carried to remove fluid discharges.
13. If the volume of use is determined to be adversely impacting soils or riparian condition through erosion, bank alteration or other means, the BLM may restrict use of affected areas or routes to allow restoration and recovery of degraded areas. During wet periods, certain road and trail segments may be closed to all traffic. The BLM will consider the applicant's needs when designing and implementing restrictions or watershed restoration efforts that could influence the operation.
14. The permittee will be committed to preserving and protecting the public lands by learning, practicing and promoting the *Leave No Trace* principles listed below:
  - Plan ahead and prepare.
  - Travel and camp on durable surfaces.
  - Dispose of waste properly.
  - Leave what you find.
  - Minimize campfire impacts.
  - Respect wildlife.
  - Be considerate of other visitors.

**Overnight Camping Use:**

1. All camping must remain in the designated staging/camping area.
2. No structures or improvements will be allowed to remain after the permitted use. Such structures may include corrals, picnic tables, hanging poles, etc.
3. Arizona Revised Statute 17-308 states that it is unlawful for a person to camp within one-fourth of a mile of a natural water hole containing water or a man-made watering facility containing water in such a place that wildlife or domestic stock will be denied access to the only reasonable available water.
4. Permittee is responsible for providing adequate sanitary portable toilets and refuse containers in the camping/pit/staging area and is responsible for ensuring that all local, county and state health and safety standards are met.
5. Camps and use areas will be maintained in a neat and clean condition with no litter.
6. All noncombustible refuse and all unburned combustible refuse must be carried out of the area and disposed of in a county approved disposal site. Burying garbage is prohibited. Fire rings must be dismantled.
7. The permittee must take reasonable precautions to prevent wildland fires. Build your fire away from trees, shrubs and other vegetation. Do not build fires next to rock and avoid the need to encircle your fire with stones. Use smaller firewood that will burn more completely. Make certain the fire is dead out (ash is cool), scatter the ash, and restore the area back to how it looked prior to the campfire.

### **Motorized Vehicle Use:**

1. All activities are to remain on the approved roads, trails, washes, camping and staging areas. No deviation to these routes is permitted without prior approval from the BLM authorized officer. Cross country travel is strictly prohibited.
2. The Table Mesa Recreation Plan is in the process of being initiated. On the ground changes will be taking place to manage this area to healthy land standards. Two cogent changes include: 1) Vehicle barriers along the Agua Fria River will be constructed to protect riparian areas. 2) A system of numbered routes will be identified for travel, while those routes not having a number will be closed.

It is the responsibility of you, the business owner to read the Table Mesa Recreation Plan as it pertains to your operations. Contact this office if you have any questions regarding the changes as they may pertain to your operating plans.

3. No motorized vehicles of any type are permitted in riparian areas or in running washes except at road crossings. Substantiated reports of unauthorized use in these areas will result in immediate probation and possible suspension or revocation of permit privileges.
4. Dust regulations exist within Maricopa County. Table Mesa Recreation Area is within Area

A, a serious Pm10 non-attainment area. To keep your business alive and the sport of ATV alive, please review the following links to know more and help us manage for dust issues:  
<https://maricopa.gov/aq/about/faq.aspx> (required reading);  
<http://azstateparks.com/OHV/index.html> (required reading);  
[http://www.maricopa.gov/AQ/divisions/planning\\_analysis/docs/P-27.pdf](http://www.maricopa.gov/AQ/divisions/planning_analysis/docs/P-27.pdf);(required reading)  
[http://www.maricopa.gov/AQ/divisions/planning\\_analysis/docs/P-28.pdf](http://www.maricopa.gov/AQ/divisions/planning_analysis/docs/P-28.pdf) (required reading)

5. Dust management: trucks/jeeps, ATV, UTVs are limited to 15 mph on main roads  
Motorcycles are limited to 25 mph.
6. Vehicles may travel faster on days when soil moisture is present and dust is not generated.
7. All motor vehicle use will comply with existing BLM and state motorized vehicle laws and regulations on public lands relating to use, standards, registration, operation and inspection. The Code of Regulations (CFRs) govern off-road vehicle use and regulations are prescribed in sections 43 CFR 8341.1 and 8365.1-3 and include, but are not limited to, the following:
  - A. No person shall operate an off-road vehicle on public lands:
    1. Without a valid State operator's license or learner's permit where required by State or Federal law;
    2. In a reckless, careless or negligent manner;
    3. In excess of established speed limits;
    4. While under the influence of alcohol, narcotics or drugs;
    5. In a manner causing, or likely to cause, significant undue damage to or disturbance of the soil, wildlife, wildlife habitat, improvements, cultural, vegetative resources or other authorized uses of the public lands.
  - B. Drivers shall yield the right-of-way to pedestrians, saddle horses, pack trains, and animal drawn vehicles.
  - C. The operator of a motor vehicle is prohibited from operating a motor vehicle in motion unless the operator and each front seat passenger is restrained by a properly fastened safety belt for all vehicles manufactured after 1972.
8. Any person who violates or fails to comply with the CFRs subparts 8341 and 8343 is subject to arrest, conviction, and punishment pursuant to appropriate laws and regulations. Such punishment may be a fine of not more than \$1,000 or imprisonment for not longer than 12 months, or both.
9. Permittee will be committed to preserving and protecting the public lands by learning, practicing and promoting the *Tread Lightly!* principles listed below:
  - **T** Travel and recreate with minimal impact,
  - **R**espect the environment and the rights of others,
  - **E**ducate yourself, plan and prepare before you go,
  - **A**llow for future use of the outdoors, leave it *better* than you found it, and
  - **D**iscover the rewards of responsible recreation.

No motorized vehicles of any type are permitted in riparian areas or in running washes except at road crossings. Substantiated reports of unauthorized use in these areas will result in immediate probation and possible suspension or revocation of future events.

Only those routes depicted on the map submitted to our office are approved to use for this event. Motorized activities are to remain on the indicated routes.

Environmental requirements for vehicles: 1) full size vehicles must carry a spill/leak containment kit. 2) OHVs under 1800 lbs must have a USFS qualified spark arrester installed and meet 96dba using the SAE J1287 Stationary Test Method (stock US and Japanese manufactured ATVs/UTVs have one installed).

There is no exclusive use of this area. Other recreationists and land users will be sharing the area.