



# United States Department of the Interior



BUREAU OF LAND MANAGEMENT  
Winnemucca District Office  
Black Rock Field Office  
5100 East Winnemucca Boulevard  
Winnemucca, Nevada 89445  
Phone: (775) 623-1500 Fax: (775) 623-1741  
Email: [wfoweb@blm.gov](mailto:wfoweb@blm.gov)  
[www.blm.gov/nv/st/en/fo/wfo.html](http://www.blm.gov/nv/st/en/fo/wfo.html)

In Reply Refer To:  
LLNVW03500-18-01  
2930 (NVW030.00)

March 29, 2019

Charlie Dolman  
Event Operations Director  
Black Rock City, LLC 660  
Alabama St.  
San Francisco, CA. 94110-2008

Burning Man 2018 Event  
Special Recreation Permit

## DECISION

Dear Mr. Dolman:

### INTRODUCTION

On June 25, 2018, the Bureau of Land Management (BLM) and Black Rock City, LLC (BRC) entered into a Cost Recovery Agreement (CRA) for the Burning Man 2018 event. That CRA included an estimate for the BLM's cost to process and administer the Special Recreation Permit (SRP) for the Burning Man 2018 event. The original CRA Phase 1 was in the amount of \$707,866 and Phase 2 was in the amount of \$2,142,959.25 for a grand total of \$2,850,825.25 for the 2018 event.

The BLM makes every attempt to develop a CRA cost estimate that foreshadows all direct and indirect costs, as accurately as possible, projected expenses for planning, issuing and administering the Burning Man SRP.

### DECISION

The BLM's actual direct and indirect costs for the Burning Man 2018 event total **\$2,578,065.61**. The attached documents provide a detailed breakdown of all actual direct and indirect costs. To date the BLM has received all payments for the CRA, for a total of \$2,850,825.25.

Based on those actual costs and the estimate already paid by BRC, the BLM has identified BRC is owed a refund of **\$272,759.64**.

## RATIONALE

The Federal Land Policy and Management Act (FLPMA) section 304(b) provides that the Secretary of the Interior is authorized to require a deposit of payments intended to reimburse the United States for costs incurred in processing and administering applications for use of the public lands, 43 U.S.C. § 1734(b).

The BLM's SRP regulations state that the BLM may refund any cost recovery overpayments, 43 C.F.R. § 2932.33(a). Further, the BLM's Recreation Permit Administration Handbook (H-2930-1) directs the BLM to refund to the applicant the remaining balance in a cost recovery account at the end of the project.

The 2018 CRA and the 2018 actuals totals justify the refund amount BRC will receive.

## AUTHORITY

The statutory authorities underlying the regulations in this part are FLPMA, 43 U.S.C. 1701 et seq., and the Federal Land Recreation Enhancement Act (REA), 16 U.S.C. 6801 et seq.

- a) FLPMA contains the BLM's general land use management authority over the public lands, and establishes outdoor recreation as one of the principal uses of those lands (43 U.S.C. 1701(a)(8)). Section 302(b) of FLPMA directs the Secretary of the Interior to regulate through permits or other instruments the use of the public lands, which includes commercial recreation use. Section 303 of FLPMA authorizes the BLM to promulgate and enforce regulations, and establishes the penalties for violations of the regulations.
- b) REA authorizes the BLM to collect fees for recreational use in areas meeting certain criteria (16 U.S.C. 6802(t) and (g) (2)), and to issue special recreation permits for group activities and recreation events (16 U.S.C. 6802(h)).

43 C.F.R. § 2932.33(a), *Overpayments*. For multi-year commercial permits, if your actual fees due are less than the estimated fees you paid in advance, BLM will credit overpayments to the following year or season. For other permits, BLM will give you the option whether to receive refunds or credit overpayments to future permits, less processing costs.

## APPEAL PROVISIONS

A person who wishes to appeal to the Interior Board of Land Appeals must do so under 43 C.F.R. § 4.411 and must file in the office of the officer who made the decision (not the board), in writing to Mark E. Hall PhD., Field Manager, Black Rock Field Office, 5100 East Winnemucca Boulevard, Winnemucca, Nevada 89445. A person served with the decision being appealed must transmit the notice of appeal in time to be filed in the office where it is required to be filed within thirty (30) days after the date of service.

The notice of appeal must give the serial number or other identification of the case and may include a statement of reasons for the appeal, a statement of standing if required by § 4.412 (b), and any arguments the appellant wishes to make. Attached Form 1842-1 provides additional information regarding filing an appeal.

No extension of time will be granted for filing a notice of appeal. If a notice of appeal is filed after the grace period provided in §4.401(a), the notice of appeal will not be considered and the case will be closed

by the officer from whose decision the appeal is taken. If the appeal is filed during the grace period provided in §4.401(a) and the delay in filing is not waived, as provided in that section, the notice of appeal will not be considered and the appeal will be dismissed by the Board.

The appellant shall serve a copy of the notice of appeal and any statements of reason, written arguments, or briefs under §4.413 on each adverse party named in the decision from which the appeal is taken and on the Office of the Solicitor, Pacific Southwest Regional Solicitor, U.S. Department of the Interior, 2800 Cottage Way, Room E-1712, Sacramento, California 95825-1890.

Service must be accompanied by personally serving a copy to the party or by sending the document by registered or certified mail, return receipt requested, to the address of record in the bureau, no later than 15 days after filing the document.

In addition, within thirty (30) days of receipt of this decision you have the right to file a petition for a stay together with your appeal in accordance with the regulations at 43 C.F.R. § 4.21. The petition must be served upon the same parties specified above.

Pursuant to 43 C.F.R. § 4.21(b), a petition for stay, if filed, must show sufficient justification based on the following standards:

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

43 C.F.R. § 4.21(b)(2) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

If you have any questions on this decision please contact Mark Pirtle, BLM Burning Man Planner at 775-861-6674.

Sincerely,



Mark E. Hall, PhD.  
Field Manager  
Black Rock Field Office

Enclosures  
Cost Recovery Closeout Summary  
Attachment 1 - Project Labor Log  
Attachment 2 - BLM Contracts  
Attachment 3 - Travel Expenses  
Attachment 4 - Vehicle Utilization Expenses  
Attachment 5 - Miscellaneous Supplies and Equipment