MICHAEL VOEGELE

174 IBLA 313 Decided May 29, 2008

United States Department of the Interior
Office of Hearings and Appeals
Interior Board of Land Appeals
801 N. Quincy St., Suite 300
Arlington, VA 22203

MICHAEL VOEGELE

IBLA 2007-255 Decided May 29, 2008

Appeal from a decision by the Las Vegas (Nevada) Field Office, Bureau of Land Management, requiring payment of an estimated cost recovery fee before a special recreation permit application is processed. NV-050-08-012.

Affirmed.

1. Administrative Procedure: Generally--Administrative Procedure: Administrative Review--Rules of Practice: Generally--Rules of Practice: Mootness--Appeals: Generally

When the time period for an event subject to a special recreation permit application has passed, an appeal from BLM's estimate of cost recovery fees may be dismissed as moot because there is no further relief that can be granted on appeal. Where the appeal raises issues which are capable of repetition and may yet evade review, however, the Board properly adjudicates the appeal even though the relief sought by an appellant cannot be granted for the particular event.

2. Federal land Policy and Management Act of 1976: Applications: Generally--Public Lands: Special Use Permits--Special Use Permits

The regulation at 43 C.F.R. § 2932.31(e)(2) authorizes BLM to recover the costs of issuing a special recreation permit which requires more than 50 hours of BLM staff time to process. The application of that regulation to a not-for-profit off-road-vehicle club that has filed an application for a special recreation permit to hold an event on public lands is consistent with its statutory basis and is not unreasonable.

APPEARANCES: Michael Voegele, *pro se*; Nancy S. Zahedi, Esq., Office of the Regional Solicitor, U.S. Department of the Interior, Sacramento, California, for the Bureau of Land Management.

OPINION BY ADMINISTRATIVE JUDGE ROBERTS

Michael Voegele, on behalf of Southern Nevada Land Cruisers (SNLC), a chapter of the Toyota Land Cruiser Association, an off-road motoring organization, has appealed from a determination of the Las Vegas (Nevada) Field Office, Bureau of Land Management (BLM), that a cost recovery fee was required before BLM would continue processing SNLC's special recreation permit (SRP) application (NV-050-08-012) for SNLC's 30th Annual Glitter Gulch Gambol (Glitter Gulch Gambol).[1] The event would have occurred over a 5-day period from October 17 through 21, 2007. For the following reasons, we affirm BLM's decision.

I. BACKGROUND

SNLC's own description of its membership and activities places this appeal into context:

> Located in Las Vegas, the Southern Nevada Land Cruisers membership is open to ALL makes and models of Toyota 4x4s, including pickups, 4Runners, and all series of Land Cruisers.
>
> We have at least one club run every month, each organized and led by a different member. Depending on the run, it can vary from a "Scenic drive in the desert" to "Lockers and lift needed, expect body damage." Most runs provide an opportunity to do both if you like. We try to have something for everyone.

[1] In the statement of reasons (SOR) Voegele filed on behalf of SNLC, he states that he is not an officer of that organization but that he offered to file the SRP application for the 2007 Glitter Gulch Gambol when the club officer who initiated the permitting process experienced an "interaction" with BLM that he perceived was "very negative." SOR at 1. Under the Department's rules of practice, 43 C.F.R. § 1.3, a person other than an attorney is eligible to represent another in limited circumstances. Voegele has not shown that he is qualified to represent SNLC as an attorney or as an officer. *See* 43 C.F.R. § 1.3(b)(3)(iii). However, the record shows that Voegele has participated in the decisionmaking process in this case and is personally affected by the BLM action, and, therefore, could maintain the appeal in his personal capacity. *See El Bosque Preservation Action Committee*, 160 IBLA 185, 185-86 n.1 (2003); *see also Umpqua Watersheds, Inc.*, 158 IBLA 62, 65-66 (2002).

> Although things are happening throughout the year, we have 2 main events that get the bulk of our attention. The first is the Glitter Gulch Gambol, SNLC's signature run of the year. The second event is the SNLC Christmas party, where members and their families get together and celebrate another good year of friends and 'wheeling.

Answer, *quoting* www.snlc.org/About.htm.

On April 10, 2007, Voegele submitted an SRP application on behalf of SNLC for its annual Glitter Gulch Gambol.[2] *See* SRP Application NV-050-08-012. Based upon SNLC's operating plan, the 5-day event would be based out of the White Rock Campground in the southern Virgin Mountains just east of Mesquite, Nevada. Off-road vehicle riding events were scheduled for 2 of the 5 days. *See* 2007 SNLC Glitter Gulch Gambol Itinerary.

According to the map submitted by SNLC, the 2007 Glitter Gulch Gambol event would cover approximately 92.15 miles in total (in contrast to the 4.5-mile loop in each of the previous 3 years), of which about 79 miles fall within three Areas of Critical Environmental Concern (ACECs) (Gold Butte Part A, Whitney Pockets, and Gold Butte Part C (collectively, the Virgin Mountains ACECs)). These ACECs were established to protect the threatened desert tortoise (*Gopherus agassizii*) and its habitat, prehistoric habitation and rock art, wildlife habitat, and botanical habitat. *See* Appendix I, 2007 Proposed Glitter Gulch Gambol Map; *see also* Las Vegas Resource Management Plan Record of Decision at 3, 4, 6, 7. Also in contrast to the 4.5-mile loop previously used, the proposed 2007 routes traverse through or within close proximity to four natural springs and two wildlife guzzlers. *See* Appendix I, 2007 Proposed Glitter Gulch Gambol Map. The Glitter Gulch Gambol offers participants a choice of easy, moderate, or difficult runs from which participants can choose, based on their off-road driving skills and vehicle equipment. *See* 2007 Glitter Gulch Gambol Itinerary.

To comply with section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. § 4332(2)(C) (2000), BLM anticipated preparing an EA to

[2] BLM has issued SRPs for the Glitter Gulch Gambol in prior years. The event was permitted for 3 days in 2003, 2 days in 2004, 3 days in 2005, and 1 day in 2006. In 2004, 2005, and 2006, the event encompassed a 4.5-mile loop. From White Rock, participants would traverse a 1.5-mile existing road to the 4.5-mile "old mechanically created mine haul road more suitable for rock crawling and is in most places very technical, slow, and rough going due to erosion and abandonment, and not suitable for passenger vehicles." EA NV-2005-010; NEPA Project Nos. NV-2005-436 and NV-2006-414.

analyze the potential impacts of the event on ACECs and water resources and to determine whether specific mitigation measures would be required or changes in the route would be needed to protect those resources.

The record includes a BLM decision dated June 8, 2007, informing Voegele that it had reviewed the SRP application and had determined that it would take BLM more than 50 hours of staff time to process the application, monitor the proposed event, and conduct the necessary "post-compliance" of SNLC's activity. This decision stated that under the governing regulation, 43 C.F.R. § 2932.31(e)(1), BLM was requiring payment of cost recovery fees for processing the application, with 80% of the estimated fees due no later than June 30, 2007, or the application would not be processed and, further, that 100% of the estimated fees must be paid no later than October 15, 2007, or the SRP application would be denied. By letter dated July 2, 2007, BLM informed Voegele that the cost estimate for the 30th Annual Glitter Gulch Gambol was $5,490.08, due as stated in the June 8 decision. BLM enclosed a copy of the "Cost Estimate," an "Hours and Vehicle Breakdown," and a "Cost Recovery Agreement." By letter dated July 5, 2007, Voegele, at the "behest" of SNLC, appealed BLM's decision.

II. VOEGELE'S ARGUMENTS ON APPEAL

Voegele's appeal of BLM's decision is based upon two primary arguments. First, he contends that BLM's interpretation of 43 C.F.R. § 2932.31(e)(1) is erroneous. In his view, this regulation should be read to require cost recovery for only those hours of processing time in excess of the first 50 hours, and not as of the first hour of processing when the total hours of processing time exceed 50 hours. SOR at 2. Second, he asserts that BLM's estimated hours for processing the SRP, from beginning through post-event monitoring, are excessive because attendance at the event by a BLM Recreation Planner and law enforcement rangers is unnecessary. *Id.* at 3. He alleges that SNLC modified the date of the event in response to BLM's concerns about tortoise mating, and selected different roads and trails because of concerns about springs or guzzlers on one of the trails. He complains that "BLM forced the cancellation of the event by charging fees that could not be paid by a casual use group." *Id.* at 4.

III. ANALYSIS

[1] At the outset, we must address whether the instant case is moot. The Glitter Gulch Gambol was scheduled to take place in October 2007. Because the cost recovery issue was unresolved, the permit application could not be processed in time for the event to be held, and it was cancelled as a result. Thus, there is no relief that this Board could now give that would allow the event to take place. Ordinarily, such

circumstances would render an appeal moot. However, there is an exception to this principle. In *Colorado Environmental Coalition*, 108 IBLA 10 (1989), we held:

> It is well established that the Board will dismiss an appeal as moot where, subsequent to the filing of the appeal, circumstances have deprived the Board of any ability to provide effective relief and no concrete purpose would be served by resolution of the issues presented. *Jack J. Grynberg*, 88 IBLA 330 (1985); *Douglas McFarland*, 65 IBLA 380 (1982); *John T. Murtha*, 19 IBLA 97 (1975). Relying on this standard, however, we have declined to dismiss an appeal on the basis of mootness where, as in the judicial context, it presents an issue which is "capable of repetition, yet evading review" (*Southern Pacific Terminal Co. v. Interstate Commerce Commission*, 219 U.S. 498, 515 (1911)), especially in circumstances where the BLM decision is placed by Departmental regulation into full force and effect pending resolution of the appeal, and action is taken pursuant thereto before the Board can act on a request for a stay or otherwise reach the merits of the case. *Yuma Audubon Society*, 91 IBLA 309, 312 (1986), and cases cited therein.
>
> We have held that to dismiss an appeal presenting potentially recurring issues on the basis of mootness initially deprives the appellant of the objective administrative review to which it is entitled and may ultimately preclude any administrative review in such circumstances. Rather, the better approach is to address the issues presented, thereby affording suitable administrative review and providing the necessary direction to BLM in such likely future cases. That is the situation here.
>
> In the present case, the drilling and subsequent plugging and abandoning of the Federal No. 10-32 well, where all that remains is the rehabilitation of the drill site and associated areas, has clearly deprived the Board of its ability to provide any effective relief, even assuming the Board were to find that BLM's approval of the subject APD was fatally flawed. Nevertheless, we conclude that the appeal presents a significant issue concerning the adequacy of BLM's assessment of the potential effect of drilling and associated road improvement activity on the Hovenweep National Monument and surrounding resource protection zone, which issue is likely to recur.

108 IBLA at 15-16.

We believe these principles apply here. BLM's June 8, 2007, decision was in force pending this appeal. *See* 43 C.F.R. § 2931.8. Inasmuch as the Glitter Gulch Gambol has been held every year for almost 30 years, it is reasonable to expect that Voegele or other SNLC members will seek a permit for this event again. Unless the cost recovery issue is resolved, the same situation that occurred in 2007, and the issues presented in this appeal, are likely to recur. We will therefore proceed to address the merits.

[2] SRPs are issued under the general authority of the Secretary of the Interior to administer use of the public lands, pursuant to section 310 of Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1740 (2000). BLM has considerable discretion under section 302(b) in approving and issuing SRPs. *See* 43 C.F.R. § 2932.26; *Bookcliff Rattlers Motorcycle Club*, 171 IBLA 6, 13 (2006); *Daniel T. Cooper*, 150 IBLA 286, 291 (1999). An exercise of the Secretary's discretionary authority to administer SRPs must have a rational basis and be supported by facts of record demonstrating that an action is not arbitrary, capricious, or an abuse of discretion. *Bookcliff Rattlers Motorcycle Club*, 171 IBLA at 13; *Larry Amos d/b/a Winterhawk Outfitters, Inc.*, 163 IBLA 181, 188 (2004). If a decision has any rational basis, it will not be held arbitrary and capricious. *Obsidian Services, Inc.*, 155 IBLA 239, 248 (2001). An appellant appearing before the Department bears the burden of proof to show, by a preponderance of the evidence, that a challenged decision is in error. *Bookcliff Rattlers Motorcycle Club*, 171 IBLA at 13; *Larry Amos*, 163 IBLA at 190.

Section 304(a) of FLPMA, 43 U.S.C. § 1734(a) (2000), authorizes the Department to establish reasonable charges with respect to applications for use of the public lands. It authorizes the Secretary to "require a deposit of any payments intended to reimburse the United States for reasonable costs with respect to applications . . . relating to such lands." Section 304(b) of FLPMA, 43 U.S.C. § 1734(b) (2000), defines "reasonable costs" as including, but not limited to, "the costs of special studies; environmental impact statements; monitoring construction, operation, maintenance and termination of any authorized facility; or other special activities." Section 304(b) further provides:

> In determining whether costs are reasonable under this section, the Secretary may take into consideration actual costs (exclusive of management overhead), the monetary value of the rights or privileges sought by the applicant, the efficiency to the government processing involved, that portion of the cost incurred for the benefit of the general public interest rather than for the exclusive benefit of the applicant, the public service provided, and other factors relevant to determining the reasonableness of the costs.

The regulations at 43 C.F.R. Part 2930 were promulgated by the Department pursuant to section 304(b) of FLPMA, and became effective on October 31, 2002. 67 Fed. Reg. 61732 (Oct. 1, 2002).[3] In 43 C.F.R. § 2932.31(e)(2), the Department established a new cost recovery system for processing SRPs for competitive or organized group/event use.[4] If BLM anticipates that it will need more than 50 hours of staff time in any one year to process an SRP and "permit fees on the fee schedule for that year will be less than the costs of processing the permit," it may assess charges for "BLM's costs of issuing the permit, including necessary environmental documentation, on-site monitoring, and permit enforcement." *See* 43 C.F.R. § 2932.31(e)(2) and (e)(3). Cost recovery charges for competitive or organized group/event use are in lieu of the SRP fee. 43 C.F.R. § 2931.32(e)(2).

In *Bookcliff Rattlers Motorcycle Club*, the Board provided the following review of the scope of 43 C.F.R. § 2932.31(e):

> Section 304(b) of FLPMA does not limit cost recovery by type of applicant, type of application, or type of activity. Regulation 43 C.F.R. § 2932.31(e) is not limited to commercial uses of the public lands, but applies to both commercial uses (subsection (e)(1)) as well as competitive use and "organized group/event use[s]" (subsection

[3] The regulations pertaining to SRPs were formerly found at 43 C.F.R. Subpart 8372. Those regulations were recast in "plain English" and "update[d]" to reflect "changes over the last 15 years in recreational activities and large-scale events." 67 Fed. Reg. 61732, 61740 (Oct. 1, 2002). This rulemaking was promulgated under the authority of the Land and Water Conservation Act of 1965 (LWCFA), 16 U.S.C. § 460*l*-6a (2000), and section 310 of FLPMA, 43 U.S.C. § 1740 (2000). In December 2004, Congress enacted the Federal Lands Recreation Enhancement Act of 2004 (FLREA), 16 U.S.C. §§ 6801-13 (Supp. V 2005), which repealed relevant provisions of the LWCFA subject to a grandfather provision for existing permits. 16 U.S.C. § 6804(f)(2). The Departmental rules governing SRPs at 43 C.F.R. Subpart 2932 thus predate enactment of the current statutory scheme for them; accordingly, in 2005, the Department issued proposed rules to modify the regulations to comport with the FLREA in ways not relevant to this case, 70 Fed. Reg. 70570 (Nov. 22, 2005), and finalized the changes in 2007. 72 Fed. Reg. 7832, 7836 (Feb. 21, 2007) (changes to 43 C.F.R. § 2932.570. *See Black Rock City LLC*, 173 IBLA 49, 58 (2007).

[4] The June 8, 2007, decision erroneously cited 43 C.F.R. § 2932.31(e)(1). That provision applies to permits for "commercial use," as defined in 43 C.F.R. § 2932.5. The Glitter Gulch Gambol is not a commercial use. It is an "organized group activity" as defined in that section. BLM has determined that an SRP is required under 43 C.F.R. § 2932.11(b)(2). Therefore, the fee and cost recovery provisions of 43 C.F.R. § 2932.31(e)(2)–not (e)(1)–apply.

> (e)(2)). It is this latter provision that applies here. "Competitive use" is defined as "[a]ny organized, sanctioned, or structured use, event, or activity in which 2 or more contestants compete" for which either "participants register, enter, or complete an application for the event" or "a predetermined course or area is designated," or both. 43 C.F.R. § 2932.5. An "organized group/event" that is not competitive is also subject to cost recovery. 43 C.F.R. § 2932.31(e)(2). "Organized group activity" means "a structured, ordered, consolidated, or scheduled event on, or occupation of, public lands for the purpose of recreational use that is not commercial or competitive." 43 C.F.R. § 2932.5. Thus, even if BRMC [the applicant] offered the opportunity to competitors to enter the race free of charge, or to run the course in a noncompetitive manner, it would still be subject to the cost recovery provisions of 43 C.F.R. § 2932.31(e).

171 IBLA at 14-15. In the instant case, there appears to be no competitive use, but the event is structured and scheduled for the purpose of recreational use. The Glitter Gulch Gambol meets the definition of "organized group activity."[5]

We reject Voegele's claim that 43 C.F.R. § 2932.31(e) should be interpreted to exclude the recovery of BLM's costs for the first 50 hours of SRP processing, and that SNLC should only be charged for cost recovery for any hours over the first 50 hours. SOR at 2-3. Voegele's interpretation is contrary to the stated intent of the regulation as promulgated. In the preamble to the proposed rule establishing cost recovery requirements, BLM stated:

> The proposed rule would change the threshold for charging actual costs (which may replace or be in addition to the scheduled fees discussed in

[5] BLM may, on a case-by-case basis, grant waivers of recreation permit fees for accredited academic, scientific, and research institutions, therapeutic, or administrative uses. 43 C.F.R. § 2932.34. This Board has held that a waiver of fees due for an SRP may not be obtained when the application for use of the public lands is primarily for recreational purposes. *See Camp Redcloud, Inc.*, 162 IBLA 84, 95 (2004) (application of 43 C.F.R. § 8372.4(c)(2)). SNLC made no showing that it qualifies for a waiver of fees pursuant to 43 C.F.R. § 2932.34.

Regulation 43 C.F.R. § 2932.12 authorizes BLM to waive the requirement to obtain a permit for competitive or organized group activities under circumstances not relevant here. Under that regulation, however, permits may *not* be waived when the use poses an "appreciable risk for damage to public land or related water resource values" and requires "specific management or monitoring." At least the first of those factors is present here. *See* 43 C.F.R. § 2932.12(c)(4) and (c)(5).

> the previous paragraph) from a fixed cost in dollars ($5,000)–which may become obsolete due to changes in currency values–to an amount of administrative work that would be required. The section would provide that if a permit requires more than 50 hours of BLM administrative or staff time to process and monitor, BLM may require the applicant to pay actual administrative costs, in addition to the fees set by the fee schedule. *If the time to process your application exceeds the 50-hour threshold, BLM would require you to pay costs from the first hour of administrative work.*

65 Fed. Reg. 31234, 31236 (May 16, 2000) (emphasis added).

Similarly, in the preamble to the final rule, BLM articulated in clear terms its intent to collect cost recovery fees as of the first hour of BLM's administrative and staff processing work, if more than 50 hours of time was required to process an SRP. *See* 67 Fed. Reg. at 61734-35. BLM noted that during public comment on the proposed rules it received "several comments" suggesting that the 50-hour threshold for cost recovery is too low, and asking that the threshold be raised to 75-100 hours, or 200 hours. *Id.* In response, BLM stated, *inter alia*, that "the practical effect of the rule as written, with its 50-hour threshold, is that permit renewals will not trigger cost recovery unless you propose a substantial change in your operation that would require additional environmental analysis." *Id.* at 61735. Thus, BLM structured the new rule so that an applicant for SRP renewal could avoid cost recovery assessments for repeated activity. *See also Bookcliff Rattlers Motorcycle Club*, 171 IBLA at 18.[6]

Voegele further challenges BLM's estimates of the number of hours required to process SNLC's application, stating that BLM is without "basis for concluding that 36 additional hours are needed for law enforcement and planner monitoring during our event, especially as we have held the event . . . over many years and have not violated the permit conditions." SOR at 3; *see also* Voegele Letter to BLM dated Oct. 10, 2007 (Reply), at 3. BLM estimated a total of 24 hours of staff time for its recreation planner to monitor the Glitter Gulch Gambol event over the 5-day period. *See* Cost Recovery Fee Estimate at 5. BLM points out in its answer that, according to Instruction Memorandum No. 2005-066 (Jan. 31, 2005), "[m]onitoring an event for

[6] Notably, as we held in *Black Rock City, LLC*, 173 IBLA at 64-65, the final rulemaking went on to ensure that charging to collect both standard fees and administrative costs would be permissible only in the case of commercial permits, but in the case of permits for organized group activities, either cost recovery or standard fees may apply, but not both. "In cases where we charge for cost recovery for recreational events (as opposed to commercial use), the final rule provides that the charges will be in place of permit fees." 67 Fed. Reg. at 61735.

damage to inventoried resources or permit compliance that might occur as a direct result of the permitted event is an appropriate charge" for cost recovery. Answer at 9. Further, BLM's Handbook provides:

> Permits are monitored for compliance with stipulations, terms, and conditions. The amount of such monitoring is commensurate with the resource values at risk, the permittee's past record of compliance, and the ability to obtain monitoring services through other means such as local police, other permittees, the public, and other factors.

BLM Handbook H-2930-1 at 46.

SNLC apparently has an excellent record of past compliance with permit conditions, and BLM does not contend otherwise. The problem for SNLC here is that under the permit it requested for 2007, much greater resource values are at risk than in previous years. For 2007, the requested permit increased the proposed trail usage from 4.5 miles to more than 92 miles–a more than 20-fold increase from prior years. Particularly in view of the fact that 79 miles of the proposed trail usage are within three ACECs and would go through or very near four natural springs and two wildlife guzzlers, it was reasonable for BLM to include costs for at least a pre-event field inspection by the recreation planner and the wildlife biologist and a post-event field inspection by the recreation planner. Voegele effectively acknowledges this in both the SOR and the Reply. In the SOR he states: "In response to [BLM's] concern about springs or guzzlers on some of the proposed trails, we offered to not only change the routes, but to accompany Bureau personnel if they wanted to drive the routes." SOR at 1-2. Similarly, in the Reply, Voegele states: "When that same [environmental] specialist identified potential concerns about springs or guzzlers on one of the trails we indicated we would like to drive, we offered to select different roads and trails. We even offered to drive the planners along our requested trails to make sure that any concerns could be mitigated." Reply at 2. Such inspection obviously requires time and increases the agency's costs of processing the requested permit. In view of the extent of trail mileage within the ACECs and the dramatic increase in trail miles involved, it does not appear unreasonable for BLM to decide to have someone on-site at least part of the time the event is taking place to monitor trail usage and compliance with permit terms and stipulations.[7]

[7] Whether someone is needed on-site all day during all three days of the event, particularly in view of the small size of the group and the agency's familiarity with past conduct of the people involved, is a question BLM should ask in considering a new request in the future, but it need not be resolved here.

The 20-fold increase in trail mileage, particularly in the ACEC areas, unavoidably and substantially increases the costs of NEPA compliance in comparison to previous years. Consistent with BLM's statement in the preamble to the final rule, as quoted above, the permit application in this case triggers cost recovery because SNLC has "propose[d] a substantial change in [its] operation that would require additional environmental analysis." 67 Fed. Reg. at 61735. It is not reasonable for SNLC to expect that the agency's time and associated costs in connection with processing the 2007 permit request would remain the same as for 2006.[8]

However, eliminating the costs for the law enforcement ranger and part of the costs for monitoring by another employee would not bring the projected hours necessary for agency processing of this matter below 50 hours. The "Hours and Vehicles Breakdown" shows totals of 20 hours for NEPA compliance and 20 hours for pre-event inspections by all personnel involved. Voegele has not shown any error in these estimates, and they appear to us to be reasonable. The same breakdown shows a total of 10 hours for post-event inspection and file closeout. We find nothing unreasonable in these estimates.

The total hours for these functions is 50 hours. Thus, any time incurred in any on-site monitoring would make the total hours exceed the threshold point for cost recovery fees for analyses and processing under 43 C.F.R. § 2932.31(e)(2). While the total of 86 hours used in BLM's calculation may not appear reasonable under the circumstances, we agree with BLM that the June 8, 2007, decision properly required cost recovery fees.

IV. CONCLUSION

We conclude that Voegele has failed to meet his burden to show, by a preponderance of the evidence, that BLM erroneously concluded that cost recovery

[8] At the same time, and in light of the small size of the group and the lack of problems or violations over a long period of years, Voegele raises a legitimate question regarding why BLM would consider necessary to have a law enforcement ranger on site during each day of the event, particularly if BLM already has another employee on site monitoring the event. In view of the size of the group (approximately 30 participants, including families), the nature of the event, and the group's past record, we think any future cost recovery determination for the Glitter Gulch Gambol that includes an estimate for personnel costs should provide an explanation of the need for the number of personnel included. If Voegele, or SNLC, has additional factual information that might affect BLM's decision, it should proffer that information to BLM with its application.

fees are required. *See Bookcliff Rattlers Motorcycle Club*, 171 IBLA at 13; *Larry Amos*, 163 IBLA at 190. The Glitter Gulch Gambol meets the definition of "organized group activity" in 43 C.F.R. § 2932.5 and is subject to the cost recovery provisions of 43 C.F.R. § 2932.31(e). *See Bookcliff Rattlers Motorcycle Club*, 171 IBLA at 15. Since the estimated time to process SNLC's application was more than 50 hours, BLM properly charged SNLC for cost recovery from the first hour of administrative work. *Id.* at 18-19.

All other arguments advanced but not specifically addressed herein have been considered and rejected.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the decision appealed from is affirmed.

/s/
James F. Roberts
Administrative Judge

I concur:

/s/
Geoffrey Heath
Administrative Judge