WO Recreation Program Overview

- Who's Who in the Zoo?
- BLM Recreation Strategy
- Other News

WO-250 Recreation & Visitor Services

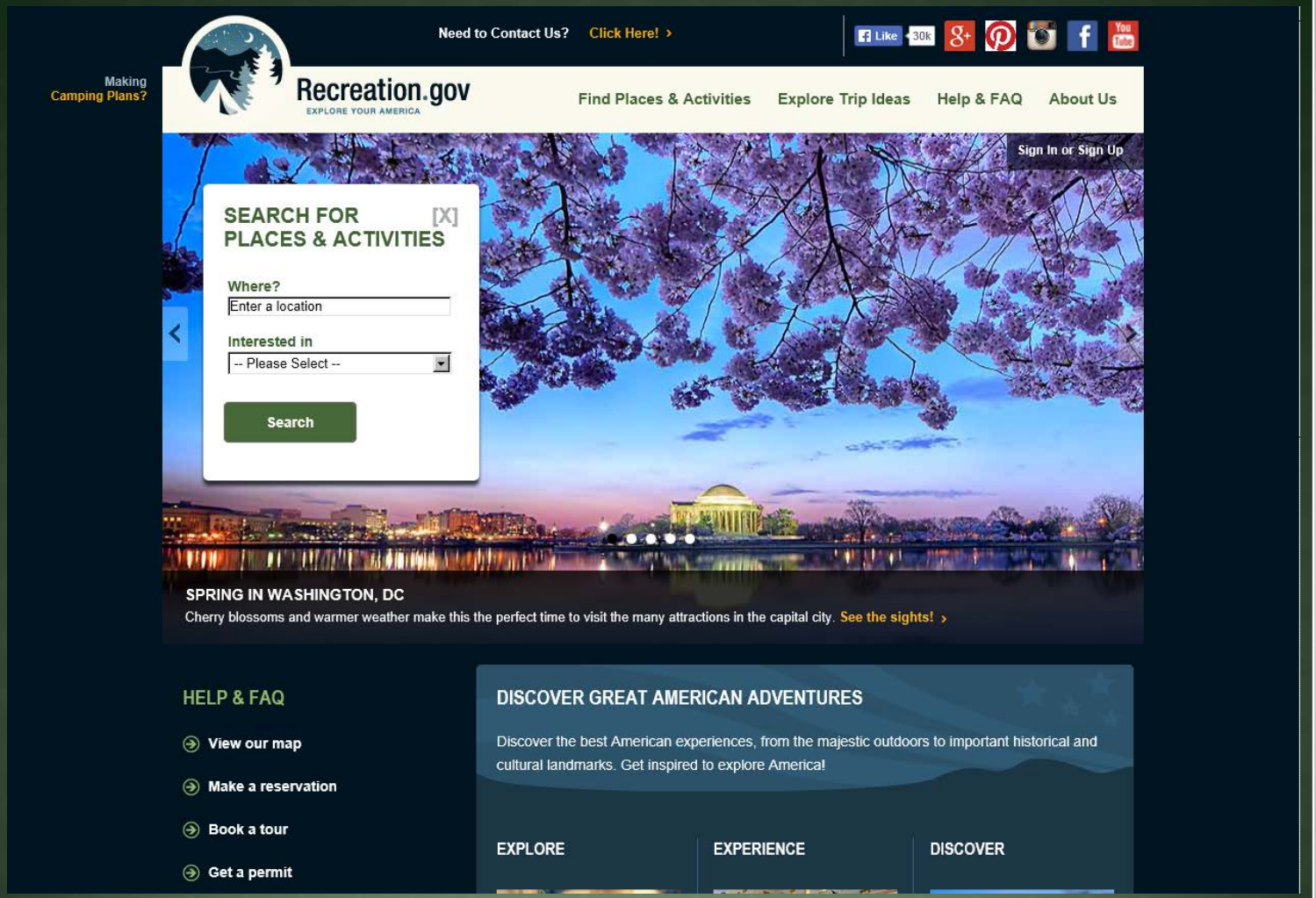
DOROTHY MORGAN

Recreation Planning, NEPA review

Planning for Recreation
and Visitor Services
BLM
BLM Handbook
H-8320-1

PEGGI BROOKS

Recreation.gov
RUPs
Commercial Leases
Business Plans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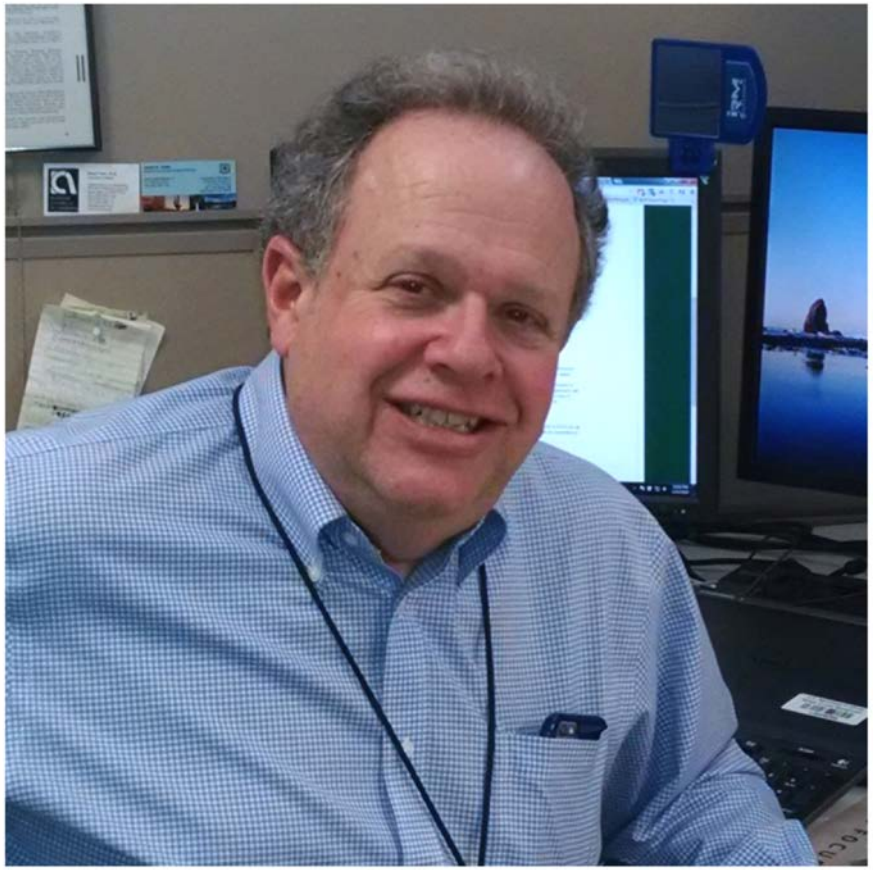
DISCOVER GREAT AMERICAN ADVENTURES
Discover the best American experiences, from the majestic outdoors to important historical and cultural landmarks. Get inspired to explore America!
EXPLORE
EXPERIENCE
DISCOVER

DAVID BALLENGER

National Rec Permit and Fee Program Manager

SRPs, FLREA, Interagency Passes



KEN GREENBERGER

Accessibility Coordinator

Architectural Barriers Act (ABA) Standards (2015)

Note: This edition includes new provisions for outdoor developed areas and emergency transportable housing.

Adopted by the:
Department of Defense (2008)
General Services Administration (2005)
U.S. Postal Service (2005)

ROB PERRIN

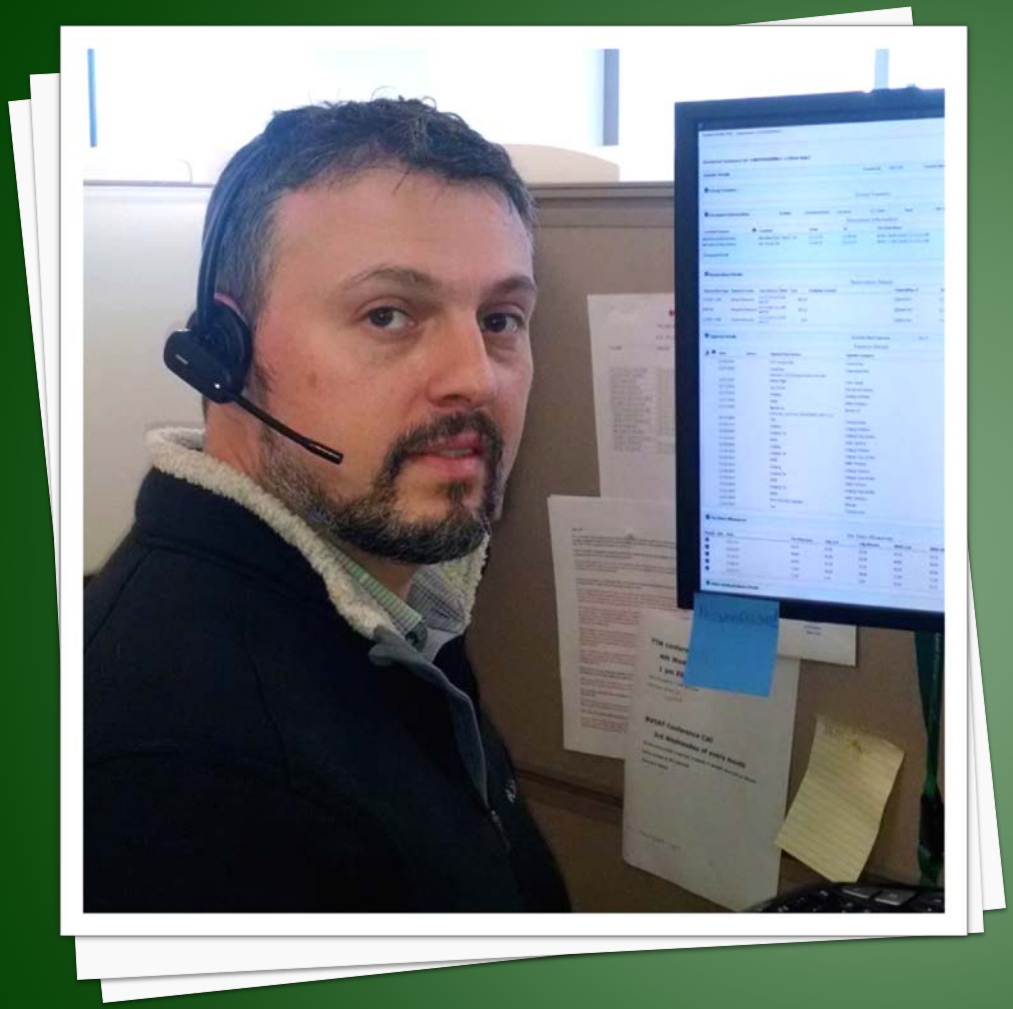
Travel and Transportation Management

United States
Department of the Interior
Bureau of Land Management

Travel and Transportation

Management Handbook

BLM HANDBOOK H-8342-1



DENNIS BYRD

Rec Data Mgmt.
TTM

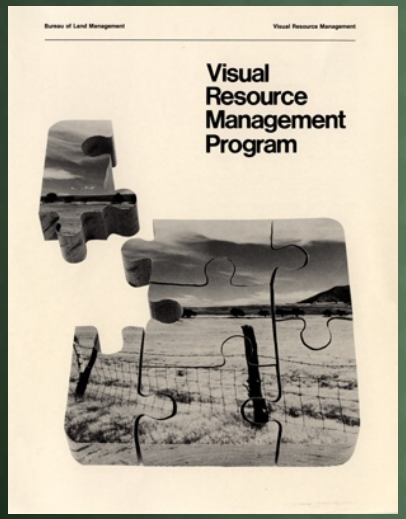
JOHN MCCARTY

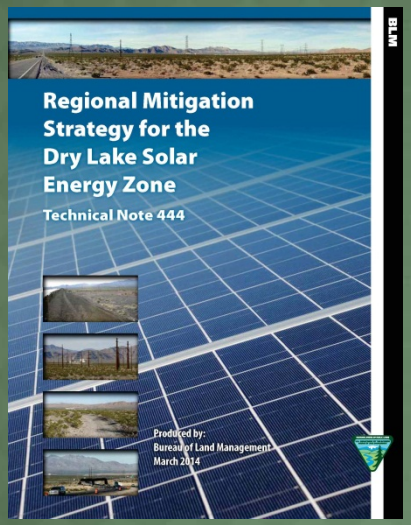
Chief Landscape Architect

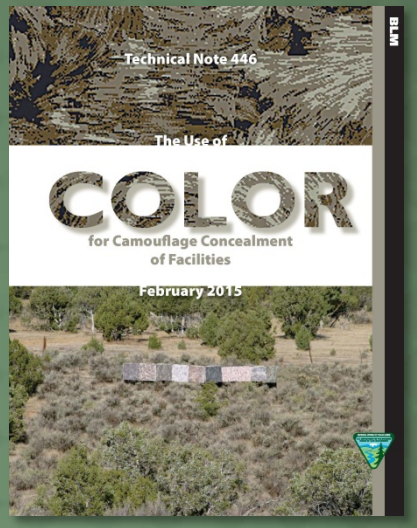
Visual Resource Management

Activities

1. Revising the Visual Resource Management 8400 Manual
2. Visual Resource regional (compensatory) mitigation procedures
3. Use of Color/ Camouflage Concealment of Facilities Technical Note
4. Night Skies policy
5. New activity with Back Country Byways (AZ, WY)







VACANT - SENIOR ORP

Rec Planning, Shooting Sports

Other duties…

VACANT - ORP

Travel and Transportation Management,

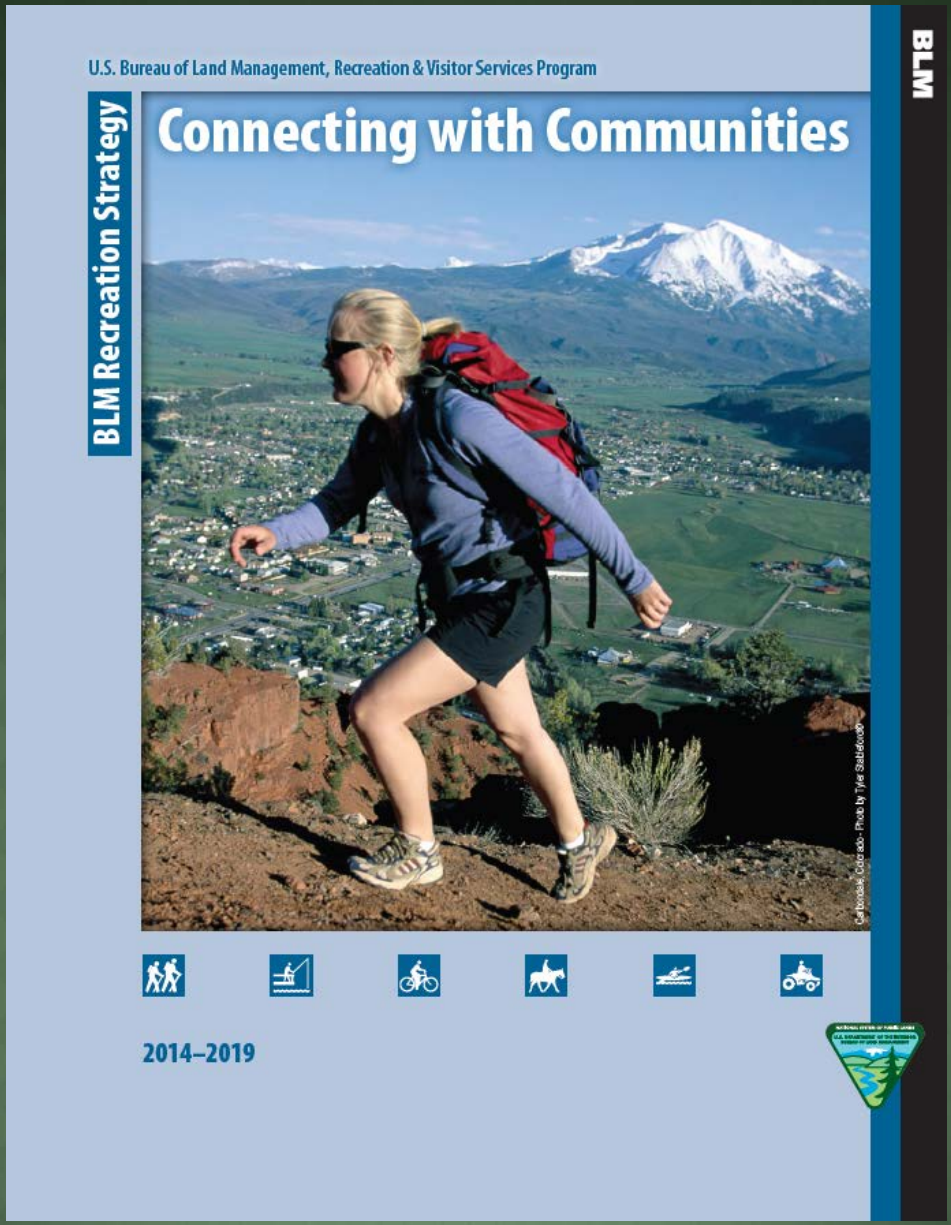
Other duties…

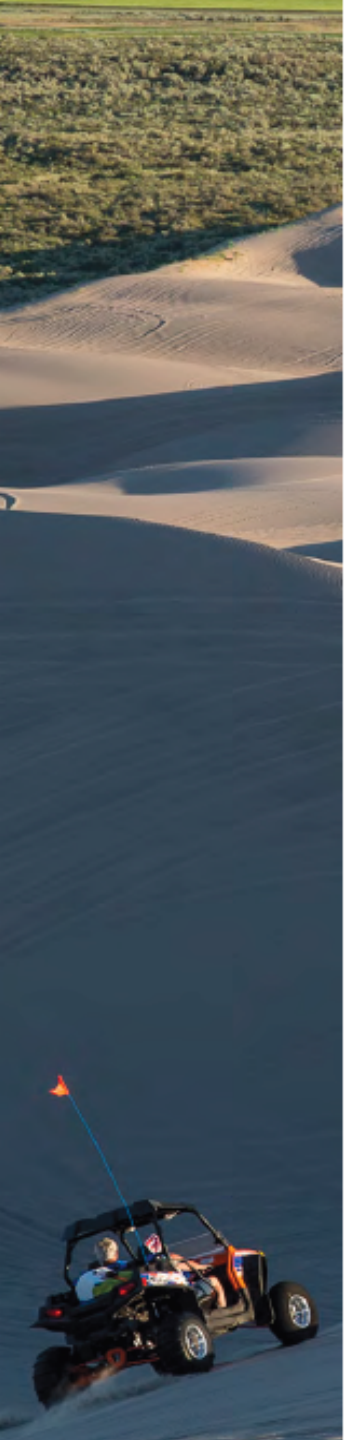
SCOTT (ANTHONY) FELDHAUSEN

Deputy Division Chief

ANDY TENNEY

Division Chief: WO -250 Recreation and Visitor Services

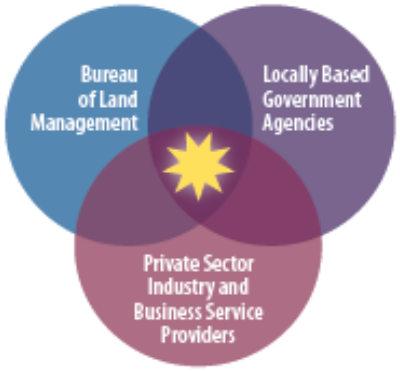

U.S. Bureau of Land Management, Recreation & Visitor Services Program
BLM Recreation Strategy
Connecting with Communities
Gunnison, Colorado - Photo by Tyler Stallsworth
2014–2019
BLM



Vision: By increasing and improving collaboration with community networks of service providers, the BLM will help communities produce greater well-being and socioeconomic health and will deliver outstanding recreation experiences to visitors while sustaining the distinctive character of public lands recreation settings.

Strategic Focus: Externally, the BLM will capitalize on its recreation brand of America's "Backyard to Backcountry" treasure, consistently coordinating with community and regional landscape-level representatives when planning and managing recreation settings, services, and facilities; prioritize recreation areas that provide the most significant public benefits; and leverage financial resources through community partner organizations to ensure that top-priority sites and services are maintained.

Internally, the BLM will train and maintain a recreation workforce capable of engaging productively in community relations and identifying outcomes to benefit communities and visitors alike; revise internal processes to provide greater support for a community-centered approach and better information for decisionmaking; improve communication and outreach efforts; and use traditional and alternative funding sources as efficiently and effectively as possible.

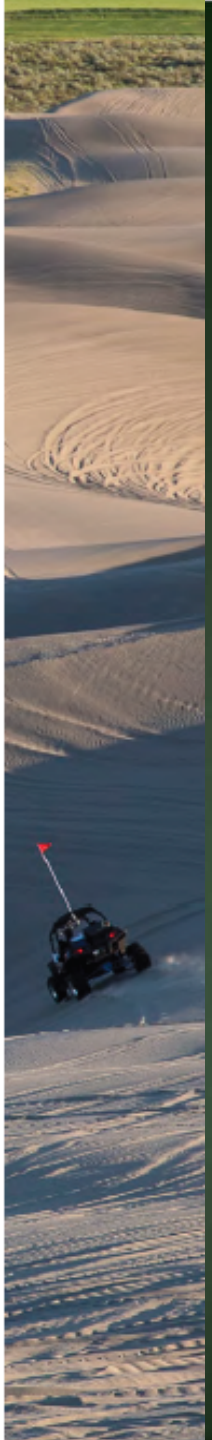


Locally Based Government Agencies include municipal and county governments, the National Association of Counties, tribal governments, state and regional agencies, other federal agencies, schools, etc.

Private Sector Industry and Business includes outfitters and tour operators, lodging and restaurants, nature and youth centers, chambers of commerce, tourism industry associations, sporting goods and retail, other nongovernmental organizations, etc.

Acknowledgments: This strategy was developed under the guidance of the BLM's Recreation and Visitor Services Advisory Team (RVSAT). RVSAT advises BLM management regarding recreation and visitor services priorities, policies, programs, and budget. Chartered in 2004, the advisory group is composed of the 12 BLM state office recreation leads, BLM's deputy chief of the Recreation & Visitor Services Division, and representatives from BLM's Engineering Advisory Team and National Landscape Conservation System. RVSAT also advises staffs of the National Training Center and National Operations Center.

The Recreation Strategy Team gratefully acknowledges the contribution of the RVSAT members, as well as the continuing support of the BLM's Executive Leadership Team.



External Repositioning Strategy

- Reposition the Recreation Program within Community Service Provider Networks to better serve mutually served customers.

- Facilitate greater well being and economic benefits within communities

Internal Repositioning Strategy

- Deepen the knowledge and skill base needed for maximizing partnership opportunities.
- Ensure that BLM participation in partnerships remains effective and relevant.
- Transform communication and outreach efforts.
- Establish secure and reliable funding sources.

Recreation Permits

on Public Lands

How recreation permitting should work for you…

instead of vice versa

BLM NTC National Training Center

INTRODUCTION

Class requests

SRP workflow – the permitting process, pre-application to evaluation

Where to find things in the Handbook H-2930-1

FLREA public participation requirements

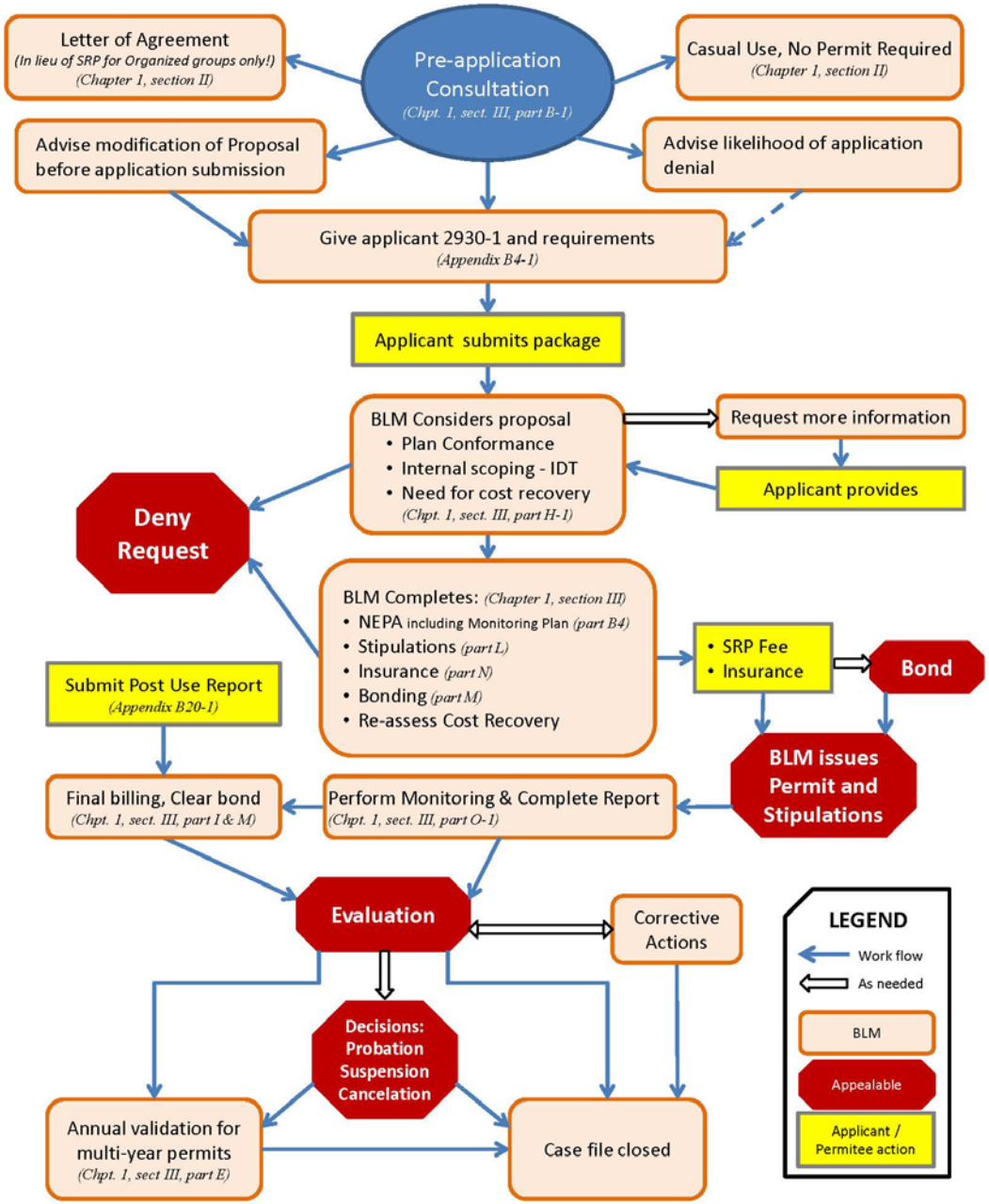
Questions and group discussion

Objectives

Upon completion, participants should be able to:

- Appreciate the uniqueness of Recreation permitting in BLM.
- Identify, locate and utilize current guidance.
- Administer, monitor and evaluate permits to achieve planned goals and objectives within a recreation program.

The Process: How to Issue a BLM Special Recreation Permit



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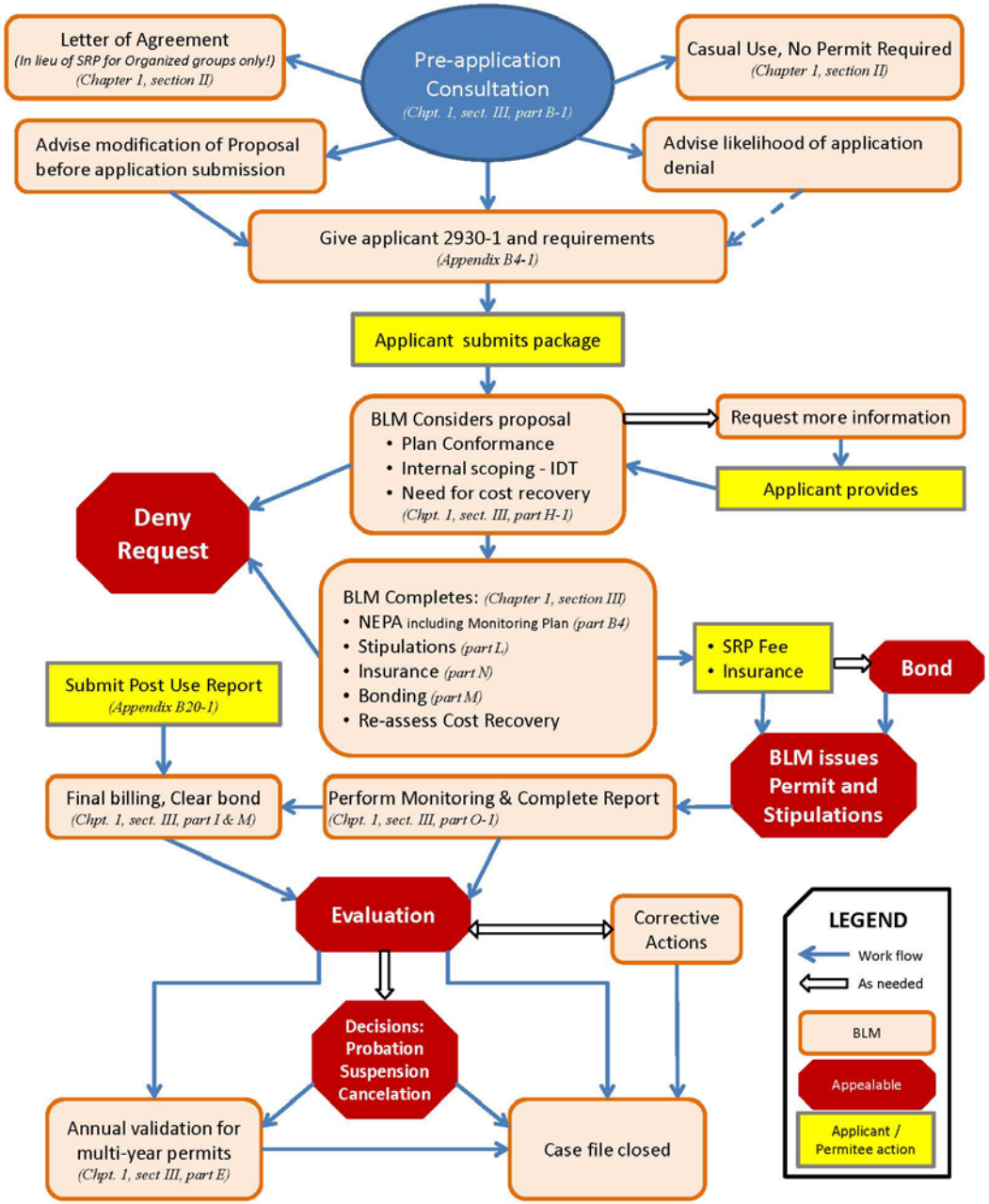


MODULE 1

SRP background and Core Knowledge

SRPs are different from any other BLM use authorizations

Recreation is a relatively new program in BLM.

- Mining laws 1866, 1872, 1955.
- Mineral Leasing Act 1920.
- Taylor Grazing Act 1934.
- ~3,000 public land laws since 1785

Permitting by minerals, grazing, lands and timber:

1. Directed by statute, including qualifications of applicants and permit processing.
2. Existed in a Pre-NEPA, Pre-FLPMA, Pre-land use planning world.
3. Extensive history of litigation and court decisions.
4. Objective was to produce commodities, benefit the industry. Permittee is the end user.
5. BLM required to issue permits, leases, authorizations

Recreation in BLM

1. Classification and Multiple Use Act of 1964. Directs BLM, for the first time to assure a place for recreation.
2. FLPMA of 1976 directs that recreation is one of the principal or major multiple uses of public land. Provides no specific direction for authorizing use.

Recreation permitting is more dependent on land use planning and program specific guidance than any other permitting in BLM!

Recreation Permits are Different!

1. No statute requires BLM to issue recreation permits or sets standards for applicants.
2. No law requires BLM to benefit the recreation industry.
3. Recreation permits produce experiences and outcomes, not commodities, not activities.
4. The permittee is not the end user of a commercial, competitive or organized group permit.
5. No other program permits the variety of activities.

Recreation Permits are Different!

6. SRPs are more discretionary than other program's permits.

7. Decisions on recreation permits rely more on *ethical decision making* than legalistic adjudication.

Why We Issue SRPs

1. Support recreation planning goals to provide experience and beneficial outcomes to the public.
2. Manage visitor use.
3. Provide for public health and safety.
4. Reduce user conflicts.
5. Reduce resource conflicts and damage.
6. Educate/communicate with the public.
7. Manage BLM workload.
8. Get a return for the commercial use of public land.

SRPs are permits to use the landscape as it is!

It is **NOT** appropriate to use an SRP to authorize:

- Construction of facilities.
- Earth moving/heavy equipment.
- Removal of vegetation.
- Destruction/removal of natural objects.

Manual and Handbook 2930-1

Planning

- SRPs are not a separate activity. They are a means to implement recreation goals and objectives.
- Permits must serve the public interest.
- Make allocation decisions in LUP process, not one application at a time.

Field Office Recreation Program

Special Designations

SRMA & ERMA

SRPs

Setting Prescriptions

VRM

Developed Sites

Travel and Transportation

RUP Sites

Interpretation

Visitor Center

Desired Experience

RSC

Allocations

OHV Designations

RMP

Beneficial Outcomes

Field Office Recreation Program

Goals & Objectives

- RMP
- RMAs
- Special Designations
- Beneficial Outcomes
- Desired Experience

Supporting Actions

- Travel and Transportation
- VRM
- RSC
- Setting Prescriptions
- Allocations

Implementation Actions

- RUP Sites
- Developed Sites
- *SRPs*
- Interpretation
- Visitor Center
- OHV Designations

2930 Manual Highlights

2930 Manual states FM's **must**:

- Provide for recreation permits in RMP *(including activities that would not be permitted!)*
- Ensure staff receive training.
- Develop, implement, and monitor actions related to recreation permits.

General Recreation Permit Policy

BLM Manual 2930

Permits and Permitted Use:

- A privilege to use public lands.
- Discretionary actions.
- Must serve the public interest.
- Supports management planning objectives and used to manage visitor use, protect resources, provide for health & safety.

Basic Guidance

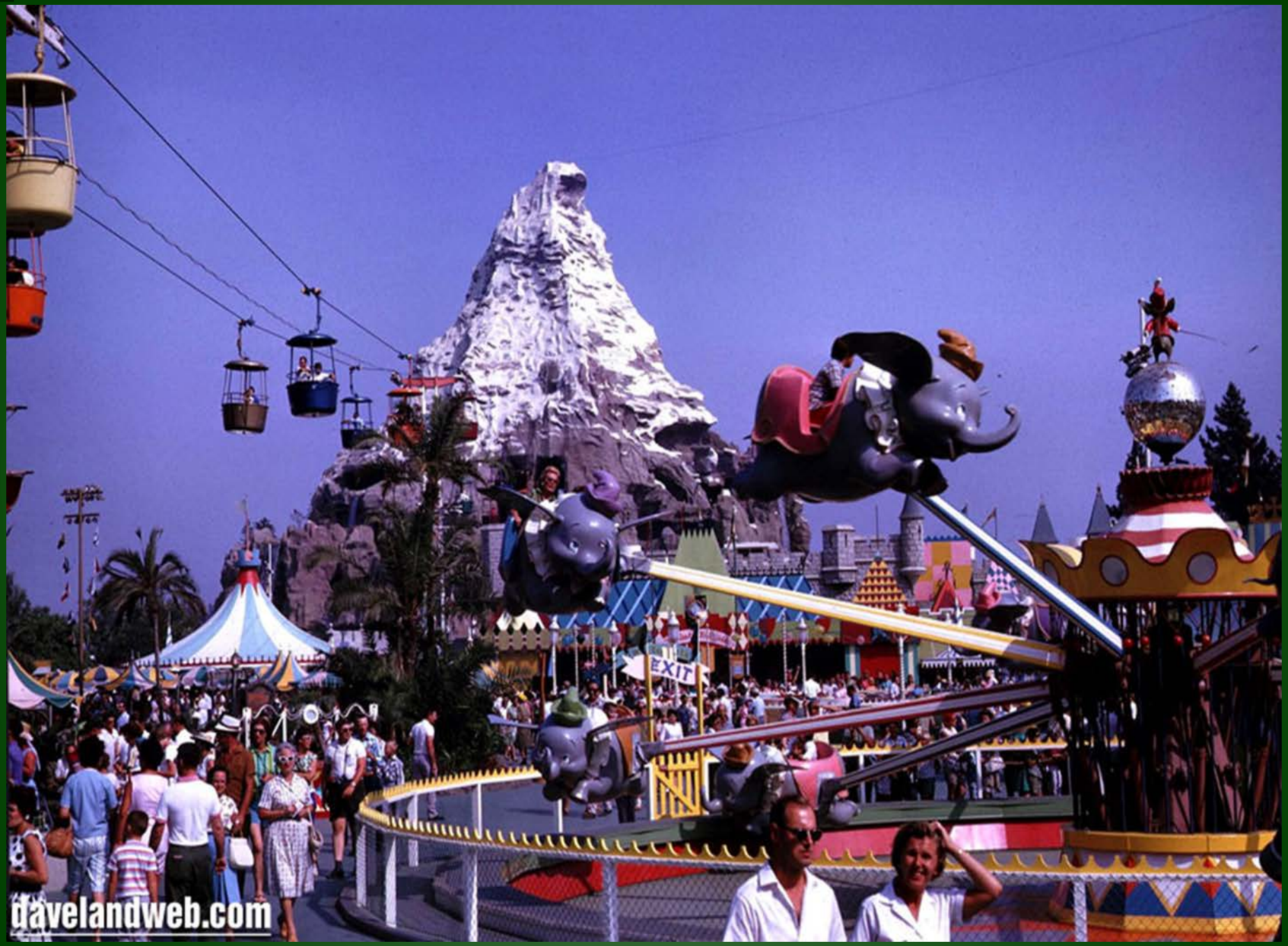
- BLM Manual 2930
- Focus on quality experience for current and future users. Results, not process.
- Achieve healthy ecosystems which provide settings for high quality experience.
- Resource dependent niche – unique to each area.
- Each office must identify niche within framework of a National role.
- Business Plans developed to share with the public, and how collections will be used.

OUTDOOR RECREATION NICHES ARE:

Authentic and unique.

Describe outstanding values.

Significant regionally, nationally or internationally.


EXIT
davelandweb.com

The Upshot

If you have not done all items from the last few slides, your time would be better spent doing some recreation planning instead of administering permits!

Sources of Information

- Regulations 43-CFR-2930
- 2930 Manual and Handbook
- IMs & IBs
- IBLA Decisions

All the above and more are in your notebook!

- Appendix C, Land Use Planning Handbook
- Planning for Recreation and Visitor Services Manual 8320

www.ntc.blm.gov/krc/

Apps Imported From IE

U.S. DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

NTC: Knowledge Resource Center

BLM

Search... Go

NTC Home

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- Program area -- use the menu on the left side to display different program areas.
- Searching -- if you have a specific word or phrase it may help you find your learning topic.

The learning information is in the following formats:

- Documents -- We use Adobe documents to enhance the accessibility of the information.
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2. Try the video on another day and at another time.
3. See if the video plays well on another computer.

You are important to us. To give us information about your experiences, contact the web administrator at **Ramon_Stovell@blm.gov** or **Sherry_Smith@blm.gov**.

"There is no shame in not knowing.

The problem arises when irrational thought and attendant behavior fill the vacuum left by ignorance."

~Neil DeGrasse Tyson

MODULE 2

Types of SRPs

Types of SRPs

- Commercial
- Competitive
- Vendors
- Special Area
- Use Organized Groups

Commercial

- Condition (1)
  - All Person, group, or organization makes or attempts to make a profit, receives money, amortizes equipment, or obtains goods or services as compensation from participants in recreation activities
  - Led, sponsored by, or organized by that person, group, or organization.
  - Compensation for recreation services may come from participants and/or other sources.

Commercial

- (2) Anyone collects a fee or receives other compensation that is not strictly a sharing of actual expenses, or exceeds actual expenses, incurred for the purposes of the activity, service, or use.
- (3) There is paid, public advertising to seek participants.
- (4) Participants pay for a duty of care, i.e., an expectation of safety

Commercial: Things To Keep in Mind

- Paid public advertising
  - newspaper ads
  - radio and television air time
- Public Advertising
  - May indicate commercial activity but not by itself definitive. Always indicates organized activity.

Commercial: Things To Keep In Mind

- Commercial use can be either open to the public or restricted to group members.
- Scientific, educational, and therapeutic institutions or nonprofit organizations can be commercial.
- IRS tax status (e.g. “non-profit) does not preclude commercial status, and neither does making a profit.

Competitive

Any organized, sanctioned, or structured use, event, or activity which two or more contestants compete and either or both of the following elements apply:

1. Participants register, enter, or complete an application for the event.
2. A predetermined course or area is designated.

Competitive

3. One or more contestants challenging an established record (e.g., speed or endurance).

- Examples
  - (OHV) races
  - Horse endurance rides
  - Mountain bike races
  - Poker runs/rides
  - Orienteering

Competitive / Commercial

- The greater of the commercial fee or the competitive SRP fee, plus any applicable assigned site fee and/or exclusive use fee, application fees, and Special Area fee. If cost recovery applies, the BLM charges cost recovery plus the SRP fees.

Vendor SRPs

Two types of vending

1. Vending associated with an SRP
   - Typically with a large commercial or competitive event.
   - If the permittee accepts responsibility for all vending; then vending may be included in the SRP.
   - If not, each individual vendor must obtain a separate vending SRP.

Chapter 1
Pages 2-4

Vending…

2. Vending not associated with a permitted event.
   - Usually at a recreation attraction site like a sand dunes area.
   - Vending should directly support or enhance the recreation experience.
   - Must be appropriate to the settings prescriptions.

Chapter 1
Pages 2-4

Vending at Attraction Sites

- Examples might be equipment rentals, shuttle services, fire wood sales etc.
- Consider impact of vending on established business in gateway communities.
- Meets management objectives.
- Sales of food, souvenirs, clothing and convenience items must meet planning objectives.

Chapter 1
Pages 2-4

Vending at Attraction Sites

Vending ***must*** be identified in recreation planning process.

When you allow vending you are changing:

- The physical, social and operational settings of the site.
- Your marketing of the site.

Resulting in a change of experience, the visitors you attract, and those you displace or repel.

Chapter 1
Pages 2-4

Special Area Use

- Individual special area permits (ISRPs) may be required in Special Areas.
- Special Areas are defined as areas
  - Designated by statute
  - Presidential decree
  - Secretarial Order

What about a Special Recreation Management Area?

Special Area ISRPs

- If you want a permit system you need to:
  - Notify the public (FRN)
- If you want to charge a fee:
  - Follow the FLREA requirements (Rec RAC or equivalent)
  - Supplemental rule making will also be necessary

Organized Group SRPs

- Parameters for organized groups established in Land Use Plans.
- Any organized group may be required to obtain an SRP.
- Not every group requires an SRP.
- Based on agency/manager discretion.

Example of Some Organized Group Criteria

1. Is use appropriate to the site?
2. Does it further recreation program objectives?
3. Is monitoring needed?
4. Health & Safety Concerns?
5. Bonding desirable for reclamation or damage to government property?
6. Insurance desirable to protect US?
7. Special services required such as law enforcement, fire protection, exclusive use?

Organized Groups – The bottom line

If an organized group requires:

- *Stipulations*
- *Monitoring*
- *Bonding*
- *Insurance*
- *Special services…*

…Then it requires an SRP & SRP Fee

Checklist Exercise

- Wedding Video

How would your Field Office manage this wedding discussed in the video?

- Letter of Agreement?
- Organized group SRP?
- Land Use Permit under 43 CFR 2920?

Which option is the most correct?

SRP Policy Guidance

Permitted use by other programs

- Use authorized by another program (paleo, grazing, filming, etc.) that has a commercial recreation component may also require an SRP.

Film Permits and SRPs

1. Film permitting done in conjunction with an SRP must be incorporated into the operation plan.
2. Film permits must be issued separately under 43 CFR 2920.
3. Charge both the SRP fee and the film permit and processing fees.

Film permit and SRP?

Considerations

1. Is the SRP holder responsible for the filming?
2. Is the filming at the invitation of the permittee?
3. Is a separate, independent film production company involved?
4. Is the filming so complex it really needs its own management?

Action Photography Business *Does Not Require A Permit.*

You may still manage the activity to provide for:

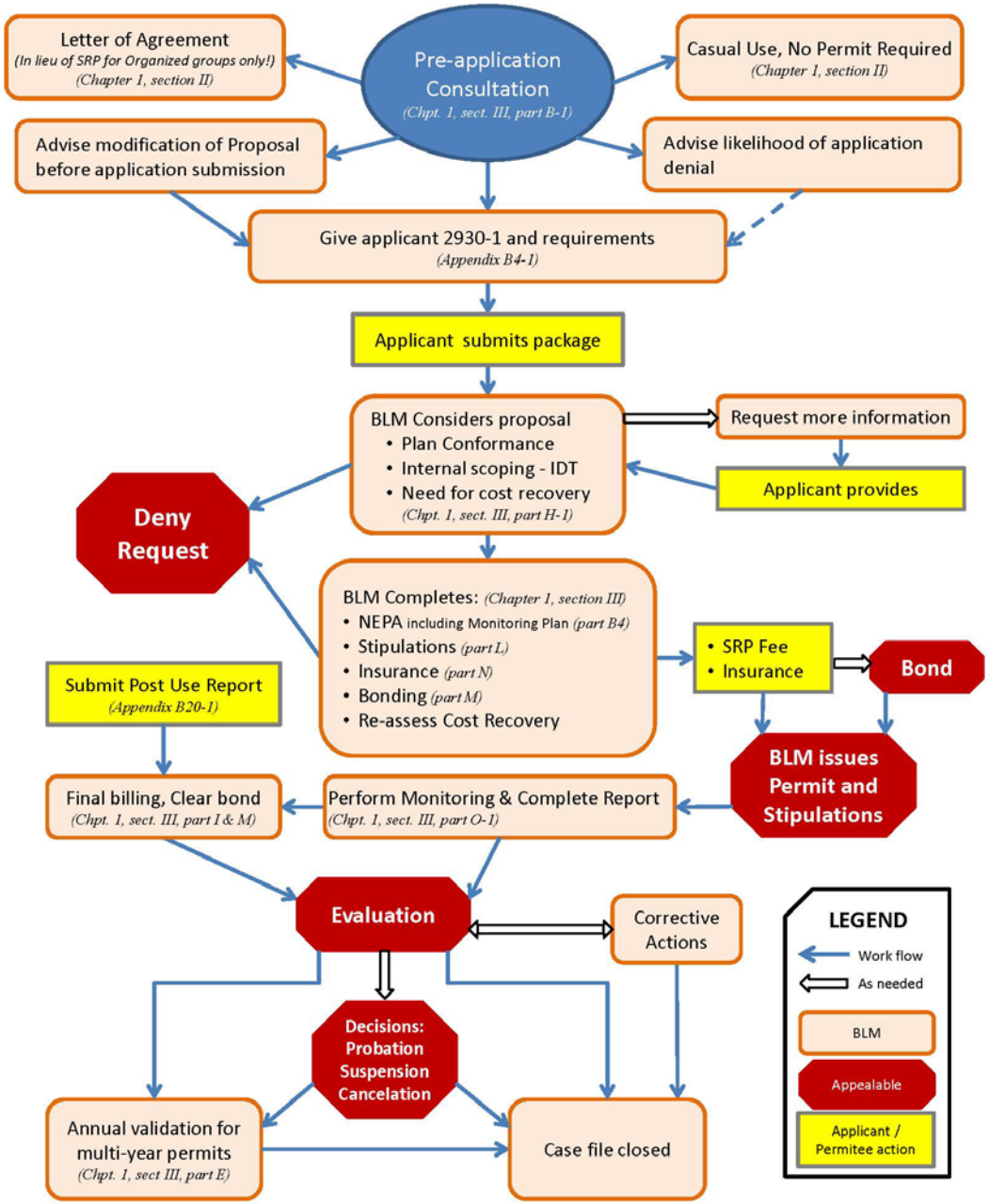
- Health and safety,
- user experience,
- VRM, etc….

MODULE 3

Pre-Application Meeting

Chapter 1
Pages 10-12

The Process: How to Issue a BLM Special Recreation Permit



Pre-Application Consultation

- A pre-application consultation is highly recommended.
- Pre-application consultations are valuable to the applicant and to you.
- Your first opportunity to understand the proposal.
- Ask the right questions in order to get the appropriate answers.

Chapter 1
Pages 10-12

Pre-Application Consultation

- Advise applicant of any parts of their proposal that will be in conflict with your land use plans, regulations, policy, etc.
- Suggest options to avoid the conflicts
- Avoiding a problem is cheaper and easier than dealing with it.
- Give applicant the opportunity to provide materials including NEPA, maps, cultural survey, etc.

Chapter 1
Pages 10-12

Pre-Application Consultation

- Use this time to inform the applicant of everything you know will be required. Don't use NEPA to figure out you are going to require toilets.
- Share your SRP application checklist with the proponent to better assist with acquiring all applicable information.
- Checklist Handout

Chapter 1
Pages 10-12

Adventure Race Video

Pre-Application and Cost Recovery

- Explain how cost recovery works, the 50 hour threshold, what we charge for and what we don't.
- Pre-application consultations are not subject to cost recovery.

Chapter 1
Pages 10-12

Pre-Application Consultation

- Discuss how the issuance of an SRP is a federal action and is subject to National Environmental Policy Act compliance.
- Proponents should be given the opportunity to provide NEPA, surveys, monitors, etc.

Chapter 1
Pages 10-12

Pre-Application Consultation

- For any permit application, a detailed Operations Plan is required.
- 'Paint the picture' -operation/safety/communication/medical plans.
- Specific locations, activities, dates, logistics, # of participants, etc.
- Implementation of the Operating Plan becomes a condition of the permit.

A sample Operations Plan can be found in Appendix B7a

Chapter 1
Pages 10-12

Pre-Application Consultation

- Use this time to determine which type of SRPs is appropriate:
  - Commercial
  - Competitive
  - Vending
  - Organized Group

Guidance in determining the appropriate permit may be found in Appendix B2, Decision Tree for Special Recreation Permitting.

Chapter 1
Pages 10-12

Pre-Application Consultation

Decision Tree for Special Recreation Permitting	
Commercial	Does the activity Raise money for any purpose, including charity?
	Does any person or organization increase their net worth?
	Is there a business or financial gain?
	Is there any vending?
	Do participants pay a fee?
	Does any entity receive fees, donations, or other compensation for the activity?
	Do participants pay for a duty of care or expectation of safety?
	Is there paid public advertising to seek participants?
Competitive	Is the event sanctioned, organized, or structured?
	Do participants register, enter, or complete an application to participate?
	Does the activity use a predetermined course or area?
	Does the activity involve two or more contestants competing against each other?
	Does the activity have more than 1 contestants competing for a record?

Pre-Application Consultation

Vending	Is a vending permit necessary and appropriate?
	*Vending permits are typically temporary, short-term, nonexclusive, revocable authorizations to sell goods or services on public lands and related waters in conjunction with a recreation activity. (See Chapter 1, Section I.C., Vending, for further guidance.)
Organized Group	Is there a resource concern?
	Is there potential user conflict?
	Is there public safety and health concerns?

If, after reviewing the activity and location with the organizers, you recommend that a permit is not necessary, consider documenting your determination in the form of a letter of agreement. (See Appendix B3a, Using a Letter of Agreement for Organized Groups Where a Special Recreation Permit Is Not Required, and Appendix B3b, Sample Letter of Agreement.)

Pre-Application Consultation

- The AO may choose to issue a Letter of Agreement to document the determination that the proposed activity does not require a permit.
- A Letter of Agreement is not an authorization and is not binding for legal purposes in the same way as an SRP.

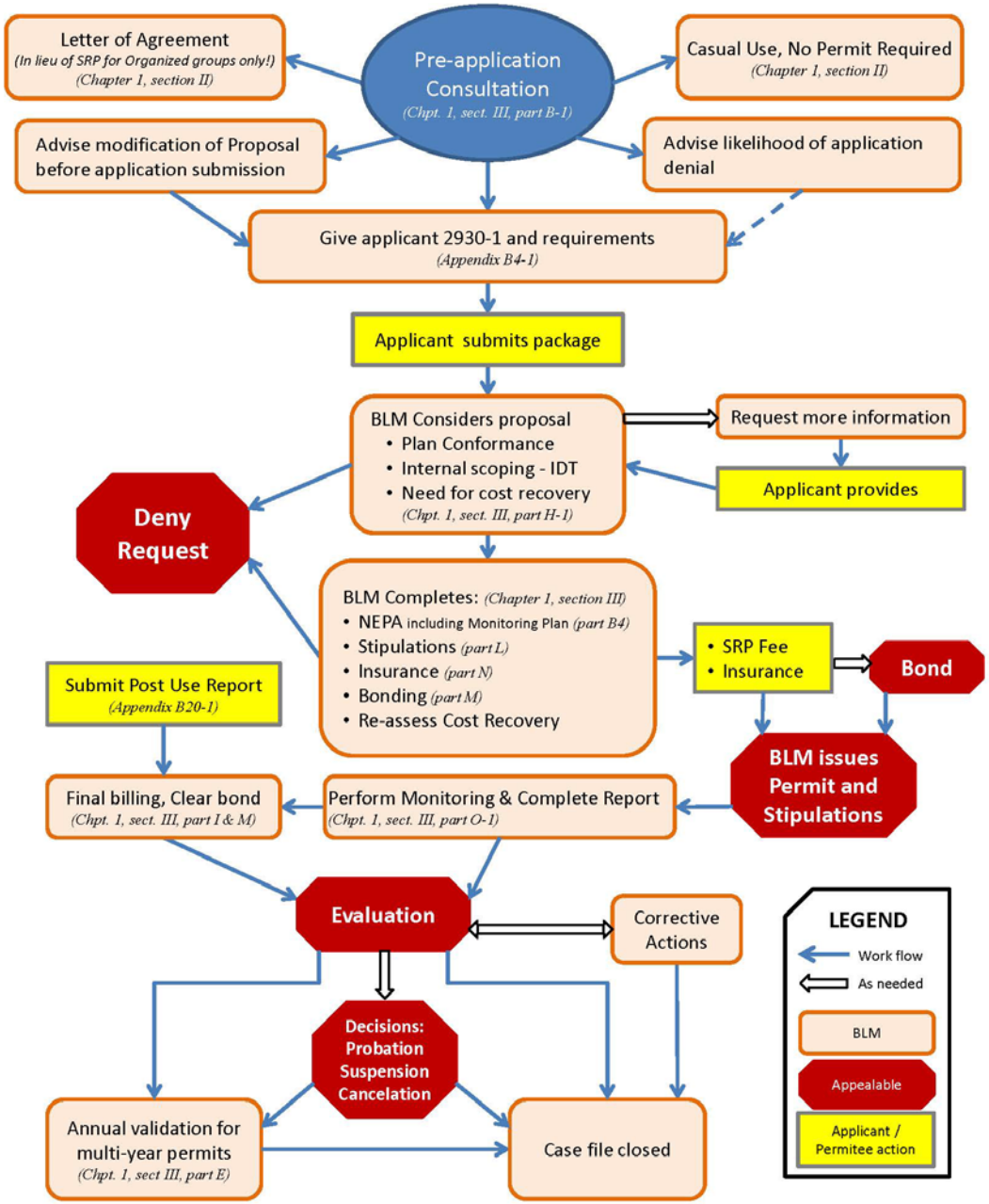
Information on using a Letter of Agreement for Organized Groups can be found in Appendix B3a and B3b.

Chapter 1
Pages 8-9

MODULE 4

Operating Plans and the Application Review

The Process: How to Issue a BLM Special Recreation Permit



SRP Application Review

Submit application 180 days or more before the desired use date. Determine completeness, past performance, or bills due within 30 days of receipt of application.

- Statements of financial capability or a business plan to conduct the proposed activity (page 1-12 and Appendix B6)
- Received a signed, detailed operating plan. (page 1-12 and Appendix B7)
- Maps – Displays use areas and campsites, etc.
- Technical skill training of guides (safety, rescue, first aid, or activity specific).

SRP Application Review

Determine land use plan conformance.

- Does the proposed activity conform to the land use plan?
- Is the use appropriate for the site or area?
- Is proposed activity consistent with the recreation outcomes you are managing for in the proposed area?
- Would the proposed activity affect the desired physical, social, or operational recreation setting characteristics?
- Is the proposed activity consistent with the goals and objectives of your recreation program?

SRP Application Review

- Applicants must use form 2930-1, Special Recreation Permit Application.
- Applications must be submitted at least 180 calendar days before the intended use unless the AO approves a shorter period.
- Applications must be received early enough to complete the processing, Environmental Analysis, and consultation with other programs/agencies and to determine whether cost recovery fees apply before the start of the event or use.

SRP Application Review

Determine application completeness, level of monitoring required, past performance and payment; all within 30 days of receipt of application.

Items for review:

- Statements of financial capability or a business plan to conduct the proposed activity
- A signed, detailed operating plan.
- Maps – Display use areas, campsites, etc.
- Technical skill training of guides (safety, rescue, first aid, or activity specific).

1 – 11 & 12

Appendices B6, B7

SRP Application Review

- Samples of proposed advertising, brochures, entrance fees, prizes, and customer rates.
- Arrangements to cross and access private or other agency land in conjunction with public lands.
- Identification of other required federal, state, or local licenses.
- Documentation of business agreements or contracts.
- Demonstration of ability to obtain insurance and bonding.

Operating plans must support applications with details:

- Fully outline the nature & scope of operations.
- Establish revenue stream and basis for discounts and deductions.
- Address public health and safety concerns (aka risk analysis and management).
- Identify other permits, licenses required.

Operating plans must support applications with details:

- Address resource protection, LNT, Tread Lightly!, etc.
- List equipment, vehicles and/or livestock that will be used.
- Layout and description of facilities (site plan) that will be used at requested sites.

Hot tip of the day!

Have the operating plan give numbers of:

- Participants/Spectators
- Staff
- Vehicles
- Animals etc.

In a range - Maximum/minimum.

Use maximum for analysis and as a parameter on the permit!

SRP Application Processing

- Within 30 days of receipt of application notify applicant if substantial processing work is involved.
  - Extensive NEPA and consultation
  - Monitoring
  - Cost recovery charges

SRP Application Processing

- Coordinate with ID team on any concerns with the application.
- Discuss monitoring strategy/ needs.
- Discuss permittee coordination with other landowners and managers.
- Document! Document! Document!

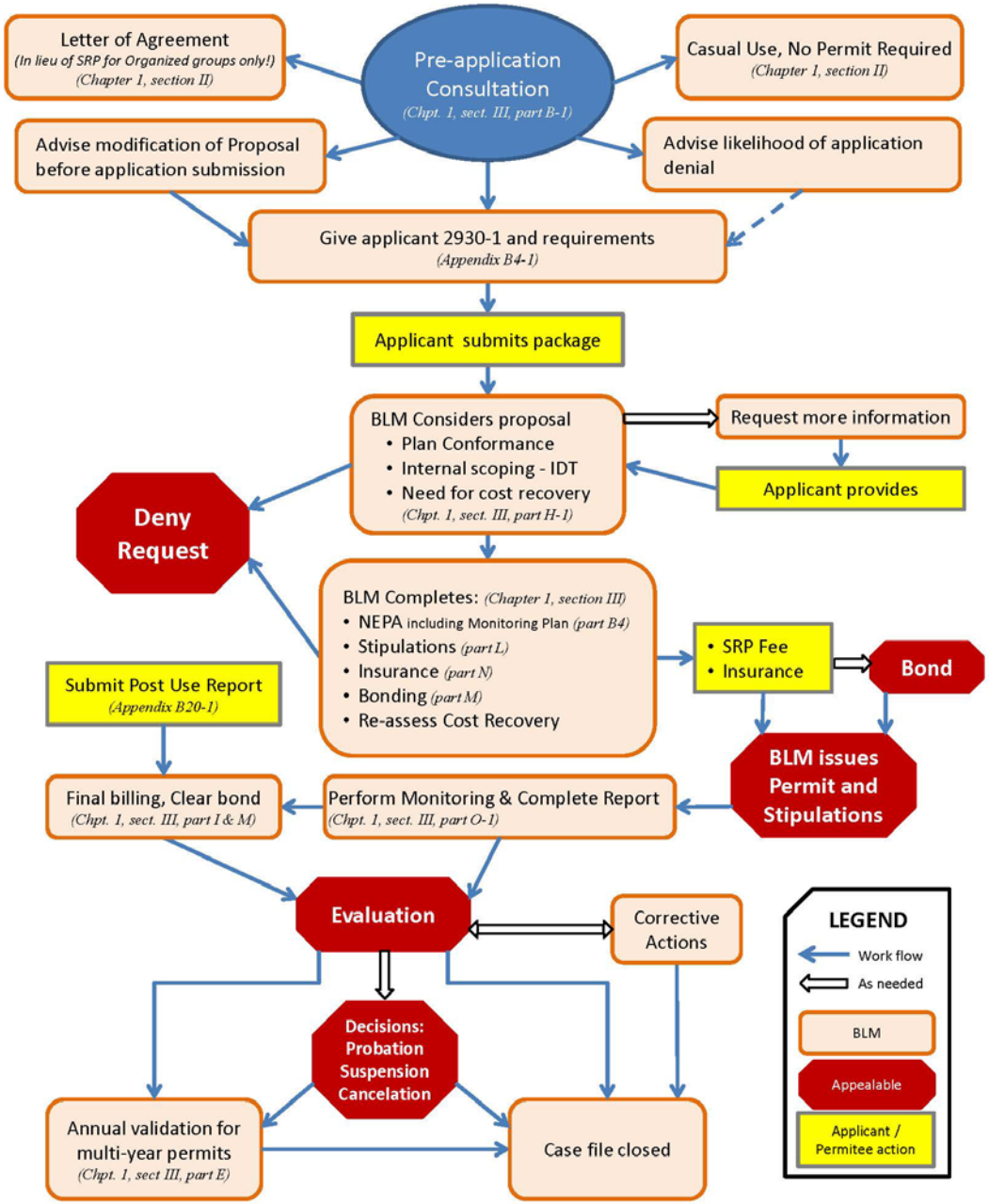
MODULE 5

Cost Recovery for Recreation Permits

BLM Considers proposal
- Plan Conformance
- Need for cost recovery

(Sec._____)

The Process: How to Issue a BLM Special Recreation Permit



Objectives:

- What is the cost recovery process.
- What are allowable charges.
- What are direct and indirect rates and how do they apply.
- How to develop a cost recovery estimate
- How to track a project
- How to set up and close out a cost recovery account.

BLM Manual 2930 states…

The purpose of cost recovery is to have the beneficiary of an activity on public lands cover the cost associated with permitting and monitoring the activity or event. (M-2930.06A2bi)

Develop a good faith estimate identifying the cost for the BLM to administer the event.

BLM Authority

Federal Lands Recreation Enhancement Act (REA) authorizes issuance of special recreation permits for group and recreation events. (16 USC § 6802 - Recreation fee authority)

Title 43 CFR, Subpart 2932 – cost recovery requirement for Special Recreation Permits for Commercial Use, Competitive Events, Organized Groups, and Recreation Use in Special Areas

BLM Authority (cont…)

OMB Circular No. A-25, Revised 7/8/1993 – Cost recovery may be applied when the government provides a service that provides a special benefit to an identifiable recipient and that also provides a benefit to the general public.

Manual 1323: Cost Recovery for Reimbursable Projects/Activities

BLM Authority (cont…)

Manual 2930: Recreation Permits and Fees (2007)

Handbook 2930-1: Recreation Permit and Fee Administration

IM 2011-019: Re-emphasize agency requirements for adequate administration of SRPs

IM 20XX-000: Fiscal Year (FY) Indirect Cost Rate

-

Some Basic Policy

43 CFR 2932.31 says BLM "…may charge a fee for cost recovery…"

BLM has established a national policy that cost recovery of direct expenses related to permit administration *will* be charged. (Handbook pg 1-20)

BLM ***will*** charge cost recovery if permit administration exceeds 50 hours of work. Charges begin the first hour.

-

Cost Recovery…

Pre-application consultation is ***not*** subject to cost recovery.

Charge only for items that *directly benefit applicant* and ***not*** the public at large or other projects.

Within 30 days of receipt of complete application, applicant should be notified if cost recovery charges apply.

Cost Recovery…

For commercial permits exceeding 50 hours of time, cost recovery fees are charged **in addition** to the commercial use fees.

For competitive or organized permits exceeding 50 hours of time, cost recovery fees are charged **unless** the use fees are expected to exceed the cost recovery fee.

Cost Recovery…

Use the NEPA process to identify mitigation or actions that need to be included in your cost recovery.

Develop and provide *Cost Recovery Estimate* to applicant and allow them time to review and question any costs or tasks.

Cost Recovery…

At this point the applicant may chose to proceed or withdraw the application.

Prepare a *Cost Recovery Decision Letter and* include appeal language for AO to sign.

Prepare a *Cost Recovery Agreement* for the applicant and the AO to sign.

Appendix B14

Cost Recovery…

Provide a Decision Letter, Cost Recovery Agreement and Summary of Cost Recovery estimate to applicant for signature.

Request a deposit to set up the cost recovery account.

Cost Recovery…

Once the required documents and funds are received request a 5105 project account and code from the NOC.

Cost recovery payment is deposited into a suspense account until the project specific account is opened.

Upon completion of event and acceptable performance review, remaining funds in account should be refunded.

Costs

Include:

Direct costs which are for activities or services that benefit the applicants project and are easily traced to that project such as staff salaries, contract services and vehicle use.

Do Not Include:

Indirect costs such as activities or services that benefit more than one project or where precise benefits to the applicant's project are difficult or impossible to trace. This includes administrative staff, supplies, utilities etc.

Costs

Note:

Indirect costs are captured in the indirect cost assessment paid to the National Operations Center.

-

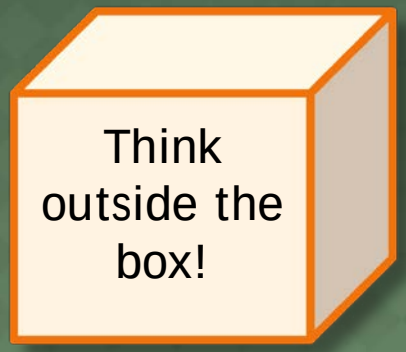
Can You Reduce Costs?

(Provide suggestions to keep costs down)

???

Third Party NEPA Preparation

Industry Grants (Yamaha)



Local businesses as partners ?

Have applicant collect data if its appropriate

Have several clubs combine resources to permit areas or routes

Have applicant provide shapefiles instead of paper maps

Sample Cost Recovery sheet

Decision Letter

Prepare a standard BLM cost recovery category determination letter to the applicant.

- Explain determination and grounds for charging cost recovery
- Include a statement regarding indirect cost rate and amount.
- Request payment of fees to initiate work on project.

Appendix B14

Decision Letter

Since this is a decision, you must include appeal language and instructions on how to obtain a stay.

(Refer to handout)

Establishing a 5105 Cost Recovery Account

The following **three items** need to be submitted to the NOC through your state budget lead to establish a 5105 Cost Recovery Account.

1) Form 1310-20: Project/Subproject Number Assignment & Information Form.
2) Cost Recovery Agreement signed by applicant and authorizing officer.
3) CBS Receipt for Deposit of cost recovery fees placed into suspense account.

Establishing a 5105 Cost Recovery Account

Your State Office budget lead will assign a WBS project code that is specific to your project when packet is sent to the NOC.

FORM 1310-20
(August 2002)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

PROJECT/SUBPROJECT NUMBER ASSIGNMENT AND INFORMATION FORM

SEE INSTRUCTIONS ON NEXT PAGE

1. Submission:	2. Program(s)	(Subactivity):	3. Project Number:	4. Subproject Number:	5. Real Property Number (If Needed)
☒ Original ☐ Revision	_____ _____	L51050000 _____	_____	_____	R _____

6. Case File Number:	7. Submission Date:	8. Project Name: BITD Vegas to Reno 2011 Subproject Name: Vegas to Reno 2011	9. Land Purchase?
NVC01-11007	07/18/2011		☐ Yes ☒ No

10. Description of Project: Competitive Off-Highway Vehicle Race

11. Applicant Vendor's Name: Best in the Desert
Applicant's Address: 3475 Boulder Highway
Las Vegas, NV 89121
Applicant's Phone Number: 702-XXX-XXXX

12. Organization Code of Lead Office: LLNVC01000
Organization Codes of Other Offices Charging to the Project/Subproject: _____ _____
_____ _____ _____ _____ _____ _____ _____

14a. Estimated Start Date:	14b. Estimated Completion Date:	15. Estimated Project Total Cost:	16. Estimated Subproject Total Cost
7/29/2010	2/30/2011	$ $39,500.00	$

17. Project Manager's Name: Recreation Planner Name
Project Manager's Telephone Number: 775-885-XXXX
Project Manager's Organizational Code: LLNVC01000
Field Office Contact: Recreation Planner Name Field Office Contact Phone Number: 775-885-XXXX

TRUST FUND PROJECTS (Program 7122) MAY BE AUTHORIZED AN INDIRECT COST RATE OTHER THAN THE ANNUAL PREVAILING RATE

18. Exception Indirect Cost Rate: 17.1 % 19. Under the authority of: _____
20. Approving Officer's Name (Print): _____
21. Approving Officer's Signature: _____
22. Title: _____ Date:

FOR NATIONAL BUSINESS CENTER BC-612 USE ONLY

23. Tables: ☐ IWPT ☐ PROJ ☐ SPRJ ☐ FPCA ☐ PROJEDIT
24. Vendor Name: _____
25. Agreement Number: _____
26. RA Document Number: _____
27. Input by: _____ Date:

28. Routing: State/Washington Office Budget; Forward to BC-612 Retained by: Requesting Office, State/Washington Office Budget

Project Tracking

FORM 1323-1 Reimbursable Project Log

All costs must be supported by documentation sufficient to establish that the costs were accurately determined and properly recorded.

Form 1323-1
(April 1999)

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
REIMBURSABLE PROJECT LOG

PROJECT: Vegas to Reno 2012
Number:
SRP-LLNVC01000-12007
Name: Vegas to Reno 2012

Employee Name:	Title:

DATE	PROJECT SEGMENT OR COMPONENT	DESCRIPTION OF WORK DONE	HOURS (Total)

Reimburse Unused Funds

Remaining funds should be returned in a timely manner once the permit administration is complete.

- Rule of thumb is to allow one month of account inactivity to ensure all charges have cleared.
- Follow the Refund Authorization overview instructions found at: htpp://cbs.blm.gov

Closing The Account

- Complete and submit the Collections and Billing Branch Refund and Cancellation Request form to the NOC.
- Don’t forget to have the budget tech close the cost recovery account once FBMS shows the account balance is zeroed out.

MODULE 6

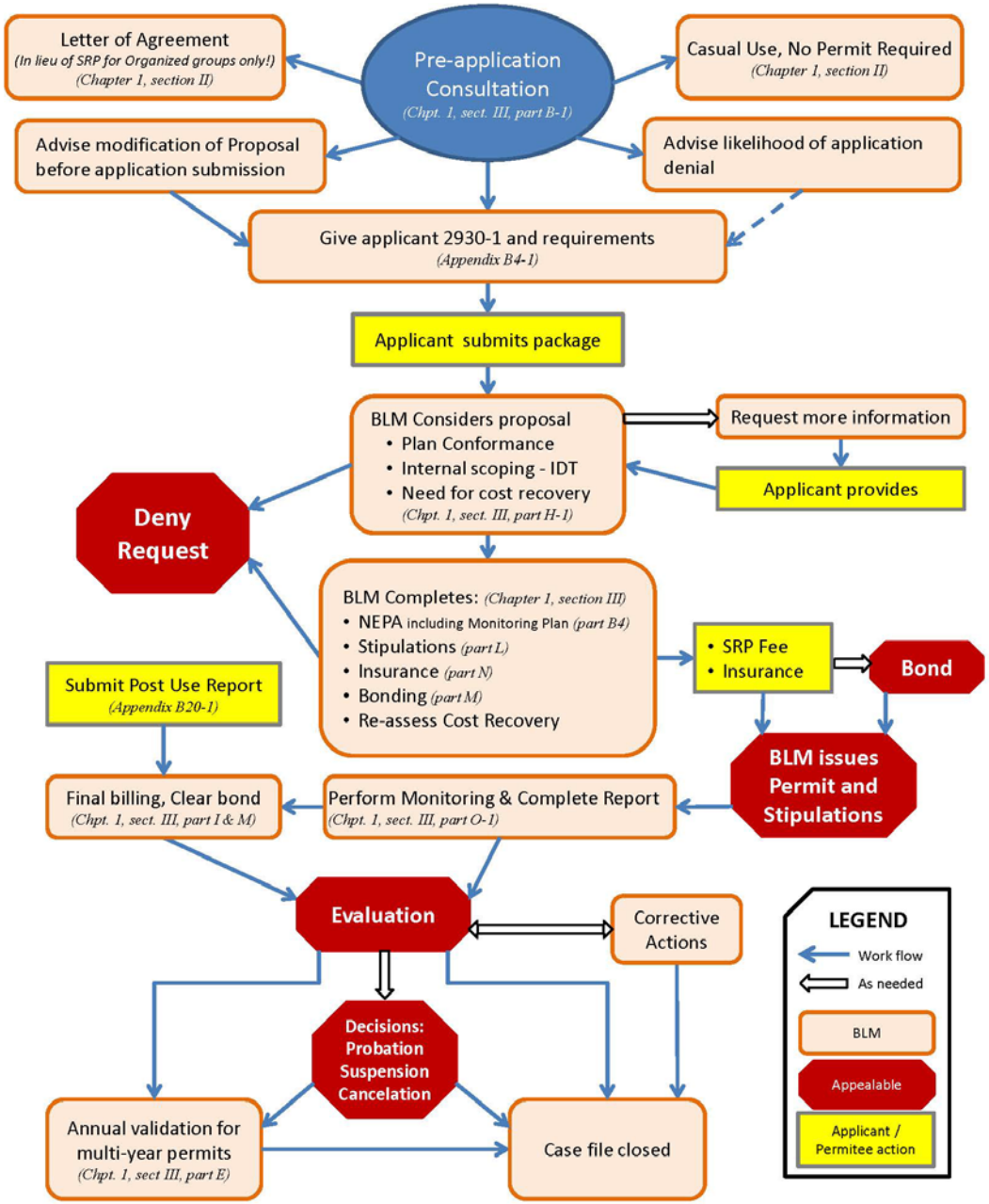
NEPA

National Environmental Protection Act

BLM Considers proposal
- Plan Conformance
- Need for cost recovery

(Sec._____)

The Process: How to Issue a BLM Special Recreation Permit



Objectives

Must be completed when making a decision

Risk analysis for the manager or Authorized Officer

Opportunity to identify issues

CEQ Regulations at 40 CFR 1500.4

- Requires us to use the scoping process to identify issues and deemphasize issues that are not important
- Use tiering from statements of broad scope to those of narrower scope, eliminate repetitive discussions.
- Use plain language and be concise

NEPA Handbook Appendix 4 Categorical Exclusions

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.

NEPA Handbook Appendix 4 Categorical Exclusions

H. Recreation Management (cont…)

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).

NEPA and Cost Recovery

Use the scoping and screening process to help refine cost recovery:

- What subject matter experts are needed?
- What will be required for pre-event, event and post event monitoring.
- Special services – law enforcement, resource monitors, fire protection.

NEPA is your chance to:

- State the proposed ‘Purpose and Need’
- Determine if the proposal would serve the public interest.
- Identify conformance with LUP and any potential resource concerns.
- Apply what you have learned from previous, similar types of activities.
- Develop relevant and effective stipulations, how will you monitor.

NEPA and Stipulations

If mitigation is developed through NEPA, identify appropriate permit stipulations for the activity.

NEPA - Monitoring

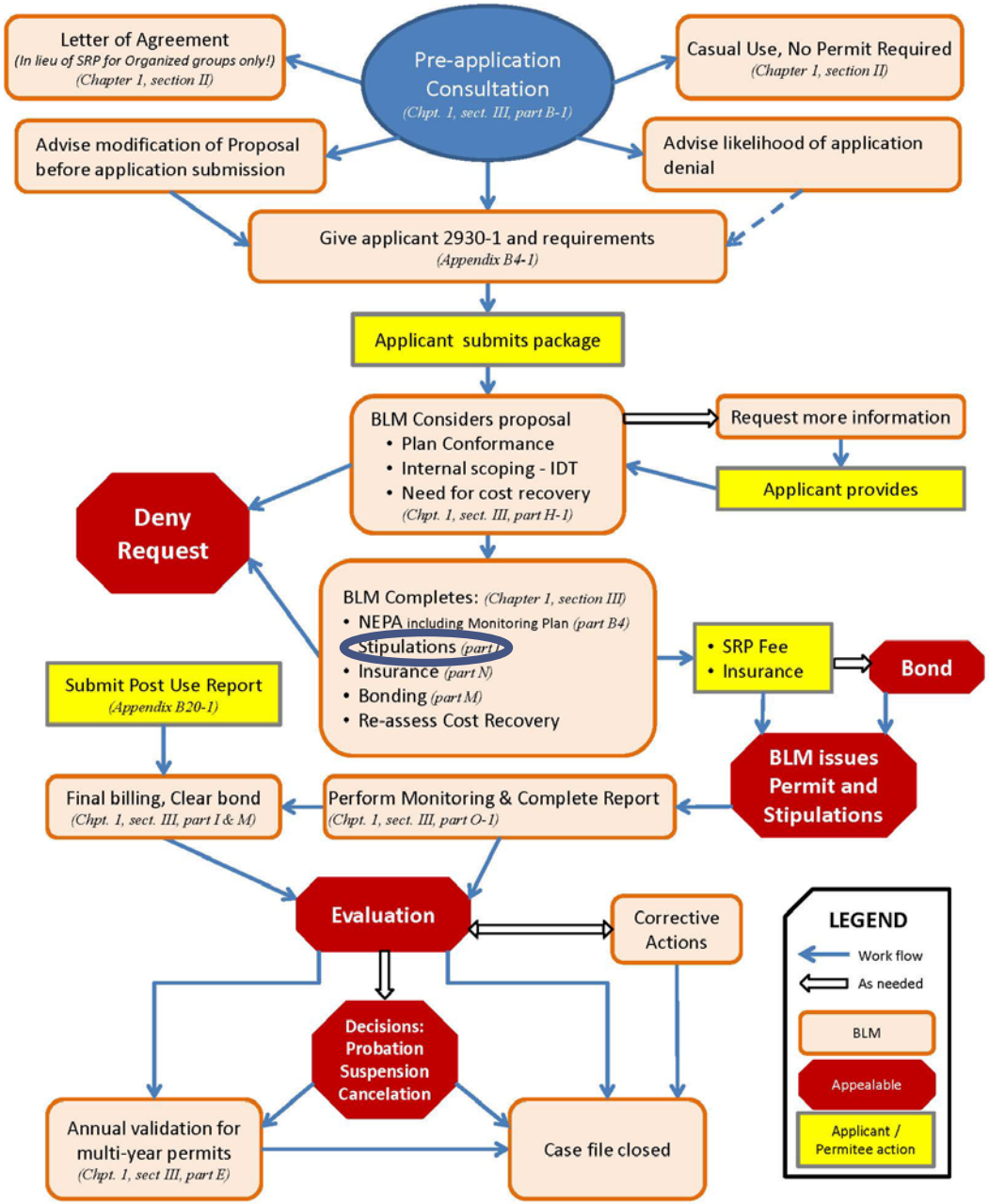
Identify a monitoring element, indicators, to ensure that BLM effectively observes and monitors potential impacts.

1. Monitoring should take place:
   - Before
   - During
   - After

MODULE 7

Terms and Stipulations

The Process: How to Issue a BLM Special Recreation Permit



Terms and Stipulations

They are required for all permits!

Good ones are:

- Relevant and Effective.
- Clearly worded declarative statement of what the permittee must do.

"Do or do not. There is no try." - Yoda

Good Stipulations

- Able to be monitored for both compliance and effectiveness.
- Enforceable from a law enforcement perspective (CFRs, Supplemental Rules, laws)
- Are relevant to the event or activity
- Must have a rational basis
- Bind the permittee, not the BLM!

Terms and Stipulations

Where do they come from?

General Terms (13) are included on the Form 2930-1 and Form 2930-2

Administrative requirements – such as post use due dates, billing cycles, insurance, bonding….

SOPs, BMPs things like LNT and TL!.

Developed from NEPA mitigation measures.

May tie to bonding /reclamation requirements.

Trivia Question??

Can Stipulations be arbitrary?

Stipulations

Yes they can:

Such as post use reporting requirements or reclamation timelines

But not:

"arbitrary and capricious"

What is the difference?

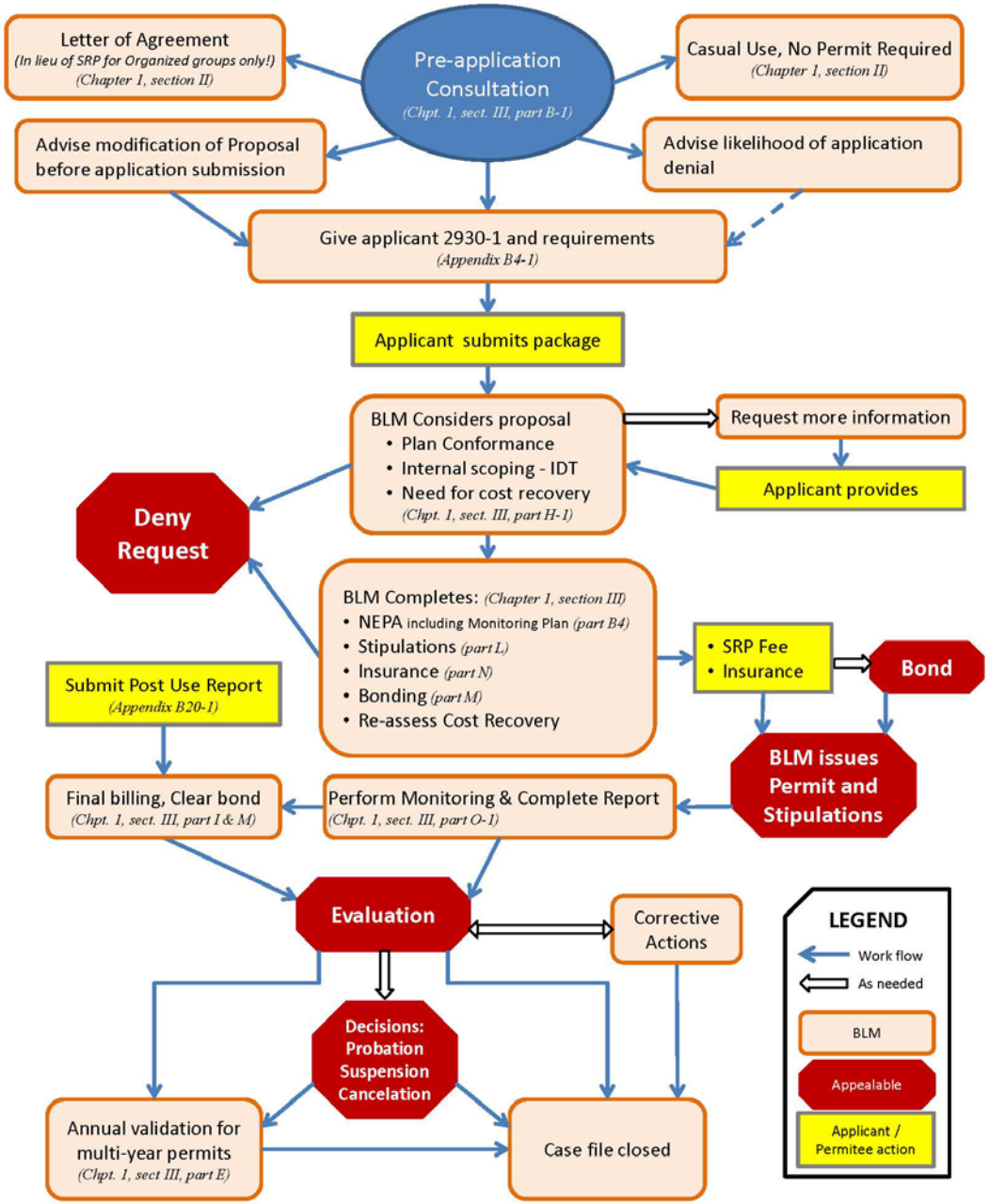
Stipulations
What to Avoid ☹

- Operating plans are incorporated by reference. Should not be restated in the stipulations.
- Do not restate LAWS, REGULATIONS or provide other general information.
- Do not restate the 13 General Terms.
- Do not create a duty and standards for the BLM.
- Establishing health and safety standards for permittees. Let them do it in the operating plan.

MODULE 8

Insurance and Fees

The Process: How to Issue a BLM Special Recreation Permit



Why require insurance?

- Protect USDI BLM from claims and litigation.
- Protect USDI BLM from property and resource damage
- Protection for the public.
- Protection of participants in event of harm.

Insurance Requirements:

1. Required for all commercial and competitive permits
2. BLM's discretion for vending and organized group permits
3. Must provide restitution for participants, spectators or both

Insurance Minimums

1. Based on level of risk associated with the permitted activity
2. Handbook guidance is the minimum requirement; you can require more!
3. An insurance certificate that shows only the Annual Aggregate is acceptable provided that it meets the minimum requirement.

Insurance Requirements:

- Minimum - official one-page document from insurance company
  - ***US Department of the Interior – BLM*** listed as additionally insured. (never co-insured)
  - Matches time period for permitted activity
  - Name of insured matches name on permit
  - Meets or exceeds minimum coverage.
- Permit Stipulation:
  - Permittee will notify authorized officer 30 days prior to modification or termination of policy

Insurance handout

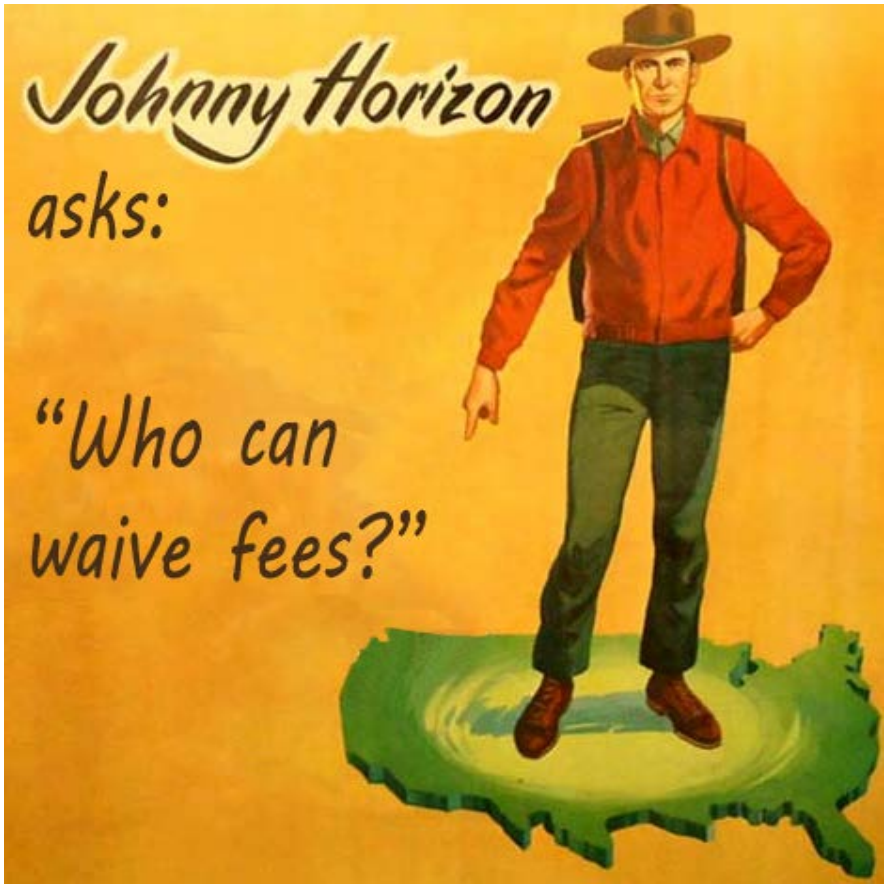
Insurance Certificate Example

Appendix B18

Self Insured:

An agency of the Federal or State Government. They do not purchase insurance nor cover 3rd parties like BLM.

We require: A letter from the risk manager or other authorized official stating they are aware of the SRP activity, it is an official function and they will accept liability.



Fees

A. BLM Director

B. State Director

C. Field Manager

D. Outdoor Recreation Planner

BLM Director

Sets National fees

(commercial, competitive, commercial and competitive, organized group, assigned site, cost recovery requirement)

Fees adjusted every 3 years (using an inflation calculator; *implicit price deflator index*

State Director

- Special Area Fees: ISRP
- Application Fee
- Exclusive Use (must be equal to or greater than assigned site fee)
- Late fees

Current Fees

- Minimum, annual SRP fee for all SRPs except for Special Area SRPs is $105.
- Minimum assigned/reserved site fee for commercial use is $210.
- These fees are in effect 3/1/14 through 2/28/2017.
- Minimum competitive and organized group fee is $5 per person, per day.

SRP Policy Guidance

Handbook 2930-1

Waivers of SRPs and Fees

- Don't barter for volunteer work.
- None for educational, therapeutic or fundraising events.
- If it requires an SRP, it requires fee payment!

Co-sponsorship of events

- Only when there is a clear, direct benefit to the public lands.
- BLM manager's or staff's good feelings about an event. does not constitute a clear, direct benefit to the public experience and their public lands.

Deductions: for client transportation & lodging

Agreed upon before issuing the permit, documented in writing, and maintained in the file.

- Clearly define beginning and end of trip
- Only for commercial clients
- Requires receipts (i.e.: show your work)
- Examples on pages 1-36 thru 1-39

Discounts: for time off BLM lands

Agreed upon before issuing the permit, documented in writing, and maintained in the file.

Discounts for time off BLM lands

- Applies to all SRPs, not just commercial.
- May use time, % mileage, or acreage.
- Clearly define beginning and end of trip
- Multi-jurisdictional permits should not pay more than 3%
- Examples on 1-35 thru 1-39

Deductions and Discounts

- **<u>Figure 5, page 1-33</u>**

- Do not combine discounts and deductions – doing so would create a double discount.

Basis for deductions and discounts established in the operating plan!

Fees are required before use

- Estimated fees
- Pre-use fee payments
- 25% if over $1,000 (minimum, but may require the full amount)
- Use Collections and Billings System (CBS)

Audits of SRPs

Random audits of a sample of permittees should be conducted regularly on a statewide level.

Such reviews should, at a minimum, include an audit of revenues and visitor use. Independent auditors may be contracted to conduct such work.

If payment or other discrepancies are found, BLM will make an effort to ensure proper payment or permit compliance.

SRP Audits

What have we discovered?

- 15 of 39 permittees: gross receipts successfully verified (38%)
- 31 out of 39 BLM fee calculations were accurate (80%)
- BLM's successful SRP file maintenance 19 out of 39
- Annual evaluations: Completed and mailed 25 out of 39
- NEPA documentation in the file 19 out of 39
- Signed permit conditions and stipulations 25 out of 39
- Permittee's plan of operations on file 25 out of 39
- Current price information on file 22 out of 39

Audits - Lessons Learned

- BLM is inconsistent in application of policy.
- Basis for fee calculation is not documented in the permit.
- Basis for deductions and discounts not documented in case file.
- Revenue stream is not documented.
- Sloppy record keeping by BLM and permittees.

Audits - Lessons Learned

- CBS not being used, or used ineffectively.
- Collecting only the minimum fee up front and balance based on post use report.
- Confusion on net vs. gross income
- Various problems with insurance.

SRP Audits stipulations can help:

The post use report must contain:

Trip-by-trip log - trip location, begin/end dates of each trip, number of clients, number of guides, and gross receipts

Gross receipts -report all payments made by the customer: equipment rental, gratuities, donations, gifts etc.

Exceptions: state/local sales tax and retail sales of durable goods that remain the property of the customer and have utility after the activity.

SRP Audits stipulations can help:

The permittee must keep internal accounting records related to the permit for a minimum of 3 years after the expiration of the permit:

(a) W-2 records or a similar record of employment for all employees conducting activities under the permit,

(b) a record of all financial relationships with booking agents or advertisers,

(c) a record of all receipts or compensation including payments, gratuities, donations, gifts, bartering, etc., received from any source during activities conducted under the permit, and

SRP Audits stipulations can help:

(d) a record of all payments made by the permittee and claimed as a deduction in the permittee's fee submission.

(e) a complete and reconcilable accounting system that includes the following items:

1) customer cash receipt deposit ledger or statements. These include the deposit transactions with continuous sum totals.

2) 2) bank statements/ledgers, or the deposit slip ledger receipts

Tips to help manage your SRP workload:

Organize you files if you have not already done so.

Use a Database for tracking and communicating.

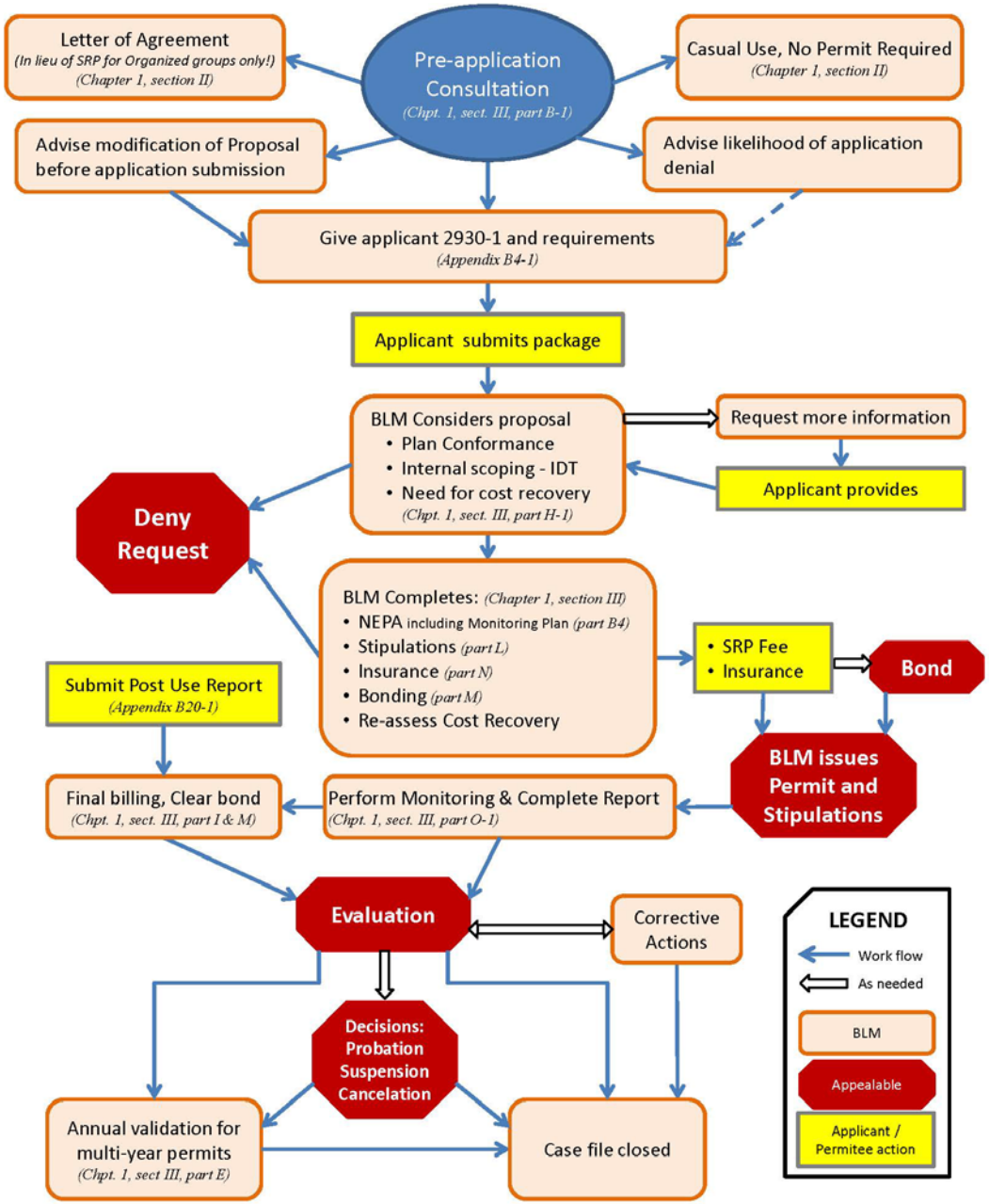
Consider a simultaneous application period.

Make monitoring easier. Require marking of vehicles and equipment, pre-trip itinerary… Cross check itinerary with field reports and post use and audits.

MODULE 9

Performance Bonds

The Process: How to Issue a BLM Special Recreation Permit



Where are the Federal Regulations for Bonding?

- 43 CFR 2805.12(g) (for FLPMA)
- 43 CFR 2885.11(b)(7) (for MLA)

When do we require bonds?

Based on applicant history, and/or nature of project, size, complexity, potential for resource damage

What kinds of things do we bond?

- Performance and resource related stipulations:
  - Tread width, removing of event related flagging/ signs and garbage
  - Restoration of damaged resources such as vegetation, ground surface
  - Post event mitigation measures like reclamation, implementation of treatment plans such as reseeding

How do we calculate the amount of a bond?

- Determine cost to agency to complete work if not completed by permittee:
  - Direct costs such as equipment costs, culverts, seed, fertilizer, staff labor
  - Costs to administer work (contract preparation and administration)
  - Indirect costs to agency for staff labor (benefits, leave, etc.)

How do we calculate the amount of a bond? (cont…)

- Use Spreadsheet
- Discuss with Engineer or appropriate staff
  - RS Means Construction Guide
  - Note Davis-Bacon wages
- WO IM
  - 2009-153 Attachment 1, Reclamation Cost Estimates

Types of Bonds

Cash Bond

- Bank Certified Check or credit card

Acceptable securities for bonds:

- Cash deposit
- U.S. Treasury bills, bonds, notes
- Certificates of deposit

Types of Bonds (cont…)

- Surety Bond- A promise to the United States by the permittee and a financial institution that they will correct any failure of the permittee to adhere to the terms of the authorization, or will pay up to the limits of the bond.
- Surety company must be on Treasury Department's Circular 570
- Rarely used with an SRP more typical for a long term land use authorization

Types of Bonds (cont…)

Irrevocable Letter of Credit

- Is issued by a bank on behalf of its principle to a 3rd party as a guarantee of performance that the bank will correct any failure of the holder to adhere to the terms of the authorization, or will pay up to the limits of the bond.

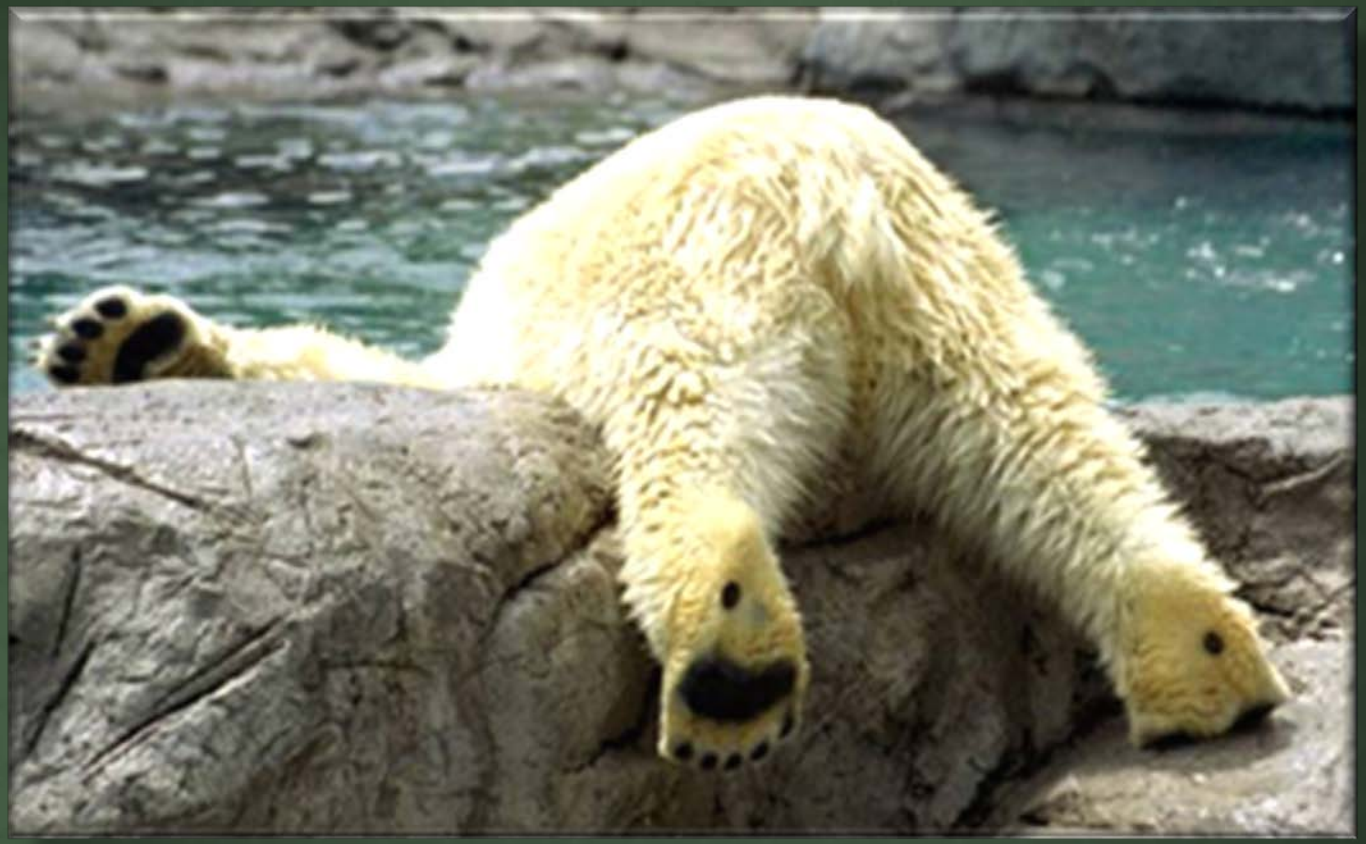
Specific Agency Procedures

- BLM Manual H-2801-3 – Rights of Way
- H2930-1 Recreation Permit and Fee Handbook

Bonding Procedures

1. Decision to bond and rationale must be included in decision document.
2. Determine which stipulations require bonding and for how long.
3. Determine when the bond is required.
4. Include bonding requirements as a stipulation.

Any Questions?



SRP Approval

2930-2

BLM Considers proposal

- Plan Conformance
- Need for cost recovery

(Sec._____)

SRP Application Approval

Before issuing a commercial or competitive permit, the AO ensures that the applicant has accomplished all of the following:

- Submitted a signed operating plan.
- Provided a copy of an appropriate insurance policy for new permits or a valid certificate of insurance.
- Demonstrated financial capability to complete and maintain the proposed project or carry out the activity, as required.

SRP Application Approval Criteria

- Complied with terms/stipulations and public safety requirements of past permits issued by the BLM, other land-management agencies, or state agencies for like activities.
- Paid estimated fees in advance of use.
- Obtained necessary federal, state, or local licenses.
- Obtained bond if required.
- Submitted other information required by the AO.

SRP Policy Guidance

Handbook 2930-1

<u>Statewide Permits</u>

- Just say, “No.”
- Multi-jurisdictional permits are not done solely for permittee convenience.

Multi-jurisdictional Permits

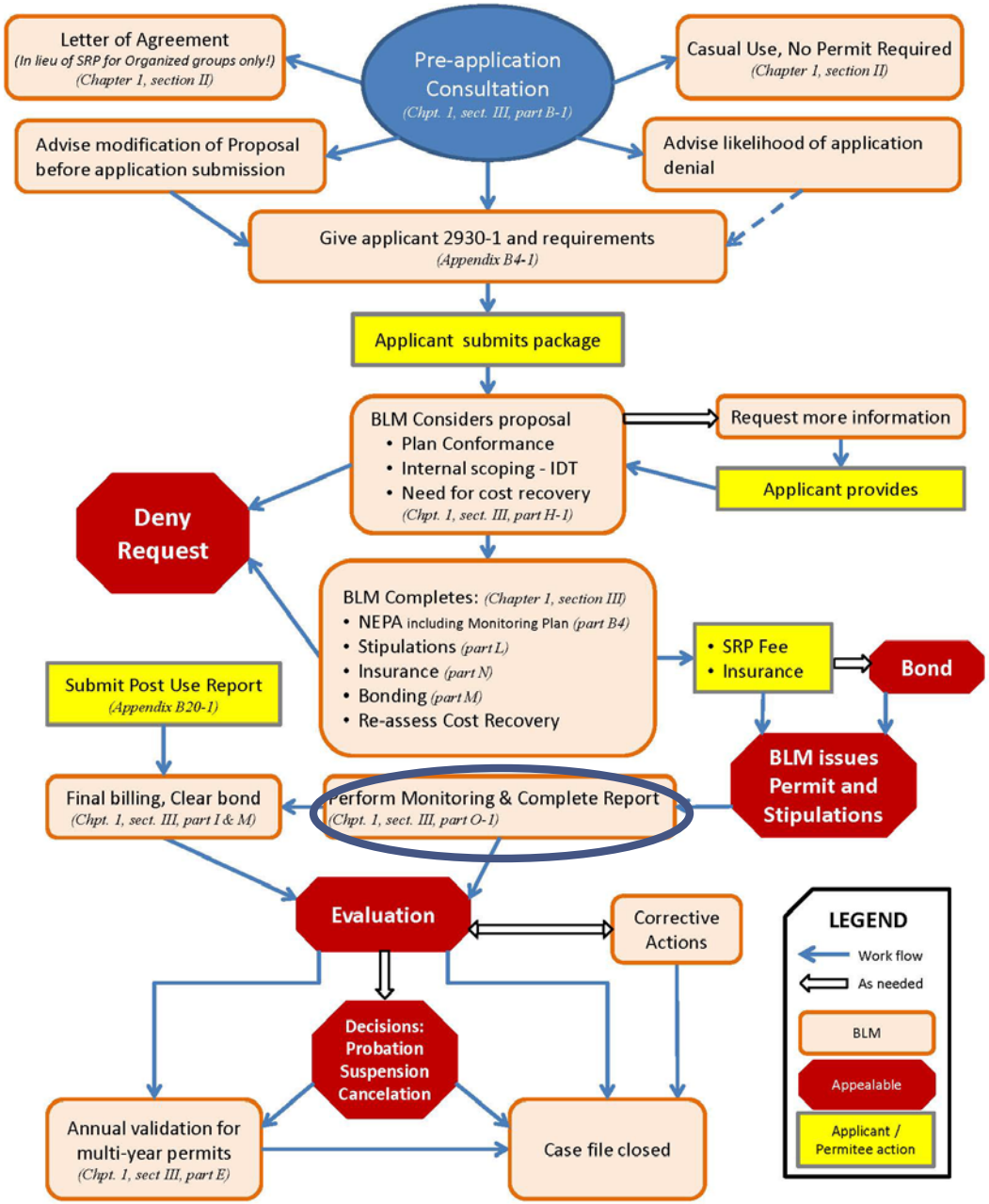
Prepare an MOU for the cooperating offices which addresses:

1. Permit issuance – one or multiple?
2. NEPA responsibility.
3. Stipulation development.
4. Monitoring, including report filing.
5. Billing, collection, disposition of fees.
6. Permittee evaluation.

MODULE 10

Monitoring and RMIS

The Process: How to Issue a BLM Special Recreation Permit



WHERE ARE YOU

Monitoring SRPs

Before going to the field:

Know what you are going to monitor!

1. Monitor permit/stips for compliance.
2. Monitor stips/mitigation for efficacy.
3. Monitor for resource impacts.
4. Monitor pre, during and post SRP activity.
5. Be creative, use volunteers, other staff

You Need a Monitoring Plan!

1. Identify what is to be monitored (stipulations, resources or other items).
2. Identify metrics and techniques used for each item or stipulation.
3. Timing: Pre, Post & During, throughout season
4. If sampling is to be used, identify the sampling size and technique, predetermined points, random GPS locations, every X occurrence, etc….

YOU NEED A MONITORING PLAN!
(CONT….)

5. Assign specific jobs to specific staff!

There was an important job to be done and Everybody was sure that Somebody would do it.

Anybody could have done it, but Nobody did. Somebody got angry because it was Everybody's job.

Everybody thought that Anybody could do it, but Nobody realized that Everybody wouldn't do it.

It ended up that Everybody blamed Somebody when Nobody did what Anybody could have done.

You need a Monitoring Plan! (cont….)

6. Each monitor equipped with: permit & stips, NEPA documentation, monitoring plan, camera, tools, PPE.
7. Provide forms for monitoring documentation and recording.
8. Identify who will receive copies of the monitoring report and the BLM reviewing official.
9. Use results in your next similar action.

Monitoring SRPs

If it does not create a record, it is not monitoring.

An observation not documented is knowledge lost.

Document, document, document

Recreation Management Information System - RMIS

- Authoritative Recreation Database
- Holds office history of recreation
- Tracks visitor use using a mix of inventory, monitoring and Best Professional Judgment
- Help explain/sell your recreation program with information and data
- Used for Local, State, National Planning along with Congressional Reports, Economic estimates and SCORPs
- Includes permit status

Recreation Management Information System - RMIS

- Reports are only as good as the data input.
- New check box for ‘known poor performers’ permittees
- ISRPs can be aggregated!
- Contractors are not permittees

RMIS - SRPs

Logged in as: djbaker
RMIS Version 4.2 (Production)

February 17, 2015
Current Fiscal Year is 2015

Logout
Office / Home
New
Show Expired
Formula
Journal
Save Address
SRP Address
Visitor Use

Special Recreation Permit List

Office :	LLNMA02000 Socorro Field Office
Permittee :	Sort by : SRP number
	0907 - Sebring, Kerry; High Lonesome Outfitters
SRP ID# :	0907
Did your office issue this permit?	Yes
Issuing SRP ID	NM1200907
Contact :	Kerry Sebring
Address :	P.O. Box 241 P.O. Box 241 Quemado, NM 87829-
Phone :	575-773-4787
FAX :	575-773-4787
Email :	
Permit Status :	Change Permit Status
Permit Status History:	No Status Change Reported
Permit Type :	Commercial Use
Primary Purpose :	Hunting - Big Game
Start Date :	01/01/2009
Expiration Date :	01/31/2018
NEPA # :	
Notes :	
Total Visits (FY 2015) :	
Visitor Use Formula :	Outfitters

RMIS SRPs

All SRPs contain a Visitor Use Formula. Can anyone name an SRP Type that would not assign visitor use to a specific area?

That's right a Vendor Permit. Can you think of any other SPRs that wouldn't need to complete a visitor use formula?

RMIS CBS

For your convenience and auditing, RMIS receives nightly downloads from CBS

Logged in as: djbaker
RMIS Version 4.3 (Production)

J
Current Fiscal

Logout

Office / Home

Revenue from Collections and Billings System

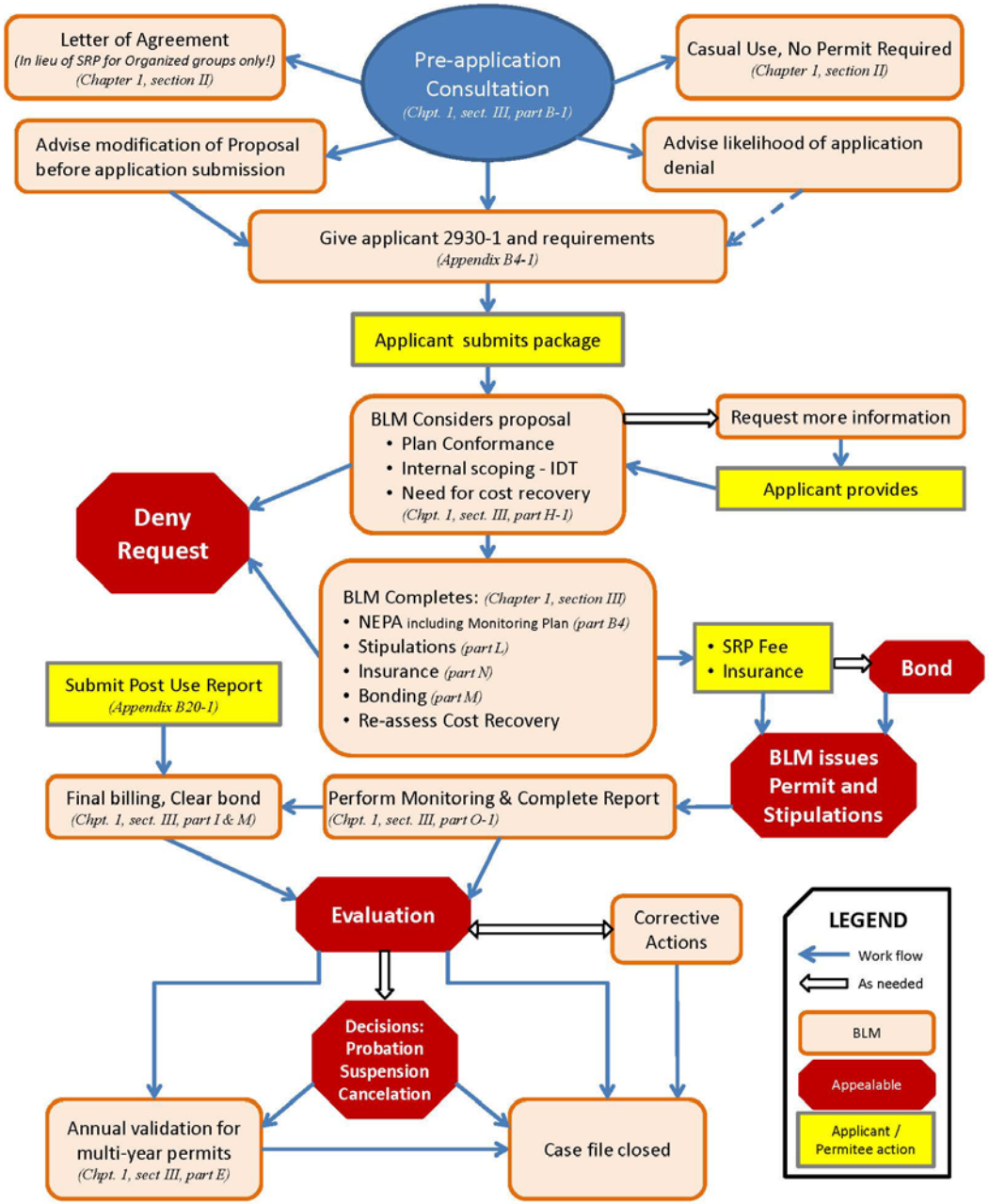
Office: LLCAD06000 Palm Springs-South Coast Field Office

Permit Type	Total Revenue	Total Permit Count
SPECIAL REC PERMITS/SRPS	$2,884.20	121
USE FEES/RUPS	$1,727.83	90
SPECIAL LTVA SRP	$3,880.00	41
FEDERAL PASSPORTS	$3,050.00	179
SPECIAL AREA SRPS	$6,808.00	106

MODULE 11

Post Use Reports, Billing, Evaluations, Adverse Actions

The Process: How to Issue a BLM Special Recreation Permit



Post Use Reports

1. No standard form or format
2. Offices may require a specific form
3. Electronic submission is acceptable and preferred
4. Schedule/due dates are determined by field office(s)
5. Cross reference with monitoring reports/ audit
6. Verify all calculations!!!!

Chapter 1:
Pgs. 39, 54, 55
Appendix B-20

Post Use Reports

Create your own form

Get all the information that you need

Get these at a minimum:

Permittee Name;

Report trip by trip; not aggregate!

Trip Start Date mm/dd/yr	Trip End Date mm/dd/yr	# of Guests	# of Guides	Area or routes used	Gross Receipts $	Pre/post trip lodging deductions $	Pre/post trip transportation deductions $

Post Use Billing

- Use CBS for all billing (new direction in handbook)
- Bills in excess of $1000.00 may be paid in installments (need promissory note, 1372-1)
- Post use may be collected/ billed on a monthly, quarterly or annually basis.

SRP Evaluations

1. No required form or format.
2. Must be in writing, kept on file and a copy provided to permittee along with a decision letter.
3. Every commercial, competitive SRP must have a performance evaluation *at least* annually. AO discretion for vending & organized group permits.
4. Three performance levels – *Acceptable, probationary, unacceptable.*
5. *Unacceptable* should result in suspension or termination of the permit.

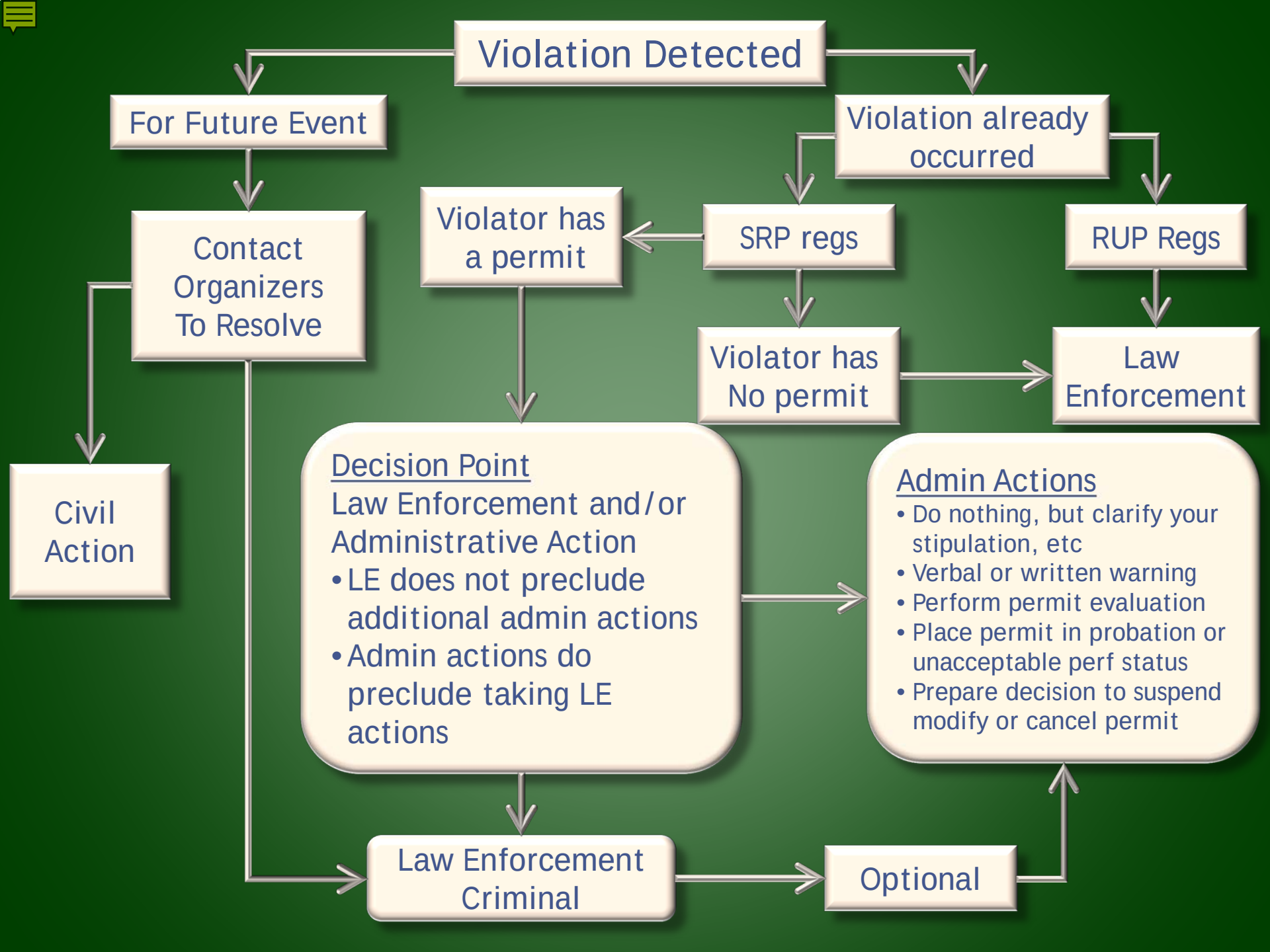
Chapter 1-52
Appendices B-16, B-19

Adverse Actions: What are they?

An action that negatively affects the permittee's ability to operate on the public lands.

Tools for addressing:

- Administrative Actions/Civil
- Criminal Actions
- Or Both (if criminal is first)


Violation Detected
For Future Event
Violation already occurred
Contact Organizers To Resolve
Violator has a permit
SRP regs
RUP Regs
Violator has No permit
Law Enforcement
Civil Action
Decision Point
Law Enforcement and/or Administrative Action
• LE does not preclude additional admin actions
• Admin actions do preclude taking LE actions
Admin Actions
• Do nothing, but clarify your stipulation, etc
• Verbal or written warning
• Perform permit evaluation
• Place permit in probation or unacceptable perf status
• Prepare decision to suspend modify or cancel permit
Law Enforcement Criminal
Optional

Types of Administrative Actions

- Coordinate with Law Enforcement to determine best course of action
- Do not take administrative action
- Document a verbal warning with opportunity for correction, knowing & willful
- Issue a letter of non-compliance
- Issue a permit evaluation with a decision letter, as this is appealable
- Decision to suspend or cancel permit

What are Prohibited Acts?

- Failure to obtain a required permit
- **Knowingly participating in event without permit**
- Violation of permit terms and conditions
- Failure to pay permit fees
- Littering

What are Prohibited Acts?
(cont….)

- Destroying vegetation
- Interfering with lawful users of public land
- Molesting livestock (w/o owner's permission)
- See regulations for complete list

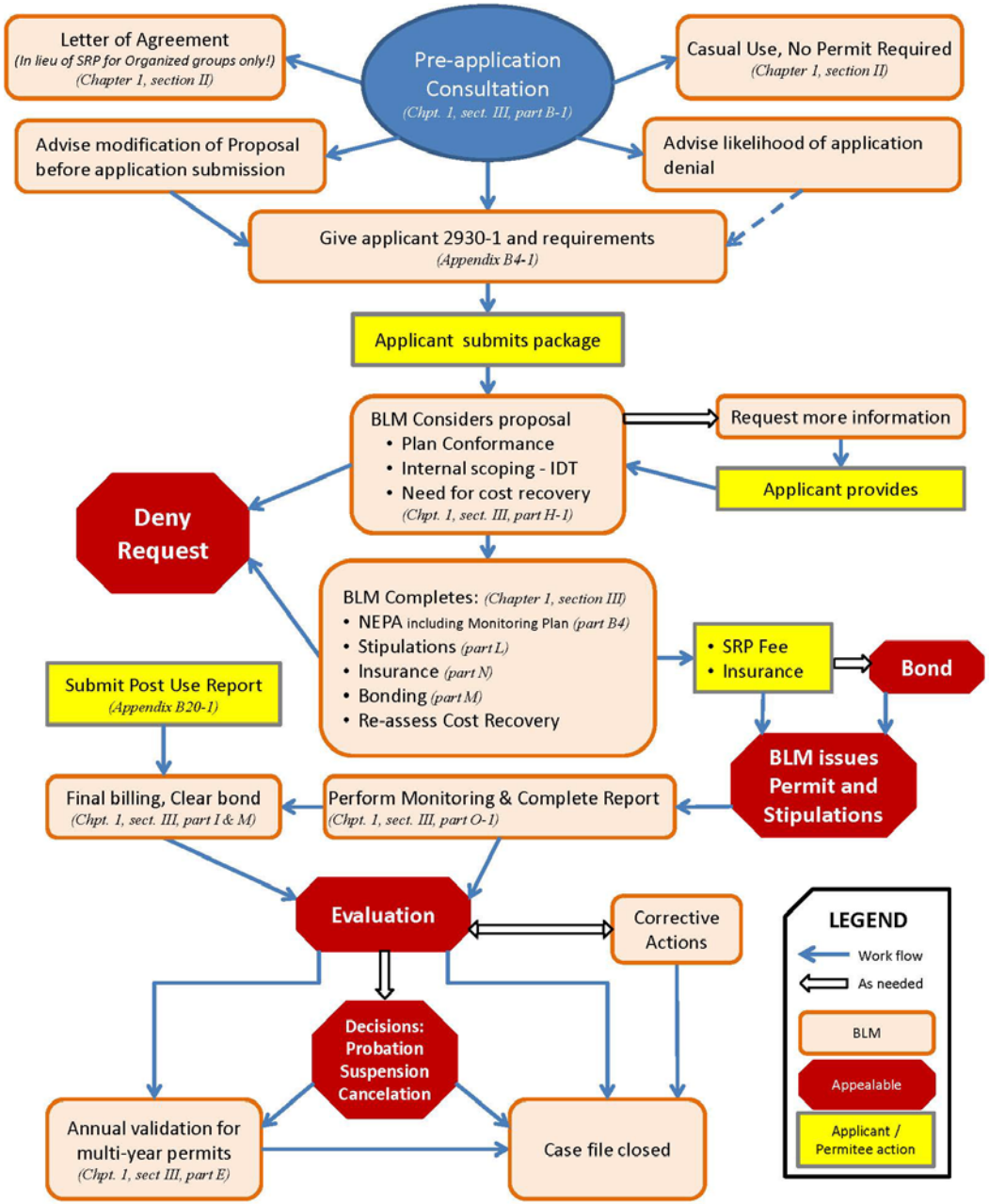
43 CFR 2932.57 (SRPs)
43 CFR 2933.3(RUPs)
43 CFR 8360 (Visitor Services)

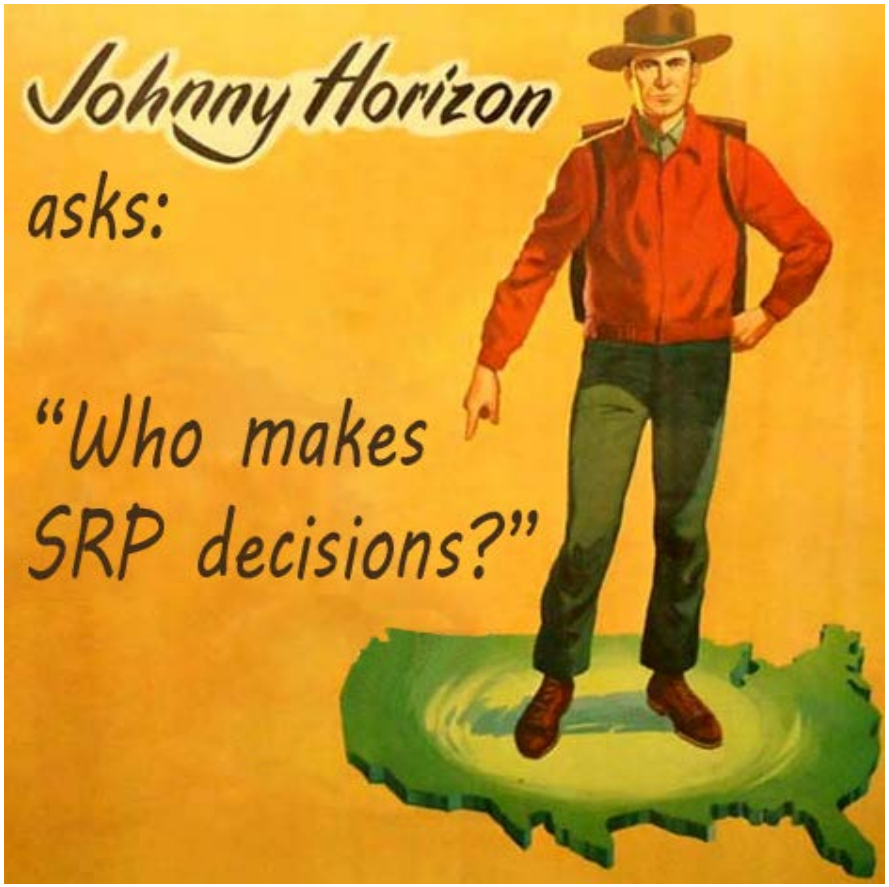
-

MODULE 12

Decisions and Appeals

The Process: How to Issue a BLM Special Recreation Permit





Decisions

A. Field Manger

B. Outdoor Rec Planner

C. Rangeland Specialist

D. Authorized Officer

Form 2930-2 (the permit)

Who signs the permit?

What kind of decision is this?

Types of Decisions - Proposed and Final

- approve a permit
- deny a permit
- evaluation of a permit:
  - probationary status
  - suspending a permit
  - cancelling a permit
- cost recovery

Protests and Appeals

Proposed Decisions are Protest-able

Final Decisions are appealable

* IBLA = Interior Board of Land Appeals

Protests

- No standard format
- Must be filed with AO within 15 calendar days of receipt of proposed decision letter
- AO reconsiders proposed decision and prepares recommended decision to be reviewed by next higher level
- Decision by next higher level is a final decision and appealable

Appeals (Form 1842-1)

Form 1842-1
(September 2006)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS
1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

1. NOTICE OF APPEAL..... A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that he wishes to appeal. A person served with the decision being appealed must transmit the *Notice of Appeal* in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a *Notice of Appeal* in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).

2. WHERE TO FILE

NOTICE OF APPEAL..... U.S. Department of Interior, Bureau of Land Management, Carson City Field Office, 5665 Morgan Mill Road Carson City, NV 89701

WITH COPY TO SOLICITOR... U.S. Department of the Interior, Office of the Solicitor, Pacific Southwest Region, 2800 Cottage Way, Room E-2753, Sacramento, CA 95825-1890

3. STATEMENT OF REASONS Within 30 days after filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary (43 CFR 4.412 and 4.413).

WITH COPY TO SOLICITOR..... U.S. Department of the Interior, Office of the Solicitor, Pacific Southwest Region, 2800 Cottage Way, Room E-2753, Sacramento, CA 95825-1890

4. ADVERSE PARTIES..... Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413).

5. PROOF OF SERVICE..... Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).

6. REQUEST FOR STAY..... Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a *Notice of Appeal* (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your *Notice of Appeal* (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). 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 appropriate Office of the Solicitor (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 regulations, 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 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.

Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that all communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, Subpart B for general rules relating to procedures and practice involving appeals.

30 Calendar days from date decision letter is received

Notice of Appeal goes to office where decision was made, with copy to solicitor

Appeals (Form 1842-1)

Form 1842-1
(September 2006)

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DEPARTMENT OF THE INTERIOR
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NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, Subpart B for general rules relating to procedures and practice involving appeals.

30 days after filing *Notice of Appeal*, the appellant must send "statement of reasons" to IBLA, with copy to solicitor

Full force and effect: Without request for a stay, SRP decisions are effective during appeal process. 43 CFR 2931.8

Appeals Timeline

Under Title 43 CFR, Part 4:

Day 0 - Decision Letter Received by applicant (certified returned mail)

Within 30 calendar days Notice of Appeal must be received by BLM and solicitor

Within 10 of receiving the Notice of Appeal, the AO sends the decision and the case file to IBLA

Within 30 days of sending Notice of Appeal, appellant must send statement of reasons must be sent to BLM and Solicitor

Before you initiate an appealable action

Be sure you can demonstrate:

- A violation actually occurred,
- Permittee was informed of conditions, and
- Permittee made a knowing and willful decision to violate these conditions

5-3

Decision Letters

A decision is a nonfiction story.

All good stories:

- *Have a beginning, middle and end.*
- *Are logically consistent.*
- *Supported by evidence.*

Decision Letters

Writing style: active, declarative, descriptive, clear & concise, persuasive.

1. State the letter is a decision
2. State what BLM's decision is
3. State reasons/rationale
4. Cite applicable regulations/stipulations
5. Include appeal/protest procedures

B-8, B-9

Also: B-14, B-16, B-17

Sample letter handout

Decision Letters

If I had more time, I would have written a shorter letter.

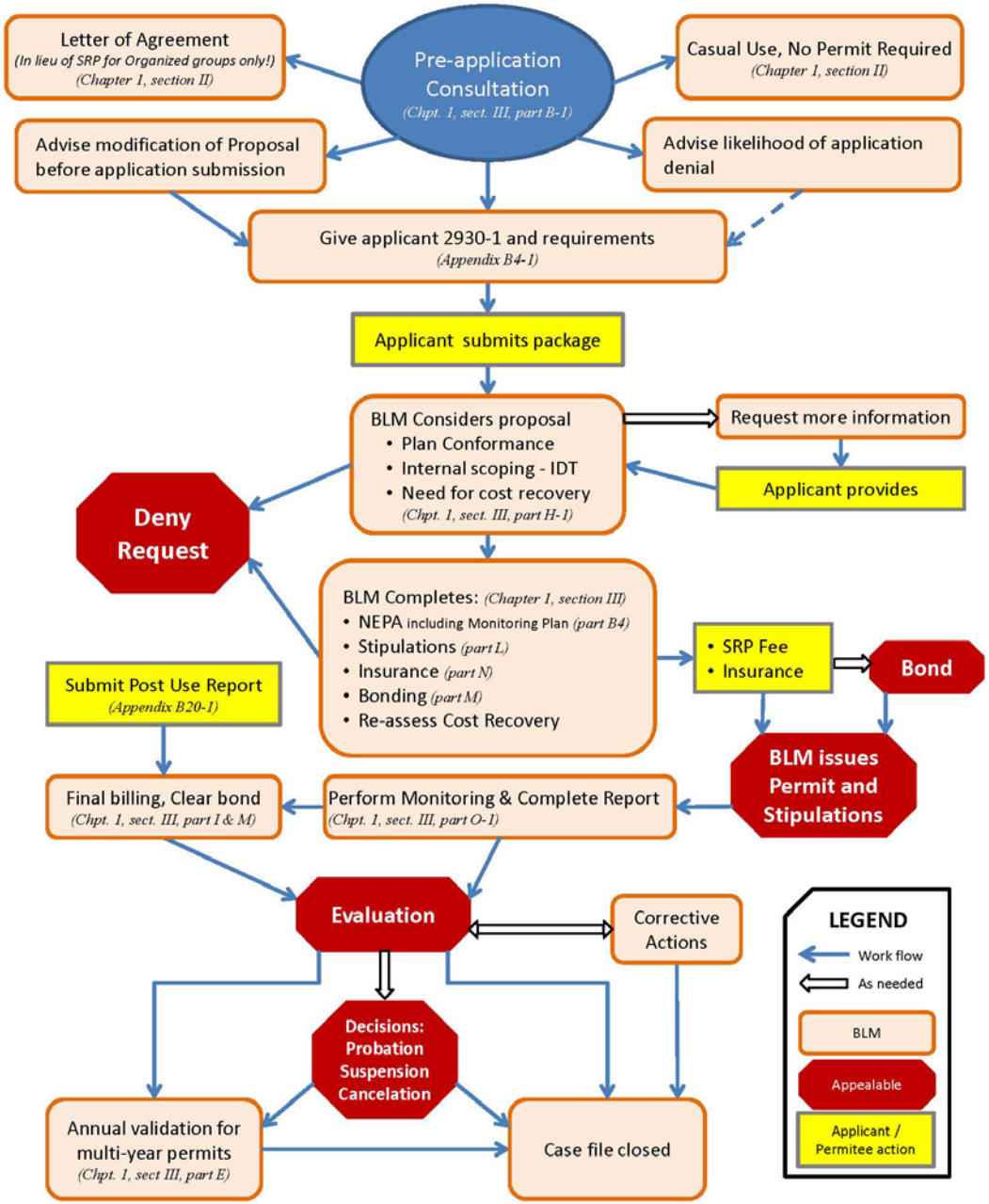
~Blaise Pascal

MODULE 13

Record Keeping

Chapter 6

The Process: How to Issue a BLM Special Recreation Permit



Record Keeping

Objectives

- Understanding of general policy
- Establishment & administration of case records
- Examples of SRP file organization
- Relation to Public lands statistics and budgetary records
- Privacy Act considerations

Record Keeping

6 or 8 way case file folders

-example 6-2 Fig 14 example

General Policy

- Documents relating to the issuance and administration of SRPs and RUPs are official federal government records.
- Used in a variety of ways:

  - To administer the permits

  - To report recreation use

  - To help meet budgetary planning and reporting requirements

Chapter 6
Pages 1-3

Establishing & Maintaining Case Records

Official SRP file documents include:

- copy of the permit & stipulations
- insurance certificate
- fee payment records
- correspondence/phone conversation logs
- maps/ operating & safety plans
- NEPA documentation
- business license/state guide licenses
- monitoring reports
- post-use reports
- annual performance evaluations
- Advertising and price list(s)

Chapter 6
Pages 1-3

Establishing & Maintaining Case Records, cont…

Files must be neat, up to date and secured in a central location.

All information in the file may be released under (FOIA) except: copies of money/checks, financial information, personally identifiable information, operating plans, and law enforcement incident reports may be released only after consultation with the Regional Solicitor's Office, providing all procedures listed in 43 CFR 2.7 through 43 CFR 2.27 are followed.

Chapter 6
Pages 1-3

Public lands statistics and budgetary records

- *Public Lands statistics* taken from RMIS
- RMIS related to FBMS and CBS
- Work closely with budget and collections staff, for accurate fees and reporting of units

Privacy Act Considerations

Commercial SRPs: The identity of a commercial SRP holder may be released to the public, published on lists, or posted on websites. The BLM discloses information in accordance with the regulations at 43 CFR 2.56(d). Field office staff should check with the Privacy Act officer for guidance before releasing information.

Privacy Act Considerations (cont…)

RUPs and Noncommercial SRPs:

Personally identifiable information (including, but not limited to, names, addresses, and other personal contact information) is generally not made available to the public.

Privacy Act Considerations (cont…)

RUPs and Noncommercial SRPs:

The BLM may receive requests for lists of noncommercial SRP holders from people who want to send solicitations or retail sales information to these permittees; however, the BLM may not provide such lists unless the permittees have specifically been informed and have given permission for the release of the information.

MODULE 14

Public Participation and

Recreation Use Permits

Establishing or Changing Fees

Changes to fees for recreation use must be accompanied with public participation and outreach.

Fees authorized by FLREA have very specific requirements.

Business Plans (both SRP & RUP) must be reviewed by state lead, then WO-250 before going public.

Public Participation in Recreation Fees Under FLREA

Includes:

- Standard Amenity Fees.
- Expanded Amenity Fees.
- Special Area SRP Fees.

Does Not Include

- Commercial, competitive, group SRP fees.
- Fees for National Reservation Services.
- Concessions contracts.
- Cost recovery.

New Fee Sites or Areas

FR Notice published at least 6 months prior to implementation.

Share plan with the public which includes:

1. Description of the new site/area.
2. Financial analysis including development, O&M cost, and income.
3. Analysis of public and private services in the vicinity that may compete.
4. Description of how you will tell public what you did with the money.

New Fees and Changes to Fees

Use of RRACs

FLREA provides for establishment of RRACs.

- May substitute an existing RAC.
- If Governor agrees, RRAC not necessary.
- RRAC meetings must be announced at one week prior in the Federal Register.

RRAC Roles & Responsibility

RRACs must be consulted and may advise:

1. Establishment or change to standard, expanded or Special Area (ISRP) fee.
2. Elimination of a standard or expanded amenity fee.
3. Expansion or limitation of a recreation fee program.

RRAC Roles & Responsibility

RRACs are advisory.

However, if the agency rejects a RRAC recommendation –

The Secretary must file a report with House Resources and Senate Energy and Natural Resources Committees at least 30 days prior to implementing a decision.

Other Public Notification

In addition to required notifications it is strongly recommended you:

- Reach out to the community of interest, be it a geographic, or user group community. Use your skills in community ecology!
- Package similar proposals for presentation to RRAC and public.
- Incorporate public participation at the planning rather than implementation phase.
- Use an index for routine adjustments and get buy off on the index instead of each adjustment

Public Notification of Fee Program Accomplishments

Must be posted at the fee site or area.

Included in periodic reports to Congress.

In addition, you should:

- Post on office website.
- News releases, dedication ceremony for major accomplishments.
- Report to local tourism officials, local governance.

No one can go back and make a brand new start.

Anyone can start now and make a brand new ending.