



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

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Carson City, Nevada 89701-1448  
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In Reply Refer to:

(NV-032)  
4160

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

### **NOTICE OF FINAL DECISION**

#### **INTRODUCTION**

The White Hills Allotment is located in Washoe County, Nevada, and is approximately 30 miles northeast of Sparks, Nevada, and 4 miles northwest of Wadsworth, Nevada. Administered by the Carson City District Office (CCDO), Nevada, the allotment consists of 25,875 acres of public land and 2,959 acres of private lands. The White Hills Allotment is part of the Pah Rah Range, with elevations ranging from slightly under 4,265 feet to almost 7,800 feet. The south boundary fenceline borders the Olinghouse Allotment; the Pah Rah Range makes up the western side, which is unfenced; and the Pyramid Lake Indian Reservation borders the allotment on the east and north. The allotment boundary is fenced except for the western side and a little over a mile stretch on the southwest boundary.

The Allotment has two permittees with grazing permits, and they consist of the following:

- 1) Mr. Edwin Depaoli is authorized to graze 12 cattle from April 1<sup>st</sup> through October 31<sup>st</sup> for a total of 87 Animal Unit Months (AUM's). He mainly uses the far western side of the allotment, west of the ridgeline along the Pah Rah Range.
- 2) The Pyramid Lake Paiute Tribe is authorized to graze 159 cattle from April 1<sup>st</sup> through October 31<sup>st</sup> for a total of 1,123 AUM's. This use occurs mainly on the eastern side of the allotment, where elevations are lower and water sources are more accessible. It has been common for different tribal members to use the White Hills Allotment from year to year. This makes effective range management difficult since the allotment is often unfamiliar to both the cattle and the operator.

The Record of Decision for the Major Land Use Decision Summary and Environmental Impact Statement, Lahontan Planning Area was issued in 1985. These documents established the multiple use goals and objectives which guide management of the public lands contained in the Allotment. The Rangeland Program Summary (RPS) for the Lahontan Resource Area was

issued in 1985 and updated in 1989, which further identified the allotment specific objectives for this area of public lands.

The CCDO established the 2001 Consolidated Resource Management Plan (CRMP), which incorporates decisions from eight major field office planning documents and five amendments to these plans.

As identified in the RPS, monitoring was established on the allotment to determine if existing multiple uses were consistent with the attainment of the objectives established by the Resource Management Plans (RMPs). Monitoring data has been collected, and this data has been analyzed, through a Standards and Guidelines (S&G) assessment, to determine progress in meeting multiple use objectives and determine if changes in existing management are required in order to meet specific objectives for the allotment.

## **BACKGROUND**

The CCDO is in the process of renewing all of its active grazing permits under the requirements of recent regulations. Monitoring has been carried out on this allotment, a S&G Determination completed, and an Environmental Assessment (EA-NV-030-08-016) that analyzed a proposed action and alternatives was prepared. The Proposed Action, as put forth in this Decision, is a result of those activities.

In July 2007, a S&G Assessment was conducted on the allotment in order to document current conditions and determine if the allotment is currently achieving applicable Rangeland Health Standards and conforming to the applicable Guidelines for Livestock Grazing Management. As a result of the riparian assessments, it was determined that the Standard for riparian/wetlands is not being met and that cattle grazing has been the major cause of the declining condition of the springs and creeks within the Fort Defiance enclosure, as well as in the adjacent riparian area outside the fence.

The Fort Defiance enclosure, located at T. 21 N., R. 23 E., Section 8, with parts of it overlapping into Sections 7 and 17, was built in 2001 to protect the riparian areas from trampling and overgrazing, as well as to improve the condition of the springs and creeks. From 2001 to the present, this enclosure has been officially closed to grazing, due to the fact that the riparian areas have not been in proper functioning condition (PFC); however, cattle have either been allowed into the enclosure by the permittee(s) or the general public, or recreationists have left gates open, resulting in unauthorized cattle use. This has resulted in severe use of the riparian areas within the enclosure, to include grazing and trampling. Since the riparian areas were rated functional-at-risk with a downward trend, almost to the point of being nonfunctional, livestock grazing practices will need to be adjusted and the changes specified in the new Term Grazing Permits.

All other standards and guidelines are being met.

A Notice of Proposed Decision regarding the reissuance of two Term Grazing Permits for the White Hills Allotment was mailed to all interested parties on July 29, 2008. A timely Protest to this Proposed Decision was received from Ed Depaoli on August 5, 2008. I have carefully considered the Protest's statements of reasons as to why the Proposed Decision was in error, and have responded below.

### **Point**

“The historic ‘town site’ and ‘historical residential area’ are not identified. Where are these?” and “No mention is made of the emigrant route that bisects this allotment.”

### **Response**

The nature and location of cultural resources are not subject to public disclosure under the following:

- The Archaeological Resources Protection Act (16 U.S.C., 470hh), which protects the confidentiality of information concerning the nature and location of archaeological resources;
- The National Historic Preservation Act (16 U.S.C., 470w-3), which withholds from disclosure to the public information about the location, character or ownership of a historical resource if the Secretary of the Interior and agency determine that disclosure may:
  - 1) Cause significant invasion of privacy.
  - 2) Risk harm to the historic resources.
  - 3) Impede the use of a traditional religious site by practitioners.

### **Point**

“What are the high quality riparian plants missing? Is this environment capable of supporting them?” Mr. Depaoli also submitted seven photos taken of the riparian and upland vegetation inside the Fort Defiance enclosure in July 2008 “that show a totally different perspective than that found in the proposed decision.”

### **Response**

In two of Mr. Depaoli’s photos, one looking west towards lower Fort Defiance Creek and the other looking east, it is evident that there are mature and decadent willows (*Salix* species) present, with substantial dead woody material in the canopy layer. In these photos, as well as those in the CCDO allotment files, young willow plants are absent.

In July 2007 riparian assessments were conducted on the Fort Defiance Spring, the North Fork Defiance Creek System, and the South Fork Fort Defiance Creek System using the Lentic Standard Checklist from *A User Guide to Assessing Proper Functioning Condition and the Supporting Science for Lentic Areas*, a technical reference provided by the Natural Resources Conservation Service (NRCS).

According to the NRCS Washoe County Soil Survey-South Part, issued in 1983, a wet meadow site, where elevations are 5,000 to 7,000 feet and the annual precipitation averages 10 – 14 inches, Nevada bluegrass (*Poa nevadensis*) and sedge (*Carex* species) should be dominant. This plant community also consists of meadow barley (*Hordeum brachyantherum*), rush (*Juncus* species), cinquefoil (*Potentilla* species), groundsel (*Senecio* species), wild iris (*Iris missouriensis*), common yarrow (*Achillea millefolium*), willow (*Salix* species), rose (*Rosa* species), and other minor grass, forb and shrub species.

The following species lists were compiled by the CCDO botanist for each of the riparian assessments:

Fort Defiance Spring

*Carex douglasii*

*Juncus balticus*

*Juncus ensifolius*

*Achillea millefolium*

*Asclepias* species (milkweed)

*Polypogon monspeliensis* (non-native rabbit's foot grass)

North Fork Defiance Creek System

*Juncus balticus*

*Rosa woodsii*

*Polypogon monspeliensis* (non-native rabbit's foot grass)

*Aquilegia formosa* (columbine)

South Fork Fort Defiance Creek System

*Carex nebrascensis*

*Juncus balticus*

*Juncus ensifolius*

*Rosa woodsii*

*Salix exigua*

*Polypogon monspeliensis* (non-native rabbit's foot grass)

*Achillea millefolium*

*Aquilegia formosa*

The CCDO hydrologist, soil scientist, and botanist determined that the soil and vegetative potential were present, but the riparian vegetation did not meet the functional criteria. The functional-at-risk with a downward trend rating was given based on the potential of the riparian vegetation to occur.

Willow should be present at all three sites, but it was only found at the South Fork Fort Defiance Creek System's assessment location. Sedges, rushes, and bluegrasses were also very limited in their occurrence.

Hydrology, vegetation, and erosion/deposition were all assessed as part of the rating process. Below are some of the observations and concerns:

- 1) On all three sites, it was found that the riparian-wetland areas are shrinking. Areas that should be wet meadow are dry due to cattle trailing, entrenchment, and punched out soil from trampling, all causing drainage of the available water;
- 2) Natural surface/subsurface flow patterns are being altered by hoof action;
- 3) There is not a diverse age-class distribution for maintenance or recovery of the riparian systems although those species present indicate that the environment is capable of this diverse age-class. It was noted that cattle were eating the seed heads from the grasses and willows, as well as removing a large amount of the foliage, reducing the recruitment and the development of those plants; and

- 4) There is not a diverse composition of riparian-wetland vegetation for maintenance or recovery although those species present indicate that the environment is capable. It was noted that there is a lack of willows present, especially seedlings.

**Point**

“The decision contains incomplete and inaccurate statements.” and “ The Western boundary of the allotment is not fenced.”

**Response**

After another review of the different maps of the White Hills Allotment in the CCDO, the information in this Final Decision has been modified to reflect that the western boundary is unfenced.

**Point**

“The emphasis on sage grouse is based on the assumption that sage grouse occur here, have used the area, and would use it again. The fact is sage grouse were never found here for at least 73 years even when the enclosure was in the best of conditions.”

**Response**

As noted in EA-NV-030-08-016, the White Hills Allotment lies within the Pah Rah Sage Grouse Population Management Unit (PMU). Leks have not been identified within this allotment; however, based on official Nevada Department of Wildlife (NDOW) maps, the area is considered sage grouse range.

**Point**

“A definition of a permanent closure is lacking.” and “Fence maintenance responsibilities are not clearly accepted by BLM.” The closure and fence maintenance refer to the Fort Defiance enclosure.

**Response**

The permanent closure of the Fort Defiance enclosure means that cattle cannot use this area, except every four years when temporary nonrenewable use (TNR) will be authorized for one month of high intensity grazing, as described in EA-NV-030-08-016. Permittees will be restricted from using the enclosure, to include grazing, herding, trailing or gathering their cattle. The permanent closure will remain in place for the duration of the two new term grazing permits, or 10 years, to allow the riparian areas in the Fort Defiance enclosure an opportunity to achieve their potential. Before the grazing permits have expired, a CCDO interdisciplinary (ID) team will assess the condition of the riparian areas. If they are in Proper Functioning Condition (PFC) at that time, management of the Fort Defiance enclosure may be modified, depending on the professional recommendations of the ID team. Any modifications made in the management of the enclosure, must be able to sustain the desired condition of PFC for the riparian-wetland area.

Fence and cattleguard maintenance will be the responsibility of the CCDO. This will be placed on the yearly range improvement maintenance and repair schedule.

## FINDING OF NO SIGNIFICANT IMPACT (FONSI):

I have reviewed EA-NV-030-08-016, dated May 2008. After consideration of the environmental effects as described in the EA, and incorporated herein, I have determined that the Proposed Action identified in the EA will not significantly affect the quality of the human environment and that an Environmental Impact Statement (EIS) is not required to be prepared.

I have determined the Proposed Action is in conformance with the approved CRMP, dated May 2001 for the CCDO, and is consistent with the plans and policies of neighboring local, county, state, tribal and federal agencies and governments. This finding and conclusion is based on my consideration of the Council on Environmental Quality's (CEQ) criteria for significance (40 CFR 1508.27), both with regard to the context and intensity of impacts described in the EA.

Context: Renewing a term grazing permit for a period of ten years does not have international, national, regional or statewide importance. The discussion of significance criteria that follows applies to the Proposed Action and within the context of local importance in the area associated with the White Hills Allotment.

Intensity:

1) *Impacts that may be both beneficial and adverse.*

The EA has considered both beneficial and adverse impacts of the Proposed Action, to include the permanent closure of the Fort Defiance enclosure, the removal of the gates in the enclosure fence, and the closing of the north fork of the Fort Defiance Creek road. On the whole, the Proposed Action would result in improved riparian and vegetative condition, as well as wildlife habitat. Improving ecological conditions is an improvement in the quality of the human environment through the management of rangeland resources and is not considered a significant effect in either the short or long term.

2) *The degree to which the proposed action affects public health or safety.*

The Proposed Action would not have an effect on public health or safety.

3) *Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.*

To date, in and immediately adjacent to the BLM-managed lands of the White Hills Allotment, known cultural resources represent significant past human use of the landscape. Known cultural resources within the Allotment are predominantly related to mining and include historical mining camps, mining complexes, residential areas, and transportation sites including roads and trails; ranching features; debris scatters; and the site of Fort Defiance, a small fortification erected by miners during the Pyramid Lake Paiute Indian War in 1860. Prehistoric-period resources include lithic scatters that represent both small task sites and larger camp areas.

The Allotment contains at least two historic properties, and these consist of a historical town site and a historical residential area. Both are located in areas that have experienced no measurable livestock use and away from features that would cause livestock to congregate. Consequently, these historic properties will not be adversely affected by the proposed grazing activities.

The Fort Defiance exclosure includes a probable historic property (currently undocumented) that represents both prehistoric and historical human use. This site could be adversely affected by grazing within the Fort Defiance exclosure. As a result, BLM will fully document and evaluate the site prior to the temporary nonrenewable use within the exclosure. The Proposed Action described in EA- NV-030-08-016 would greatly decrease the impacts of grazing since the exclosure would be open to cattle every fourth year.

The riparian vegetation in the Fort Defiance exclosure is supported by a series of springs and seeps. It is a large enough area to support unique wildlife species generally associated with wet meadows. There are currently no high quality riparian plants associated with the wet meadow, due to intense livestock grazing and trampling. Although the exclosure should be an extremely productive sage grouse brooding area, because of the poor riparian vegetative conditions it is non-functional for brooding sage grouse. The Proposed Action would limit the access that the cows would have in the exclosure, and this would encourage the riparian-wetland vegetation by trapping sediments and making more efficient use of water onsite rather than allowing rapid runoff to occur. The result will be more diversity in riparian plant species and age-class, plants with high vigor, and enough vegetation to protect the shoreline.

*4) The degree to which the possible effects on the quality of the human environment are likely to be highly controversial.*

Livestock grazing effects are well known and are not considered highly controversial. Livestock practices are geared towards meeting multiple use objectives, and these practices are not considered highly controversial.

*5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.*

There are no anticipated effects of the Proposed Action which are considered uncertain or involve unique or unknown risks. The Proposed Action is comprised of accepted standard practices of livestock grazing.

*6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.*

The Proposed Action does not establish a precedent for future actions with significant effects. It does not represent a decision in principle about any future consideration.

*7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.*

No significant cumulative impacts have been identified in the EA. Other grazing and range improvement projects may be proposed within the grazing allotment in the future and other land uses are ongoing within the same geographic area. These projects seen together with other land uses would not result in cumulatively significant impacts at the local or watershed scale.

8) *The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places (NRHP) or may cause loss or destruction of significant scientific, cultural, or historical resources.*

The Allotment contains at least two historic properties, and these consist of a historical town site and a historical residential area. Both are located in areas that have experienced no measurable livestock use and away from features that would cause livestock to congregate. Consequently, these historic properties will not be adversely affected by the proposed grazing activities.

Potential historic properties are known for the Fort Defiance exclosure area that potentially can be impacted by concentrated livestock activity. The distribution and potential impact to historic properties relative to concentrated livestock distribution will be addressed through cultural resources inventory and assessment at this location prior to permitting any grazing activities within the Fort Defiance exclosure as defined in the Proposed Action. No additional areas of potential conflict between concentrated livestock use and historic properties are anticipated within the Allotment.

9) *The degree to which the action may adversely affect an endangered or threatened species or its habitat has been determined to be critical under the ESA of 1973.*

There are no endangered or threatened species in the Allotment.

10) *Whether the action threatens a violation of Federal, State, or local law requirements imposed for the protection of the environment.*

The Proposed Action will not violate or threaten to violate any Federal, State, or local law or requirement imposed for the protection of the environment.

## **FINAL DECISION**

After careful consideration of the Protest received, all further information received through consultation, communication and coordination with the interested public, and reconsideration of all information contained in the EA prepared for this action, **my Final Decision is to implement the Proposed Action as described in Environmental Assessment EA- NV-030-08-016 for authorization of livestock grazing use on the White Hills Allotment.**

Implementation of the Proposed Action will authorize the following:

- (1) a new ten year grazing permit to Mr. Edwin Depaoli which would allow 12 cattle to graze on the White Hills Allotment from April 1<sup>st</sup> until October 31<sup>st</sup> for a total of 87 AUM's;
- (2) a new ten year grazing permit to the Pyramid Lake Paiute Tribe which would allow 159 cattle to graze on the White Hills Allotment from April 1<sup>st</sup> until October 31<sup>st</sup> for a total of 1,123 AUM's;
- (3) the permanent closure of the Fort Defiance exclosure, except for one month of high intensity grazing every four years to the 60 – 70% utilization level;



- (4) the construction of fencing to replace gate numbers 1, 3, and 4, as well as the installation of a cattle guard at the south end of the Fort Defiance enclosure to replace gate #2 (refer to EA- NV-030-08-016 for gate locations);
- (5) the closure of the north fork of Fort Defiance Creek road as it nears the riparian area with the placement of large boulders (exact location of boulders to be determined by the interdisciplinary team).
- (6) installation of a sign along the north fork of Fort Defiance Creek road just past Fort Defiance Spring to warn the public that the road is closed ahead for riparian and vegetative rehabilitation.

## **RATIONALE**

Current grazing management on the White Hills Allotment is not meeting the following Standard: Riparian/Wetlands. Riparian assessments have shown that the riparian areas are functional-at-risk, with a downward trend, almost to the point of being nonfunctional, due to heavy cattle utilization and trampling. EA- NV-030-08-016 describes a Proposed Action that would improve the vegetative, riparian, and wildlife habitat conditions.

### **Riparian/Wetlands**

Based largely on the 2001 assessments, grazing was restricted in the Fort Defiance enclosure that encompasses a large part of the Fort Defiance Creek watershed. Following three years of rest, the riparian areas showed marked improvement during the 2004 assessments, with all areas still functional-at-risk, but in an upward trend. Vegetation was able to begin recovery, trapping sediment and making more efficient use of water onsite rather than allowing rapid runoff to occur.

Between 2004 and 2007, unauthorized use of the enclosure occurred. Conditions degraded back to a state similar to those observed in 2001. All of the areas assessed received a functional-at-risk rating with a downward trend, almost being nonfunctional. Cow trailing and heavy use of vegetation cover resulted in lentic areas drying and shrinking in size. In 2007, species composition and cover were insufficient to rate any areas as properly functioning or even an upward trend.

Relying on people to close the gates in the enclosure has not worked to control the cattle and keep them out of the riparian areas since it is not known for sure who is opening them and then leaving them open. Using the gate at the south end of the road in order to utilize the southern portion of the White Hills Allotment has been the most convenient method to herd the cattle to that area; however, cattle have been allowed to remain in the enclosure for extended periods of time instead of being moved quickly through to the other side.

It has been determined that livestock grazing practices need to be adjusted and the changes specified in the new Term Grazing Permits.

The Proposed Action would permanently close the Fort Defiance enclosure, except for one month of high intensity grazing every four years, allowing cattle to graze the crested wheatgrass to the 60 – 70% level, which is considered to be heavy utilization.

In an attempt to keep the cattle from being inside the Fort Defiance enclosure and furthering degradation of the riparian areas, it will be necessary to eliminate the problem of leaving the gates open, to include the permittees, recreationists, and other members of the public. This will entail building fence to replace three of the four gates and installing a cattle guard at the south end of the enclosure to replace the other gate. This will allow the general public easy access through the enclosure without having to ensure gate closures. Besides replacing the gates with wire, the fence will need to be repaired in at least seven locations, with either additional wire, clips, or whatever may be needed. These locations have been identified in EA- NV-030-08-016.

The permittees will be required to herd their livestock around the Fort Defiance enclosure if they wish to graze their cattle on areas usually accessed by the roads inside the enclosure. This will help ensure that cows are not trapped or allowed into the enclosure, either willfully or nonwillfully.

Other changes recommended under the Proposed Action include closing the north fork of Fort Defiance Creek road as it nears the riparian area and the installation of an interpretive sign to inform the public that the road is closed ahead for riparian and vegetative rehabilitation. The road closure will be done by placing large boulders across the road (exact location of boulders to be determined by the interdisciplinary team).

If either or both of the permittees cannot remain in compliance with the closing of the Fort Defiance enclosure, actions will be initiated under 4170 CFR to suspend or cancel all or a portion of one or both the permits.

### **AUTHORITY**

The following citations come from 43 CFR, Subpart 4100:

{§4100.0-8} states that “The authorized officer shall manage livestock grazing on public lands under the principle of multiple use and sustained yield, and in accordance with applicable land use plans. Land use plans shall establish allowable resource uses (either singly or in combination), related levels of production or use to be maintained, areas of use, and resource condition goals and objectives to be obtained. The plans also set forth program constraints and general management practices needed to achieve management objectives. Livestock grazing activities and management actions approved by the authorized officer shall be in conformance with the land use plan as defined at 43 CFR 1601.0-5(b).”

{§4110.3} states that “The authorized officer shall periodically review the permitted use specified in a grazing permit or lease and make changes in the permitted use specified in a grazing permit or lease and shall make changes in the permitted use as needed to manage, maintain or improve rangeland productivity, to assist in restoring ecosystems to properly functioning condition, to conform with land use plans or activity plans, or to comply with the provisions of subpart 4180 of this part. These changes must be supported by monitoring, field observations, ecological site inventory or other data acceptable to the authorized officer.”

{§4130.3} states that “Livestock grazing permits and leases shall contain terms and conditions determined by the authorized officer to be appropriate to achieve management and resource condition objectives for the public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with the provisions of subpart 4180 of this part.”

{§4130.3-1} states that “(a) The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the amount of use, in animal unit months, for every grazing permit or lease. The authorized livestock grazing use shall not exceed the livestock carrying capacity of the allotment.” “(b) All permits or leases shall be made subject to cancellation, suspension, or modification for any violation of these regulations or of any term or condition of the permit or lease.” “(c) Permits and leases shall incorporate terms and conditions that ensure conformance with subpart 4180 of this part.”

{§4160.3(b)} states that “Upon the timely filing of a protest, the authorized officer shall reconsider her/his proposed decision in light of the protestant’s statement of reasons for protest and in light of other information pertinent to the case. At the conclusion to her/his review of the protest, the authorized officer shall serve her/his final decision on the protestant, or her/his agent, or both, and the interested public.

{§4180.1} states in part that “(a) Watersheds are in, or are making significant progress toward, properly functioning condition, including their upland, riparian-wetland, and aquatic components; soil and plant conditions support infiltration, soil moisture storage, and the release of water that are in balance with climate and landform and maintain or improve water quality, water quantity, and timing and duration of flow.” “(b) Ecological processes, including the hydrologic cycle, nutrient cycle, and energy flow, are maintained, or there is significant progress toward their attainment, in order to support healthy biotic populations and communities.” “(c) Water quality complies with State water quality standards and achieves, or is making significant progress toward achieving, established BLM management objectives such as meeting wildlife needs.” “(d) Habitats are, or are making significant progress toward being restored or maintained for Federal threatened and endangered species, Federal proposed or candidate threatened and endangered species, and other special status species.”

In accordance with 43 CFR 4.470, 4160.3 (c) and 4160.4, any person whose interest is adversely affected by a final decision of the authorized officer may appeal the decision for the purpose of a hearing before an administrative law judge. The appeal must be filed within 30 days after the date the proposed decision becomes final or 30 days after receipt of the final decision. In accordance with 43 CFR 4.470, the appeal shall state clearly and concisely the reason(s) why the appellant thinks the final decision of the authorized officer is wrong.

Pursuant to 43 CFR 4.471 and 4160.3(c), an appellant also may petition for a stay of the final decision pending appeal by filing a petition for stay along with the appeal within 30 days after the date the proposed decision becomes final or 30 days after receipt of the final decision.

The appeal and any petition for stay must be filed at the office of the authorized officer, Elayn Briggs, Acting Field Manager, Stillwater Field Office, Carson City District Office, 5665 Morgan Mill Road, Carson City, NV 89701. **At this time, the BLM will not accept protests or appeals sent by electronic mail.** Within 15 days of filing the appeal and any petition for stay, the appellant also must serve a copy of the appeal, and any petition for stay, on any person named in the decision and listed at the end of the decision, and on the Office of the Solicitor,

Regional Solicitor, Pacific Southwest Region, U.S. Department of the Interior, 2800 Cottage Way, Room E-1712, Sacramento, California 95825-1890.

Pursuant to 43 CFR 4.471(c), a petition for stay, if filed, must show sufficient justification based on the following standards:

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

43 CFR 4.471(d) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

Any person named in the decision from which an appeal is taken (other than the appellant) who wishes to file a response to the petition for a stay may file with the Hearings Division in Salt Lake City, Utah, a motion to intervene in the appeal, together with the response, within 10 days after receiving the petition. Within 15 days after filing the motion to intervene and response, the person must serve copies on the appellant, the Office of the Solicitor and any other person named in the decision (43 CFR 4,472(b)).

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.422(c)(2)).

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Elayn Briggs  
Acting Field Manager  
Stillwater Field Office  
Carson City District Office

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Date

**CC: (by certified mail):**

Mr. Edwin L. Depaoli (CRR# 7007 0710 0002 5045 5607)  
3800 Schurz Highway  
Fallon, NV 89406

John Mosley (CRR# 7005 1820 0003 8670 7651)  
Pyramid Lake Paiute Tribe  
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Western Watersheds Project (CRR# 7005 1820 0003 8670 7668)  
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Boise, ID 83701

Resource Concepts, Inc. (CRR# 7005 1820 0003 8670 7675)  
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Carson City, NV 89703-4152

Washoe Tribe of Nevada & California (CRR# 7005 1820 0003 8670 7682)  
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Sustainable Grazing Coalition (CRR# 7008 0150 0002 7340 4562)  
c/o Richard A. Orr  
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Caliente, NV 89008-0145

Paul J. Spitler (CRR# 7008 0150 0002 7341 4363)  
Center For Biological Diversity  
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**CC: (by electronic mail):**

Nevada State Clearinghouse ([clearinghouse@budget.state.nv.us](mailto:clearinghouse@budget.state.nv.us))  
209 E. Musser Street, Room 200  
Carson City, NV 89701