



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Carson City Field Office  
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Carson City, NV 89701



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4160

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### **NOTICE OF FINAL DECISION**

#### **INTRODUCTION**

The Cedar Mountain Allotment is located southeast of Hawthorne, Nevada, and is within the Jurisdictional Boundary of the Carson City Field Office (CCFO) of the Bureau of Land Management (BLM). The grazing Allotment is located in Mineral County and encompasses approximately 62,611 acres of BLM managed land. The BLM is considering the renewal of the term livestock grazing permit for this Allotment. Currently permitted livestock use in the Cedar Mountain Allotment is 186 cattle from November 1 until March 31 for a total of 925 AUMs.

The Record of Decision for the Major Land Use Decision Summary and Environmental Impact Statement, Walker Planning Area, was issued in June of 1986. These documents established the multiple use goals and objectives which guide management of the public lands contained in the Cedar Mountain Allotment. The Rangeland Program Summary (RPS) for the Walker Planning Area was issued in November of 1989 and further identified the allotment specific objectives for this area of public lands.

The CCFO 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 (RMP's). Monitoring data has been collected, and this data has been analyzed through a Standards and Guidelines (S&G's) assessment, to determine if changes in existing management are required in order to meet specific objectives for the Allotment.

#### **BACKGROUND**

The CCFO is in the process of renewing all of its active grazing permits under the requirements of the grazing regulations. Monitoring has been carried out on this allotment, an S&G's Determination completed, and an Environmental Assessment

(EA-NV-030-07-13) that analyzed a proposed action and alternatives was prepared. The Proposed Action, as put forth in this Final Decision, is a result of those activities.

An S&G's 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 assessment, it was determined that the S&G's for Soils, Plant and Animal Habitat, and Special Status Species Habitat were being met. S&G's for Riparian/Wetland and Water Quality were not being met and livestock grazing practices were deemed to be a significant factor. It was determined that conditions could be improved at Douglas Basin Complex, Graham Spring, and Lower Gunmetal Spring by way of repairing, expanding, and/or constructing new fence at these sites. Upon further staff review, it was determined that Bettles Ranch spring could be fenced to improve conditions at this site also.

A Notice of Proposed Decision regarding the reissuance of a Term Grazing Permit for the Cedar Mountain Allotment was mailed to all interested parties on June 26, 2007. Timely Protests to this Proposed Decision were received from Western Watersheds Project and from Mr. and Mrs. Tipton, the grazing permittees on the allotment. Although the Protest from the Tiptons was not signed, it will be accepted as a valid Protest. I have carefully considered the points and information contained in these protests, and have responded below.

Although most of the comments and information provided by the **Western Watersheds Project** were of a general nature, and were not directly related to this specific allotment or action, there were a couple of comments that need a response:

**Point**

“We are extremely concerned that Carson City BLM is rubberstamping current stocking and other practices occurring here...”

**Response**

The CCFO is monitoring each allotment and preparing an individual EA for each Grazing Permit reissuance on the district. Monitoring and environmental analysis is performed by a very experienced Interdisciplinary Team (IDT) representing various disciplines including range management, wildlife, riparian concerns, hydrology, rare and endangered plants, soils, and any other resources that may be involved in specific situations. The process is taking approximately two years for each permit, and is certainly not a “quick and dirty” or “rubberstamp” effort.

### **Point**

“We Protest the lack of necessary baseline and current ecological site, special status species surveys and assessments, and other necessary information to understand and take a ‘hard look’ at the effects of grazing...”

### **Response**

Each EA prepared for a grazing permit reissuance has a large amount of monitoring data, gathered over a period of years, as a base for the document and proposed action. This is true in this case, and will be further discussed in more detail below.

A Protest was received from **Mr. and Mrs. Tipton**, the grazing permittees on the Cedar Mountain Allotment. There were also a number of e-mails and phone calls from several members of the Mina Management Team (MMT), who have been involved with the Tiptons and their management over the past several years. The response to their comments follows.

### **Point**

“...none of the 15+ years of monitoring data gathered by the Mina Management Team was used in preparation of that document nor has it been referenced in this document.”

### **Response**

The CCFO is not in possession of 15+ years of monitoring data from the MMT. There is some data from a few sites on the allotment, representing a few years and several types of data. There are also several binders with photos, some labeled and some not, of various areas on the allotment. The data that is in the CCFO was indeed considered during the preparation of the EA. Much of the data that is in BLM possession, such as information on soil surface crusting, insect activity, bird census numbers, animal sign, age of plants, etc. do not clearly relate directly to livestock grazing activity. Many of these factors, especially the faunal ones, can exhibit changes that are related to many other factors such as the weather, on the allotment and off, precipitation received, outside disturbances affecting the sites where the data was gathered, and other factors. No information was offered by MMT on how this data actually relates to livestock management, as opposed to other factors. The data that BLM has on other measurements gathered by MMT do not seem to show consistency in changes, either for good or bad.

As far as referring to this data in the EA, we did not directly list all monitoring data, either MMT or the large amount of BLM data used in the document. All of this data is in the CCFO and available for review by any interested party.

### **Point**

“Mr. Suminski of the CCFO, BLM informed one of the Team members, when he was asked why none of that data was used, that ‘all of that monitoring has been lost and the only data in the Cedar Mountain File is the S&G data gathered by the BLM in November of 2006’.”

### **Response**

Russell Suminski of this office did indeed speak with Rose Strickland of the MMT about the monitoring issue. However, he did not tell her that any monitoring data had been “lost”. He simply told her that there were only limited amounts of MMT data in the files in the CCFO office. None of the resource specialists now present in the office has ever seen any large amounts of monitoring data from MMT. Russell told Ms. Strickland at that time that the EA had been based on not only the limited amount of monitoring data in our files from the MMT, but also on a number of year’s worth of various monitoring information that the BLM had collected according to our protocols.

### **Point**

“Therefore, if it be true that the 15+ years worth of monitoring data is ‘lost’ and no other data exists, then this entire document is based on one (1) year’s worth of monitoring data, that was gathered during late fall/early winter.”

### **Response**

We have limited amounts of MMT data, and it was considered during preparation of the EA. We also have a fairly extensive amount of monitoring data of various types that has been collected by BLM resource specialists over the past years. This data includes: (1) actual use data from 1992-2006; (2) precipitation data from 1991-2005 [an interesting note here is that precipitation was above normal, ranging from 109% to 246% of average, each year from 1992-98]; (3) use pattern mapping for six years during the period of 1991-2006; (4) frequency [trend] data from 1991, 1999, and 2005; (5) photo plot pictures and information for 1977, 79, 82, 85, 89, 95, 98, and 2005, as well as extensive photo documentation of springs and riparian areas for the past several years; (6) Rangeland Health Assessments completed for this process in 2005; (7) Riparian Assessments completed for this process in 2006; and (8) a complete Standards and Guidelines Assessment and Determination completed for this process in 2006.

All of this data was used to analyze and determine a possible course of action on this allotment.

## **Point**

“All anyone in the CCFO had to do, when it was discovered the monitoring data was ‘lost’, was ask ourselves or any of the Team members to furnish your office with copies of the data.”

## **Response**

This is a particularly interesting comment for the protestants to make. After Rich Benson’s untimely death in the spring of 2005 (he was the range specialist with administrative duties for the Cedar Mountain Allotment), Pete Raffetto was assigned to this allotment. On October 18, 2005, Pete Raffetto, Russell Suminski (Lead Rangeland Management Specialist), and Dan Jacquet (Assistant Manager Renewable Resources) met with the Tiptons at their place in Mule Town to discuss the upcoming permit reissuance process and future management of the allotment. During this meeting, Mr. Tipton mentioned the “extensive amount of MMT monitoring data” that CCFO had in its office. After the third or fourth reference to this data, Russell told Mr. Tipton that he was not sure exactly how much data they thought BLM had from MMT, but there was just not that much of it. Several folks in the range program, in addition to Russell, had sorted through Mr. Benson’s files, information, etc. and had placed it in the proper areas in the office. There was a lot of material in Mr. Benson’s cubicle and it was very poorly organized. However, Russell had seen all of it, and was sure there was not “many years” worth of MMT data present. A lively discussion ensued as to what might have happened to it, but in the end the Tiptons agreed that it needed to be in the BLM office and that they would supply copies to us. Pete waited expectantly for this data for several months, but it did not show up. A side note to this meeting is that upon returning to the office, Russell asked one of the other range specialists to inquire of Mr. Benson’s family if there might be any files, or even computer records, of any work related information that Rich might have maintained at home. This inquiry did not turn up any additional data.

A few months later, there was a MMT meeting in the BLM State Office on January 31, 2006. Three range specialists from BLM attended this meeting. During this meeting, the lack of MMT monitoring data in the CCFO was again the subject of lengthy discussion. The Tiptons told the team that they needed to gather up all of the data that they might personally have and give it to Jerrie, who would supply copies to CCFO. This discussion, and need to supply copies of their monitoring data, is documented in Mr. Tipton’s own notes of the meeting that he sent out to all attendees. No additional monitoring data was sent to CCFO.

A final opportunity for the MMT to supply copies of their monitoring data came when the EA was sent out for review. Several members of the team commented on the lack of their data in the process, and even at that late date, copies of their data could have been forwarded to BLM. It was not.

## **Point**

A number of comments were received from team members concerning the improvement in resource conditions on the allotment and how the BLM must allow different management to continue in order for these successes to continue.

## **Response**

The current range management specialists on the staff of CCFO, along with the other resource specialists that have worked at completing the Rangeland Health, Riparian, and Standards and Guidelines Assessments, simply do not see much, if any, improvement in range conditions on the Cedar Mountain Allotment over the past 15 years. The IDT involved in the process had an average of over 21 years each of experience in natural resource management. This is a very experienced team, many of whom have been involved in resource use and issues in various areas of the west for the past 30 years.

The Douglas Basin spring complex was referred to several times by both the protestants and members of the MMT. This spring was mapped for many years as an ephemeral spring. When the Tiptons came to the allotment in 1992, it was reportedly not flowing. Soon thereafter, it began to flow and the riparian vegetation began to expand. It has been suggested on numerous occasions that increased cattle use in the basin has caused this increased flow. Ephemeral springs are just that – ephemeral. They flow at times and do not flow at other times. Our staff members have seen that occur in many areas over the years. There can be a number of reasons for this occurring, but the timing and amount of precipitation received on the watershed is the primary factor in spring flow in isolated areas. We have never seen a documented case proving that heavy livestock use in a spring area would cause it to increase in flow. As was noted previously, precipitation in the allotment area was higher than average for six years, beginning at the same time that the Tiptons came to the allotment in 1992. This no doubt had a positive effect on the springs in the area. In regards to the Douglas Basin area, it did show some improvement for a few years. The last few years however, have shown the area to be in very poor condition. The riparian assessment done last year showed the spring to be nonfunctional. The last inspection of the area by BLM resource specialists was in June, 2007, and showed very little riparian vegetation (the small amount present was grazed very heavily), and two small trickles of water flowing through solid cow dung. Several other riparian areas were also visited during that field trip, and the only portion of the riparian areas that showed good vegetation growth and condition were the small areas that have been fenced to exclude livestock. These protected areas must be maintained and enlarged.

In addition to the riparian areas, resource specialists have also inspected many of the small “treatment” areas where the MMT have done things in the past. The ground was disturbed, and in some instances, the area was seeded. These areas showed an initial flush of growth after disturbance. This is a common reaction of areas to most disturbance. However, at this time, our specialists can see no overall improvement of

these areas at all. There may be a few remaining grass plants from the treatment, but basically these areas are in no better shape than the surrounding sites.

Overall, the allotment has been visited and inspected by a number of BLM specialists, and the consensus is that this allotment is in no better shape than the average allotment on the CCFO. This is after 15 years of alternative management by the protestants.

### **Point**

Several members of the MMT also said that there should be another alternative action considered which would allow the permittees to graze livestock basically wherever, whenever, and in whatever numbers they wish to. This would be done “outside” of the BLM grazing regulations.

### **Response**

The current action being analyzed and decided upon is the reissuance of a normal term grazing permit. We have spoken with the Tiptons several times about this action, and have told them that it would be completed as per grazing regulations found in CFR 43 Part 4100. Some time ago, the Tiptons told BLM that they understood this process and that issuing their basic permit under this process was acceptable. Their feelings about this issue have obviously changed.

As far as an “alternative management system” is concerned, the Tiptons have submitted more than one of these plans over the past few years. Their proposals have been reviewed, and in each instance they could not be carried out under the current grazing regulations. They have been told this, and they have on several occasions admitted that this was indeed correct. They have argued that they should be allowed to operate outside of the grazing regulations. Basically, this system is to be set up as a sort of quasi research project to find ways to “improve” the desert rangelands through the use of livestock grazing. This is simply not what BLM grazing allotments and the grazing program are set up for.

There have been a number of research projects in the west dealing with pretty much the same sort of issues. These projects are, or were, run by professional researchers affiliated with the U.S. Department of Agriculture, and various universities and extension services. This is the proper venue for this type of investigation into desert livestock management.

In regards to current management of the allotment, the Tiptons were given approval to implement a number of features of alternative management under a 2002 agreement. Several of the important features of this agreement were never carried out. The centerpiece of this management system seemed to be the manipulation of areas and vegetation by a group of 200 cattle. These cattle were to be moved on a daily basis and used to disturb the ground, etc. This was not done. According to the Tipton’s own records which they submitted to BLM, they never ran more than 80 head of cattle on the allotment at any given time. Actually, none of the BLM resource specialists that have

been on the allotment over the past few years have ever seen more than 40-45 head at one time. The latest allotment visit, last month, showed a total of six cattle on the allotment. The agreement also called for MMT meetings 3-5 times yearly to discuss management issues, needs, etc. This has not occurred, or at least has not occurred with the invitation and participation of BLM resource specialists who are “a very important part of the MMT”. BLM has not been informed of more than one meeting, maximum, each year, for the past few years. As vital portions of the last plan were never carried out, BLM is at somewhat of a loss as to why the protestants would push so hard to start a new one.

### **Point**

The changes that the Tiptons are requesting should be made through the grazing permit process while reissuing this grazing permit.

### **Response**

Again, the ongoing process is a basic grazing permit reissuance. There are certain regulations in the CFR which apply to this process, and CCFO will not violate those regulations in order to implement some sort of different procedures on the allotment. If the Tiptons wish to apply for some sort of special authorization to run variable numbers of livestock, manage grazing differently, and do various habitat manipulation experiments on the public lands, they can approach the BLM to do so. However, this process is not the time nor place to pursue these goals.

In regards to the possibility of making changes to management through the current permit process, the Tiptons were advised repeatedly that if they wished to have a different management alternative considered during the NEPA process for reissuing their grazing permit, that they would need to submit such a proposal to the BLM. This proposal would have to contain the proper parameters to meet current grazing regulations. This situation was also discussed at length at the MMT meeting held on January 31, 2006. Mr. Tipton and the MMT agreed to formulate such a proposal for BLM consideration. The team would have a proposal completed in April, 2006, and the Tiptons requested an appointment with BLM on May 2, 2006, to present this proposal to BLM. This is also documented in Mr. Tipton’s notes from the 01/31/06 meeting. The Tiptons did not come in to the BLM for their appointment on May, 2<sup>nd</sup>, nor did they request to postpone or reschedule the meeting. They did not mention their proposal again during the EA process.



## FINDING OF NO SIGNIFICANT IMPACT (FONSI)

I have reviewed EA NV-030-07-13, dated April 30, 2007. 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 CCFO 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 (CEQ) criteria for significance (40 CFR 1508.27), both with regard to the context and intensity of impacts described in the EA.

### **Intensity:**

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

The environmental assessment has considered both beneficial and adverse impacts of the proposed grazing management and the addition of range improvements. On the whole, the proposed action would result in improved riparian/wetland conditions and improved water quality. Improving ecological conditions of these sites 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 for the Allotment 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.*

The Cedar Mountain Allotment contains no unique geographic areas that would merit concern. The Allotment contains some locations of known cultural resources that represent significant past human use of the landscape. These include prehistoric-period lithic scatters, stone alignments and camp sites of a wide range of age ranging from the Paleoarchaic (over 8500 years ago) through the nineteenth century. Livestock grazing has been present in the immediate region for well over 80 years and for most of the allotment, cultural resources generally lack potential for being sensitive and at-risk from proposed grazing activities. Four spring areas were identified as requiring additional fieldwork in order to evaluate the significant values of historic properties versus dispersed livestock range use and the concentration of livestock at springs. These areas are the locations for which fencing is proposed. Other than these four areas, the existing range use pattern is not anticipated to have current or future impacts to historic properties.

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

Livestock grazing and range improvement projects 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 future consideration.*

The proposed action does not establish a precedent for future actions with significant effects nor 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 (NHRP) or may cause loss or destruction of significant scientific, cultural, or historical resources.*

No districts, sites, highways, structures, or objects listed in or eligible for listing in the NRHP would be affected by the proposed action. Nor would the proposed action result in the loss or destruction of significant scientific, cultural or historical resources. As noted under item 3, other than the four riparian areas proposed for fencing, the existing range use pattern is not anticipated to have current or future impacts to historic properties.

*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.*

The allotment contains no known endangered or threatened species, only BLM sensitive species.

*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 Protests received, all further information received through consultation, communication and coordination with the interested public, and reconsideration of all information contained in, and used in preparation of, the Environmental Assessment prepared for this action, **My Final Decision is to implement the Proposed Action as described in Environmental Assessment EA-NV-030-07-13 for authorization of livestock grazing use on the Cedar Mountain Allotment.**

Implementation of the proposed action will authorize (1) A new ten year grazing permit for grazing use on the Cedar Mountain Allotment; (2) A total of 186 cattle will be authorized to graze on the allotment, with a season of use of 11/01 through 03/31. This will provide a total of 925 AUMs of grazing; (3) Limit utilization on desirable shrubs and key grasses so as not to exceed 45%; (4) Water hauling would be required each year; 5) For Graham Spring, repair and expand the existing enclosure and provide water for cattle and wild horses; 6) For Lower Gunmetal Spring, fence most of the spring and provide water for cattle and wild horses; 7) For the Douglas Basin Complex, fence the spring area to exclude cattle; and 8) For Bettles Ranch Spring, fence the spring area to exclude livestock and provide water for cattle and wild horses. The proposed fencing would consist of three strands of barbed wire and one smooth bottom wire. The fencing would comply with BLM wildlife fence standards (type B antelope). The wire spacing for the wildlife standard is 16", 22", 30" and 42" and 16 1/2' spacing between T-posts.

## **RATIONALE**

The proposed action maintains the total number of animal unit months and the authorized period of use in the current grazing permit. It further proposes a maximum average utilization level of 45%, along with the proposal to expand existing fencing and/or construct new fencing around four riparian areas. Establishing the 45% utilization level for desirable shrubs and key grasses, and maintaining a dormant season grazing period, should continue to make progress towards improving resource conditions. The latest rangeland management texts recommend an overall utilization level on salt desert shrub lands of 35%. With winter grazing, this level can be increased. However, in order to protect the root crowns of the sparse existing grass plants, an overall use level of no more than 45% has been established. This will provide adequate protection to the plants and

allow for good growth and reproduction when adequate precipitation is received in the area.

Increased protection of the riparian sites in the form of fencing to exclude livestock and horse use should make progress toward meeting the Riparian/Wetland and Water Quality Standards. The riparian areas on the allotment that have been fenced show good vegetation growth and water production. The use of gap fences in the Douglas Basin area, to exclude livestock from the spring sources, will provide for good recovery in that area as long as the ephemeral water source is flowing.

All other applicable standards are being met.

### **AUTHORITY**

The following citations come from 43 CFR, Subpart 4100:

**{§4100.0-8}** “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}** “The authorized officer shall periodically review 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}** “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}** “(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)}** “Upon 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.

**{§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** by following the requirements of §4.470 of this title. As stated in that part, the appeal must be filed within 30 days after receipt of the final decision or within 30 days after the date the proposed decision becomes final as provided for in §4160.3(a). Appeals and petitions for a stay of the decision shall be filed at the office of the authorized officer. The authorized officer shall promptly transmit the appeal and petition for stay and the accompanying administrative record to ensure their timely arrival at the Office of Hearings and Appeals.”

## **RIGHT OF APPEAL**

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 Assistant Manager, Renewable Resources Bureau of Land Management Carson City Field 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  
Assistant Manager, Renewable Resources  
Carson City Field Office

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Date

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

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