



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Winnemucca Field Office
5100 East Winnemucca Boulevard
Winnemucca, Nevada 89445
<http://www.nv.blm.gov>



JUL 28 2005

In Reply Refer To:
4160.1
(NV-022.15)

NOTICE OF FINAL DECISION

CERTIFIED MAIL NO. 7005 0390 0000 6386 4018
RETURN RECEIPT REQUESTED

Estill Ranches LLC
c/o John Estill
P.O. Box 655
Eagleville, CA 96110

Dear Mr. Estill:

This Final Decision for the County Road/Colman Fence range improvement project in the Soldier Meadows Allotment (SMA) is being issued following the Proposed Decision and Environmental Assessment (EA) which was mailed to you on June 24, 2005.

Following the issuance of the Proposed Decision and EA the Bureau of Land Management (BLM) received two letters dated July 7 and July 9, 2005 protesting the construction of the proposed County Road/Colman Fence. The majority of the protest points in these letters are synonymous with previous comments received on the SMA EA dated March 10, 2003, which is incorporated by reference in the County Road/Colman Fence EA. Copies of these protest letters are available upon request.

After careful consideration of the comments, points of protest and the environmental assessment's analysis of the County Road/Colman Fence range improvement project, my final decision is as follows:

Approve and implement the County Road/Colman Fence range improvement project, as described in the Proposed Action of the Environmental Assessment, NV-020-05-EA-14.

This Final Decision is in conformance with the SMA Final Multiple Use Decision dated May 5, 2004, the Office of Hearings and Appeals (OHA) Stipulation dated February 28, 2005 and the OHA Order dated March 1, 2005. The BLM will be responsible for insuring that this range improvement project is constructed and maintained in accordance with the stipulations identified in the Cooperative Agreement.

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AUG 1 - 2005
DEPARTMENT OF ADMINISTRATION
OFFICE OF THE DIRECTOR
BUDGET AND PLANNING DIVISION

RATIONALE

The decision would allow the BLM to fulfill its responsibilities to protect a federally listed threatened species while allowing the continued historic grazing authorization.

The BLM is required by law to conserve threatened, endangered, and sensitive species by protecting their habitat (BLM 6840 Manual). The Federal Land Policy and Management Act of 1976 (FLPMA) (P.L. 94-979) provides for multiple use and protection of natural resources through habitat management of public lands and habitat management for fish and wildlife. The Endangered Species Act Section 7(a)(2) prohibits all actions authorized, funded, or carried out by the federal government that jeopardize the continued existence of any federally listed species.

The decision is in conformance with the Lahontan Cutthroat Trout (LCT) Recovery Plan (USFWS 1995) and is consistent with recovery strategies identified within the plan. The Recovery Plan specifies that LCT populations should be maintained or enhanced within the Quinn River/Black Rock Desert Basin. The decision would enhance and protect LCT and their associated habitat, which would allow for increased sustainability of the population and also improved opportunities to establish new populations within donor streams.

The site-specific EA (NV-020-05-EA-14), analyzing the impacts of the County Road/Colman Fence range improvement project, has been completed with a Finding of No Significant Impacts.

The SMA FMUD, dated May 5, 2004, determined that the County Road/Colman Fence range improvement project was required for the final grazing system to function properly. This fence will prevent livestock from drifting into the Colman Use Area and impacting existing LCT, a federally listed threatened species, habitat in Colman Creek. The combination of livestock management practices and range improvements, including the County Road/Colman Fence, are expected to achieve, or make significant progress towards achievement, of the Standards for Rangeland Health.

AUTHORITY

The authority for this decision is contained in Title 43 of the Code of Federal Regulations, which states in pertinent parts:

- 4120.3-1(a) Range improvements shall be installed, used, maintained, and/or modified on the public lands, or removed from these lands, in a manner consistent with multiple-use management.
- (b) Prior to installing, using, maintaining, and/or modifying range improvements on the public lands, permittees or lessees shall have entered into a cooperative range improvement agreement with the Bureau of Land Management or must have an approved range improvement permit.

- (c) The authorized officer may require a permittee or lessee to maintain and/or modify range improvements on the public lands under Sec. 4130.3-2 of this title.
- (e) A range improvement permit or cooperative range improvement agreement does not convey to the permittee or cooperator any right, title, or interest in any lands or resources held by the United States.

APPEAL

In accordance with 43 CFR 4.470, 4160.3(d), 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(d), 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, Arlan G. Hiner, Assistant Field Manager, Renewable Resources, 5100 E. Winnemucca Blvd., Winnemucca, NV 89445. 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:

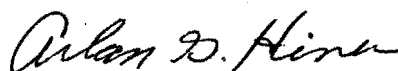
- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted; and,
- (4) Whether the public interest favors granting the stay.


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)).

Sincerely,



 Gail G. Givens
Field Manager

cc: See Attached List

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