

United States Department of the Interior
Bureau of Land Management, Owyhee Field Office
Nickel Creek Fence
Environmental Assessment #DOI-BLM-ID-B030-2011-0014-EA
Decision Record

Decision

After carefully considering the analysis of EA # DOI-BLM-ID-B030-2011-0014-EA, my decision is to implement Alternative A (Proposed Action), as proposed. The BLM will accept a proposed voluntary donation of 190 AUMs by the Juniper Mountain Grazing Association L.L.C., affecting Pasture 1 of the Nickel Creek Allotment. The BLM Authorized Officer will then permanently retire the subject AUMs, which will be deleted from the Juniper Mountain Grazing Association's grazing permit. The BLM will then construct a fence within Pasture 1 of the Allotment to ensure a permanent end to grazing on the 3270 acres of public land affected by the partial grazing retirement.

Rationale

The Proposed Action lies within an area administered under the 1999 Owyhee Resource Management Plan (RMP). As stated in the EA, two objectives in the RMP affect the proposed Action.

Management Action No. 1 under Wilderness Objective No. 2 (WNES 2) requires designated wilderness to be managed in accordance with the enabling legislation and other applicable Federal legislation and policies.

Management Action No. 1 under Recreation Objective No. 7 (RECT 7) prohibits the construction of new rangeland facilities within primitive settings of the North Fork Owyhee Backcountry SRMA, except for a maximum of one linear mile of gap fences if needed to exclude livestock from river corridors. The North Fork Owyhee Backcountry SRMA was subsequently designated as the North Fork Owyhee Wilderness Area by the Omnibus Public Land Management Act (OPLMA), of 2009.

While the Proposed Action conforms to Management Action No. 1 under WNES 2, it appears not to conform with Management Action No. 1 under RECT 7. However, Section 1503(b)(3)(D) of OPLMA specifically provides for voluntary AUM donations within wilderness areas, and directs the Secretary of the Interior, on BLM's behalf, to permanently retire donated AUMs. The OPLMA further directs BLM to ensure a permanent end to grazing on lands affected by the voluntary AUM donations. The OPLMA was passed subsequent to the RMP, and thus, over-rides and amends affected RMP decisions. As such, the proposed Nickel Creek Fence is allowed pursuant to legislative direction in the OPLMA.

Adoption of the Proposed Action addresses the Purpose and Need (Section 1.1) of the EA and meets the objectives of the Owyhee RMP, as amended by the OPLMA, in that it would:

- 1) Implement Management Action No. 1 under the Owyhee RMP Wilderness Objective No. 2 (WNES 2), which requires designated wilderness to be managed in accordance with the enabling legislation and other applicable federal legislation and policies.

- 2) Facilitate the proposed voluntary donation of approximately 190 AUMs of preference from Pasture 1 of the Nickel Creek Allotment;
- 3) Close approximately 3270 acres of Pasture 1 of the Nickel Creek Allotment to further livestock grazing.
- 4) Confine motorized use to a designated cherrystem route in an environmentally sensitive area.
- 5) Provide for ecological improvement of the closed portion of Pasture 1, thereby creating a more natural and untrammelled condition within the North Fork Owyhee Wilderness Area.
- 6) Enhance public use and recreation within a portion of the North Fork Owyhee Wilderness Area.

Authority

The Decision is consistent, compatible, and in conformance with the current Owyhee RMP (1999), as superseded by OPLMA.

Public Involvement

The BLM conducted scoping throughout the process of this environmental assessment to determine the desires, perspectives and concerns of the public and local government. On May 6, 2011, BLM staff met on-site with the affected grazing permittees, and representatives of interested organizations, including the Owyhee Initiative Inc. and Idaho Back Country Horsemen to review and discuss the proposed fence alignment. The BLM also met and consulted or coordinated with the Owyhee County Commissioners, Shoshone-Paiute Tribe, State Historic Preservation Office, and BLM Boise District Resource Advisory Council (RAC).

How to Appeal this Decision

The decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 4. Within 30 days of this decision notification, a notice of appeal must be filed in the office of the authorized officer at the Bureau of Land Management, Owyhee Field Office, 20 First Avenue West, Marsing, Idaho 83639. If a statement of reasons for the appeal is not included with the notice, it must be filed with the Interior Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, VA 22203 within 30 days after the notice of appeal is filed with the authorized officer.

If you wish to file a petition for stay pursuant to 43 CFR Part 4.21 (b), the petition for stay should accompany your notice of appeal and 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 irreparable harm to the appellant or resources if the stay is not granted,
- and
- (4) Whether the public interest favors granting the stay.

If a petition for stay is submitted with the notice of appeal, a copy of the notice of appeal and petition for stay must be served on each party named in the decision from which the appeal is taken, and with the IBLA at the same time it is filed with the authorized officer. A copy of the notice of appeal, any statement of reasons and all pertinent documents must be served on each adverse party named in the decision from which the appeal is taken and on the Boise Field Solicitors Office, U.S.

Department of the Interior, University Plaza, 960 Broadway Avenue, Suite 400, Boise, Idaho 83706
not later than 15 days after filing the document with the authorized officer and/or IBLA.

Approved By: /s/ Glen Burkhardt

Glen Burkhardt, Acting Owyhee Field Manager

Date: 08/26/2011

Finding of No Significant Impact

I have reviewed the Council on Environmental Quality (CEQ) Regulations for significance (40 CFR 1508.27) and have determined the actions analyzed in EA No. DOI-BLM-ID-B030-2011-0014-EA do not constitute a major Federal action that would significantly affect the quality of the human environment; therefore, an Environmental Impact Statement is not required. This finding was made by considering both the context and intensity of the potential effects, as described in the above EA, using the following factors defining significance:

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

The analysis documented in EA No. DOI-BLM-ID-B030-2011-0014-EA identified both beneficial and adverse negligible or minor short-term and long-term impacts. The EA did not, however, identify any individual significant short- or long-term impacts.

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

No major effects on public health and safety were identified in the EA.

(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 proposed action will have no major effects on unique geographic characteristics of the area, cultural or historical resources. The analysis showed there would be no major impact to the North Fork Owyhee Wild and Scenic River or to the portion of the North Fork Owyhee Wilderness Area located within the Nickel Creek Allotment. A Class III cultural inventory revealed that no cultural resources would be adversely affected by the construction of the proposed fence. The portion of the North Fork Juniper ACEC located within the project area would be expected to improve in ecological condition as a result of the fence construction. Likewise, riparian areas are expected to improve through the exclusion of livestock grazing in 3270 acres of the Nickel Creek Allotment. No prime farmlands or park lands are found in the project area.

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

The analysis identified no controversy or disagreement concerning effects on the quality of the human environment.

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

The analysis identified no effects on the human environment that are highly uncertain or involve unique or unknown risks. Grazing has been the primary land use in this area for over 75 years.

(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 analysis showed how the proposed action would implement direction in the Omnibus Public Land Management Act of 2009. The action is not connected to any future actions, nor would it

establish precedent for any future action(s). Implementation of this decision would not trigger other actions, nor is it a part of a larger action in the project area.

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

The analysis in DOI-BLM-ID-B030-2011-0014-EA identified no known significant cumulative or secondary effects. Outside of the project area, future Standards and Guidelines assessments and grazing decisions will be made, which could potentially result in changes in livestock management actions, stocking levels, and seasons of use. However, those actions, in combination with this decision, are not expected to result in cumulatively significant impacts.

(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, or may cause loss or destruction of significant scientific, cultural, or historical resources.

The analysis showed that the alternatives would not cause or result in adverse effects to cultural or historical resources. The exclusion of grazing in 3270 acres will benefit upland and riparian vegetation and water quality, which will provide an important level of protection to cultural resources that may exist, but are not protected under current management.

(9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

No threatened or endangered species or their habitat are known in the project area or surrounding area. The allotment supports occasional winter habitat for bald eagles, but no specific nest sites have been identified within or near the project area. The analysis showed that the alternatives would not result in adverse effects to bald eagles, golden eagles, or other raptors or migrating birds or their habitat.

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

The EA shows that the alternatives are consistent with Federal, State, and local laws or requirements imposed for protection of the environment.