

## **Decision Record**

DOI-BLM-NV-W030-2013-0006-DNA

NDOW Survey and Capture of Bighorn Sheep within  
Black Rock-High Rock Area Wildernesses and Wilderness Study Areas

### **INTRODUCTION**

The Nevada Department of Wildlife (NDOW) requested to survey and capture California bighorn sheep within Black Rock-High Rock Area Wildernesses and Wilderness Study Areas. The California bighorn sheep herd inhabiting NDOW hunt unit 012 occupies an expansive amount of habitat in the Calico Mountains, Little High Rock Canyon, High Rock Canyon, Pole Canyon, Chukar Gulch, Warm Springs Canyon, Trough Mountain, Mahogany Mountain, and Yellow Rock Canyon. Highest densities and concentrations of bighorns are located within wilderness boundaries near Little High Rock Canyon, High Rock Canyon, and in the Calico Mountains. These locations will be the areas of primary focus for the capture. According to NDOW, the removal of 20-35 sheep will not impact the herd and may help increase productivity in those where the highest densities of sheep are found. Based on recent recruitment rates, it is estimated that it will take one to two years for the herd to replace the animals removed. The removal of 20-35 animals represents a 10-15 percent reduction in the population.

Similarly to hunt unit 012, hunt units 032 and 034 may have similar activities occur within the Pahute Peak Wilderness, North Black Rock Range Wilderness, Lahontan Cutthroat Trout ISA, and Blue Lakes WSA. According to NDOW, sheep will be captured in high density areas because there is a need for sheep to be released within low density areas. This action includes aerial surveying, the capture of bighorn sheep in the aforementioned areas, and the addition of two locations that were not previously considered in existing NEPA documents; the Lahontan Cutthroat Trout ISA and Blue Lakes WSA.

### **COMPLIANCE/CONFORMANCE**

I have reviewed the NDOW Survey and Capture of Bighorn Sheep within Black Rock-High Rock Area Wildernesses and Wilderness Study Areas project and Determination of National Environmental Policy Act Adequacy (DNA) and have determined that the proposed action is in conformance with the 2004 Black Rock Desert-High Rock Canyon Emigrant Trails Resource Management Plan (RMP) and complies with the Endangered Species Act, Federal Land Management Policy Act, National Historic Preservation Act and other laws that govern the proposed project.

The RMP at 2-14 states, *“The Nevada Department of Wildlife (NDOW) has jurisdiction for managing wildlife in the wilderness areas in compliance with Federal wilderness laws, regulations and policies including: the Wilderness Act of 1964, which outlines general management including wildlife management in wilderness; Wilderness Regulations found in 43 CFR 6300, which further specify what actions are prohibited and*

*how BLM is to manage wilderness areas; and BLM Manual 8560 and Handbook 8560-1, that provide policy guidance for specific wilderness management issues.”*

The proposed action will not adversely impact any threatened or endangered species or significant scientific resources. Neither will the proposed action result in any impact to an archaeological site determined to be eligible for inclusion on the National Register of Historic Places.

## **NATIVE AMERICAN CONSULTATION**

Letters requesting Native American Consultation were sent on March 14, 2013 to the Fort McDermitt Paiute and Shoshone Tribe, the Pyramid Lake Paiute Tribe, and the Summit Lake Paiute Tribe.

The NDOW Survey and Capture of Bighorn Sheep within Black Rock-High Rock Area Wildernesses and Wilderness Study Areas Project was presented to the Summit Lake Paiute Tribal Council on March 17, 2013 and April 21, 2013; to the Fort McDermitt Paiute and Shoshone Tribal Council on March 19, 2013; and to the Pyramid Lake Paiute Tribal Council March 20, 2013. The Summit Lake Paiute Tribe expressed concerns of helicopter landings within the North Black Rock Range Wilderness and the Lahontan Cutthroat Trout ISA. NDOW modified its proposed action so that no helicopter landings within the North Black Rock Range Wilderness or the Lahontan Cutthroat Trout ISA will occur.

The Ft. McDermitt Paiute and Shoshone Tribe and the Summit Lake Paiute Tribe requested to be notified of the general location of where the sheep are released. NDOW will need to provide the Townships and Ranges of where the sheep are released in writing (letter or email) to the BRFO Field Manager. The BRFO will notify the Ft. McDermitt Paiute and the Shoshone Tribe and the Summit Lake Paiute Tribe of the Townships and Ranges of where the sheep are released in the form of a certified letter.

## **DECISION**

On the basis of the information contained in the NDOW Bighorn Capture DNA, DOI-BLM-NV-W010-2013-0032-DNA, it is my determination that implementation of the proposed action will not have environmental impacts beyond those already addressed in the Capture of Bighorn Sheep within Black Rock-High Rock Area Wildernesses EA (CA-370-05-01) and the Environmental Assessment for the Release of California Bighorn Sheep in the North Black Rock Range Wilderness within the Winnemucca Field Office (NV-020-03-04). It is also my decision to authorize the action as described in the DNA based on the following Rationale and Authority.

In addition to the design measures included in this action, the decision is subject to the following additional measure:

The BRFO will notify the Ft. McDermitt Paiute and the Shoshone Tribe and the Summit Lake Paiute Tribe on the general location where the sheep are released. This will be to the level of Township and Range. This notification will be in the form of a certified letter. NDOW will need to provide the Townships and Ranges of where the sheep were released in writing (letter or email) to the BRFO Field Manager.

Based on the aforementioned factors, and the following rationale for making this decision effective immediately, it is my decision to implement the project, as described, in the DNA.

## **RATIONALE**

During Native American Consultation, concerns regarding landing helicopters within the North Black Range Wilderness and the Lahontan Cutthroat Trout ISA were expressed. NDOW modified its proposed action so that no helicopter landings within the North Black Rock Range Wilderness or the Lahontan Cutthroat Trout ISA will occur. In addition, it was requested that the Ft. McDermitt Paiute and Shoshone Tribe and the Summit Lake Paiute Tribe be notified of the general location of where the sheep are released. NDOW will need to provide the Townships and Ranges of where the sheep are released in writing (letter or email) to the BRFO Field Manager. The BRFO will notify the Ft. McDermitt Paiute and the Shoshone Tribe and the Summit Lake Paiute Tribe of the Townships and Ranges of where the sheep are released in the form of a certified letter.

The Decision Record for the Capture of Bighorn Sheep within Black Rock-High Rock Area Wildernesses EA (CA-370-05-01) requires that future captures will continue to be shared with the public in our normal 30 day notification of proposed action (NOPA) process. The NOPA was sent to the Wilderness mailing list on March 26, 2013 and the 30 day period ended April 29, 2013.

One comment was received during the NOPA period concerning the timing of the Bighorn capture period during the closure of High-Rock Canyon and the use of mechanical means in Wilderness. The NCA RMP prohibits vehicle use within High-Rock Canyon from the end of Chukar season to the second weekend of May; however it is still open to hiking, biking, and horsebacking. The purpose of the closure is to protect the Applegate Trail, which is a National Historic Trail, from vehicle damage during the wet season as well as for raptor and bighorn protection. NDOW does not intend to drive vehicles into wilderness and has not requested for vehicle access during the vehicle closure period. The issue of helicopters in wilderness was addressed in the Capture of California Bighorn Sheep within Black Rock-High Rock Area Wildernesses Environmental Assessment (CA-370-05-01).

## **AUTHORITY**

The authority for this decision is contained in the Federal Land Policy Management Act (FLPMA) of 1976 (43 U.S.C. 1701 *et seq.*), and the MOU (USDI-BLM 2003) between the BLM and NDOW.

Section 102. [43 U.S.C. 1701] (a)(8) “The Congress declares that it is the policy of the United States that the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use.”

MOU (USDI-BLM, 2003b) states that “Transplants (i.e., removal or reintroduction of terrestrial wildlife species in Nevada BLM Wilderness Areas) may be permitted if necessary: (1) to perpetuate or recover a threatened or endangered species; or (2) to restore the population of indigenous species eliminated or reduced by human influence. Investigate the possibility of utilizing sites and locations outside BLM Wilderness Areas first. If sites and locations outside BLM Wilderness Areas are not available, transplants shall be made in a manner compatible with the wilderness character of the area. Transplant projects, including follow-up monitoring, require advance written approval from the BLM, if the action requires ground disturbing activities, motorized methods, and/or temporary holding and handling facilities.

## **APPEAL PROVISIONS**

A person who wishes to appeal to the Interior Board of Land Appeals must do so under 43 CFR 4.411 and must file in the office of the officer who made the decision (not the board), in writing to Gerald Dixon, Field Manager, Black Rock Field Office, 5100 East Winnemucca Boulevard, Winnemucca, Nevada 89445. A person served with the decision being appealed must transmit the notice of appeal in time to be filed in the office where it is required to be filed within thirty (30) days after the date of service.

The notice of appeal must give the serial number or other identification of the case and may include a statement of reasons for the appeal, a statement of standing if required by §4.412 (b), and any arguments the appellant wishes to make. Form 1842-1 (enclosed) provides additional information regarding filing an appeal.

No extension of time will be granted for filing a notice of appeal. If a notice of appeal is filed after the grace period provided in §4.401(a), the notice of appeal will not be considered and the case will be closed by the officer from whose decision the appeal is taken. If the appeal is filed during the grace period provided in §4.401(a) and the delay in

filing is not waived, as provided in that section, the notice of appeal will not be considered and the appeal will be dismissed by the Board.

The appellant shall serve a copy of the notice of appeal and any statements of reason, written arguments, or briefs under §4.413 on each adverse party named in the decision from which the appeal is taken and on the Office of the Solicitor, Pacific Southwest Regional Solicitor, U.S. Department of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, California 95825-1890. Service must be accompanied by personally serving a copy to the party or by sending the document by registered or certified mail, return receipt requested, to the address of record in the bureau, no later than 15 days after filing the document.

In addition, within thirty (30) days of receipt of this decision you have the right to file a petition for a stay together with your appeal in accordance with the regulations at 43 CFR 4.21. The petition must be served upon the same parties specified above.

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.

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)).

/S/ Kathryn Ataman, acting for  
Gerald Dixon  
Field Manager  
Black Rock Field Office

5/14/13  
Date