



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Wells Field Office
3900 East Idaho Street
Elko, Nevada 89801

http://www.blm.gov/nv/st/en/fo/elko_field_office.html

In Reply Refer To:
4130 (NVE03000)

Grazing Permit Renewal Decision Gulley Allotment

Certified Mail #7013 0600 0000 5850 9156

J.R.Simplot SDRT

1301 Hwy 67

Grandview, ID 83624

September 16, 2015

On 8 May 2014, the Wells Field Office released a Standards and Guidelines for Rangeland Health Assessment for the Gulley Allotment. This document presented all available monitoring data for the allotments and reached draft determinations on the level of attainment of the applicable Standards and Guidelines for Rangeland Health. BLM received one comment letter on the assessment document and the scoping for potential management actions.

On 5 August 2015, the Wells Field Office released an Environmental Assessment (EA) and draft Finding of No Significant Impact (FONSI). The EA (EA #DOI-BLM-NV-E030-2015-0024-EA) analyzed three management alternatives developed by BLM, along with a No Action Alternative. The EA remained available for public review through 4 September 2015. One organization submitted a comment letter to the EA.

The Standards and Guidelines Assessment and EA are available for review on the internet at the following address:

<http://1.usa.gov/1IK97vZ>

Through the EA process, BLM has determined there would be no significant impact as a result of implementation of the Proposed Action as documented in the enclosed Finding of No Significant Impact.

My Decision is to implement the management actions identified below for the Gulley Allotment.

1. Issue a 10-year grazing permit to the holder of the preference for the grazing privileges on the Gulley Allotment.
2. The grazing permit would appear as follows:

Table 6. Summary of animal unit months (AUMs), season of use, and kind of livestock.					
Allotment Name	Pasture	Grazing Preference (AUMs)	Season of Use	Percent Public Land	Kind of Livestock
Gulley	--	1,633	7/1-10/15	91	Cattle

3. The following terms and conditions would appear on the grazing permit:

Livestock management will be in accordance with the Gulley Allotment Grazing Permit Renewal Decision dated _____.

Numbers of livestock shown on the permit are a function of authorized season of use and permitted use. Actual livestock numbers may vary through the grazing season provided that the calculated carrying capacity is not exceeded.

All range improvements for which the permittee has maintenance responsibility will be maintained prior to livestock turn-out.

An accurate actual use report will be submitted within 15 days of livestock being removed at the end of the grazing season.

Supplemental feeding is limited to salt, mineral and/or protein supplements in block, granular or liquid form. Such supplements must be placed at least ¼ mile from live waters (springs, streams, and troughs), wet or dry meadows, and aspen stands.

All riparian enclosures, including spring development enclosures, are closed to livestock use unless specifically authorized in writing by the authorized officer.

Pursuant to 43 CFR §10.4(G), the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR §10.4(C) and (D), you must stop activities in the immediate vicinity of the discovery and protect it from your activities for 30 days or until notified to proceed by the authorized officer.

The terms and conditions of your permit may be modified if additional information indicates that revision is necessary to conform with 43 CFR §4180.

2. The following range improvements would be constructed approximately as shown on Map 2:

a. A pasture fence dividing the allotment roughly in half into North and South pastures. This fence would require at least two cattleguards. This fence would be standard 3-wire pasture fence except at points subject to heavy livestock pressure, at which points stretches of 4-wire fence may be built. The fence would be constructed to BLM standards, incorporating all wildlife friendly design features.

b. Remove the existing Shack Creek Temporary Electric Fence and replace it with a fence completely enclosing the upper reaches of Shack Creek except for a water gap into the upper reaches of the creek.

c. Construct the following spring enhancement projects:

Table 7: Gulley Allotment Spring Projects	
Spring Designation	Description of Work to be Done
Gulley 01	Construct small enclosure around the spring source and a portion of associated riparian area (at least 0.5 acres); Leave existing reservoir open for livestock and wildlife use.
Gulley 02	Construct small enclosure around spring source and a small portion of associated riparian area (at least 0.1 acres). Leave existing reservoir open for livestock and wildlife use.
Gulley 06	Construct enclosure around spring source and a small portion of associated riparian area (at least 0.7 acres). Install diversion apparatus at least 20ft downslope of one of the spring sources and leave the other un-diverted. Install short pipeline and install trough outside enclosure. The diversion and trough would be designed with float valves and other features/apparatus which would ensure that water not consumed by cattle in troughs would remain at the spring source to support riparian area and wildlife use.
Gulley 08	Option 1: Construct enclosure around spring source, reservoir, and associated riparian area (at least 0.3 acres) but leave a small alley into reservoir. Option 2: Completely fence spring source and reservoir, install a collection box in the reservoir so as to not impact spring source, and pipe water to a trough outside the enclosure. Should Option 1 be selected, BLM reserves ability to implement Option 2 at a later date should Option 1 prove inadequate to protect the spring source area. Any diversions and troughs placed under Option 2 would be designed with float valves and other features/apparatus which would ensure that water not consumed by cattle in troughs would remain at the spring source to support riparian area and wildlife use.
Gulley 09	Upper spring: Construct small enclosure around the spring source and most of the associated riparian area (at least 0.5 acres). Channelized flow downstream of the source would continue to be available for livestock use. Lower spring: Construct enclosure around the spring source and a portion of associated riparian area (at least 0.25 acres). Install diversion apparatus at least 20 ft below the spring source and build approximately 1.5 miles of pipe to new troughs near the spring source and downslope as illustrated on Map 3. The diversion and troughs would be designed with float valves and other features/apparatus which would ensure that water not

consumed by cattle in troughs would remain at the spring source to support riparian area and wildlife use.
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Specific type of fence would be determined on a case-by-case basis at the time of implementation, incorporating such factors as amount of livestock pressure, ability to withstand snowbanks, visual concerns, etc. In all cases, fences would be wildlife friendly and built to all applicable BLM fence standards.

Normal maintenance responsibilities for the above projects would be assigned to the permittee.

3. Once the fences are complete, livestock use starting on 1 July will alternate between the two pastures. Should maximum allowable utilization of 50% of current year's growth as measured at the key areas on each pasture be reached prior to the end of the grazing season, livestock will be moved to the other pasture for the remainder of the grazing season. If maximum utilization limits are not reached prior to the end of the grazing season, the other pasture would be rested.

Authority

Authority for the actions contained in this proposed decision is found in 43 CFR §4100.0-8, 4110.2-2, 4110.3, 4120.2, 4120.3-1, 4130.2 (a), (b), (d), and (e), 4130.3, 4130.3-1, 4130.3-2, 4130.3-3, 4130.8-1(e), 4160.1, 4160.2, 4160.3, 4160.4, 4180.1, and 4180.2.

PROVISIONS FOR PROTEST, APPEAL AND PETITION FOR STAY

PROTEST

In accordance with 43 CFR §4160.2, any applicant, permittee, lessee or other interested public may protest the proposed decision under §4160.1 of this title, in person or in writing to the Bureau of Land Management, Melanie A Peterson, Wells Field Office Manager (authorized officer), 3900 E. Idaho Street, Elko, Nevada, 89801 within 15 days after receipt of this decision. The protest, if filed, must clearly and concisely state the reason(s) as to why the proposed decision is in error.

In accordance with 43 CFR §4160.3 (b), should a timely protest be filed with the authorized officer, the authorized officer, at the conclusion to his/her review of the protest shall serve his/her final decision on the protestant and the interested public.

In accordance with 43 CFR §4160.3 (a), in the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice.

In accordance with 43 CFR §4160.3 (c) & (f), a period of 30 days following receipt of the Final Decision or 30 days after the date the Proposed Decision becomes final is provided for filing an appeal and petition for stay of the decision pending final determination on appeal.

APPEAL AND PETITION FOR STAY

In accordance with 43 CFR §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 and may also petition for a stay of the decision pending final determination on appeal. The appeal and petition for stay must be filed within 30 days following receipt of the final decision or 30 days after the date the proposed decision becomes final. Appeals and petitions for a stay of the decision shall be filed at the office of the authorized officer, see Protest above. Additionally the person appealing must serve a copy of their appeal and petition for stay on any person named in the decision including the name to which the decision is addressed, those listed at the end of this decision, and the Office of the Solicitor, Pacific Southwest Region, U.S. Department of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, CA 95825-1890 within 15 days of filing the appeal and petition for stay. Appellant needs to be able to document service to any other person named in the decision and the Solicitor.

In accordance with 43 CFR §4.470, the appeal shall state the reasons, clearly and concisely, why the appellant thinks the final decision of the authorized officer is in error.

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

- (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.

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 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)).

/s/ Melanie A. Peterson

Melanie A Peterson
Field Manager
Wells Field Office

cc:

Certified Mail #7013 0600 0000 5850 9163 US Fish & Wildlife Service Edward D Koch 1340 Financial Blvd., STE 234 Reno NV 89502	Certified Mail #7013 0600 0000 5850 9170 Resource Concepts, Inc John L McLain 340 N Minnesota St Carson City NV 89703
Certified Mail #7013 0600 0000 5850 9187 Nevada Department Of Wildlife ATTN: Steve Foree 60 Youth Center Road Elko NV 89801	Certified Mail #7013 0600 0000 5850 9194 Western Watersheds Project ATTN: Ken Cole PO Box 2863 Boise ID 83701
Certified Mail #7013 0600 0000 5850 9200 Nevada Cattleman's Association PO Box 310 Elko NV 89803	Certified Mail #7013 0600 0000 5850 9217 Elko County Board Of County Commissioners 540 Court St, STE 101 Elko NV 89801
Certified Mail #7013 0600 0000 5850 9224 Natural Resources Mngmt Advisory Commission Mr Scott R Brown 540 Court St STE 104 Elko NV 89801	Certified Mail #7013 0600 0000 5850 9231 Sustainable Grazing Coalition ATTN: Richard A Orr PO Box 145 Caliente NV 89008-0145
Certified Mail #7013 0600 0000 5850 9248 Kathy Gregg 6145 Galena Dr El Dorado CA 95623-4540	Certified Mail #7013 0600 0000 5850 9255 Nevada State Clearing House Dept Of Administration 901 S Stewart St STE 5003 Carson City NV 89701
Certified Mail #7013 0600 0000 5850 9262 Wildlands Defense Katie Fite PO Box 125 Boise ID 83701	Certified Mail #7013 0600 0000 5850 9279 Nevada Department Of Agriculture Tina Mudd, Rangeland Health Program Manager 405 S 21St Street Sparks NV 89431
Certified Mail #7013 0600 0000 5850 9149 Northwest Farm Credit Services PO Box 5059 Twin Falls ID 83303-5059	Certified Mail #7013 0600 0000 5850 5035 Deniz Bolbol American Wild Horse Preservation Campaign PO Box 5656 Redwood City CA 94063

Courtesy Copies:

<p>USFS Mountain City Ranger District ATTN: District Ranger 2035 Last Chance Road Elko NV 89801</p>	<p>US Senator Dean Heller Ashley Carrigan 400 S Virginia St, STE 738 Reno NV 89501-2125</p>
<p>U.S. Senator Harry Reid Attn: Jared Perkins/Rural Representative 600 Williams St, STE 304 Carson City NV 89701</p>	<p>Congressman Mark Amodei Attn: Meghan Brown, Rural Representative 905 Railroad St, STE 104 D Elko NV 89801</p>

Appendix 1
Proposed Project Procedures
Common to All Range Improvement Projects

The following Proposed Project Procedures would apply to all proposed range improvement projects:

General

1. As range improvement projects are planned, conservation measures from the 1999 *Nevada Bird Conservation Plan* and the 2005 *Nevada Comprehensive Wildlife Conservation Strategy* as recommended by Nevada Department of Wildlife (NDOW) will be incorporated, when appropriate.
2. All trash and excess debris will be removed from the public lands and disposed of at an approved solid waste disposal site within 10 days of construction completion.
3. Ensure that vehicles entering and exiting project site are clean of any noxious weed or invasive or non-native plant parts and that they stay on existing and established roads to the site.
4. Baseline surveys will be conducted for special status species (plant and animal) prior to project implementation. Projects will be designed to avoid special status species and monitoring will be conducted to determine if indirect activities associated with projects are causing impacts.
5. Habitats of less mobile species tied to specific geographic areas (a particular spring, a burrow complex, a unique and locally rare patch of habitat) will be avoided. Examples would include burrow complexes used by burrowing owls or pygmy rabbits, a riparian area important for Columbian spotted frogs, etc.
6. A raptor and migratory bird nesting survey (using current approved US Fish and Wildlife Service protocol) will be required for projects that are proposed to be constructed between March-July. Should nests be found, construction will be postponed until completion of nesting or until after a second survey is completed to ensure no later nesting attempts have been initiated and/or are ongoing.
7. All equipment oil and hydraulic leaks will be repaired before use. Any leaks developed during use will be repaired immediately. If leaks into the soil are possible, drip pans will be used to prevent soil contamination.
8. During fueling operations the operator will insure no fuel spillage occurs. Care should be taken to insure all fuel tank caps, hoses, and spillage is minimized to prevent soil contamination. Should a spill occur, it will be reported to the BLM Hazardous Materials Specialist immediately for proper action.
9. All soil disturbances will be monitored for the establishment of noxious or non-native invasive weeds. Treat invasive and noxious weeds in a manner that is most appropriate to the

weed species and degree of infestation. Treatment will be in accordance with the procedures outlined by *the Programmatic Environmental Assessment of Integrated Weed Management on Bureau of Land Management Lands* (BLM 1999; BLM/EK/PL-98/008).

10. Disturbed areas will be treated (i.e., seeded, etc.), where such action is necessary and practical, to replace ground cover and prevent erosion.

11. BLM will obtain all necessary permits prior to construction to comply with state and federal laws.

12. Avoid surface disturbing activities when soils are wet on soils that are most susceptible to compaction (sandy loam, loam, and sandy clay loam textures).

13. Construction of all projects will be in accordance with the appropriate BLM handbooks or technical references to the maximum extent possible.

Cultural Resources

1. A Nevada BLM Cultural Resources Inventory Needs Assessment form will be completed for any grazing-related proposed action or ground-disturbing project maintenance within the allotment(s) that might affect cultural resources.

2. If an inventory is found to be necessary, the BLM will conduct inventories (or see that inventories are conducted), evaluate National Register of Historic Places (NRHP) eligibility of any recorded cultural resources, evaluate effects, and devise and complete appropriate mitigation measures prior to initiating earth disturbing activities for any of the proposed range improvement projects. These mitigating measures will be in accordance with the National Historic Preservation Act as guided by the 36 CFR §800 regulations, the BLM 8100 Manual, the State Protocol Agreement between the Nevada BLM and the Nevada State Historic Preservation Office and the Nevada BLM's Cultural Resources Inventory General Guidelines, 4th edition.

3. Native American consultation will be undertaken by the BLM for individual range improvement projects should information pertinent to the allotment(s) be recorded during ethnographic studies currently in process for nearby projects, or otherwise become available.

4. Project redesign to avoid adverse effects to cultural resources eligible for listing on the National Register of Historic Places (hereafter "historic properties") will be the preferred option. Should redesign be infeasible or if adverse impacts cannot be effectively avoided, other options such as data recovery at historic properties eligible under Criterion D of the National Register of Historic Places will be considered. If none of the mitigation options prove satisfactory, the range improvement in question will not be constructed.

5. Both direct effects of project installation and indirect effects of livestock grazing (e.g. increased trampling on historic properties in previously "under utilized" areas) will be considered during Section 106 compliance for range improvements that might modify livestock use patterns.

6. If historic properties are found to be impacted by livestock or as a result of grazing or grazing management, the BLM and livestock grazing permittee will work together to devise measures to eliminate the impact or lessen it to the point where it no longer affects the qualities that make the property eligible for the National Register.

7. Maintenance or modifications to existing range improvement projects on public lands are allowed subject to the following criteria:

- a. No new ground disturbance occurs, or;
- b. A cultural resource inventory was previously completed and no cultural resources were found to be present, or;
- c. A BLM archaeologist has determined that an inventory was completed and that no protective mitigation measures were part of the original project approval, and;
- d. The improvement itself (historic road, railroad grade, bridge, trough, windmill, storage tank, etc.) is not a cultural resource.

8. If salt, mineral, or supplement placements are found to be impacting historic properties on public land, then salting locations must be moved $\frac{1}{4}$ mile away or to such a location that the site would no longer be affected by livestock attracted to the salt, mineral or supplement.

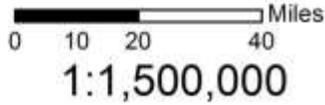
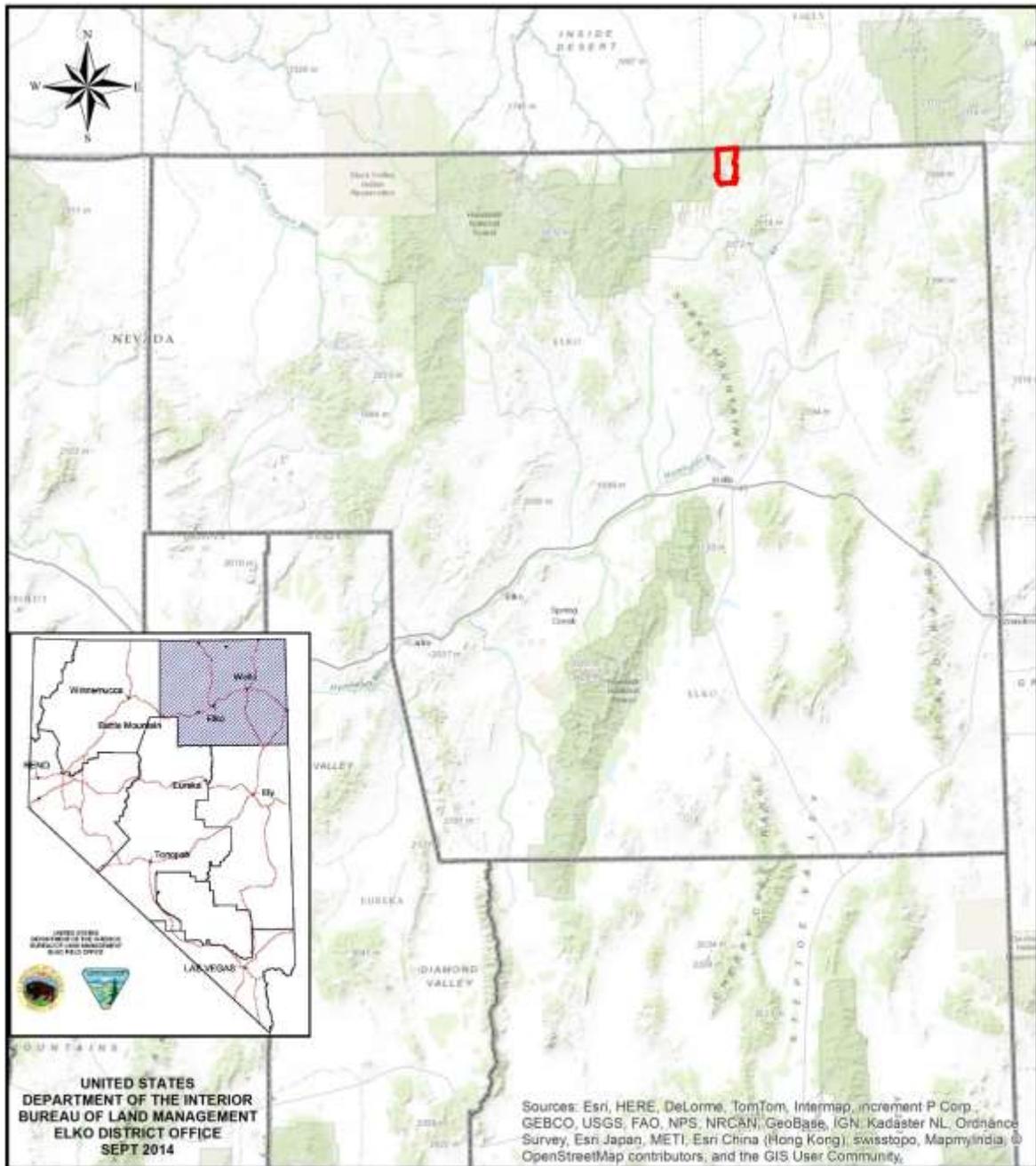
9. All persons participating in the construction, operation, or maintenance of range improvement projects will not disturb, alter, injure or destroy any scientifically important paleontological remains; or any historical or archaeological site, structure, building, object or artifact on public lands. The livestock grazing permittee is responsible for ensuring that its employees, contractors, guests, or any others associated with the ranch do not collect artifacts, or damage or vandalize archaeological or historical sites or the artifacts within them. Individuals involved in illegal activities will be subject to penalties under the Archaeological Resources Protection Act (16 U.S.C 470ii), the Federal Land Management Policy Act (43 U.S.C 1701), the Native American Graves and Repatriation Act (16 U.S.C. 1170) and other applicable statutes.

10. If human remains/burials or any previously unidentified cultural (archaeological or historical) resources or vertebrate paleontological resources are discovered during BLM authorized, permitted or funded project construction, the livestock grazing permittee or contractor will immediately cease all activities within 300 feet of the discovery, insure that the discovery is appropriately protected and immediately notify the BLM by telephone, followed with written confirmation. Work will not resume and the discovery will be protected until the BLM Authorized Officer issues a notice to proceed. Discoveries of human remains not associated with authorized activities will also be reported to the BLM Authorized Officer.

Special Project Requirements for Water Developments

1. Stockwater troughs will be located to take advantage of topography and vegetation to screen sites from view. Stockwater troughs will be placed so that the height of the top rim will not exceed 20 inches above ground level and maintained at this level or lower level. The overflow outlets will be located downhill from the trough a minimum of 40 feet.

2. A bird and small mammal access ramp/escape ladder (furnished by the BLM or the permittee or designed as part of the stockwater trough itself) will be maintained in each stockwater trough by the permittee.
3. Stockwater troughs and the storage tank will be painted an earthtone color (approved by the BLM) which blends with the surrounding environment.
4. No roads will be constructed, but vehicular use along the pipeline route associated with routine maintenance could occur.
5. If concentrated runoff occurs along vehicle tracks which begin to cause rilling or gullying, water breaks may be installed every 200 feet where slopes are less than ten percent, and every 150 feet on 11-25 percent slopes.
6. Surface disturbance associated with the project construction will not exceed a width of a 16-foot corridor along the route of the pipeline and a 30-foot diameter circle around each trough. All ground disturbance associated with pipeline construction resulting in bare ground may be seeded with a seed mixture approved by BLM to help prevent soil erosion and noxious weed/annual exotic weed/non-native invasive weed establishment.
7. Pipe will be buried at least 18 inches below the ground surface unless otherwise required for engineering or mitigation of cultural resource values.
8. No blading, grading, or scalping of the pipeline route will be allowed. Brush removal, if necessary, will be done by hand or with "brush beater" type equipment which does not uproot brush or otherwise break the ground surface.

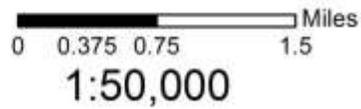
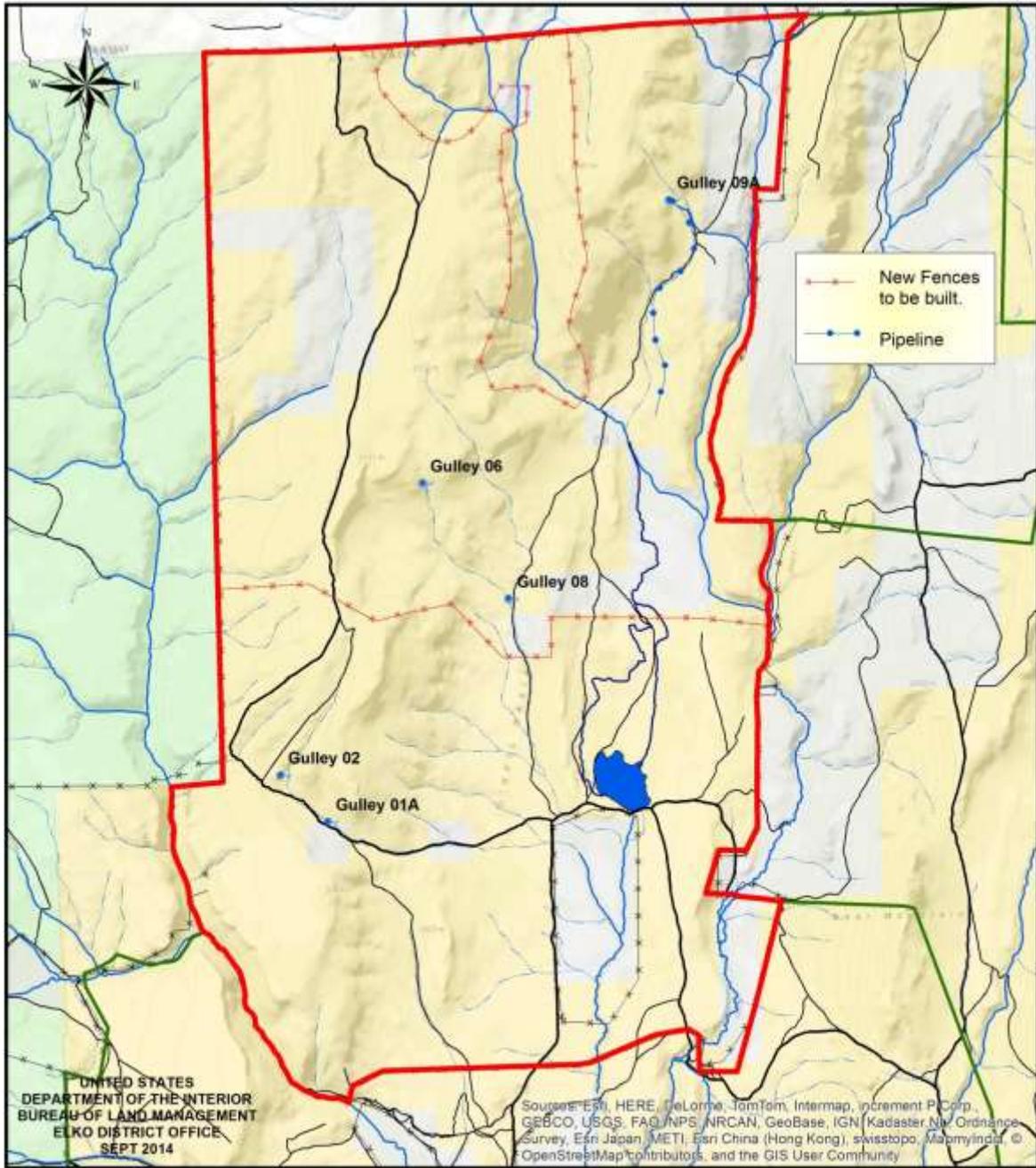


- Gully Allotment
- County Boundaries

Date published in:
North American Datum 1983 (NAD83)
UTM coordinates, Zone 11, meters

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Map 1: Location of Gully Allotment



Data published in:
North American Datum 1983 (NAD83)
UTM coordinates, Zone 11, meters

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Map 2: Details of Selected Alternative