



United States Department of the Interior
BUREAU OF LAND MANAGEMENT
Four Rivers Field Office
3948 Development Avenue
Boise, Idaho 83705



In Reply Refer To:
4160 (ID-110)
1100019

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
7005 1820 0006 5207 7167

September 29, 2010

Notice of Field Manager's Decision

Rocky Comfort Cattle Company, LLC DBA OX Ranch
c/o Casey Anderson
1095 Calf Pen Road
Council, ID 83612

Dear Mr. Anderson,

Introduction

The purpose of this Decision is to authorize construction of the 1.5 mile "Summer Creek Drift Fence" described in Alternative B (Proposed Action) of Environmental Assessment (EA) # ID-110-2009-EA 3757. The proposed site is located approximately three miles south of the Oxbow Dam, in Adams County, Idaho. Construction of a drift fence on the Oxbow Allotment (#00346) is in conformance with:

- The Taylor Grazing Act, 1934,
- The Federal Land Policy and Management Act, 1976 (FLPMA), Title IV, Section 402,
- Title 43 of the Code of Federal Regulations Part 4100, Grazing Administration – Exclusive of Alaska,
- Idaho Standards for Rangeland Health and Guidelines for Livestock Grazing Management,
- The 1988 Cascade Resource Management Plan
- BLM Manual Handbook H-1741 - Fencing

Background

Gathering and sorting cattle in the Oxbow Allotment is difficult due to steep terrain and limited trails and access by four-wheel drive roads. Access is primarily by horseback which is very time consuming. Casey Anderson, Manager/Authorized Representative for the OX Ranch, has

requested permission to construct a drift fence along the ridge between the Lower Salt Creek and Upper Salt Creek pastures, to fully and properly implement the rest rotation grazing system which is required under the current grazing permit and Oxbow Coordinated Resource Management Plan. The objectives would be to improve herd separation, cattle distribution, and prevent cattle from drifting down steep drainages and lingering in the neighboring pasture.

Decision

It is my decision to authorize construction of the Summer Creek Drift Fence, described in Alternative B (Proposed Action) of the EA mentioned above, which is to construct a 1.5 mile drift fence (1.25 miles public land, 0.25 miles private land) in the Oxbow Allotment between the Lower Salt Creek and Upper Salt Creek pastures. The fence would be built adhering to BLM standards for bighorn sheep habitat as follows:

- 1) A four-strand fence with the top wire set no higher than 38 inches from ground level, the third wire 30 inches from ground level, the second wire set no higher than 24 inches from ground level, and a smooth bottom wire a minimum of 18 inches from ground level.
- 2) The posts will be set no greater than 16.5 feet apart with wooden fence stays for greater visibility.
- 3) There will be a gate on the power line road and gates in the saddles for big game passage.
- 4) The gates will remain open when cattle are out of the pastures.
- 5) A Cooperative Range Improvement Agreement with BLM will be signed prior to fence construction by the permittee for fence repair and maintenance responsibility. (Form 4120-6)
- 6) Measures will be taken to limit the potential spread of noxious weeds (refer to (EA) # ID-110-2009-EA 3757).
- 7) Construction related activities would be carried out creating the least amount of disturbance possible by limiting travel by (ATVs/Dozer) (refer to EA).

(Bureau Manual H-1741 and Internal Memorandum re: Facilitating Big Game Passage of Livestock Fences, dated 2/20/1987).

Rationale

Construction of the Summer Creek Drift Fence is in accordance with the grazing regulations (43 CFR 4100) and the National Environmental Policy Act.

This action is in compliance with 43 CFR 4120.3-1 sections (a) and (f) which state;

- (a) Range improvements shall be installed, used, maintained, and/or modified on public lands, or removed from these lands, in a manner consistent with multiple use management.
- (f) Proposed range improvement projects shall be reviewed in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C 4371 et. seq.).

The decision document following the environmental analysis shall be considered the proposed decision under subpart 4160 of this part.

Authority

Authority under which this decision is being issued is found in Title 43 of the Code of Federal Regulations (CFR). Subpart 4100 - Grazing Administration- Exclusive of Alaska

The current Land Use Plan for the area is the Cascade Resource Management Plan (CRMP) dated July of 1988. This action is in compliance with the CRMP, which recommends the following actions in consideration to Federal candidate and sensitive plants:

- A variety of range improvements, grazing systems, and other management practices may be considered in conjunction with livestock management on individual allotments. (CRMP, Preferred Alternative E, pg. 47)

Right of Protest and/or Appeal

Any applicant, permittee, lessee or other interested publics may protest a proposed decision under 43 CFR 4160.1 and 4160.2, in person or in writing to Terry A. Humphrey, Field Manager, BLM Four Rivers Field Office, 3948 Development Avenue, Boise, Idaho 83705 within 15 days after receipt of such decision. The protest, if filed, should clearly and concisely state the reason(s) why the decision (*not the EA*) is in error.

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

In accordance with 43 CFR 4160.3 (b) upon a timely filing of a protest, after a review of protests received and other information pertinent to the case, the authorized officer shall issue a final decision.

Any applicant, permittee, lessee or other person whose interest is adversely affected by the final decision may file an appeal (*in writing*) in accordance with 43 CFR 4.470 and 43 CFR 4160.4. The appeal must be filed within 30 days following receipt of the final decision or within 30 days after the date the decision becomes final. The appeal may be accompanied by a petition for a stay of the decision in accordance with 43 CFR 4.471 pending final determination on appeal. The appeal and petition for a stay must be filed in the office of the authorized officer, as noted above. The person/party must also serve a copy of the appeal by certified mail to Ken Seby, Office of the Field Solicitor, U.S. Department of the Interior, 960 Broadway Avenue, Suite 400, Boise, Idaho 83706 and to person(s) named [43 CFR 4.421(h)] in the *copies sent to:* section of this decision.

The appeal shall state the reasons, clearly and concisely, why the appellant thinks the final decision is in error and otherwise complies with the provisions of 43 CFR 4.470.

Should you wish to file a petition for a stay, see 43 CFR 4.471 (a) and (b). In accordance with 43 CFR 4.471(c), a petition for a stay 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.

As noted above, the petition for stay must be filed in the office of the authorized officer and served in accordance with 43 CFR 4.471.

Any person named in the decision that receives a copy of a petition for stay and/or an appeal, see 43 CFR 4.472(b) for procedures to follow if you wish to respond.

The Environmental Assessment # ID-110-2009-EA 3757, and Finding of No Significant Impact (FONSI) documents - are available on-line at https://www.blm.gov/epl-front-office/eplanning/nepa/nepa_register.do. If you have any questions, feel free to contact either Christina Handy, Rangeland Management Specialist at 208-384- 3375, or myself at 208-384-3430.

Sincerely,

/s/ Terry Humphrey

Terry A. Humphrey
Four Rivers Field Manager

Copies sent to:

Nez Perce Tribes C/O Tribal Chairman PO Box 365 Lapwai ID 83540
Shoshone-Paiute Tribe C/O Tribal Chairman PO Box 219 Owyhee NV 89832
Shoshone-Bannock Tribes C/O Tribal Chairman PO Box 306 Fort Hall ID 83203
Boise District Grazing Board C/O Stan Boyd PO Box 2596 Boise ID 83701
Boise District Grazing Board C/O Weldon Branch, 3621 N Crane Rd, Midvale ID 83645
Boise District Grazing Board C/O Phil Soulen 1760 Fairmont Drive Weiser ID 83672
Adams County Commissioners, Chariman, P.O. Box 48, Council, ID 83612
Idaho Dept of Agriculture PO Box 790 Boise ID 83701
Idaho Dept of Fish & Game C/O Bob Martin 3101 South Powerline Rd Nampa ID 83686
Idaho Dept of Lands, c/o Scott Corkill 555 Deinhard Lane McCall, ID 83638
Western Watersheds Project PO Box 1770 Hailey ID 83333