# UNITED STATES
# DEPARTMENT OF THE INTERIOR
# BUREAU OF LAND MANAGEMENT
# BILLINGS FIELD OFFICE

## CX REVIEW

| | |
|---|---|
| **Document Name:** PMWHR Administrative Pasture Fence Removal and Britton Spring Administrative Site Enclosure | **NEPA #:** DOI-BLM-MT-A010-2016-0014-CX |
| **Location:** Carbon County, Montana and Big Horn County , Wyoming | **Date first posted on ePlanning website:** 3/9/2016 |
| **Internal Scoping Date:** 3/7/2016 | **Date draft/final doc posted:** |

| PROJECT LEAD | DATE/INITIALS |
|---|---|
| Jim Sparks | JMS 5/19/16 |

| PREPARERS | ASSIGNMENT | DATE/INITIALS |
|---|---|---|
| Craig Drake | Resource Programs | C. Drake 5/19/16 |
| Jenny Alexander | Recreation & Visitor Services, VRM, WSAs, LWC, WSR, NHT, TTM, Caves & Karsts, | JLA 4/21/16 |
| Carolyn Sherve-Bybee | Cultural, Paleontological, ACECs | CSB 6/15/2016 |
| Larry Padden | Noxious & Invasive Plants | LP 5/19/2016 |
| Ernie Mckenzie | Wildlife, Fisheries, T&E, BLM & State Sensitive Species | ELM 5/19/16 |

## ↓ To be filled out during scoping meeting and for Admin Record ↓

| Baseline Data Needs & Internal Coordination | | |
|---|---|---|
| | | Date completed |
| Migratory birds/Raptors | Y/N | 5/19/16 |
| Noxious/Invasive Weeds | Y/N | |
| T&E/Special Status Species Plants and/or Animals | Y/N | 5/19/16 |
| Cultural/Paleontological | Y/N | N/A |
| Riparian | Y/N | 5/19/16 |
| BLM Initiated projects: coordination and/or on-site visit with MCFO engineers *(if project is ground disturbing)* | Y/N | |
| Project entered into RIPS | Y/N | |
| Project entered into FAMS | Y/N | |
| ID team field visit | Y/N | |

| External Consultations/Notifications | | |
|---|---|---|
| | | Date completed |
| **External Scoping** | Y/N | |
| **Native American Coordination / Consultation** (30 to 60 days +/-) | Y/N | N/A |
| **SHPO Consultation** (SHPO response w/in 30 days after receipt of cultural report) | Y/N | N/A |
| **Notification to Wilderness Groups** (30 day comment period) (if located within 1 mile of WSA/WA/LWC) | **Y**/N | |
| **FWP Coordination** (sage-grouse, etc.) | Y/N | |
| **Other political entities or federal/state/local agencies** | Y/N | |
| **USFWS Consultation** (90+ days) | Y/N | |
| **NPNHT and/or LCNHT Notification** (if within 1 mile of NPNHT or ½ mile of LCNHT) | Y/N | N/A |
| **Document out for Public Comment** (usually 30 days) | Y/N | |

Carolyn Sherve-Bybee
**Environmental Coordinator**

6/15/2016
**Date**

By signing above, the Environmental Coordinator has ensured that all documents, e-mails, and letters associated with the Administrative Record have been saved into the Admin Record file in this document's NEPA folder and/or are attached to this document.

UNITED STATES DEPARTMENT OF INTERIOR
BUREAU OF LAND MANAGEMENT
Billings Field Office
5001 Southgate Drive
Billings, MT 59101

# CATEGORICAL EXCLUSION REVIEW AND APPROVAL

## BACKGROUND

**BLM Office:** Billings Field Office

**NEPA Number:** DOI-BLM-MT-A010-2016-0014-CX

**Project Name:** Pryor Mountain Wild Horse Range Admin Pasture Fence Removal; Britton Springs Admin Site Enclosure Reconstruction

**Scoping Date:** 3/7/2016

**Project Location (including county):** Carbon County, Montana, and Bighorn County, Wyoming

## DESCRIPTION OF THE PROPOSED ACTION

The BLM proposes to remove approximately four miles of existing fence that demarks the "Administrative" pastures of the Pryor Mountain Wild Horse Range (PMWHR), thereby implementing the 2015 Approved Resource Management Plan (RMP) where the decision was made to include this area in the Herd Management Area. The fence would be removed on foot and the materials would be stockpiled approximately every ¼ mile. The materials would be removed at a later date by helicopter sling load or by a vehicle with one trip in/one trip out on existing roads. In order to keep wild horses out of the Britton Springs Administrative Site enclosure as a result of the fence removal, it would also be necessary to reconstruct (relocate exiting fence to a new location) about 0.30 mi of fencing.

## LAND USE PLAN CONFORMANCE:

**Land Use Plan Name:** 2015 Approved Billings Resource Management Plan and Rocky Mountain Record of Decision
**Date Approved/Amended:** September 2015

The proposed action is in conformance with the LUP, even though it is not specifically provided for, because it is clearly consistent with the following LUP decision(s) (objectives, terms, and conditions):

> **MD WH-5:** Herd Management Area Establishment: Manage wild horses on approximately 27,094 acres of BLM administered lands (39, 994 acres all ownerships)

**MD WH-6:** Herd Management Area Establishment: Designate the closed portions of the Herd Area known as the administrative pastures to be included in the HMA. Due to private property conflicts the "buffer" area will remain closed.

The proposed action has been reviewed for conformance with the RMP (43 CFR 1610.5, BLM MS 1617.3) and it is in conformance with the Approved RMP and ROD dated September 2015.

**COMPLIANCE WITH NEPA**

The proposed action described above generally does not require the preparation of an environmental assessment (EA) or environmental impact statement (EIS), as it has been found to not individually or cumulatively have significant effect on the human environment. The applicable Categorical Exclusion reference is 516 DM 11.9 (J)(10) – *Removal of structures and materials of no historical value such as ….fences, …. when little or no surface disturbance is involved* and 516 DM 11.9 (J)(9) – *construction of small protective enclosures, including those…*

This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed, and, as documented below, none of the extraordinary circumstances described in 43 CFR 46.215 apply.

| **Extraordinary Circumstances** | | |
|---|---|---|
| **The project would:** | | |
| 1. Have significant impacts on public health or safety. | | |
| **Yes** | **No**<br>**X** | **Rationale:** There would be no impact or affect to public health and safety as a result of the proposed action. |
| 2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (EO 11990); floodplains (E O 11988); national monuments; migratory birds; and other ecologically significant or critical areas. | | |

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| **Yes** | **No**<br><br>**X** | **Rationale:** The entire fence to be removed lies within a WSA. Removing the fence will not impair the wilderness qualities as it would be done on foot using hand tools and a helicopter would be used to sling out the materials. Some materials could be removed by vehicle, but only where an existing route is available. Once the fence is removed, the wilderness qualities would benefit. The short stretch of fence that would be reconstructed would not have any additional impacts beyond those which currently exist. The fence removal meets the three conditions of categorical exclusion according to the Management of BLM Wilderness Study Areas Manual 6330: A CX can be considered only when all three of the following conditions are met and are specifically documented in the CX: a. the activity is listed in 43 CFR 46.210; and b. no extraordinary circumstances listed in 43 CFR 46.215 apply; and c. the activity clearly satisfies the non-impairment criteria. |
| 3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102 (2) (E)]. | | |
| **Yes** | **No**<br><br>**X** | **Rationale:** There are no highly controversial environmental effects or unresolved conflicts concerning alternative uses of available resources associated with the proposed action. |
| 4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks. | | |
| **Yes** | **No**<br><br>**X** | **Rationale:** The effects of fence removal are well known so they are not highly uncertain. The fence that would be reconstructed around Britton Springs would not have any uncertain or potentially significant effect. There have been various fences and corrals constructed in the vicinity of Britton Springs for many years.<br><br>There are no water, floodplain, or riparian resources associated with the project area that would be affected by the proposed action. |
| 5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects. | | |
| **Yes** | **No**<br>**X** | **Rationale:** The proposed action is not connected to any additional action. The proposed action does not establish any precedent. |
| 6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects. | | |
| **Yes** | **No**<br><br>**X** | **Rationale:** The proposed action does not have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects. |
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| | | |
|---|---|---|
| 7. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the Bureau or office. | | |
| **Yes** | **No**<br><br>**X** | **Rationale:** This project would not have significant impacts on properties listed, or eligible for listing on the National Register of Historic Places. The crew removing the fence would access the site on foot and use hand tools to remove the fence. There are no known recorded or unrecorded archaeological sites along the fenceline. The Bandit Site (48BH0460), listed on the National Register, is approximately 0.25 miles from the southernmost end of the fenceline. There would be no impact to this site by the proposed project. Note: there are no records in the cultural files indicating the fenceline now being removed was ever inventoried for cultural resources. |
| 8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species. | | |
| **Yes** | **No**<br>**X** | **Rationale:** Removal of the Admin pasture fences would not negatively impact any wildlife species including any sensitive species. Impacts of the fence removal would be beneficial to wildlife resources. The activity associated with the fence removal project would have minor, short term impacts on wildlife; there are no special status species or habitats in the project area. Reconstruction of the short fence near Britton Springs would not affect wildlife resources. There has been a fence there for many years and it is just being relocated slightly; it is also near an improved road and administrative structure with frequent human activity. |
| 9. Violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment. | | |
| **Yes** | **No**<br>**X** | **Rationale:** The proposed action does not violate any law or regulation. |
| 10. Have a disproportionately high and adverse effect on low income or minority populations (EO 12898). | | |
| **Yes** | **No**<br>**X** | **Rationale:** There would be no Environmental Justice issues associated with the fence removal or relocation**.** |
| 11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (EO 13007). | | |

| Yes | No | |
|---|---|---|
| | X | **Rationale:** The proposed project would not limit access to or ceremonial use of Indian sacred sites on federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites. No Native American Religious Concerns are known in the area, and none have been noted by Tribal authorities. Should future consultations with Tribal authorities reveal the existence of such sensitive properties, appropriate mitigation and/or protection measures may be undertaken. |
| 12. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and EO 13112). | | |
| **Yes** | **No** | **Rationale:** Removing a fence and relocating an existing fence should not |
| | X | increase or influence the likelihood of noxious weed introduction or spread. |

**INTERDISCIPLINARY ANALYSIS:**

BLM team members conducting or participating in the preparation of this CX are listed on the cover sheet.

Environmental Coordinator: Carolyn Shene-Bybee Date: 6/15/2016

**Decision and Rationale on Action**

I have decided to implement the proposed action to remove approximately 4 miles of existing fence that demarks the "Administrative" pastures of the PMWHR, thereby implementing the RMP where the decision was made to include this area in the Herd Management Area. The fence would be removed on foot and the materials would be stockpiled approximately every ¼ mile. The materials would be removed at a later date by helicopter sling load or by a vehicle with one trip in/one trip out on existing roads. In order to keep wild horses out of the Britton Springs Administrative site enclosure as a result of the removal, I have also decided to reconstruct (relocate exiting fence to a new location) about .30 mi of fencing.

In addition, I have reviewed the plan conformance statement and have determined that the proposed action is in conformance with the approved land use plan and that no further environmental analysis is required under the National Environmental Policy Act (as documented in the attached CX, NEPA Compliance [Section C]).

**Implementation Date**

This project will be implemented on or after May 15, 2016.

Authorized Officer: Date: 6/16/16

James M. Sparks
Field Manager, Billings Field Office

**Administrative Review or Appeal Opportunities**

The authority for this decision is contained in the 43CFR4710. The statutory authority underlying the regulation in this part is the Federal Land Policy and Management Act of 1976 Section 501, (43 U.S.C 1701 et seq.)

This 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 the decision, a notice of appeal must be filed in the office of the authorized officer at 5001 Southgate Drive, Billings, MT 59101. The appellant has the burden of showing that the decision appealed from is in error

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.

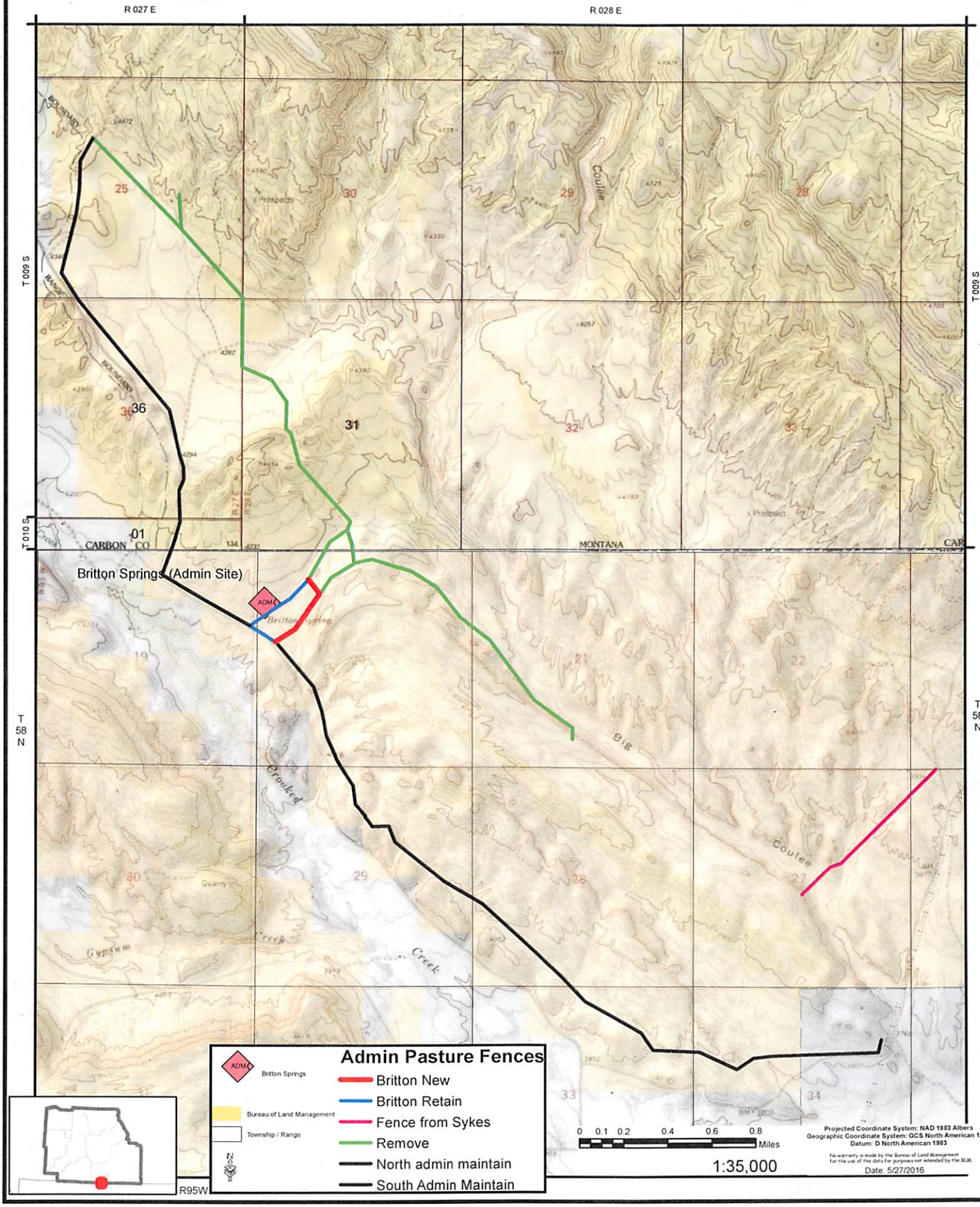
If you wish to file a petition for stay pursuant to 43 CFR Part 4.21(b), the petition for stay should accompany your notice of appeal and shall show sufficient justification based on the following standards:

(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 Office of the Regional Solicitor, U.S. Department of the Interior, P.O. Box 31394, Billings, Montana 59107-1394, not later than 15 days after filing the document with the authorized officer and/or IBLA.

**Contact Person**
For additional information concerning this decision, contact:

Jim Sparks
Field Manager
BLM Billings Field Office
5001 Southgate Drive
Billings, Montana 59101
406-896-5013

# PMWHR
# Admin Pasture Fences