

**U.S. Department of the Interior
Bureau of Land Management**

**Decision Record - Memorandum
Ogovie-Orbe/Carlin Field Cattle Guard CX**

PREPARING OFFICE

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Decision Record - Memorandum
Ogivie-Orbe/Carlin Field Cattle Guard CX

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Chapter 1. Ogivie-Orbe/Carlin Field Cattle Guard CX Decision Record Memorandum

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1.1. Project Description

The BLM Tuscarora Field Office is proposing to construct three cattleguards, two on the Ogilvie-Orbe Allotment and one on the Carlin Field Allotment. The cattleguards would aid in livestock management and prevent wire gates from being left open allowing livestock to enter heavily traveled public roadways.

Construction would be on existing roadways causing no new disturbance. The cattleguards are 8'x14' and would be installed to BLM specifications. The livestock permittee for the Ogilvie-Orbe and Carlin Field Allotments has requested, and is supportive of, the project.

1.2. Proposed Decision

It is my proposed decision to implement the proposed action described in the Categorical Exclusion (CX) DOI-BLM-NV-E020-2016-0008-CX which includes construction three cattleguards. Two cattleguards would be installed on the Ogilvie-Orbe Allotment and one on the Carlin Field Allotment.

1.3. Compliance

The proposed action is consistent with the 1987 Record of Decision (ROD) for the Elko Resource Management Plan (RMP) livestock management objectives and the 2015 Nevada and Northeastern California Greater Sage Grouse Approved Resource Management Plan Amendment.

1.4. Rationale

The proposal to construct these cattleguards is categorically excluded from the National Environmental Policy Act (NEPA) in accordance with BLM Categorical Exclusion pursuant to 516 DM 11.9. The 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 none of the extraordinary circumstances described in 516 DM 2 apply.

The proposed action is consistent with the 1987 Record of Decision (ROD) for the Elko Resource Management Plan (RMP) livestock management objective to maintain or improve the condition of the public rangelands to enhance productivity for all rangeland values (pg. 20).

A cultural needs assessment, completed for the project on March 22nd, 2016, concluded that the project does not include ground disturbing activities and will not significantly impact cultural resources.

1.5. Authority

Authority for the actions contained in this proposed decision is found in 43 CFR §4120.3-1, 4160.1, 4160.2, 4160.3, 4160.4.

1.6. 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, Richard E. Adams, Tuscarora 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), at the conclusion of the 15 day protest period and 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)).

1.7. Authorized Officer

/s/ Melanie A. Peterson 3/28/2016

Melanie A. Peterson
Acting Field Manager, Tuscarora Field Office

Date

1.8. Contact Person

For additional information concerning this Finding, contact.

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