

Categorical Exclusion

Flanigan Nuisance/ Emergency Removal 2021

Sierra Front Field Office

Carson City District

Carson City, Nevada 89701

Phone: 775-885-6000

NEPA Document Number: DOI-BLM-NV-C020-2021-0012-CX

Categorical Exclusion Review

BLM Office:

Sierra Front Field Office, LLNVC02000

Lease/Serial/Case File No.: N/A

Location of Proposed Action: Mountain Diablo Meridian, Washoe County, Nevada, T26N., R29. E., sec 6, 40° 05'48.36" 119° 54'12.52". Map 1.

Background

The Flanigan Herd Management Area (HMA) contains 17,147 acres of public and private land, the Appropriate Management Level (AML) range is 80 – 125 and the current population estimate is 298 wild horses, which is four times over the low end of AML. The most recent gather was completed in 2012. The overpopulation of excess wild horses is due to limited water resources and private property issues outside of the HMA boundary.

Water resources in the HMA are limited to small springs and two creeks (East and West Cottonwood Creeks). During past droughts, the springs have all dried up and the only remaining water sources were small pools in the creek beds where the horses within the HMA have obtained water. The closest creek is a little over four miles from where the horses are currently watering and separated from the current watering location by two fences. These nuisance horses have never used the HMA, they previously obtained water on public lands approximately 10 miles northwest of the HMA. Due to the current drought this source has dried up.

Purpose and Need for the Project

The purpose of the Proposed Action is to act on written requests (received April 26 and 27, 2021) from Fish Springs Ranch and a private landowner to remove nuisance wild horses from their respective private lands. These wild horses are damaging their private property, damaging fencing and consuming desired plants. (Attachments 2 and 3). Due to the overpopulation and

limited water resources within and outside of the Flanigan HMA, wild horses are moving from public lands outside the HMA boundary and are now residing on or around private property. These approximately 73 wild horses had been obtaining water located 10 miles outside of the Flanigan HMA, which flowed under a fence along the railroad right-of-way. However, that water source has now dried up and the horses are currently reliant on discharge from the Truckee Meadows Water Authority (TMWA) pump, which is approximately eight and a half miles to the south of the railroad right-of-way and two and a half miles west of the HMA. These horses are separated from the HMA by at least one fence and, in places, by multiple fences. It is very unlikely that any of these wild horses have ever been on the HMA side of these fences or been inside the HMA. From all indications and past observations these horses have always centered their activity around the recently dried water source located approximately 10 miles outside of the HMA.

TMWA's pump discharge is unpredictable since the company only utilizes these pumps when demand is high. TMWA must pump this water over the Virginia Mountains, making this water source more expensive to deliver than others. Prior to pumping water into the pipeline, TMWA's pump discharges water to the surface for three minutes. That discharge water currently flows north under a fence where the horses have been able to utilize it. The pump and discharge pool are both on private property.

The Lands Manager for Vidler Water Company which owns the land where the pumps are located stated that TMWA had recently surveyed the property line and will change the direction of the discharge so that it will no longer flow north under the fence. As a result, the wild horses will no longer have access to this water (attached letter from Fish Springs Ranch). There are several pasture fences between these horses and natural water sources within the HMA and grazing allotment.

Description of Proposed Action

The BLM proposes to water trap and remove approximately 73 wild horses that are causing damage to private property. Additionally, they will soon be without water when a new fence is completed on the private land and the water flow is changed to stay within fenced private land. The horses would be trapped on private land and taken to Palomino Valley Corrals.

Compliance with law and regulation

The proposal is consistent with The Wild Free-Roaming Horses and Burros Act of 1971 (Public Law 92-195) which directs BLM to remove wild horses and burros from private lands. The Act reads, "If wild free-roaming horses or burros stray from public lands onto privately owned land, the owners of such land may inform the nearest Federal marshal or agent of the Secretary, who shall arrange to have the animals removed". Additionally, 43 CFR 4720.2-1 states "Upon written request from the private landowner to a representative of the Bureau of Land Management, the authorized officer shall remove stray wild horses and burros from private lands as soon as practicable."

Health and Human Safety Issues: These excess wild horses reside outside the HMA boundary and are damaging private property in order to obtain water.

Resource Concerns: Continued drought conditions have greatly reduced the production of grasses and water resources within the HMA. Some spring sources have gone dry and wild horses are leaving the HMA in search of forage and water resources. Approximately 73 excess wild horses are breaking down fences to access water on private land. These excess wild horses have taken up residence outside the HMA boundary and are relying on a water source that is on private property.

Impacts to Horses: Wild horses observed at this water source have demonstrated a Henneke BCS of 2.0-4.0. Due to a lack of water on public lands, these wild horses have been watering and becoming dependent upon pump discharge, which is on private property and will soon be fenced preventing wild horses to access to it. These wild horses are dependent on water that is on private property and will be fenced preventing the horse's access to the private property and water. Presently these horses are damaging private fences to access forage and very little forage grew on public lands this growing season.

Land Use Plan Conformance

Land Use Plan Name: Nevada, Carson City Consolidated Resource Management Plan

Date Approved/Amended: May 2001

The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decision(s): STANDARD OPERATING PROCEDURES-1. Section four of the Wild Horse and Burro Protection Act of 1971, requires that wild horses and burros that stray from public lands on to privately owned lands be removed on request of the landowners.

Sage Grouse Compliance: N/A in project area.

Compliance with NEPA

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9,

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 none of the extraordinary circumstances described in 40 CFR 1508.4, 46 CFR 46.215 apply.

The applicable section is: 516 DM 11.9 Appendix 4, D. Rangeland Management, 4. Removal of wild horses or burros from private lands at the request of the landowner.

Compliance with law and regulation

The proposal is consistent with The Wild Free-Roaming Horses and Burros Act of 1971, which directs BLM to remove wild horses and burros from private lands. The Act reads, "If wild free-

roaming horses or burros stray from public lands onto privately owned land, the owners of such land may inform the nearest Federal marshal or agent of the Secretary, who shall arrange to have the animals removed.” Additionally, 43 CFR 4720.2-1 states, “Upon written request from the private landowner to a representative of the Bureau of Land Management, the authorized officer shall remove stray wild horses and burros from private lands as soon as practicable.”

I considered:

NOTE: Answers to the Extraordinary Circumstances questions below will affect the level of NEPA required for this project.

If the answer to all Extraordinary Circumstances is NO, the use of the CX is appropriate.

If the answer to any one Extraordinary Circumstance is MAYBE or UNKNOWN, an EA is the appropriate NEPA document.

If the answer to any Extraordinary Circumstance is YES, an EIS is required.

EXTRAORDINARY CIRCUMSTANCES <i>Does the proposed action...</i>	NO/MAYBE OR UNKNOWN/YES & RATIONALE (If appropriate)	RESOURCE/PROGRAM SPECIALIST(S) ASSIGNED REVIEW	NAME OF TEAM MEMBER(S) ASSIGNED REVIEW	INITIALS AND DATE
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1. Have significant impacts on public health and safety?

	NO	Planning and Environmental Coordinator	Gerrit Buma	GWB 6/7/21
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2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness or wilderness study areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds (Executive Order 13186); and other ecologically significant or critical areas?

	NO	Planning and Environmental Coordinator	Gerrit Buma	GWB 6/7/21
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3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)]?

	NO	Planning and Environmental Coordinator	Gerrit Buma	GWB 6/7/21
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4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks?

	NO	Planning and Environmental Coordinator	Gerrit Buma	GWB 6/7/21
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5. Establish a precedent for future action, or represent a decision in principle about future actions, with potentially significant environmental effects?

	NO	Planning and Environmental Coordinator	Gerrit Buma	GWB 6/7/21
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6. Have a direct relationship to other actions with individually insignificant, but cumulatively significant, environmental effects?

	NO	Planning and Environmental Coordinator	Gerrit Buma	GWB 6/7/21
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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?

	NO	Archeologist	Rachel Crews	RGC 6/8/21
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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?

	NO	Assistant Field Manager, Renewable Resources	Paul Fuselier	PJF 6/8/21
	NO	Planning and Environmental Coordinator	Gerrit Buma	GWB 6/7/21

9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment?

	NO	Planning and Environmental Coordinator	Gerrit Buma	GWB 6/7/21
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10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898)?

	NO	Planning and Environmental Coordinator	Gerrit Buma	GWB 6/7/21
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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 (Executive Order 13007)?

	NO	Archeologist	Rachel Crews	RGC 6/8/21
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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 Executive Order 13112)?


	NO	Assistant Field Manager, Renewable Resources	Paul Fuselier	PJF 6/8/21
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Appeal Procedures

If you wish to appeal this decision, it may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with 43 CFR Part 4 and the enclosed Form 1842-1. Any appeal must be filed by personal delivery, mail, or delivery service. Appeals by email will not be accepted.

Categorical Exclusion Determination

I have determined that the proposed action is categorically excluded from further documentation under NEPA and that none of the extraordinary circumstances apply.

 Marina Fennel Acting Field Manager Sierra Front Field Office	Date: 6/24/21
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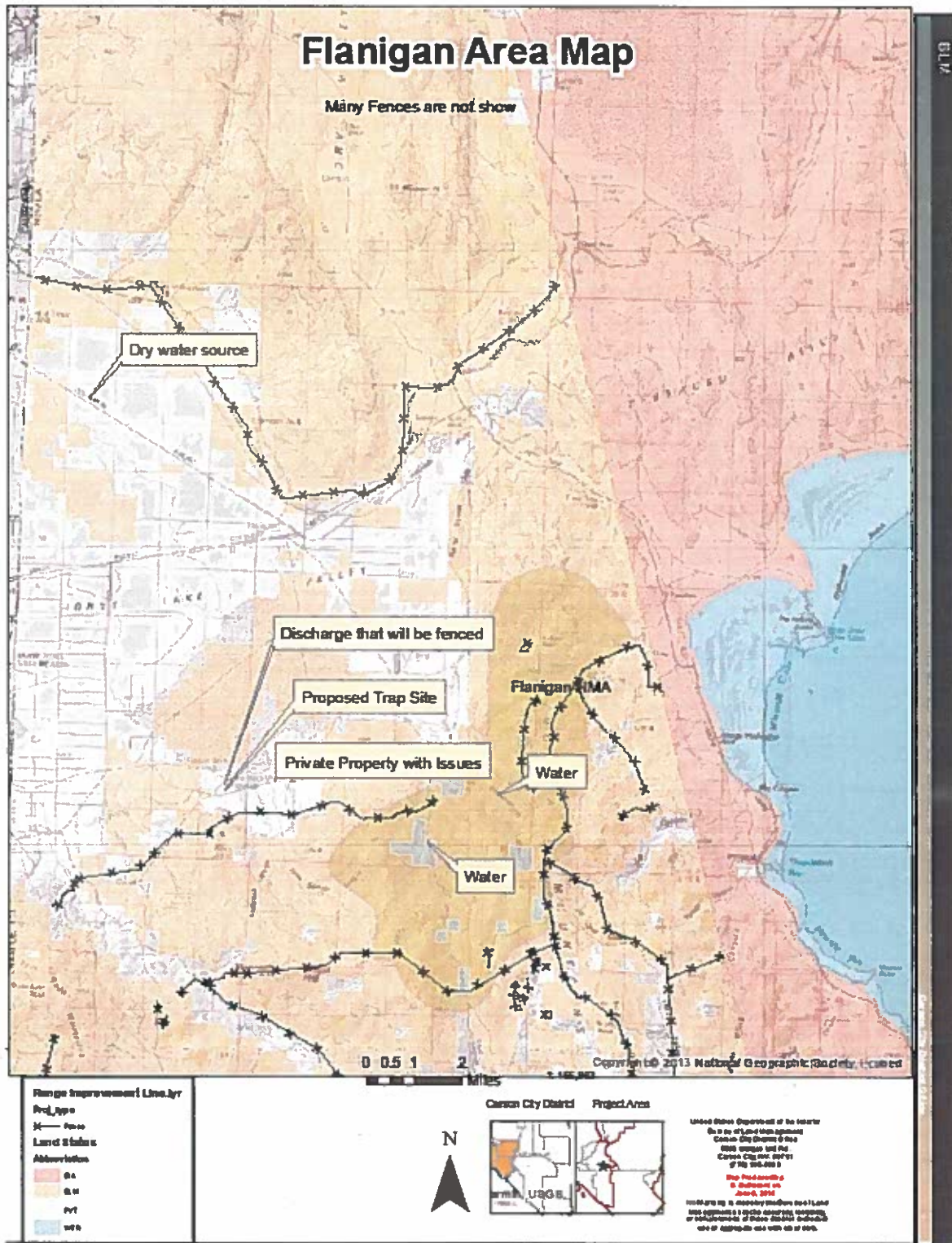
Contact Person

For additional information regarding this decision contact:

John Axtell
Wild Horse and Burro Specialist
Sierra Front Field Office
Carson City District
5665 Morgan Mill Road
Carson City, NY 89701

Phone: 775-885-6146
Email: jaxtell@blm.gov

Attachment 1 Area Map



Attachment 2 Letters

FISH SPRINGS RANCH, LLC

3480 GS Richards Blvd., Suite 101 Carson City, NV 89703 Tel 775.885.5000 Fax 775-885-5005

April 27, 2021

Mr. John Axtel
Bureau of Land Management
5665 Morgan Mill Road
Carson City, Nevada 89701

Re: Necessity for an emergency gather in Honey Lake Valley East

Dear John:

Fish Springs Ranch is requesting an emergency gather in the eastern portion of Honey Lake Valley, Nevada. Due to our requirement to mitigate the situation where water leaves our private ground and ends up on neighboring private property and/or public property we are requesting that there be an emergency gather of 60-75 head of feral horses that have knocked down fences and come on to private property to access water. As you are aware the 2 natural sources of water have dried up due to drought which makes the need for the gather necessary sooner than later to avoid the dire consequences to these feral horses.

Our on-going efforts to mitigate the circumstance where water leaves our private property and flows onto adjoining property both private and public as well as the reality that given the short water year that we have had to date that there will be no water available to these horses which will result in a crisis for these horses. This is a situation that needs to be addressed in the near term to prevent the loss of many of these horses due to the dry conditions that we are dealing with in this area.

We are willing to assist in any way possible to gather these horses to avoid the potential loss of these horses due to our efforts in mitigating the water movement onto either public or other private ground. Please let us know what we can do to help resolve this issue before a dry summer creates a larger problem for these horses, BLM and our ranch. We appreciate your assistance in getting this issue resolved prior to it becoming news that doesn't benefit the horses, BLM or our combined efforts thus far.

Regards,



Jimmy Lee,
Manager Fish Springs Ranch



4-26-21

TO: Ken COLLUM (DIST MANGER)

DEAR SIR.

YESTERDAY EARLY MORNING AROUND 7:00 AM I LEFT MY HOUSE LOCATED AT 500 INDIAN LANE IN NORTH WASHOE COUNTY AND FOUND ABOUT 50+ OF YOUR WILD HORSES ABOUT TO ENTER MY DRIVEWAY.

WHY, SIMPLE, THEY ARE PRETTY LEAN, SOME WITH RIBS WELL PRONOUNCED AND POSSIBLY STARVING THEY SMELL WATER IN MY POOL AND THE TREES WHICH SURROUND MY HOME ARE GREENING UP.

YOU MAY VIEW MY HOME AND AREA ON COMPUTER BY ACCESSING APN # 074-062-50 WASHOE COUNTY PARCEL.

I'VE NEVER SEEN A HEARD COME IN THIS CLOSE SINCE I'VE BEEN HERE (25+ YEARS AT THIS LOCATION)

ITS NOT GETTING ANY BETTER AS JUST IN THIS VALLEY WE HAVE SEVERAL HEARDS.

THE STATE LINE DEAK HEARD OF 17 BLACK HORSES MIGRATE FROM EAST TO WEST, THE FOREMENTIONED HEARD OF 50+, MIGRATE BETWEEN THE CALIFORNIA/NEVADA BORDER AND FISH SPRINGS RANCH.

AND SEVERAL HEARDS AROUND FLANIGAN AND CALNEVA AMOUNT TO QUITE A FEW.

I REQUEST SERIOUS CONSIDERATION IN THIS MATTER BEFORE THE FOREMENTIONED ANIMALS BECOME DESPERATE FOR FOOD AND WATER AND START PUSHING ON FENCES FOR ACCESS AND DAMAGE

PERSONAL PROPERTY.

I CAN HONESTLY SAY Ken, THAT THE PROBLEM
WONT GO AWAY BUT WILL BECOME GREATER.

I THANK YOU FOR YOUR CONSIDERATION IN
THIS MATTER, AND I WILL HELP YOU IN ANY
WAY POSSIBLE.

CALL ME ANY TIME AT 775-722-2417

MAILING ADDRESS IS: ROBERT THOMSEN
9 FLANIGAN ST. RIE.
RENO NV 89510

RESPECTFULLY SUBMITTER

R THOMSEN

**UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Sierra Front Field Office**

**DECISION RECORD
FOR THE
FLANIGAN NUISANCE WILD HORSE REMOVAL
CATEGORICAL EXCLUSION
DOI-BLM-NV-C020-2021-0012-CX**

Decision

It is my decision to implement the Proposed Action as described in the categorical exclusion document titled Flanigan Nuisance/Emergency Wild Horse Removal, DOI-BLM-NV-C020-2021-0012-CX. Pursuant to Title 43 of the CFR at 4770.3(c), the removal of wild horses from non-Federal land is approved for implementation upon the date of my signature below.

Rationale

My decision is consistent with 43 CFR 4720.2, which states that “upon written request from a private landowner, the authorized officer shall remove stray wild horses and burros from private lands as soon as practicable.” I have determined that the proposed action is in conformance with the Carson City Consolidated Resource Management Plan, is categorically excluded from further documentation under NEPA, and that none of the extraordinary circumstances apply.

Administrative Remedies

Within 30 days of receipt of this decision, you have the right to appeal to the Interior Board of Land Appeals, Office of the Secretary, in accordance with regulations at 43 CFR § 4.4. An appeal should be in writing and specify the reasons, clearly and concisely, as to why you think the decision is in error. A notice of appeal and/or request for stay electronically transmitted (e.g., email, facsimile, or social media) will not be accepted. A notice of appeal and/or request for stay must be on paper. If an appeal is taken, your notice of appeal must be filed in the Sierra Front Field Office at 5665 Morgan Mill Rd. Carson City NV, 89701. the appellant has the burden of showing that the decision is in error.

A copy of the appeal, statement of reasons, and all other supporting documents should also be sent to the Regional Solicitor, U.S. Department of the Interior, Room E-2753, 2800 Cottage Way, Sacramento, CA 95825. If the notice of appeal did not include a statement of reasons for the appeal, it must be sent to the Interior Board of Land Appeals, Office of Hearings and Appeals, 801 North Quincy Street, Arlington, Virginia 22203. It is suggested appeals be sent certified mail, return receipt requested.

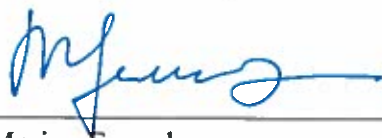
The appellant may wish to file a petition for a stay (suspension) of this decision during the time that the appeal is being reviewed by the Board pursuant to Part 4, Subpart B, Section 4.21 of Title 43, CFR. The petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of decision pending appeal shall show sufficient justification based on the following standards (43 CFR 4.21(b))

- (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 stated above, appeals and petitions for stay of a decision of the authorized officer must be filed within 30 days of receipt of the decision in accordance with 43 CFR part 4.



Marina Fennel
Acting Field Manager
Sierra Front Field Office

6/24/21
Date