



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Winnemucca Field Office
5100 East Winnemucca Boulevard
Winnemucca, Nevada 89445
<http://www.nv.blm.gov>



In Reply Refer To:
4130
(NV-022.14)

CERTIFIED MAIL NO. 7004 1350 0002 9700 3665
RETURN RECEIPT REQUESTED

MAR 08 2006

State of Nevada Dept. of Administration
209 E. Musser, Room 200
Carson City, NV 89701

Dear Interested Public:

Please find enclosed the Proposed Decision and the Finding of No Significant Impacts for the Chimney Reservoir Fence range improvement project. The purpose and need for this project is described in the Chimney Reservoir Fence Environmental Assessment (EA) NV-020-06-EA-02, which was sent to you on December 1, 2005.

If you have any questions, feel free to contact Amanda DeForest at (775) 623-1500.

Sincerely,

Arlan G. Hiner
Assistant Field Manager
Renewable Resources

2 Enclosures

1. Final Decision (5pp)
2. Finding of No Significant Impact (2pp)

RECEIVED

MAR 09 2006

DEPARTMENT OF ADMINISTRATION
OFFICE OF THE DIRECTOR
BUDGET AND PLANNING DIVISION



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Winnemucca Field Office
5100 East Winnemucca Boulevard
Winnemucca, Nevada 89445
<http://www.nv.blm.gov>



In Reply Refer To:
4160.1
(NV-022.12)
#2702160

NOTICE OF PROPOSED DECISION

CERTIFIED MAIL NO.70050390000063863714
RETURN RECEIPT REQUESTED

MAR 08 2006

Nevada First Land and Cattle
c/o Gary Bengochea
P.O. Box 490
Winnemucca, NV 89446

Dear Mr. Bengochea:

Please find enclosed the Finding of No Significant Impacts for the Chimney Reservoir Fence range improvement project. The purpose and need for this project is described in the Chimney Reservoir Fence Environmental Assessment (EA) No. NV-020-06-EA-02.

PROPOSED DECISION

It is my Proposed Decision, which is both a National Environmental Policy Act (NEPA) Decision and a Proposed Grazing Decision as outlined under 43 CFR subparts 4160 and 4120.3-1(f), to approve the Chimney Reservoir Fence range improvement project, as described in the Proposed Action in the enclosed EA No. NV-020-06-EA-02. The terms identified in the proposed action of the EA are hereby accepted and will serve as conditions in the "Cooperative Agreement" with the permittee responsible for the construction and maintenance of the project.

The BLM WFO will be responsible for ensuring that the proposed project is constructed and maintained in accordance with the stipulations identified in the Cooperative Agreement.

RATIONALE FOR DECISION

Proper management of livestock is essential to meeting allotment objectives. The construction of this fence on public land will constitute the northwestern boundary of the Bullhead Allotment. This fence will also allow the livestock owner to ensure that livestock are kept on the private lands while minimizing the potential of the fence being submerged during wet years.

The fenced federal land would be grazed in conjunction with the private lands in September and October each year.

The Chimney Reservoir Fence range improvement EA analyzed reasonable alternatives and determined that the proposed alternative is the best management action to properly manage livestock with fewer impacts to other resource values.

Terms and Conditions

1. "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 objects, sacred objects, or objects of cultural patrimony(as defined at 43 CFR 10.2). 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."
2. The entire fence will be built to Bureau Specifications for antelope as outlined in the Environmental Assessment.
3. Construction of the fence will occur in fall, outside of the peak breeding season of special status and migratory bird species.
4. Construction equipment and any associated items are required to be washed both prior to arriving on-site and prior to leaving the area. The Bureau will monitor the presence of noxious weeds along the fenceline and implement any treatments required to control their spread.
5. Maintenance for the Chimney Reservoir fence will be assigned to the permittee, Nevada First Corporation, through a cooperative agreement.

AUTHORITY

The authority for this decision is contained in Title 43 of the Code of Federal Regulation, which states in pertinent parts:

- 4120.3-1(a) Range improvements shall be installed, used, maintained, and/or modified on the public lands, or removed from these lands, in a manner consistent with multiple-use management.
- (b) Prior to installing, using, maintaining, and/or modifying range improvements on the public lands, permittees or lessees shall have entered into a cooperative range improvement agreement with the Bureau of Land Management or must have an approved range improvement permit.

- (c) The authorized officer may require a permittee or lessee to maintain and/or modify range improvements on the public lands under Sec. 4130.3-2 of this title.
- (e) A range improvement permit or cooperative range improvement agreement does not convey to the permittee or cooperator any right, title, or interest in any lands or resources held by the United States.
- (f) Proposed range improvement projects shall be reviewed in accordance with the requirements of the National Environmental Policy Act (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.

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 authorized officer, Arlan G. Hiner, Assistant Field Manager, Renewable Resources, 5100 E. Winnemucca Blvd., Winnemucca, NV 89445, within 15 days after receipt of such decision. The protest, if filed, must clearly and concisely state the reason(s) why the protestant thinks the proposed decision is in error.

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 (b), should a timely protest be filed with the authorized officer, the authorized officer will reconsider the proposed decision and shall serve the final decision on the protestant and the interested public.

APPEAL

In accordance with 43 CFR 4.470, 4160.3(d), and 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. The appeal must be filed within 30 days after the date the proposed decision becomes final or 30 days after receipt of the final decision. In accordance with 43 CFR 4.470, the appeal shall state clearly and concisely the reason(s) why the appellant thinks the final decision of the authorized officer is wrong.

Pursuant to 43 CFR 4.471 and 4160.3(d), an appellant also may petition for a stay of the final decision pending appeal by filing a petition for stay along with the appeal within 30 days after the date the proposed decision becomes final or 30 days after receipt of the final decision.

The appeal and any petition for stay must be filed at the office of the authorized officer, Arlan G. Hiner, Assistant Field Manager, Renewable Resources, 5100 E. Winnemucca Blvd., Winnemucca, NV 89445. Within 15 days of filing the appeal and any petition for stay, the appellant also must serve a copy of the appeal and any petition for stay on any person named in

the decision and listed at the end of the decision, and on the Office of the Solicitor, Regional Solicitor, Pacific Southwest Region, U.S. Department of the Interior, 2800 Cottage Way, Room E-1712, Sacramento, California 95825-1890.

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

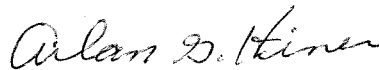
- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted; and,
- (4) Whether the public interest favors granting the stay.

43 CFR 4.471(d) provides that 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 in Salt Lake City, Utah, 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)).

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.422(c)(2)).

Sincerely,



Arlan G. Hiner
Assistant Field Manager
Renewable Resources

Enclosures:

Finding of No Significant Impacts (FONSI) (1 pg)

cc: See Attached List

7004 1350 0002 9700 3610
NV Dept. of Wildlife-Winnemucca
815 East Fourth Street
Winnemucca, NV 89445

7004 1350 0002 9700 3603
Roy Leach
NV Dept. of Wildlife-Fallon
380 West B Street,
Fallon, NV 89406

7004 1350 0002 9700 3634
Humboldt County Commissioners
Courthouse Room 205
Winnemucca, NV 89445

7004 1350 0002 9700 3597
Katie Fite
Western Watershed Project
PO Box 2863
Boise, ID 83701

7004 1350 0002 9700 3665
State of Nevada
Dept. of Administration
209 E. Musser, Room 200
Carson City, NV 89701

7004 1350 0002 9700 3641
NV Cattlemen's Assoc
111 Water Street
PO Box 310
Elko, NV 89803

7004 1350 0002 9700 3658
NRCS
1200 East Winnemucca Blvd
Winnemucca, NV 89445

7004 1350 0002 9700 3627
Pete Paris
NV Wool Growers
HC 30, Box 320
Spring Creek, NV 89815



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
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Winnemucca, Nevada 89445-2921
<http://www.nv.blm.gov/winnemucca>
(775) 623-1500 • wfoweb@nv.blm.gov

In Reply Refer To:
4120/1792
(NV-022.12)

Finding of No Significant Impact Chimney Reservoir Fence Proposal Environmental Assessment NV-020-06-EA-02

Finding of No Significant Impact (FONSI)

I have reviewed the Environmental Assessment (EA) of the Proposed Chimney Reservoir Fence (NV-020-06-EA-02). Based on the analysis contained in the EA, standard stipulations, and proposed action design features, I have determined that the proposed action will not have a significant effect on the human environment and therefore, an Environmental Impact Statement is not required according to section 102 (2)(c) of NEPA.

Mitigation

Mitigation measures have been designed into the proposed action so in the case of this proposal, no additional mitigation have been recommended through the analysis. Mitigation addressed in the proposed action follows:

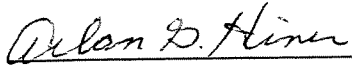
1. The entire fence would be built to Bureau Specifications for antelope as outlined in the Environmental Assessment.
2. Construction of the fence will occur in fall, outside of the peak breeding season of special status and migratory bird species.
3. Construction equipment and any associated items would be washed both prior to arriving on-site and prior to leaving the area. The Bureau will monitor the presence of noxious weeds along the fenceline and implement any treatments required to control their spread.
4. Maintenance for the Chimney Reservoir fence would be assigned to the permittee, Nevada First Corporation, through a cooperative agreement.

Monitoring

BLM would monitor maintenance and construction of the fence.

Standard Stipulations applicable to this proposal:

"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 objects, sacred objects, or objects of cultural patrimony (as defined at 43 CFR 10.2). 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."



Arlan G. Hiner
Assistant Field Manager
Renewable Resources

3-7-06
DATE