

PROPOSED DECISION RECORD  
for  
UPPER ANTELOPE DIVISION FENCE  
EA OR-026-00-12

INTRODUCTION: Following a 30-day comment period on the draft Finding of No Significant Impact (FONSI) for the Upper Antelope Division Fence Environmental Assessment (EA) OR-026-00-12, the Bureau of Land Management's (BLM's) Andrews Resource Area, Burns District is issuing a proposed decision for construction of the Upper Antelope Division Fence. The proposed decision is to implement the proposed action of the EA, with no modification. The proposed fence construction will adjust the grazing utilization patterns in the Upper Antelope Pasture and improve the overall flexibility in the grazing rotation system of the Trout Creek Mountain Allotment grazing rotation system. This action would be in conformance with 1989 Trout Creek Mountain EA and Grazing Decision.

DECISION: Having considered a full range of alternatives and associated impacts and in accordance with 43 CFR 4160.1, my proposed decision is to implement the proposed action for construction of the Upper Antelope Division Fence as described in EA OR-026-00-12.

This action would improve the BLM's ability to achieve riparian improvement in the Trout Creek Mountain Allotment, as stated in the 1989 Trout Creek Mountain EA and Grazing Decision.

Rationale for Decision: I have selected the proposed action for the following reasons:

It protects water resources and enhances riparian habitats, thereby improving adjoining wilderness values.

The proposed action will result in no impact in the Red Mountain Wilderness Study Area.

The proposed action provides the necessary opportunity to address the adverse impacts that have occurred from uneven livestock utilization patterns in the Upper Antelope Pasture.

It provides for the safety of human health.

It promotes and sustains healthy ecosystems.

The habitat improvement opportunities for game and nongame species, including deer and antelope, exceed the potential negative impacts that may occur from these species becoming entangled in the new fence. Passage problems through the fence for large game species will be mitigated by using fence construction and wire spacing specifications proven suitable for 3-wire fence in deer and antelope habitat.

Monitoring of upland and riparian conditions and the diverse plant communities will be continued. If the fence does not improve achievement of resource objectives, or if the fence adversely affects achievement of the resource objectives, the fence will be modified or removed.

Operation of the fence gates and maintenance of the fence will not be an ongoing Federal cost. These responsibilities will be assigned through a cooperative agreement to the grazing permittee in the allotment.

It is in compliance with Federal laws that mandate the management of public land resources (Federal Land Policy and Management Act of 1976).

It is in conformance with the objectives stated in the August 12, 1997 Standards for Rangeland Health and Guidelines for Livestock Management for Public Lands Administered by the Bureau of Land Management in the States of Oregon and Washington.

This project is in conformance with Section 7(a)1 of the Endangered Species Act.

It is in conformance with objectives and land use allocations in the 1982 Andrews Management Framework Plan, the 1983 Andrews Grazing Management Program Final Environmental Impact Statement (EIS), and the Oregon BLM Wilderness EIS/Wilderness Study Report, October 1991.

It includes coordination with local government, tribal entities, private landowners, and other State and Federal agencies.

Public involvement consisted of direct mailing to more than 20 individuals, organizations, tribes, and agencies and notification in the local newspaper. I did not receive any positive or negative comments during the FONSI/EA review period.

The decision does not result in any undue or unnecessary environmental degradation.

I also considered the following alternative to the proposed action:

- a) No fence construction. This alternative lacks the ability to correct the current uneven livestock utilization patterns in the Upper Antelope Pasture. As a result, additional flexibility in the Trout Creek Mountain Allotment grazing system is not achieved.

In accordance with 43 CFR 4160.2, the permittees or other interested public may protest those portions of the proposed decision described above in writing to the Andrews Resource Area Field Manager within 15 days from receipt of this proposed decision at this address:

Bureau of Land Management  
Burns District Office  
HC 74-12533 Hwy 20 West  
Hines, Oregon 97738

Any protest should specify the reasons clearly and concisely why the proposed decision is in error.

In the absence of a protest within 15 days from receipt of this proposed decision, this proposed decision shall constitute the final grazing management decision, without further notice, in accordance with 43 CFR 4160.3(a). Should this proposed decision become the final grazing management decision and you wish to appeal this decision for the purpose of a hearing before an Administrative Law Judge, in accordance with 43 CFR 4.470(a) and 43 CFR 4160.4, your appeal must be filed within 45 days after receipt of the proposed decision, as provided for in 43 CFR 4160.3(a) and described above, in writing, at the office of the Field Manager, at the above address. A notice of appeal filed before the proposed decision becomes final will be treated as a protest. An appeal should specify the reasons, clearly and concisely as to why you consider this grazing management decision to be in error.

If you wish to file a petition, pursuant to regulation 43 CFR 4.21, for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for stay must accompany your notice of appeal. A petition for 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 also 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 (see 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 a decision pending appeal shall show sufficient justification based on the following standards:

- a) The relative harm to the parties if the stay is granted or denied,
- b) The likelihood of the appellant's success on the merits,

- c) The likelihood of immediate and irreparable harm if the stay is not granted, and
- d) Whether or not the public interest favors granting the stay.

Mark W. Sherbourne, Acting - Signature on File

August 8, 2000

---

Miles R. Brown  
Andrews Resource Area Field Manager

---

Date