

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Burns District Office
Three Rivers Resource Area
Finding of No Significant Impact

Lime Kiln Division Fence
Environmental Assessment
DOI-BLM-OR-B050-2010-0041-EA

INTRODUCTION

The Three Rivers Resource Area of the Burns District Bureau of Land Management (BLM) has prepared an Environmental Assessment (EA) proposing to construct 1-mile of barbed wire fence within Lime Kiln Pasture of Lime Kiln Allotment # 05103.

Lime Kiln Allotment is located approximately 6 miles northeast of Burns, Oregon, in Harney County and is managed by the Three Rivers Resource Area of the Burns District BLM. The allotment contains 3,224 acres of BLM-managed land and 9 acres of private land. The 3,313-acre allotment is divided into the Lime Kiln and Section 30 Pastures containing 2,722 and 591 acres, respectively.

One Term Grazing Permit authorizes 385 Animal Unit Months (AUMs) of Permitted Use for cattle on the allotment from April 16 to July 31 each year. During a 2008 Lime Kiln Allotment Evaluation, a BLM Interdisciplinary Team determined all rangeland health standards were being achieved on the allotment; however, the evaluation recommended improving grazing distribution within the Lime Kiln Pasture.

Lime Kiln Pasture is approximately 4 miles in length. The only reliable water within this pasture is at a reservoir along the southern pasture boundary fence, and a small trough at Jamison Spring in the northern portion of the pasture. As a result, utilization is concentrated within 1-mile of the reservoir resulting in moderate to heavy utilization levels in this area, with light to no use occurring in the north half of this pasture.

SUMMARY OF THE PROPOSED ACTION

The Proposed Action is to construct approximately 1-mile of 4-strand barbed wire fence to divide Lime Kiln Pasture into two separate pastures. The fence would be located in T. 22 S., R. 32 E., Section 7, S½. The fence would begin at the eastern pasture boundary and parallel an existing road to an existing 500 kV transmission line right-of-way (0.5-mile). The fence would then parallel the transmission line, outside of, but adjacent to the 175-foot PacificCorp right-of-way for the transmission line for the remaining 0.5-mile until it ties into the western pasture boundary fence. Three wire gates would be installed where the fence would cross existing roads. There would be no changes to season of use or permitted use (AUMs) on Lime Kiln Allotment.

The proposed fence would be constructed using All-Terrain Vehicles and hand tools. Construction would occur from spring-summer 2011. The Lime Kiln Allotment permittee would provide the labor to construct the fence and Burns District BLM would provide 1-mile of fence material.

FINDING OF NO SIGNIFICANT IMPACT

Consideration of the Council on Environmental Quality (CEQ) criteria for significance (40 CFR 1508.27), both with regard to context and intensity of impacts, is described below:

Context

The Proposed Action would occur in Lime Kiln Allotment and would have local impacts on affected interests, lands, and resources similar to and within the scope of those described and considered in the Three Rivers Proposed Resource Management Plan/Final Environmental Impact Statement (PRMP/FEIS). There would be no substantial broad societal or regional impacts not previously considered in the PRMP/FEIS. The actions described represent anticipated program adjustments complying with the Three Rivers RMP/Record of Decision (ROD), and implementing range management programs within the scope and context of this document.

Intensity

The CEQ's ten considerations for evaluating intensity (severity of effect):

1. *Impacts that may be both beneficial and adverse.* The EA considered potential beneficial and adverse effects. Project Design Features were incorporated to reduce impacts. None of the effects are beyond the range of effects analyzed in the Three Rivers PRMP/FEIS.

Biological Soil Crusts (BSCs): Over the short term (less than 3 years), some small-scale localized disturbance of the soil horizon would occur during fence construction where fenceposts and rock cribs are installed along the proposed fenceline. This disturbance would be limited to no more than 0.72-acre along the proposed fenceline. This disturbance would be localized and would not modify the soil compaction in the overall area. Livestock trailing along the fenceline would increase soil disturbance and compaction in both the short term and long term (more than 3 years). The degree of compaction would be variable and unknown depending on the amount and distance of trailing plus the amount of mitigation due to weather and vegetation. However, improved livestock distribution would reduce soil compaction and potential impacts to BSCs in the south half of Lime Kiln Pasture currently receiving concentrated livestock use.

Grazing Management/Rangelands: The Proposed Action would improve grazing distribution within Lime Kiln Pasture by allowing management to better control timing and duration of livestock grazing within the proposed North and South Lime Kiln Pastures. Grazing management would be changed to a three-pasture rotation within Lime Kiln Allotment. Under this rotation, rangeland conditions would be maintained or improved.

Migratory Birds: The proposed placement of the fence would be in relatively open, upland sagebrush vegetation within a transmission line right-of-way that receives periodic treatments to reduce vegetative cover. This placement would make the fence more visible to birds and minimize the risk of collision to flying birds. The fence may provide territorial or hunting perches for some species, such as loggerhead shrike (*Lanius ludovicianus*), although the current level of encroaching juniper has met this need across much of this portion of the allotment. Indirectly, the construction of the fence would improve sagebrush-grassland vigor and provide additional residual cover in the (newly created) South Pasture, especially within 1-mile of the reservoir where livestock tend to congregate. Although more utilization would occur in the north of the allotment than in the past, utilization targets would still be set at 50 percent on key herbaceous species.

Noxious Weeds: Approximately 0.72 acres of localized ground disturbance (vegetation trampling) would occur as a result of cross-county travel during fence construction, which could lead to establishment of noxious weeds in this area. However, opportunities for noxious weed establishment would be reduced by incorporating Project Design Features. If any new populations of noxious weeds were found during the site-specific clearances for the project, they would be treated using the best available methods prior to initiating the project. The Proposed Action would improve livestock distribution within Lime Kiln Pasture, subsequently reducing utilization levels within the south half of this pasture. In all pastures, desired plant species would be provided the opportunity for regrowth and life cycle completion at least every third year. This would reduce opportunities for noxious weed establishment in this area by maintaining or improving herbaceous plant vigor and ability to compete with noxious weeds.

Soils: Over the short term (less than 3 years), some small-scale localized disturbance of the soil horizon would occur during fence construction where fenceposts and rock cribs are installed along the proposed fenceline. This disturbance would be limited to no more than 0.72-acre along the proposed fenceline. This disturbance would be localized and would not modify the soil compaction in the overall area. Livestock trailing along the fenceline would increase soil disturbance and compaction in both the short term and long term (more than 3 years). The degree of compaction would be variable and unknown depending on the amount and distance of trailing plus the amount of mitigation due to weather and vegetation. However, improved livestock distribution would reduce soil compaction and potential impacts to BSCs in the south half of Lime Kiln Pasture currently receiving concentrated livestock use.

Special Status Species: The closest sage-grouse lek is over 4.5 miles from the proposed fence, which is well outside the recommended distance (0.6-mile) in the Greater Sage-grouse Conservation Assessment and Strategy for Oregon (Hagen 2005). The proposed placement of the fence would be in relatively open, upland sagebrush vegetation within a transmission right-of-way that receives periodic treatments to reduce vegetative cover. This placement would make the fence more visible to birds and minimize the risk of collision to flying birds. The fence may provide territorial or hunting perches for grouse predators, such as red-tailed hawks (*Buteo jamaicensis*) and common ravens (*Corvus corax*), although the existing transmission tower and current level of encroaching juniper has saturated this portion of the allotment with potential perches.

Indirectly, the construction of the fence would help manage grazing and improve sagebrush-grassland vigor and provide additional residual cover in the (newly created) South Pasture, especially within 1-mile of the reservoir in the south of the allotment where livestock tend to congregate. Although more utilization would occur in the north of the allotment than in the past, utilization targets would still be set at 50 percent on key herbaceous species.

Upland Vegetation: Sagebrush and herbaceous vegetation would be trampled by equipment during construction within 6 feet of the proposed fence (0.72-acre); however, these impacts would be temporary and vegetation would likely recover after the first growing season following construction. Because the vegetation in the area of the proposed project appears to be healthy and resilient, an indirect effect of construction may be stimulation of new leaders on damaged shrubs. There would be no measureable loss of vegetation resulting from the proposed project. Additionally, cross-country vehicle travel during fence construction and subsequent maintenance would be minimal, as the proposed fence would parallel an existing road.

Increased utilization of herbaceous vegetation would occur in North Lime Kiln Pasture; however, utilization would remain at or below the 50 percent target use level for the allotment. Utilization levels would be reduced in South Lime Kiln Pasture, especially within 1-mile of the reservoir on the southern pasture boundary fence. Decreased utilization levels would improve herbaceous plant vigor, and provide greater amounts of residual forage following grazing each season. Additionally, upland vegetation would be provided the opportunity to recover from grazing and achieve life cycle completion within each pasture every third year. This will allow plants to maintain vigor and store carbohydrates for the following growing season.

Wildlife: Mule deer and elk often travel through the allotment into the hay fields on private land to the south, and a fence adds a potential obstruction. Fences would be constructed to standards designed to prevent livestock from crossing, but minimize potential for entanglement to deer and elk, and allow pronghorn to crawl under. The changes to grazing would result in improvements to vegetation (increased vigor and residual cover), which increases nesting, foraging, and hiding cover available for most wildlife.

2. Degree to which the Proposed Action affects public health and safety. No aspect of the Proposed Action or alternatives would have an effect on public health and safety.
3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas. No unique characteristics are known to exist within the proposed Project Area.
4. The degree to which effects on the quality of the human environment are likely to be highly controversial. Controversy in this context means disagreement about the nature of the effects, not expressions of opposition to the Proposed Action or preference among the alternative. No unique or appreciable scientific controversy has been identified regarding the effects of the Proposed Action or alternatives.
5. Degree to which possible effects on the human environment are highly uncertain or involve unique or unknown risks. The analysis has not shown there would be any unique or unknown risks to the human environment nor were any identified in the Three Rivers PRMP/FEIS.
6. Degree to which the action may establish a precedent for future actions with significant impacts or represents a decision in principle about a future consideration. This project neither establishes a precedent nor represents a decision in principle about future actions. No long-term commitment of resources causing significant impacts was noted in the EA or RMP.
7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. The environmental analysis did not reveal any cumulative effects beyond those already analyzed in the Three Rivers PRMP/FEIS which encompasses Lime Kiln Allotment. The EA described the current state of the environment (Affected Environment by Resource, Chapter III) which included the effects of past actions. No reasonably foreseeable future actions were identified in the analysis area.
8. Degree to which the action may adversely affect districts, sites, highways, structures or objects listed in or eligible for listing in the National Register of Historic Places. There are no known features within the Project Area listed or eligible for listing in the National Register of Historic Places.
9. The degree to which the action may adversely affect an endangered or threatened species or its habitat. There are no known threatened or endangered species or their habitat affected by the Proposed Action or alternatives.
10. Whether an action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment. The Proposed Action does not threaten to violate any law. The Proposed Action is in compliance with the Three Rivers RMP, which provides direction for the protection of the environment on public lands.

On the basis of the information contained in the EA and all other information available to me, it is my determination that:

1. The implementation of the Proposed Action or alternatives will not have significant environmental impacts beyond those already addressed in the Three Rivers PRMP/FEIS (September 1991);
2. The Proposed Action and alternatives are in conformance with the Three Rivers RMP/ROD;
3. There would be no adverse societal or regional impacts and no adverse impacts to affected interests; and
4. The environmental effects, together with the proposed Project Design Features, against the tests of significance found at 40 CFR 1508.27 do not constitute a major Federal action having a significant effect on the human environment.

Therefore, an EIS is not necessary and will not be prepared.

/signature on file/
Richard Roy
Three Rivers Resource Area Field Manager

March 1, 2011
Date

4160 (ORB050)

NOTICE OF PROPOSED DECISION

To Implement
Lime Kiln Division Fence
Environmental Assessment
DOI-BLM-OR-B050-2010-0041-EA

Dear _____ :

You are receiving this Proposed Decision because you are the permit holder of record, an interested public or lienholder of record.

A. BACKGROUND

The Lime Kiln Division Fence Environmental Assessment (EA) analyzed constructing approximately 1-mile of 4-strand barbed wire fence to divide Lime Kiln Pasture into two separate pastures. The EA also analyzed a livestock herding alternative (Alternative C) in lieu of building new fence.

B. PROPOSED DECISION

Having considered the Proposed Action, No Action Alternative, and Alternative C and associated impacts and based on analysis in the Lime Kiln Division Fence EA, it is my proposed decision to authorize implementation of the Proposed Action (Alternative B).

The Proposed Action is to construct approximately 1-mile of 4-strand barbed wire fence to divide Lime Kiln Pasture into two separate pastures. The fence will be located in T. 22 S., R. 32 E., Section 7, S½. The fence will begin at the eastern pasture boundary and parallel an existing road to an existing 500 kV transmission line right-of-way (0.5-mile). The fence will then parallel the transmission line, outside of, but adjacent to the 175-foot PacificCorp right-of-way for the transmission line for the remaining 0.5-mile until it ties into the western pasture boundary fence. Three wire gates will be installed where the fence will cross existing roads. There will be no changes to season of use or permitted use (AUMs) on Lime Kiln Allotment.

The proposed fence will be constructed using All-Terrain Vehicles and hand tools. Construction will occur from spring-summer 2011. The Lime Kiln Allotment permittee will provide the labor to construct the fence and Burns District Bureau of Land Management (BLM) will provide 1-mile of fence material.

Additionally, a Finding of No Significant Impact (FONSI) found the Proposed Action analyzed in the EA did not constitute a major Federal action that will adversely impact the quality of the human environment. Therefore, an Environmental Impact Statement will not be prepared.

C. PUBLIC COMMENTS AND RESPONSES

A copy of the EA and unsigned FONSI were mailed to Federal, State, and County agencies and other interested public on January 26, 2011, for a 30-day public comment period. In addition, a public notice was posted in the *Burns Times-Herald* newspaper on January 26, 2011.

The Burns District BLM received one set of public comments on the Lime Kiln Division Fence EA. The BLM responses to public comments are included below.

Comment 1:

Alternative B [Proposed Action] should only be pursued if BLM identifies an equal distance of fence for removal within the same 3-mile radius of sage grouse habitat.

Response 1:

The Proposed Action was analyzed to address a specific Purpose and Need for Action (EA, Page 2) identified by the BLM Interdisciplinary Team. Presently, the need to remove existing fence within the vicinity of the project area has not been identified and would further hinder the need to improve livestock distribution and utilization patterns within Lime Kiln Allotment. In addition, the fence analyzed under the Proposed Action is located over 4 miles from the nearest known lek and there are no fences within Lime Kiln Allotment located within 3 miles of any known lek.

Comment 2:

The proposed fence under Alternative B is currently in Core 2 sage grouse habitat, as identified by ODFW. Mitigation will soon be required by ODFW and BLM in these areas.

Response 2:

The update of the original Oregon Department of Fish and Wildlife (ODFW) Greater Sage-grouse Conservation Assessment and Strategy (Hagen 2005) is still in draft and susceptible to change; therefore, the State Plan that BLM recognizes for guidance is the 2005 version of the ODFW Strategy. The recommendation of the 2005 Strategy is that no fences should be constructed within 0.6-mile (at a minimum) of a lek. The proposed fence (Alternative B) would be outside of known sage-grouse concentration areas, including over 4 miles from the nearest lek (EA, Page 14), which indicates the proposed fence location would be in conformance with the recommendations from the 2005 Strategy.

The draft version of the ODFW Strategy (at this time) brings forward the same recommendation regarding the 0.6-mile minimum buffer for fence construction, but provides additional recommendations for marking existing fences. The Core Area map and associated guidance in the draft Strategy is designed to help address "...energy development, its associated infrastructure, or other industrial-commercial development," and any recommendations or mitigation based on the Core Area concept does not apply to range improvements associated with livestock management.

Comment 3:

ONDA would request that prominent sturdy flagging be added to any fence according to sage grouse guidelines for high visibility and to reduce fatal strikes with the fence.

Response 3:

Interim results of research currently in progress (Christiansen 2009) indicate sage-grouse collisions with fences can be reduced by installing reflectors or plastic clips on the top wire of the fence at periodic intervals. The fence included in this study was adjacent to a riparian area and within 2 miles of two large sage-grouse leks (100+ birds) and bisected winter habitat for several hundred birds (Christiansen 2009). The study identifies fences with metal T-posts constructed near leks, fences bisecting winter concentration areas, and fences bordering riparian areas have the greatest potential for problems related to sage-grouse collisions.

The fence analyzed under the Proposed Action is located over 4 miles from the nearest known lek (11 males), is not adjacent to any riparian habitat, and has been proposed in an area of Lime Kiln Pasture which provides poor sage-grouse habitat due to juniper encroachment and proximity to an existing transmission line (EA, Page 15). Although these factors reduce the likelihood of potential sage-grouse collisions along the proposed fence, this study suggests this potential could be further reduced by installing deflectors along the fence. The EA (Page 5) and Appendix A have been updated to include this Design Element.

D. RATIONALE

This selected alternative best met the Purpose and Need for the Action because it more effectively improves livestock distribution and utilization patterns within Lime Kiln Pasture compared to Alternative C. Since the selected alternative was developed in consultation with the affected grazing permittee and Harney County Government, it also meets their grazing management needs and resource management goals. The No Action Alternative was not selected because it did not meet the Purpose and Need for Action and did not adjust management to conform to land use plan goals and objectives.

E. AUTHORITY

Lime Kiln Division Fence EA is in conformance with the Three Rivers Resource Management Plan (RMP)/Record of Decision/Rangeland Program Summary (September 1992). The Proposed Action, although not specifically provided for, is consistent with the following RMP goals and objectives:

- Utilize rangeland improvements, as needed, to support achievement of multiple-use management objectives (Grazing Management Program, 1992 Three Rivers RMP, Page 2-36).
- Maintain or improve rangeland condition and productivity through a change in management practices and/or reductions in active use to address the current range condition, level, or pattern of utilization (Appendix 9 Allotment Management Summaries, 1992 RMP, Page 32).

Selection and construction of the Proposed Action is also in compliance with the following documents, which direct and provide the framework and official guidance for management of BLM lands within the Burns District:

- Taylor Grazing Act (43 U.S.C. 315), 1934
- Federal Land Policy and Management Act (43 U.S.C. 1701), 1976
- Public Rangelands Improvement Act (43 U.S.C. 1901), 1978
- Standards for Rangeland Health and Guidelines for Livestock Grazing Management for Public Lands Administered by the BLM in the States of Oregon and Washington, 1997
- Burns District Noxious Weed Management Program EA (OR-020-98-05), 1998
- BLM National Sage-grouse Habitat Conservation Strategy, 2004
- Greater Sage-grouse Conservation Assessment and Strategy for Oregon, 2005
- State, local, and Tribal laws, regulations, and land use plans

F. RIGHT OF PROTEST AND/OR APPEAL

Any applicant, permittee, lessee or other interested public may protest a proposed decision under Section 43 CFR 4160.1 and 4160.2, in person or in writing to the Three Rivers Resource Area, Burns District Office, 28910 Hwy 20 West, Hines, Oregon 97738, within 15 days after receipt of such decision. The protest, if filed should clearly and concisely state the reason(s) as to why the proposed decision is in error.

In the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice unless otherwise provided in the proposed decision. Any protest received will be carefully considered and then a final decision will be issued.

Any applicant, permittee, lessee or other person whose interest is adversely affected by the final decision may file an appeal in accordance with 43 CFR 4.470 and 43 CFR 4160.4. The appeal must be filed within 30 days following receipt of the final decision. The appeal may be accompanied by a petition for a stay of the decision in accordance with 43 CFR 4.471, pending final determination on appeal. The appeal and petition for a stay must be filed in the office of the authorized officer Richard Roy, Three Rivers Resource Area Field Manager, 28910 Hwy 20 West, Hines, Oregon 97738.

The appeal shall state the reasons, clearly and concisely, why the appellant thinks the final decision is in error and otherwise complies with the provisions of 43 CFR 4.470. The appellant must serve a copy of the appeal by certified mail on the Office of the Solicitor, U.S. Department of the Interior, 805 SW Broadway, Suite 600, Portland, Oregon 97205, and person(s) named [43 CFR 4.421(h)] in the Copies sent to: section of this decision.

Should you wish to file a petition for a stay, see 43 CFR 4.471 (a) and (b). In accordance with 43 CFR 4.471(c), a petition for a stay 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.

The appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

Any person named in the decision that receives a copy of a petition for a stay and/or an appeal see 43 CFR 4.472(b) for procedures to follow if you wish to respond.

Sincerely,

/signature on file/

Richard Roy
Three Rivers Resource Area Field Manager