

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

Stinkingwater Allotment Management Plan  
Environmental Assessment  
DOI-BLM-OR-B050-2009-0042-EA

## INTRODUCTION

Three Rivers Resource Area, Burns District, has prepared an Environmental Assessment (EA) to analyze recommended management actions developed through an Interdisciplinary Team (IDT) and the 2006 evaluation process for Stinkingwater Allotment to aid in accomplishing resource objectives and achieve Standards for Rangeland Health and Guidelines for Livestock Grazing Management and land use plan objectives for Stinkingwater Allotment set forth in the 1992 Three Rivers Resource Management Plan/Record of Decision (RMP/ROD)/Rangeland Program Summary.

During the 2006 Stinkingwater Allotment Evaluation an IDT of Burns District Bureau of Land Management (BLM) staff determined that Standard 2 – Watershed Function – Riparian/Wetland Areas, Standard 4 – Water Quality, and Standard 5 – Locally Important Species (redband trout) are not being achieved along Stinkingwater and Little Stinkingwater Creeks. Authorized late season livestock and wild horse grazing were identified as causal factors for these streams failing to achieve these Standards. Current livestock grazing management is not conforming to the guidelines for season of use, timing and grazing intensity in these riparian areas. Current grazing management is achieving Standard 1 – Watershed Function – Uplands, Standard 3 – Ecological Processes, and Standard 5 – Locally Important Species (sage-grouse). See Table 1 in the attached EA for more information on Standards for Rangeland Health Determinations.

Stinkingwater Allotment is located 30 miles east of Burns, Oregon, and 10 miles southwest of Drewsey, Oregon. Stinkingwater Allotment contains 23,775 acres of BLM-administered land and 1,083 acres of private land, for a total of 24,858 acres.

## SUMMARY OF THE PROPOSED ACTION

The following would be the result of the Proposed Action.

- a. Livestock Grazing Management
  - (1) Livestock grazing management would be authorized to provide periodic growing season rest to upland plant species. Grazing management in riparian areas would be designed to limit grazing intensity and remove livestock grazing during the critical growth period of riparian vegetation.

- (2) Season of use would not change and Permitted Active Use would remain at 2,857 AUMs for livestock.
- (3) Adaptive management and monitoring would be used to provide flexibility in grazing management, and changes in rotations may occur in order to achieve resource objectives.

b. Permit Renewal

Three 10-year term grazing permits (#3600067, 3602289, and 3602278) would be renewed with no changes in Active Use AUMs or season of grazing use in Stinkingwater Allotment.

c. Range Improvement Projects

Refer to attached Allotment Management Plan/EA Map D: Proposed Action Rangeland Improvements. General Project Design Elements for Proposed Range Improvements would be implemented as described in the EA.

(1) Spring Development:

One spring would be developed by BLM and maintained by the grazing permittee. The spring is located within the Stinkingwater Pass Pasture in T. 22 S., R. 34 E., Section 22, SE $\frac{1}{4}$ NE $\frac{1}{4}$ .

(2) Riparian Enclosures:

- (a) Clear Creek Seeding Pasture: Construct one-half mile of four-strand barbed wire fence along the west side of Stinkingwater Creek. The proposed fence would tie into the existing pasture boundary fences for the Stinkingwater Seeding and Bartlett Mountain Pastures, subsequently creating a riparian enclosure along this reach of Stinkingwater Creek.
- (b) Bartlett Mountain Pasture: Construct one-half mile of four-strand barbed wire fence along the east side of Stinkingwater Creek and Little Stinkingwater Creek (at its confluence with Stinkingwater Creek). The proposed fence would tie into the existing pasture boundary fences for the Clear Creek Seeding Pasture and adjacent private land, subsequently creating a riparian enclosure along these creeks.

(3) Stinkingwater Creek Water Gap:

Construct a water gap into the proposed Stinkingwater Creek enclosure within the Clear Creek Seeding Pasture. This water gap would be located along an existing livestock/wild horse trail to provide easy access to livestock and wild horses. The water gap is needed to provide reliable water to livestock and year-round water to wild horses on the east side of this pasture, while excluding access to the majority of Stinkingwater Creek.

(4) Additional Bartlett Mountain Water Source:

Option 1: Solar Pump and Trough (preferred option)

Install a new water trough (1,500-gallon aluminum) and storage tank in the southeast corner of the Bartlett Mountain Pasture (T. 22 S., R. 35 E., Section 2, NE<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>). This trough would be serviced by installing a solar powered submersible pump to pump water from Little Stinkingwater Creek (on adjacent private land) to the proposed trough.

Option 2: Bartlett Mountain Well (to be used only if "Option 1" fails to provide reliable water)

Drill a new well and install a new water trough (1,500-gallon aluminum or 10-foot bottomless) and storage tank in the southeast corner of the Bartlett Mountain Pasture (T. 22 S., R. 35 E., Section 2, NE<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>).

d. Monitoring

Monitoring by BLM staff in coordination with the livestock operator of the success in achieving allotment-specific resource objectives would take place following implementation.

## 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 Stinkingwater 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 RMP/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/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, to which the EA is tiered.

Biological Soil Crusts: Biological Soil Crust (BSC) cover could be reduced in localized areas around range improvements, watering areas, salting grounds and fence corners, as a result of livestock and wild horse concentration. Proposed range improvements may induce concentrated use with localized impacts to BSCs. However, range improvements which increase dispersal of herbivores (spring development and trough/well) would have an inverse effect and likely benefit BSCs allotmentwide; although soil chemistry would still be the determining factor in presence or absence of BSCs.

Cultural Heritage: Grazing would not likely affect cultural resources to a greater extent than historic grazing effects. While surface impacts can cause artifact breakage and vertical and horizontal displacement of artifacts, generalized grazing is not anticipated to result in greater impacts than those already evident at cultural sites.

Sites located within the proposed riparian exclosures (Stinkingwater and Little Stinkingwater Creeks) would not continue to be affected by livestock and wild horse grazing. Sites located near new water developments (well and spring) or within the water gap on Stinkingwater Creek would be subject to new trampling effects. At these localized areas of disturbance, a cycle of trampling and subsequent erosion can result in complete loss of several feet of soil and cultural materials.

Grazing Management/Rangelands: The Proposed Action would implement range improvement projects to aid grazing management in achieving or make significant progress toward achieving all rangeland health standards and guidelines. The proposed riparian exclosures would remove livestock and wild horse grazing as causal factors for Stinkingwater and Little Stinkingwater Creeks failing to achieve riparian, water quality, and Special Status Species standards. Removal of late season grazing would likely result in riparian habitat improvement along these streams. It is anticipated that all rangeland health standards and guidelines would be achieved as well as allotment-specific resource objectives within 10 years of implementing the Proposed Action.

Migratory Birds: Proposed range improvements would protect riparian habitat along approximately 1.3 miles of Stinkingwater and 0.25-mile of Little Stinkingwater Creek from livestock and wild horse trampling and grazing. Excluding grazing from this sensitive area would promote recovery of late-seral riparian vegetation. Plants in the exclosure area would provide more horizontal and vertical cover and increased structural diversity important to migratory birds for nesting and foraging habitat.

Noxious Weeds: Implementing the proposed riparian exclosures along Stinkingwater and Little Stinkingwater Creeks would promote the establishment of desired riparian vegetation within these areas. Maintaining a healthy and productive riparian plant community along these creeks would increase resistance to noxious weed introduction and spread. Periodic growing season rest from livestock grazing would maintain upland plant vigor and increase resistance to noxious weed introduction and spread.

Recreation: The proposed riparian exclosures would improve riparian conditions, subsequently improving wildlife habitat and recreational opportunities such as hunting and viewing. Temporary disturbances would occur during construction of the proposed projects; however, effects to recreation are expected to be immeasurable for the allotment as a whole, given their short term and localized nature.

Riparian Zones, Wetlands, and Water Quality: Excluding Stinkingwater and Little Stinkingwater Creeks from livestock and wild horse use would eventually result in late seral, deep-rooted hydric vegetation throughout the riparian zones and greater recruitment of deciduous woody species. Excluding the spring source at the proposed spring development in Stinkingwater Pass Pasture would prevent trampling of the spring currently accessible to livestock and wild horses. Continued early season livestock grazing along Clear Creek would maintain or improve riparian conditions along this creek; however, improvement may be limited as wild horses have year-round access to this creek.

Social and Economic Values: Providing for sustainable grazing management that improves habitat conditions for wildlife and wild horses would in turn increase economic opportunities for livestock operations, help sustain livelihoods for the multiple families employed by these ranching operations, and foster more desirable social opportunities.

The area's intrinsic values (i.e., open space, scenic quality, and recreational opportunities) would be maintained and likely enhanced; however, some visitors may feel additional range improvements would detract from their recreational experience.

Soils: The proposed grazing exclosures along Stinkingwater and Little Stinkingwater Creeks would remove livestock and wild horse concentration in these saturated areas, subsequently eliminating large ungulate disturbance to soil. Over time, reduced soil erosion and increased streambank stability would likely occur in these areas. Localized soil disturbance from livestock and wild horse concentration would occur around new range improvements.

Special Status Species: Exclusion of late season livestock and wild horse grazing along Stinkingwater and Little Stinkingwater Creeks would improve forage and cover availability for sage-grouse and sensitive bat species along these creeks. Periodic growing season rest would be provided to all upland portions of the allotment and grazing is expected to continue to achieve Rangeland Health Standards and Guidelines.

Upland Vegetation: Upland vegetation would continue to receive either a deferred, winter, or rest grazing treatment following a year of growing season grazing. This allows key forage plant species to complete their life cycles, maintain vigor, reach seed ripe, and store adequate carbohydrate reserves every other year. Providing additional water sources within the Stinkingwater Pass and Bartlett Mountain Pastures would promote enhanced livestock and wild horse distribution and reduce grazing pressure around existing water sources. Promoting enhanced grazing distribution would help ensure utilization remains at or below target levels.

Wildlife: Wildlife habitat would likely improve with selection of the Proposed Action. Proposed range improvements, including fencing around the spring above Clear Creek and along Stinkingwater and Little Stinkingwater Creeks, would protect riparian areas and promote recovery of riparian vegetation important for forage and cover. The Proposed Action is expected to sustain and stimulate rangeland vegetation, improve riparian condition, promote enhanced livestock and wild horse distribution, improve water availability and provide more flexibility in timing of use. All of these factors would benefit wildlife and their habitat, while reducing potential conflicts with livestock and wild horses.

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.

Areas of Critical Environmental Concern (ACECs): Approximately 1,740 acres of the Biscuitroot Cultural ACEC designated lands fall within the Stinkingwater Pass Pasture of Stinkingwater Allotment. This is home to a number of historic and modern root gathering camp locations, and Burns Paiute Tribal members also use the area for sacred or religious activities. Under the proposed grazing rotation, the Stinkingwater Pass Pasture would receive deferred grazing every other year, thus perpetuating traditional use plant species within the ACEC. On years when this pasture receives a graze treatment, grazing would not occur until the first week of June, which on most years would be toward the end of the root gathering season. All proposed range improvements are outside the ACEC boundary and view shed. There would be no additional affects to the ACEC.

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 alternatives. 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 to which this proposal is tiered.
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 the Stinkingwater Allotment. The EA described the current state of the environment (Affected Environment by Resource, Chapter III) which included the effects of past actions. Continued livestock grazing, recreational activities, wild horse gathers, weed treatments, and road maintenance are known Reasonably Foreseeable Future Actions and were also addressed under Chapter III of the EA by resource.
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 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 and alternatives do 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

October 6, 2010  
Date

**NOTICE OF PROPOSED DECISION**  
To Implement  
Stinkingwater Allotment Management Plan  
Environmental Assessment  
DOI-BLM-OR-B050-2009-0042-EA

**A. BACKGROUND**

The Stinkingwater Allotment Management Plan/Environmental Assessment (AMP/EA) analyzed recommended management actions developed through an Interdisciplinary Team and the 2006 evaluation process for Stinkingwater Allotment to aid in accomplishing resource objectives and achieve Standards for Rangeland Health and Guidelines for Livestock Grazing Management and land use plan objectives. The AMP/EA was also prepared to analyze the renewal of three term grazing permits.

**B. PROPOSED DECISION**

Having considered the Proposed Action, No Action Alternative, and other alternatives and associated impacts and based on analysis in the Stinkingwater AMP/EA and with consideration of public comments, it is my Proposed Decision to authorize implementation of the Proposed Action (Alternative B). Implementation of the Proposed Action will provide measureable progress toward achieving Standards for Rangeland Health and Guidelines for Livestock Grazing Management (August 12, 1997) and allotment-specific resource objectives.

Additionally, a Finding of No Significant Impact (FONSI) found the Proposed Action and alternatives 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.

Implementing the Proposed Action will include the following elements:

1. Livestock Grazing Management

- a. Livestock grazing management will be authorized to provide periodic growing season rest to upland plant species. Grazing management in riparian areas will limit grazing intensity and remove livestock grazing during the critical growth period of riparian vegetation.
- b. Season of use will not change and Permitted Active Use will remain at 2,857 AUMs for livestock.
- c. Adaptive management and monitoring will be used to provide flexibility in grazing management, and changes in rotations may occur in order to achieve resource objectives.

2. Permit Renewal

Three 10-year term grazing permits (#3600067, 3602289, and 3602278) will be renewed with no changes in Active Use AUMs or season of grazing use in Stinkingwater Allotment.

3. Range Improvement Projects

Refer to Stinkingwater AMP/EA Map D: Proposed Action Rangeland Improvements. General Project Design Elements for Proposed Range Improvements will be implemented as described in the EA (Page 16).

a. Spring Development:

One spring will be developed by the Bureau of Land Management (BLM) and maintained by the grazing permittee. The spring is located within the Stinkingwater Pass Pasture in T. 22 S., R. 34 E., Section 22, SE $\frac{1}{4}$ NE $\frac{1}{4}$ .

b. Riparian Exclosures:

- (1) Clear Creek Seeding Pasture: Construct one-half mile of four-strand barbed wire fence along the west side of Stinkingwater Creek. The proposed fence will tie into the existing pasture boundary fences for the Stinkingwater Seeding and Bartlett Mountain Pastures, subsequently creating a riparian exclosure along this reach of Stinkingwater Creek.
- (2) Bartlett Mountain Pasture: Construct one-half mile of four-strand barbed wire fence along the east side of Stinkingwater Creek and Little Stinkingwater Creek (at its confluence with Stinkingwater Creek). The proposed fence will tie into the existing pasture boundary fences for the Clear Creek Seeding Pasture and adjacent private land, subsequently creating a riparian exclosure along these creeks.

c. Stinkingwater Creek Water Gap:

Construct a water gap into the proposed Stinkingwater Creek exclosure within the Clear Creek Seeding Pasture. This water gap will be located along an existing livestock/wild horse trail to provide easy access to livestock and wild horses. The water gap is needed to provide reliable water to livestock and year-round water to wild horses on the east side of this pasture, while excluding access to the majority of Stinkingwater Creek.

d. Additional Bartlett Mountain Water Source:

Option 1: Solar Pump and Trough (preferred option)

Install a new water trough (1,500-gallon aluminum) and storage tank in the southeast corner of the Bartlett Mountain Pasture (T. 22 S., R. 35 E., Section 2, NE $\frac{1}{4}$ NW $\frac{1}{4}$ ). This trough will be serviced by installing a solar powered submersible pump to pump water from Little Stinkingwater Creek (on adjacent private land) to the proposed trough.

Option 2: Bartlett Mountain Well (to be used only if "Option 1" fails to provide reliable water)

Drill a new well and install a new water trough (1,500-gallon aluminum or 10-foot bottomless) and storage tank in the southeast corner of the Bartlett Mountain Pasture (T. 22 S., R. 35 E., Section 2, NE $\frac{1}{4}$ NW $\frac{1}{4}$ ).

## 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 May 4, 2010, for a 30-day public comment period. In addition, a public notice was posted in the *Burns Times-Herald* newspaper on May 5, 2010.

The Burns District BLM received three separate public comments on the Stinkingwater AMP/EA. The BLM responses to public comments are included below:

Comment 1:

**Our biggest concern is the odd year grazing rotation within Conly Basin and Clear Creek Seeding Pastures from both a management and rangeland health standpoint. Conly Basin is higher in elevation and experiences later plant growth and the ground is soft later than Clear Creek Seeding. It seems that it would be better if livestock could graze Clear Creek Seeding first, then move into Conly Basin, then move into Stinkingwater Pass.**

Response 1:

The odd year grazing rotation for the Proposed Action has been adjusted to graze Clear Creek Seeding first, and then move into Conly Basin Pasture. The EA (Page 12 and Map C-1) have been modified to include these changes. Grazing Clear Creek Seeding prior to Conly Basin will be the same as current management which has allowed adequate regrowth of riparian vegetation along Clear Creek within Conly Basin Pasture. Additionally, this adjustment will not change planned periods of grazing rest or deferral for the remaining pastures within Stinkingwater Allotment.

Comment 2:

**We are concerned that the planned water gap in Stinkingwater Creek may be too small to accommodate the feral horses and livestock, and it would be extremely difficult to maintain if the animals are too tightly confined.**

Response 2:

As discussed in the EA (Page 15) "the water gap would be small enough (width <100 feet) to discourage livestock and wild horse loafing in the area." It is anticipated that a 100-foot water gap will provide livestock and wild horses adequate access (space) to water from Stinkingwater Creek, without putting excessive pressure on the water gap fence. However, annual maintenance of the proposed enclosures and water gap will likely be needed as these fences will experience more concentrated ungulate use.

Comment 3:

**With regards to the Proposed Stinkingwater Creek Exclosure, I would prefer not to cut across our private ground with the Exclosure Fence.**

Response 3:

The description of the proposed Stinkingwater Creek Exclosure (Clear Creek Seeding) within the EA (Page 14) has been adjusted to read "Unless a cooperative agreement can be reached to construct a portion of this fence on adjacent private land, this fence would follow the private property line north and cross over Stinkingwater Creek to tie in with the Bartlett Mountain Pasture boundary fence." Map D (attached to the EA) has also been updated to clarify the location of the proposed exclosure fence.

Comment 4:

**I also hope that a water gap can be installed on the Bartlett [Mountain] side of the fence and one that would not butt up against the gap for the Clear Creek Seeding.**

Response 4:

As stated in the EA (Page 15) "The water gap would cross to the east side of Stinkingwater Creek and tie in to the existing boundary fence with Bartlett Mountain Pasture. This would allow livestock access to the water gap when they are in the Clear Creek Seeding and Bartlett Mountain Pastures (at different times)." The proposed grazing rotation does not plan for livestock to be in Bartlett Mountain and Clear Creek Seeding Pastures at the same time; therefore, the water gap should be accessible to livestock whenever they are in each pasture. If adjustments to the planned grazing rotation permit livestock in both pastures at the same time, livestock will still have access to unfenced portions of Stinkingwater Creek on private land within Clear Creek Seeding, therefore, the water gap could remain open into Bartlett Mountain Pasture.

Comment 5:

**As far as the water source for the southeast corner of the Bartlett Mountain Pasture [Additional Bartlett Mountain Water Source], option #2 [Bartlett Mountain Well] would be way more reliable than setting up to pump out of Little Stinkingwater Creek if water wasn't reliable enough.**

Response 5:

As discussed in the EA (Page 16), Option 1 (pumping out of Little Stinkingwater Creek) is the preferred option because it is anticipated to cost less than drilling a new well (Option 2).

However, both options are analyzed under the Proposed Action in case Option 1 failed to provide reliable water within Bartlett Mountain Pasture.

#### **D. RATIONALE**

Having considered public comments and BLM responses, it is my decision that the comments did not reveal a need for additional analysis, and the noted revisions did not change analysis within Stinkingwater AMP/EA or the FONSI.

This Proposed Decision best meets the Purpose and Need for the action because 1) it implements livestock grazing management which will continue to achieve Rangeland Health Standards and Guidelines currently being achieved within Stinkingwater Allotment; 2) it eliminates late season livestock and wild horse grazing within riparian communities along Stinkingwater and Little Stinkingwater Creeks to make significant progress toward achieving Standards not currently met; and 3) it provides flexibility for annual variation in environmental conditions. In addition, the Proposed Decision was based on consultation with affected grazing permittees, local Harney County Government and other agencies, Burns Paiute Tribe, public comments, and conformance with applicable laws and regulations.

The No Action Alternative was not selected because it would fail to make significant progress toward achieving the Riparian, Water Quality, and Locally Important Species Standards. Alternative C was not selected because analysis within the EA showed that the Proposed Action would better achieve all Rangeland Health Standards by removing livestock and wild horse grazing from riparian communities along Stinkingwater and Little Stinkingwater Creeks.

I also selected the Proposed Action based on the following decision factors which are additional questions (outside of legal mandates) used to choose between alternatives that best meet project goals and resource objectives:

Will the Proposed Decision:

1. Improve livestock and wild horse distribution across the allotment and encourage more uniform utilization patterns?

Yes, the proposed spring development and additional water source in Bartlett Mountain Pasture will improve livestock and wild horse distribution across Stinkingwater Pass and Bartlett Mountain Pastures, which will result in more even utilization patterns.

2. Provide late season water to wild horses to maintain year-round wild horse range?

Yes, the proposed Stinkingwater Creek water gap will provide a reliable source of year-round water to wild horses to maintain wild horse range within Clear Creek Seeding.

3. Provide social and economic benefit to local communities and Harney County?

Yes, the Proposed Action will provide economic benefit to the local economy through the purchase of supplies and contracts to implement the proposed range improvements. In addition, the Proposed Action is designed to improve riparian and upland conditions, subsequently improving wildlife habitat and associated recreational opportunities.

#### **E. AUTHORITY**

Stinkingwater AMP/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 RMP goals and objectives and has been designed to conform to the following documents which direct and provide framework for management of BLM lands within 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 Richard Roy, Three Rivers Resource Area Field Manager, 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 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 4160.3(a) and 4160.4. 15. The appeal may be accompanied by a petition for a stay of the decision in accordance with 43 CFR 4.21, pending final determination on appeal. The appeal and petition for a stay must be filed in the office of the authorized officer, as noted above, within 30 days following receipt of the final decision, or within 30 days after the date the proposed decision becomes final.

This appeal shall state the reasons, clearly and concisely, why the appellant thinks the final decision is in error and otherwise comply with the provisions of 43 CFR 4.470 which is available at the BLM Office. 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 (43 CFR 4.471(b)). The petition for a stay and a copy of the appeal must also be filed with the Office of Hearings and Appeals at the following address:

United States Department of the Interior  
Office of Hearings and Appeals  
405 South Main Street, Suite 400  
Salt Lake City, Utah 84111

Should you wish to file a petition for a stay, you must file within the appeal period. In accordance with 43 CFR 4.21(b)(1), 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.
4. Whether or not the public interest favors granting the stay.

As noted above, the petition for stay must be filed in the office of the authorized officer.

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 of 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)).

Sincerely,

*/signature on file/*

Richard Roy  
Three Rivers Resource Area Field Manager