IN REPLY REFER TO:
1790 (ORL040)

October 15, 2010

NOTICE OF PROPOSED DECISION FOR THE
KETCHAM ALLOTMENT FENCING

INTRODUCTION AND BACKGROUND INFORMATION
Currently, the allotment boundary fence along the northeast portion of the Ketcham Allotment is not located on the BLM/private property line. The existing fence runs along the bottom of a slope on the adjacent private property and bisects a corner of BLM-administered land. The current fence is in need of replacement and the adjacent property owner has agreed to have the fence line constructed on the property line.

The Klamath Falls Resource Area (KFRA), BLM has completed the Ketcham Allotment Fencing Environmental Assessment (#DOI-BLM-OR-L040-2009-0009-EA) to analyze the effects of construction of the proposed boundary fence and determined that implementation of the action would result in no significant impact.

PROPOSED DECISION
My proposed decision is to implement the proposed action as described in EA #DOI-BLM-OR-L040-2009-0009-EA. The proposed action is to remove the existing fence and build a new section of fence on the property line. The BLM would supply the materials for the new fence and the adjacent private landowner and the allotment lessee would supply the labor to remove the old fence and to construct the new fence. The fence would be built to BLM specifications which would allow for wildlife passage. Clearing for the fence location would require the removal of 1-5 juniper trees and the trimming of branches on several trees.

RATIONALE
The new allotment boundary fence would be located in the correct location on the BLM/private land property line. This would correct any current or future concerns with resource use on the BLM lands or the adjacent private lands.
AUTHORITY
The authority for this decision is contained in Title 43 of the Code of Federal Regulations (CFR), 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." In addition, 4120.3-1 (f) "Proposed range improvement projects shall be reviewed in accordance with the requirements of the National Environmental Policy Act of 1969 (42U.S.C. 4371 et seq.). The decision document following the environmental analysis shall be considered the proposed decision under 4160 of this part."

ADMINISTRATIVE REMEDIES
PROTEST
Any applicant, permittee, lessee or other person whose interest is adversely affected by the proposed decision may protest it in accordance with 43 CFR 4160.2 within 15 days from receipt of this decision. The protest should specify the reason(s), clearly and concisely, why the decision is in error. The protest should be submitted in writing to me at:

Bureau of Land Management
2795 Anderson Avenue, Building 25
Klamath Falls, Or 97603

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) upon a timely filing of a protest, after a review of protests received and other information pertinent to the case, the authorized officer shall issue a final decision.

APPEAL
Any applicant, permittee, lessee or other person whose interest is adversely affected by the final decision may file an appeal and petition for stay of the decision pending final determination on appeal for the purpose of a hearing before an Administrative Law Judge in accordance with 43 CFR 4160.3(c), 4160.4, 4.21, 4.470, and 4.471. 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 30 days after the date the proposed decision becomes final. 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:

U.S. Department of Interior
Office of Hearings and Appeals
Departmental Hearings Division
405 South Main Street, Suite 400
Salt Lake City, UT 84111
The appeal must be in writing and state the reasons, clearly and concisely, why the appellant thinks the final decision is in error and also must comply with the provisions of 43 CFR 4.470. It is suggested that any notice of appeal be sent certified mail return receipt requested.

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, a petition for a stay must show sufficient justification based on the following standards under 43 CFR 4.21:

(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.

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.

/s/ Donald J. Holmstrom 10/14/2010
Donald J. Holmstrom
Field Manager

Enclosure
Cc: (by certified mail):