



# United States Department of the Interior



## BUREAU OF LAND MANAGEMENT

California State Office  
2800 Cottage Way, W1623  
Sacramento, CA 95825  
[www.blm.gov/ca](http://www.blm.gov/ca)

### DECISION RECORD

**Bishop Resource Management Plan Amendment  
to  
Eliminate domestic sheep as the kind of livestock that may be authorized under term grazing  
permits for the Dog Creek and Green Creek allotments, Mono County, California**

Lead Agency:

*United States Department of the Interior  
Bureau of Land Management*

EA CA 170-09-002

*United States Department of the Interior  
Bureau of Land Management  
Bishop Field Office  
351 Pacu Lane  
Bishop, CA 93514*

**October 2014**



*This page left intentionally blank*

## INTRODUCTION

The Bureau of Land Management (BLM) completed its environmental review (EA CA 170-09-0002 and Finding Of No Significant Impacts (FONSI)) concerning future domestic sheep use authorizations for the Dog Creek and Green Creek allotments in Mono County, California in April 2013. Upon review and in compliance with the Federal Land Management and Policy Act of 1976 (FLPMA) as amended, the National Environmental Policy Act of 1969 (NEPA) as amended, and other applicable authorities, the BLM selected Alternative 4 - No Domestic Sheep Grazing/Crossing Permit Only (Proposed Action) as the preferred alternative for future domestic sheep use authorizations on these allotments. Under this decision, the Dog Creek and Green Creek allotments would be closed to sheep grazing. The allotments would remain available for permitted livestock use under the Bishop RMP; however, any future term grazing permit application(s) would require the completion of a subsequent environmental review under the NEPA to determine the suitability of the allotments for the proposed grazing use.

A land use plan amendment is required because closing the Dog Creek and Green Creek allotments to domestic sheep grazing under a term grazing permit as outlined in the selected alternative (Alternative 4) does not conform to the applicable terms and conditions of the Bishop Resource Management Plan (RMP) (BLM 1993) as required by 43 CFR 1610.5-3(b). The current mandatory terms and conditions (43 CFR 4130.3-1(a)) for these allotments identify livestock kind as sheep only (Bishop RMP, p. A4-10). The land use plan amendment must be approved by the BLM California State Director.

The Proposed Action, as described in the EA and FONSI, also included the issuance of a temporary crossing permit. The temporary crossing permit conforms with the applicable terms and conditions of the Bishop RMP, and therefore a land use plan amendment was not required for that action. The decision authorizing the temporary crossing permit was signed by the Bishop Field Manager in April 2013. This decision does not modify the temporary crossing permit issued by the Bishop Field Manager or amend the Bishop RMP provisions allowing for trailing permits.

## DECISION

This decision amends the Bishop RMP (1993) and eliminates domestic sheep as the kind of livestock that may be authorized under the applicable mandatory terms and conditions for term grazing permits on the Dog Creek and Green Creek allotments in Mono County, California. The allotments remain available for permitted livestock use (allotted) under the Bishop RMP; however, any future term grazing permit application(s) shall require the completion of, and be subject to, subsequent environmental review(s) under the NEPA to determine the suitability of the allotments for the proposed grazing use. The authorization of any future term grazing permits for the Dog Creek and Green Creek allotments, or closure of the allotments to domestic livestock grazing would be a Bishop Field Manager decision and subject to the Bishop RMP, as amended by the Central California Standards for Rangeland Health and Guidelines for Livestock Grazing Management (BLM 2000) and this RMP amendment.

No new term grazing permit authorizations for either allotment are being issued as part of this land use plan amendment decision. This decision does not modify the temporary crossing permit issued by the Bishop Field Manager or amend the Bishop RMP provisions allowing for trailing permits.

### **ALTERNATIVES CONSIDERED BUT NOT SELECTED**

In April 2013, the Bishop Field Office completed EA CA 170-09-0002. Four alternatives were analyzed in detail and the Bishop Field Manager issued a FONSI for the selected alternative (Alternative 4) on April 18, 2013. Brief descriptions of the alternatives considered but not selected are provided below:

- 1) Modified Grazing Permit: Under this alternative, the BLM would issue new permits following the guidance provided by the Bishop RMP (BLM 1993), as amended by the Central California Standards for Rangeland Health and Guidelines for Livestock Grazing Management (BLM 2000), with additional management prescriptions based on Baumer et al. (2009) that would reduce, but not eliminate, the risk of contact between domestic sheep and Sierra Nevada bighorn sheep on the allotments.
- 2) Current Management/No Action: Under this alternative, the BLM would issue new permits with the same terms and conditions as the expired permits.
- 3) No Grazing: Under this alternative, the BLM would close the allotments to domestic livestock use, therefore cancelling the permits for both the Dog Creek and the Green Creek allotments.

The BLM also considered the conversion of livestock kind from domestic sheep to cattle on the Dog Creek and Green Creek allotments. This alternative was eliminated from detailed analysis because: 1) it did not meet the stated purpose and need for action, which was to consider whether or not to authorize domestic sheep grazing for 10 years on the Dog Creek and Green Creek allotments; and 2) it was considered to be technically and economically infeasible because there is currently no infrastructure (e.g. allotment boundary fencing) on these two allotments that would allow for cattle use and this infrastructure cannot reasonably be expected to be developed in the foreseeable future.

### **MANAGEMENT CONSIDERATIONS AND RATIONALE**

The Bishop RMP (BLM 1993) provides a comprehensive framework for managing land use authorizations, including term grazing permits, for public lands administered by the Bishop Field Office. Mandatory terms and conditions, including livestock kind, for all allotments administered by the Bishop Field Office are prescribed at the land use planning level by the Bishop RMP. The Bishop RMP also prescribes which public lands administered by the Bishop Field Office are available for livestock grazing (allotted vs. un-allotted).

The base property for the Dog Creek allotment consists of private lands at Sinnamon Meadow. The sheep operator first acquired the grazing preference in 2004 under a lease agreement with the private

landowner. The grazing permit for the Dog Creek allotment authorized 985 sheep (990 animal unit months (AUMS)). In 2012 the private property was sold to a cattle operator and the lessee lost control of the base property and the permit was terminated.

The base property for the Green Creek allotment consists of private lands at Sario Ranch. The owner of the base property leased the private land to a sheep operator who first acquired the grazing preference in 1983 under a lease agreement. The grazing permit for the Green Creek allotment authorized 607 sheep (550 AUMS). The permit expired in 2009 and the sheep operator did not sign a lease agreement for the 2010, 2011, or 2012 grazing seasons to avoid conflicts and to provide the BLM time to complete the environmental review process.

Disease transmission from domestic sheep was identified as one of the primary threats to the federally endangered Sierra Nevada bighorn sheep, which currently inhabit the Sierra Nevada range to the south and west of the Dog Creek and Green Creek allotments. Both allotments were identified by the U.S. Fish and Wildlife Service (FWS) as relatively high-risk allotments for disease transmission because of the potential for contact associated with domestic sheep grazing in close proximity to occupied Sierra Nevada bighorn sheep habitat (FWS 2007). Large portions of both allotments are considered to pose a “high/unacceptable risk of contact” between domestic sheep and Sierra Nevada bighorn sheep (Croft et al. 2009 and 2010). Preventing contact between domestic sheep and Sierra Nevada bighorn sheep is considered critical to recovery of the species (FWS 2007).

Alternatives 1 and 2 do not provide adequate levels of assurance that the risk of contact between domestic sheep and Sierra Nevada bighorn sheep would be eliminated. Alternative 3 would close the allotments to all domestic livestock use which is not warranted; the EA did not identify any significant environmental risks associated with potential livestock use.

Based on the best available science, the analyses conducted in EA CA 170-09-0002, the FONSI dated April 18, 2013, and the recommendation of the Bishop Field Manager, I have decided to amend the Bishop RMP as described in Alternative 4 - No Domestic Sheep Grazing/Crossing Permit Only (Proposed Action). A key consideration in my decision is the ability to effectively eliminate the risk of contact, and therefore the threat of disease transmission, between domestic sheep and Sierra Nevada bighorn sheep on the allotments. Furthermore, although it does not specifically authorize it, this land use plan amendment allows for the consideration of future grazing use by livestock other than domestic sheep subject to further environmental review.

## **PUBLIC INVOLVEMENT**

On December 17, 2007, a Notice of Proposed Action (NOPA) was sent to one hundred and twenty-five interested publics. The NOPA contained the Need for the Proposed Action, Plan Conformance, the Proposed Action and Alternatives, a schedule for EA completion, and area maps. The NOPA was also posted on the BLM website for public review at <http://www.blm.gov/ca/st/en/fo/bishop.html>. The NOPA provided a 30-day comment period on the proposed action and alternatives. One letter was received from the Natural Resource Conservation Service (NRCS) on December 21, 2007 and comments were addressed within EA CA 170-09-0002. No other comments were received and no

issues or additional alternatives were identified as a result of this initial public scoping.

On April 29, 2010, a Notice of Intent to Prepare an Environmental Assessment for Domestic Sheep Grazing on the Dog Creek and Green Creek Allotments, Mono County, CA, and Possible Land Use Plan Amendment was published in the Federal Register (Federal Register Vol. 75, No. 82, Pages 22617-22618). This Notice of Intent initiated the formal public scoping process for Environmental Assessment CA 170-09-0002 and the possible Bishop Resource Management Plan Amendment. The public was provided until June 1, 2010 to submit comments on issues. Eight comment letters were received as a result of this formal public scoping. Issues identified through public scoping included the possible effects to greater sage-grouse, Sierra Nevada bighorn sheep, cultural resources, social and economic values, invasive species, water quality, and numerous other potentially effected resources. These issues were incorporated into the environmental assessment. No additional alternatives were identified as a result of this public scoping effort.

On March 8, 2011, EA CA 170-09-0002 was made available for a two week public review and comment period and posted on the BLM website at <http://www.blm.gov/ca/st/en/fo/bishop.html>.

On March 22, 2011, at the close of the comment period, the Bishop Field Office had received eight comment letters on EA CA 170-09-0002 from interested publics. Two respondents expressed a preference for Alternative 1 (Modified Grazing Permit) or Alternative 2 (Current Management/No Action) and three respondents expressed a preference for Alternative 3 (No Grazing). Comments were incorporated into the EA to clarify and update the analyses. Appendix 1 was added to the EA and provides a summary of the substantive comments received and the BLM responses to comments.

In April 2013, the Bishop Field Office completed EA CA 170-09-0002 and on April 18, 2013, the Bishop Field Manager made a FONSI for the selected alternative (Alternative 4 - No Domestic Sheep Grazing/Crossing Permit Only (Proposed Action)).

On April 23, 2013, the BLM released a proposed Bishop RMP Amendment to eliminate domestic sheep as the kind of livestock that may be authorized under the applicable mandatory terms and conditions for term grazing permits for the Dog Creek and Green Creek allotments. In accordance with BLM resource management planning regulations (43 CFR 1610.5-2), a 30-day protest period for the proposed Bishop RMP Amendment began on April 23, 2013 and ended on May 22, 2013. Two protest letters were received. The BLM Assistant Director for Renewable Resources and Planning has reviewed and responded to the protests. For more information on protest resolution, see the "Protests" section below.

## **CONSULTATION AND COORDINATION**

### **Endangered Species Act - Section 7 Consultation**

The Bishop Field Office consulted with the FWS pursuant to 50 CFR 402.14 and Section 7 of the Endangered Species Act (ESA) of 1973 as amended and determined that amending the Bishop RMP to eliminate domestic sheep as the kind of livestock that may be authorized under the applicable mandatory terms and conditions of term grazing permits for the Dog Creek and Green Creek

allotments is a beneficial agency action. In a Memorandum to the Bishop Field Manager dated May 15, 2012, the FWS concurred with the Bureau's determination and found that "the proposed closure of the Dog Creek and Green Creek allotments would benefit the Sierra Nevada bighorn sheep by eliminating potential contact with domestic sheep on these allotments, and thereby eliminating the potential transmission of disease. Consequently, we concur that this proposed action is not likely to adversely affect the Sierra Nevada bighorn sheep."

The purpose of consultation with the FWS was to ensure that implementation of the proposed action developed and analyzed under the NEPA also conforms to the requirements of the ESA and the guidance provided by the Bureau's special status species management policy. Consultation with the FWS concerning the proposed Bishop RMP Amendment has been completed and further consultation pursuant to Section 7 of the ESA is not required.

#### Tribal Consultation and Coordination

In July 2014 certified letters were sent to the Chair and Environmental Coordinator of the Bridgeport Indian Colony informing them of the proposed changes to the Dog Creek and Green Creek allotments and the corresponding amendment to the RMP. The letters requested tribal input with regard to the proposed changes and asked if the tribe would like to participate in more formal consultation. After thirty days had elapsed, follow-up phone calls were made to the tribal office and several messages were left with the tribal secretary. No response was received.

#### State and Local Plan Consistency Review

In accordance with the FLPMA and BLM resource management planning regulations (43 CFR 1610.3-2), BLM RMPs and land use plan amendments must be consistent with officially approved or adopted resource related plans of State and local governments and the BLM must identify any known inconsistencies with state or local plans, policies, or programs. The BLM must also provide the Governor with up to 60 days in which to identify any inconsistencies and submit recommendations.

On April 23, 2013, the BLM submitted the proposed Bishop RMP Amendment, EA, and FONSI to the California Governor's Office of Planning and Research, State Clearinghouse and Planning Unit for consistency review. In a letter dated June 21, 2013, the Governor's Office of Planning and Research found no "inconsistencies" between the proposed plan amendment and any state or local plans, policies, or programs.

### **PROTESTS**

In accordance with BLM planning regulations (43 CFR 1610.5-2), a 30-day protest period for the proposed Bishop RMP Amendment began on April 23, 2013 and ended on May 22, 2013. The BLM received two timely protest letters on the proposed plan amendment. One protester believed the proposed amendment violated the law and BLM policy because it did not ensure a permanent end to domestic sheep grazing on the land covered by the waived permit and that the BLM failed to take the

NEPA-required “hard look” at the environmental effects of the proposed action when it did not disclose potentially significant cumulative effects of cattle grazing on the Sierra Nevada bighorn sheep. The second protestor believed the BLM’s EA did not adequately analyze the economic impacts from the loss of sheep grazing in the local and regional area.

The Assistant Director for Renewable Resources and Planning reviewed and responded to the protests via Certified Mail on October 17, 2014. The Director’s Protest Resolution Report was also posted on the BLM Protest Report website on October 17, 2014 at [http://www.blm.gov/wo/st/en/prog/planning/planning\\_overview/protest\\_resolution/protestreports.html](http://www.blm.gov/wo/st/en/prog/planning/planning_overview/protest_resolution/protestreports.html).

### **AUTHORITY AND CONFORMANCE WITH BLM PLANS AND POLICY**

Statutory and regulatory authorities for this decision are contained in the Federal Land Policy and Management Act of 1976 (FLPMA) as amended (43 USC 1701 *et seq.*), the National Environmental Policy Act of 1969 (NEPA) as amended (42 USC 4321 *et seq.*), the Taylor Grazing Act of 1934 as amended (43 USC 315 *et seq.*), the Endangered Species Act of 1973 (ESA) as amended (16 USC 1531 *et seq.*), and the BLM Resource Management Planning Regulations (43 CFR 1610) and Grazing Administration Regulations (43 CFR 4100).

This decision is also consistent with BLM policy and the overall guidance and direction provided by the Bishop RMP (BLM 1993) as amended by the Central California Standards for Rangeland Health and Guidelines for Livestock Grazing Management (BLM 2000).

**STATE DIRECTOR'S DECISION**

My decision is to approve the proposed Bishop RMP Amendment as detailed in this decision record. This approved land use plan amendment was described and analyzed as part of the Proposed Action (Alternative 4 - No Domestic Sheep Grazing/Crossing Permit Only) in EA CA 170-09-0002. The Bishop Field Manager made a FONSI for the selected alternative (Alternative 4) on April 18, 2013.

As a result of this decision, the Bishop RMP (1993) is hereby amended to eliminate domestic sheep as the kind of livestock that may be authorized under the applicable mandatory terms and conditions of term grazing permits for the Dog Creek and Green Creek allotments in Mono County, California. The allotments remain available for permitted livestock use (allotted) under the Bishop RMP; however, any future term grazing permit authorization(s) shall require the completion of, and be subject to, subsequent environmental review(s) under the NEPA to determine the suitability of the allotments for the proposed grazing use. The authorization of any future term grazing permits for the Dog Creek and Green Creek allotments, or closure of the allotments to domestic livestock grazing, shall be at the discretion of the Bishop Field Manager and subject to the Bishop RMP (BLM 1993), as amended by the Central California Standards for Rangeland Health and Guidelines for Livestock Grazing Management (BLM 2000) and this RMP amendment.

No new term grazing permit authorizations for either allotment are being issued as part of this land use plan amendment decision.

An amendment to an approved RMP may be approved by the State Director only after resolution of any protests by the BLM Director (43 CFR 1610.5-1, 1610.5-2, 1610.5-5). The Director has resolved all protests on the proposed Bishop RMP Amendment and, in accordance with BLM regulations, his decision on the protests is the final decision of the Department of the Interior (43 CFR 1610.5-2(b)).

Recommended by:

/s/ Dale F. Johnson (signed for)

10/15/2014

\_\_\_\_\_  
Steven L. Nelson  
Bishop Field Manager  
Bureau of Land Management  
U.S. Department of the Interior

\_\_\_\_\_  
Date

Approved by:

/s/ James G. Kenna

10/17/2014

\_\_\_\_\_  
James G. Kenna  
State Director, California  
Bureau of Land Management  
U.S. Department of the Interior

\_\_\_\_\_  
Date

## REFERENCES

- Baumer, A., N. East, J. Echenique, M. Haworth, M. Leinassar, C. Papouchis, T. Stephenson, D. Weaver, and G. Wilson. 2009. A process for identifying and managing risk of contact between Sierra Nevada bighorn sheep and domestic sheep. February 2009. 37 pp.
- Croft, B., M. Haworth, M. B. Hennessy, R. Mazur, S. Nelson, R. Perloff, J. Robson, and T. Stephenson. 2009. Application of the document entitled, a process for identifying and managing risk of contact between Sierra Nevada bighorn sheep and domestic sheep. April 2009. 12 pp.
- Croft, B., A. Fesnock, M. Haworth, M. B. Hennessy, R. Mazur, S. Nelson, R. Perloff, J. Robson, and T. Stephenson. 2010. Application of the document entitled, a process for identifying and managing risk of contact between Sierra Nevada bighorn sheep and domestic sheep. April 2009, Revised February 2010. 24 pp.
- Bureau of Land Management. 1993. Bishop Resource Management Plan Record of Decision, April 1993.
- Bureau of Land Management. 2000. Central California Standards for Rangeland Health and Guidelines for Livestock Grazing Management, Record of Decision.
- Fish and Wildlife Service. 1999. Endangered and threatened wildlife and plants: Emergency rule to list the Sierra Nevada distinct population segment of California bighorn sheep as endangered. Federal Register 64:19300-19309. April 20, 1999.
- Fish and Wildlife Service. 2000. Endangered and threatened wildlife and plants: Final rule to list the Sierra Nevada distinct population segment of California bighorn sheep as endangered. Federal Register 65:20-30. January 3, 2000.
- Fish and Wildlife Service. 2007. Recovery Plan for the Sierra Nevada bighorn sheep. Sacramento, California. 199 pp.