



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Ridgecrest Field Office
300 South Richmond Road
Ridgecrest, California 93555
(760) 384-5400

DECISION RECORD

ENVIRONMENTAL ASSESSMENT DOI-BLM-CA-D050-2016-00005-EA

For the
Robber's Roost RE Cinco Fences

DECISION:

In accordance with Title 42 USC 4321 et seq., it is my decision to approve Alternative A – the Proposed Action. I authorize construction of a total of approximately 5.1 miles of livestock proof protection fencing, additional route designation carsonite signs, a locked gate, up to six Robber's Roost Informational signs, up to eight vehicle proof barriers and up to three pedestrian-equestrian step-overs if needed. This decision is subject to certain terms as described in the Environmental Assessment and its attachments. Specifically several General Best Management Practices were identified in the description of Alternative A and Attachment B, which contains protective stipulations for desert tortoises and Mohave ground squirrel. My authority for this decision derives from the Federal Land Policy and Management Act (43 USC 1732).

I find that the action conforms to the California Desert Conservation Area (CDCA) Plan (1980), as amended, and as described in the Environmental Assessment. I have determined the proposed action will not cause unnecessary or undue degradation and find it has no significant impact to public lands or resources. No mitigation measures were identified for any resources, the significance determination stated above is true for the non-mitigated environmental effects. Environmental Assessment DOI-BLM-CA-D050-2016-00005-EA, the Finding of No Significant Impact and this Decision constitute the Bureau's compliance with the National Environmental Policy Act. Preparation of an Environmental Impact Statement is not required.

My decision is based on

the analysis and recommendations of Environmental Assessment DOI-BLM-CA-D050-2016-00005-EA;

my Finding Of No Significant Impact for this action, and;

the consideration that no public comments were received on this Environmental Assessment.

PUBLIC INVOLVEMENT:

On November 13, 2015 Environmental Assessment DOI-BLM-CA-D050-2016-00005-EA was publicly posted at the Ridgecrest Field Office website (www.ca.blm.gov/ridgecrest). The 14-day comment period closed November 27, 2015. No comments were received.

Appeal and/or Review Procedures:

If you disagree with and are adversely affected by this decision, you may request that the BLM California State Director review this decision. An adversely affected party may bypass State Director review and directly appeal a BLM decision under this subpart to the Office of Hearings and Appeals (OHA) under part 4, Title 43 of the Code of Federal Regulations.

If you request a California State Director review, the request must be received in the BLM California State Office at 2800 Cottage Way, Suite W-1623, Sacramento, CA 95825-1886, no later than 30 calendar days after you receive or have been notified of this decision. The request for State Director Review must be filed in accordance with the provisions in 43 CFR 3809.805. This decision will remain in effect while the State Director Review is pending, unless a stay is granted by the State Director. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the State Director does not make a decision on your request for review of this decision within 21 days of receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the BLM California State Office to determine when the BLM received the request for State Director Review. You have 30 days from the end of the 21-day period in which to file your Notice of Appeal with this office at the Ridgecrest Field Office, which we will forward to IBLA.

If you wish to bypass a State Director Review, this present decision may be appealed directly to the IBLA in accordance with the regulations at 43 CFR 3809.80 1(a)(1). Your Notice of Appeal must be filed in this office at the Ridgecrest Field Office within 30 days from receipt of this decision. As the appellant you have the burden of showing that the decision appealed from is in error. Enclosed is BLM Form 1842-1 for information on taking appeals to the IBLA. This decision remains in effect while the IBLA reviews the case, unless a stay is granted by the IBLA. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If you wish to file a petition pursuant to regulations 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the IBLA, the petition for a stay must accompany your Notice of Appeal. Copies of the Notice of Appeal and petition for a stay must also be submitted to each party named in the decision and to the Office of the Solicitor, Pacific Southwest Region at 2800 Cottage Way, Room E-2753, Sacramento, CA 95825-1890. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted based on the standards listed below.

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.



Carl Symons
Ridgecrest Field Manager

12/01/2015
Date



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FINDING OF NO SIGNIFICANT IMPACT ENVIRONMENTAL ASSESSMENT DOI-BLM-CA-D050-2016-00005-EA For the *Robber's Roost RE Cinco Fences*

Introduction:

The Bureau of Land Management has conducted an Environmental Assessment (DOI-BLM-CA-D050-2016-00005-EA) to analyze the potential effect(s) of authorizing the construction of approximately 5.1 miles of fence along portions of Los Angeles Aqueduct 2 (LA2), SC330 and SC51. Accompanying this action, there would be a few strategically placed step-overs for equestrians and hikers, vehicle barriers, cattle guards, locked gate and informational signs. The project area encompasses the Robber's Roost Birds of Prey Protection Area which is seasonally closed to access and has already had some protective barriers, restoration and fencing completed in the front country. It is within the Jawbone-Butterbredt Area of Critical Environmental Concern (ACEC) and the proposed work is not within wilderness.

Plan Conformance and Consistency:

All alternatives have been analyzed and have been found to be within the scope of the following land use plans and has been found to be in compliance with the goals and objectives of these documents (as required by 43 CFR 1610.5):

The California Desert Conservation Area Plan (1980) as amended
The Jawbone-Butterbredt ACEC Plan (1982)

I determine that the proposed action is in conformance with the appropriate land use plan, as amended and that a plan amendment is not necessary.

Finding of No Significant Impact:

Based on a review of the Environmental Assessment, I have determined the project is not a major federal action and will not have a significant effect on the quality of the human environment, individually or cumulatively with other actions in the general area. No environmental effects meet the definition of significance in context or intensity as defined in 40 CFR 1508.27 and none exceed those effects as described in the California Desert Conservation Area Management Plan of 1980, as amended. No mitigation measures were identified for any resources, the significance determination stated above is true

for the non-mitigated environmental effects. An environmental impact statement is not required and will not be prepared. This finding is based on the context and intensity of the project as described below.

Context:

This project is localized with implications only for the immediate area. The impacts associated with this project are short-term and local, and are not likely in and of itself to have international, national, regional or state-wide impacts. The project is to install a barrier to livestock while allowing human and horse access to one specific area. The impacts identified in the Environmental Assessment are related to the fence line and are minor and localized.

Intensity:

1. Impacts may be both beneficial and adverse.

The proposed action may have temporary or minor effect to resources as described in the Environmental Assessment.

Installation of the fence will protect the area outside of the grazing allotment from impacts due to stray live stock. This is a beneficial impact.

2. The degree to which the selected alternative will affect public health or safety.

No alternative will affect health or safety.

3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farm lands, wetlands, wilderness, wild and scenic rivers, or ecologically critical areas.

The action has no effect to any prime farm land, wetland, wilderness, lands having wilderness characteristics, wild/scenic rivers, or designated critical habitat for any species listed as endangered or threatened under the Federal Endangered Species Act.

The construction would occur within the Jawbone-Butterbredt Area of Critical Environmental Concern (ACEC), specifically in proximity to the Robber's Roost Birds of Prey Nesting Area. Robber's Roost is a large outcropping of granite rocks that serve as ideal nesting locations for species of birds such as Prairie Falcons (*Falco mexicanus*) and Golden Eagles (*Aquila chrysaetos*).

The action would implement ACEC plan management prescriptions that protect wildlife habitat and cultural values. As a result, impacts of this project would be positive and ultimately provide additional protection for aforementioned resource issues.

A preliminary assessment of the twelve archeological sites in the project area for their eligibility for the National Register was recently undertaken. The analysis involved considerations of all four criteria for possible eligibility determinations. The NRHP Criterion are: Criteria A-Events important to American History; Criteria B-People who had an important role in American History; Criteria C-Unique Architectural or Engineering structures; and Criteria D-Contribution of data important to the interpretation of American Prehistory. While not yet fully confirmed, it appears that six of the twelve sites do contain attributes that would tend to confirm eligibility for the NRHP. Three sites appear to be problematic as their present potential would have to be rated

as Moderate, with three sites containing minimum qualifying features or data, and as a result of this, they would probably be found Not Eligible for the Register.

4. The degree to which the effects on the quality of the human environment are likely to be highly controversial.

BLM posted the Environmental Assessment for 2 weeks for public comment. No comments were received. Additionally, fences are a common technique used to control live stock. There is no controversy in their use, impacts, or environmental effects. “Highly controversial” in the context of 40 CFR 1508.27(b)(4) refers to substantial disagreement within the scientific community about the environmental effects of the proposed action. It does not refer to expressions of opposition, or support, or to differences of opinion concerning how public lands should be managed.

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

The construction and use of fencing and step-overs for equestrians and hikers, vehicle barriers, cattle guards, locked gate and informational signs is not unique or unusual. The effects to the human environment are fully analyzed and disclosed in this Environmental Assessment. No unique or unknown risks are identified by this assessment.

The likely effects of the proposed action to air quality, greenhouse gas emissions, soil, water, wildlife (including raptors), heritage resources, Native American values, recreation, visual resources, and range are adequately disclosed in the Environmental Assessment. No unique, unusual or unknown risks to these resources are identified by this assessment.

6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

NEPA limits consideration to future actions that are reasonably foreseeable, not merely possible. Reasonably foreseeable actions are those for which there are existing decisions, funding, formal proposals, or which are highly probable based on known opportunities or trends, but not simple speculation. The approval of this fencing project involves no precedent or decision in principle regarding any future action.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts – which include connected actions regardless of land ownership.

NEPA limits consideration to future actions that are reasonably foreseeable, not merely possible. Reasonably foreseeable actions are those for which there are existing decisions, funding, formal proposals, or which are highly probable based on known opportunities or trends, but not simple speculation. The approval of this fencing project involves no precedent or decision in principle regarding any future action.

8. The degree to which the action may adversely affect districts, sites, highways, structures, or other objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

A preliminary assessment of the twelve archeological sites in the project area for their eligibility for the National Register was recently undertaken. The analysis involved considerations of all

four criteria for possible eligibility determinations. The NRHP Criterion are: Criteria A-Events important to American History; Criteria B-People who had an important role in American History; Criteria C-Unique Architectural or Engineering structures; and Criteria D-Contribution of data important to the interpretation of American Prehistory. While not yet fully confirmed, it appears that six of the twelve sites do contain attributes that would tend to confirm eligibility for the NRHP. Three sites appear to be problematic as their present potential would have to be rated as Moderate, with three sites containing minimum qualifying features or data, and as a result of this, they would probably be found Not Eligible for the Register. No adverse effect is expected from this action, and all necessary steps have been taken to identify, record and determine effects on cultural resources with the area of potential effect. BLM is in compliance with Section 106 of the National Historic Preservation Act.

- 9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973, or the degree to which the action may adversely affect: 1) a proposed to be listed endangered or threatened species or its habitat, or; 2) a species on BLM's sensitive species list.**

The area is not within designated critical habitat for any species listed as threatened or endangered under the Endangered Species Act. The project area is within desert tortoise habitat, but the action includes protective measures. Protective stipulations for desert tortoises and Mohave ground squirrel are a part of the project and are attached in Appendix B of the Environmental Assessment and must be adhered to. Applicable stipulations include the following precautions: Fence line construction will occur during the inactive season, the crew will be informed that tortoises inhabit the area, project-related vehicles may not exceed 20 miles per hour, the work crew will actively look for tortoises along the roads to prevent hitting them, workers would inspect under their vehicles before moving them, and tortoises are not to be handled or disturbed in any way.

- 10. Whether the action threatens violation of a federal, state, local, or tribal law, regulation or policy imposed for the protection of the environment, where non-federal requirements are consistent with federal requirements.**

There are no known federal, state, local, or tribal laws, regulations, or policies that would be inconsistent with the project.



Carl Symons
Ridgecrest Field Manager

12/01/2015
Date