

U.S. Department of the Interior  
Bureau of Land Management  
White River Field Office  
220 E Market St  
Meeker, CO 81641

## CATEGORICAL EXCLUSION

NUMBER: DOI-BLM-CO-N05-2014-0064-CX

PROJECT NAME: Sturgeon Allotment Fence (RIP # 201017) Re-construction and FY2a Fence Renovation

LEGAL DESCRIPTION: (fences cross through these sections)  
T3N, R93W, Sections 19, 29, 30

APPLICANT: Colowyo Coal Company

### DESCRIPTION OF PROPOSED ACTION:

***Background/Introduction:*** The Sturgeon Allotment Fence Range Improvement Project (RIP) #201017 is the allotment boundary fence between the Smith Crawford allotment (#06625) in the White River Field Office (WRFO) and the Taylor Creek allotment (#04610) in the Little Snake Field Office (LSFO). It is also adjacent to the Colowyo Coal lease and permit boundaries in this area. This fence is a woven wire fence with a top strand of barbed wire. This type fence, when constructed in steep brushy settings, can be hazardous to wildlife. The fence was constructed around 1957 to prevent livestock drift between the two adjoining allotments and maintenance responsibility was assigned to the livestock operator on the LSFO side. For the past several years there has not been any livestock grazing authorized in the Taylor Creek allotment because of active mining in the immediate area. Due to age, lack of maintenance, and impacts from wildlife and cattle, the Sturgeon Allotment fence is in disrepair and is a hazard. The FY2a fence traverses through the southern half of section 19 along Sheriff Ridge and is also a woven wire fence with a strand of barb wire on top. It is the allotment boundary fence between the Taylor Creek allotment (#04610) and the East Fork Wilson Creek allotment (#04611), both in the LSFO. This fence is in good condition but is a potential hazard to big game and other wildlife that attempt to cross it.

**Proposed Action:** Colowyo has requested to reconstruct approximately 6,000 feet of the Sturgeon Allotment Fence (RIP #201017), from the top of Sheriff Ridge in Section 19 eastward into Section 29. Additionally Colowyo has requested to renovate approximately 2,200 feet of the FY2a Fence (RIP # 200124). Construction would begin in the late summer of 2014 following BLM approval. This proposed fence reconstruction/renovation project will include removal of existing fence materials to the maximum extent possible. The fences will be reconstructed using a combination of smooth and barb wire with wire spacing that is less hazardous to wildlife as described below. Both fences will be maintained using similar methods into the future by the operators as described below. The Sturgeon Allotment Fence line generally follows the coal permit boundary.

**Design Features**

1. Chainsaws and hand tools will be used to clear the Sturgeon Allotment fence line through the dense mountain shrub vegetation. Cleared material will be lopped and scattered adjacent to, but outside of, the cleared fence line area in a manner that does not create a fuel load. Minor brush clearing will also be completed similarly along the FY2a fence. No soil disturbance will occur other than as associated with digging post holes.
2. For the Sturgeon Allotment fence construction crews will pack fence materials in by hand as most of the topography is too steep to allow equipment use (greater than 50 percent slope). The FY2a fence is accessible by a two-track road that runs adjacent to the fence.
3. Post holes will be dug by hand on the Sturgeon fence and either by hand or by mechanical auger on the FY2a fence. Metal posts will be driven using a post pounder.
4. All excess fence material, tie-wire, wire scraps, old wire, old posts, and other associated trash will be removed and disposed of properly.
5. Both existing woven wire fences will be replaced by a three (Sturgeon) and four (FY2a) strand (smooth and barb wire) fence constructed to BLM specifications that are also consistent with CPW wildlife friendly guidelines. Fence construction standards taken from BLM Manual H-1741-1, Fencing, Chapter 4, Illustration 1 and are listed in Tables 1 and 2 below. Fence post spacing has been modified because of the steep, brushy location of these fences and to reduce/facilitate future maintenance.

**Table 1. Sturgeon Allotment Fence construction standards**

Kind of livestock	Predominant big game species	Number of wire strands	Maximum fence height	Wire Spacing (from ground up in inches)	Wire type	Post spacing and number of stays between line posts
Cattle	Elk, deer	3	38	16, 10, 12	Bottom strand smooth, other two strands barbed	Alternate wood and steel line posts with post spacing of 8 feet*

\*Modified from "one wooden stay with line post spacing of 16.5 feet" due to topography and to reduce/facilitate future maintenance.

**Table 2. FY2a Fence construction standards (for ridge top location)**

Kind of livestock	Predominant big game species	Number of wire strands	Maximum fence height	Wire Spacing (from ground up in inches)	Wire type	Post spacing and number of stays between line posts
Cattle	Elk, deer	4	40	16, 6, 6, 12	Bottom strand smooth, other strands barbed	Alternate wood and steel line posts with post spacing of 8 feet*

\*Modified from "one wooden stay with line post spacing of 16.5 feet" due to topography and to reduce/facilitate future maintenance.

6. Future maintenance of the Sturgeon Allotment fence will be shared equally among the operators (David Smith Ranches, Gayle and Ken Rogers, and the permittee/lessee on the LSFO side, which is currently Colowyo) and is delineated on Attachment A. Maintenance responsibilities for the Sturgeon Allotment fence will be formally assigned and documented through a Cooperative Range Improvement Agreement Form 4120-6 signed by each of the operators. Maintenance of the FY2a fence has been assigned through the LSFO.

**PLAN CONFORMANCE REVIEW:** The Proposed Action is subject to and has been reviewed for conformance with (43 CFR 1610.5-3, BLM 1601.08) the following plan:

**Name of Plan:** White River Record of Decision and Approved Resource Management Plan (ROD/RMP).

**Date Approved:** July 1, 1997

**Decision Number/Page:** 2-25

**Decision Language:** "Range improvements are necessary to control livestock use and improve rangeland condition."

**Name of Plan:** Little Snake Record of Decision and Resource Management Plan (RMP)

**Date Approved:** October 2011

**Decision Language:** The Proposed Action is consistent with the Little Snake Record of Decision and Resource Management Plan, Livestock Grazing Management goals to manage resources, vegetation, and watersheds to sustain a variety of uses, including livestock grazing, and to maintain the long-term health of the rangelands; provide for efficient management of livestock grazing allotments; and contribute to the stability and sustainability of the livestock industry.

**Section/Page:** 2.14 Livestock Grazing/RMP-41

**CATEGORICAL EXCLUSION REVIEW:** The Proposed Action qualifies as a categorical exclusion under 43 CFR 46.210(f): "*Routine and continuing government business, including such things as supervision, administration, operations, maintenance, renovations, and replacement activities having limited context and intensity (e.g., limited size and magnitude or short-term effects).*"

The Proposed Action has been reviewed with the list of extraordinary circumstances (43 CFR 46.215) described in the table below.

Extraordinary Circumstance	YES	NO
a) Have significant adverse effects on public health and safety.		X
b) Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands; floodplains; national monuments; migratory birds; and other ecologically significant or critical areas.		X
c) Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources.		X
d) Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		X
e) Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.		X
f) Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.		X
g) Have significant impacts on properties listed, or eligible for listing, in the National Register of Historic Places as determined by the bureau.		X
h) Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species.		X
i) Violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment.		X
j) Have a disproportionately high and adverse effect on low income or minority populations.		X
k) Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly affect the physical integrity of such sacred sites.		X
l) Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species.		X

**INTERDISCIPLINARY REVIEW:**

The Proposed Action was presented to, and reviewed by, the White River Field Office interdisciplinary team on 4/1/2014. A complete list of resource specialists who participated in this review is available upon request from the White River Field Office. The table below lists

resource specialists who provided additional remarks concerning cultural resources and special status species.

Name	Title	Resource	Date
Michael Selle	Archaeologist	Cultural Resources, Native American Religious Concerns	5/7/2014
Lisa Belmonte	Wildlife Biologist	Special Status Wildlife Species	7/7/2014
Justina Thorsen	Acting Ecologist	Special Status Plant Species	6/26/2014

**REMARKS:**

*Cultural Resources:* Inventory will not be required under BLM Manual 8110.23(B)(1) due to the very steep terrain and heavy mountain browse vegetative community. It is quite unlikely that any cultural resources would be identified on steep slopes that do not have good rock exposures for rock art.

*Native American Religious Concerns:* No Native American religious concerns are known in the area, and none have been noted by Northern Ute Tribal authorities. Should recommended inventories or future consultations with Tribal authorities reveal the existence of such sensitive properties, appropriate mitigation and/or protection measures may be undertaken.

*Special Status Wildlife Species:* There are no threatened or endangered animal species that are known to inhabit or derive important use from the project area. Design features regarding wildlife friendly fence design is incorporated into the Proposed Action. The mountain shrub communities provide forage and cover for migratory birds during the nesting season (typically late May – July 15 at higher elevations). Construction activities that take place during these time frames can result in displacement, nest abandonment and possible mortality of nestlings. Construction should begin after July 15 to avoid the migratory bird nesting season.

*Special Status Plant Species:* No known occupied populations or suitable habitat for any special status plant species exist in the vicinity of the Proposed Action. There are no special status plant species issues or concerns associated with the Proposed Action.

**MITIGATION:**

1. The lease holder is responsible for informing all persons who are associated with the project that they will be subject to prosecution for knowingly disturbing archaeological sites or for collecting artifacts.
2. If any archaeological materials are discovered as a result of operations under this authorization, activity in the vicinity of the discovery will cease, and the BLM WRFO Archaeologist will be notified immediately. Work may not resume at that location until approved by the AO. The lease holder will make every effort to protect the site from further impacts including looting, erosion, or other human or natural damage until BLM

determines a treatment approach, and the treatment is completed. Unless previously determined in treatment plans or agreements, BLM will evaluate the cultural resources and, in consultation with the State Historic Preservation Office (SHPO), select the appropriate mitigation option within 48 hours of the discovery. The lease holder, under guidance of the BLM, will implement the mitigation in a timely manner. The process will be fully documented in reports, site forms, maps, drawings, and photographs. The BLM will forward documentation to the SHPO for review and concurrence.

3. Pursuant to 43 CFR 10.4(g), the lease holder must notify the AO, by telephone and written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and (d), the lease holder must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the AO.
4. The lease holder is responsible for informing all persons who are associated with the project operations that they will be subject to prosecution for disturbing or collecting vertebrate or other scientifically-important fossils, collecting large amounts of petrified wood (over 25lbs./day, up to 250lbs./year), or collecting fossils for commercial purposes on public lands.
5. If any paleontological resources are discovered as a result of operations under this authorization, the lease holder or any of his agents must stop work immediately at that site, immediately contact the BLM Paleontology Coordinator, and make every effort to protect the site from further impacts, including looting, erosion, or other human or natural damage. Work may not resume at that location until approved by the AO. The BLM or designated paleontologist will evaluate the discovery and take action to protect or remove the resource within 10 working days. Within 10 days, the operator will be allowed to continue construction through the site, or will be given the choice of either (a) following the Paleontology Coordinator's instructions for stabilizing the fossil resource in place and avoiding further disturbance to the fossil resource, or (b) following the Paleontology Coordinator's instructions for mitigating impacts to the fossil resource prior to continuing construction through the project area.
6. Fence construction will take place after July 15 to avoid the migratory bird nesting season.

**COMPLIANCE PLAN:** On-going compliance inspections and monitoring will be conducted by the BLM White River Field Office staff during and after construction. Specific mitigation developed in this document will be followed. The project proponent will be notified of compliance related issues in writing, and depending on the nature of the issue(s), will be provided 30 days to resolve such issues.

**NAME OF PREPARER:** Mary Taylor

NAME OF ENVIRONMENTAL COORDINATOR: Heather Sauls

COMPLIANCE WITH NEPA

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 43 CFR 46.210(f). This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The Proposed Action has been reviewed, and none of the extraordinary circumstances described in 43 CFR 46.215 apply.

SIGNATURE OF AUTHORIZED OFFICIAL:



Acting Northwest District Manager

DATE SIGNED:

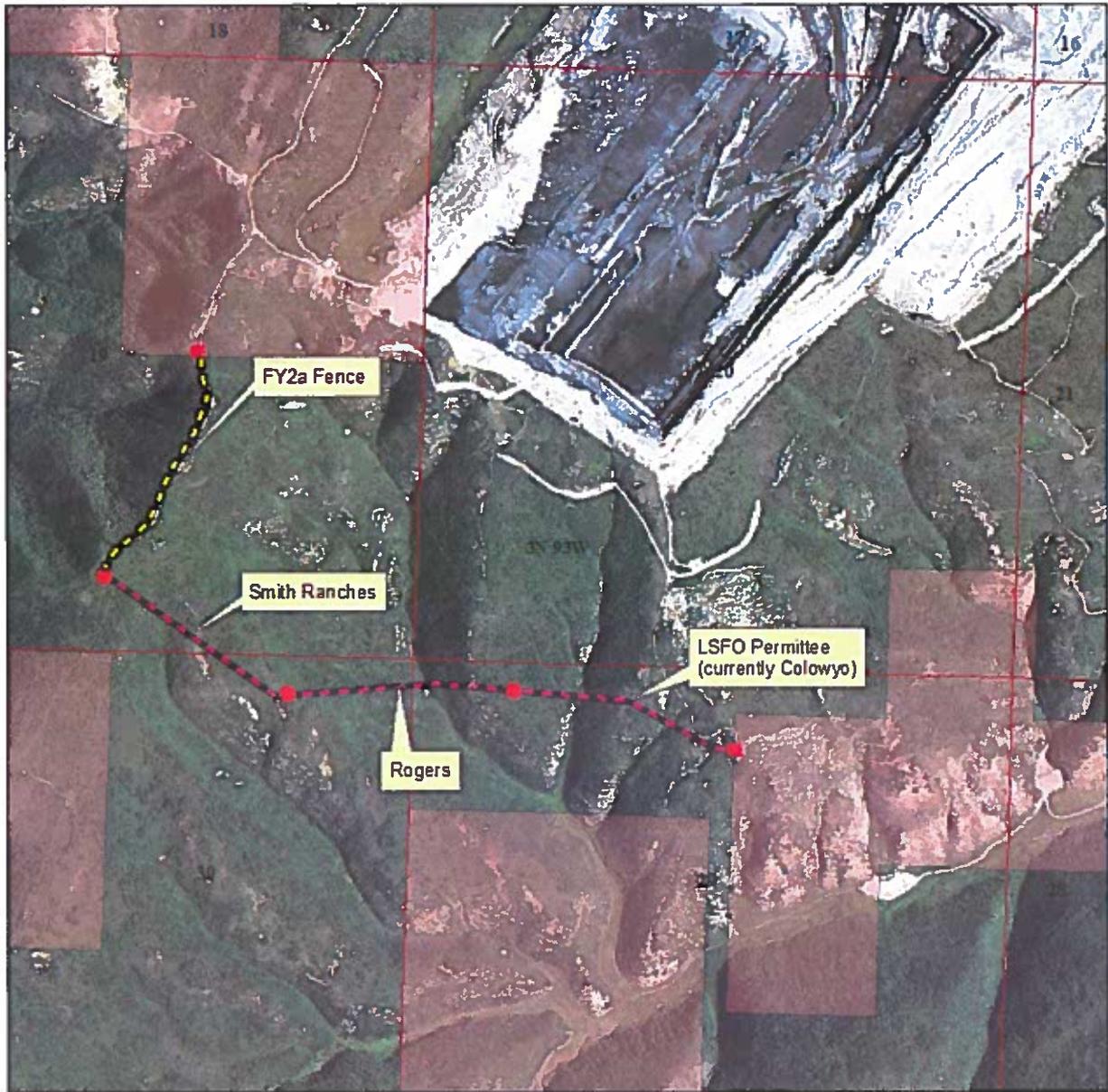
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ATTACHMENT:

Attachment A: Map of Sturgeon Allotment Fence and FY2a Fence Re-construction

Attachment A.

**Sturgeon Allotment Fence and FY2a Fence Reconstruction, Renovation, and Maintenance**



Scale: 1:14,000



June 2014

M Taylor

Although the data presented herein was prepared and the map itself has been prepared exclusively by the employees of BLM, the accuracy, integrity, and originality of the data representing the use of this map is the data preparer's, not BLM's, responsibility.

**Maintenance Responsibility Segments**

- FY2a Fence RIP# 200124
- Sturgeon Allotment Fence RIP 201017
- Bureau of Land Management
- Private
- State
- GCDB Sections 2013



**U.S. Department of the Interior  
Bureau of Land Management  
White River Field Office  
220 E Market St  
Meeker, CO 81641**

**DECISION RECORD**

**PROJECT NAME:**

Sturgeon Allotment Fence (RIP # 201017) Re-construction and FY2a Fence Renovation

**CATEGORICAL EXCLUSION NUMBER:** DOI-BLM-CO-N05-2014-0064-CX

**DECISION:**

It is my decision to implement the Proposed Action, as mitigated in DOI-BLM-CO-N05-2014-0064-CX, authorizing the re-construction and future maintenance of the Sturgeon Allotment Fence (RIP #201017) and the renovation and future maintenance of the FY2a fence (RIP# 200124). The overall length of the proposed fence work is approximately 8,200 feet.

Construction would begin in the late summer of 2014 following approval. Re-construction of the Sturgeon Allotment fence will consist of clearing the fence line using chainsaws and hand tools, removing existing fence materials to the extent possible, re-constructing the fence using a three-strand fence that has been designed to reduce hazards to wildlife. This fence serves to control livestock use in the adjacent Smith Crawford and Taylor Creek grazing allotments. Renovation of the FY2a fence will involve removing existing wire and replacing it with a four strand fence. Both fences will be constructed to a wildlife friendly design.

**Mitigation Measures**

1. The lease holder is responsible for informing all persons who are associated with the project that they will be subject to prosecution for knowingly disturbing archaeological sites or for collecting artifacts.
2. If any archaeological materials are discovered as a result of operations under this authorization, activity in the vicinity of the discovery will cease, and the BLM WRFO Archaeologist will be notified immediately. Work may not resume at that location until approved by the AO. The lease holder will make every effort to protect the site from further impacts including looting, erosion, or other human or natural damage until BLM determines a treatment approach, and the treatment is completed. Unless previously determined in treatment plans or agreements, BLM will evaluate the cultural resources and, in consultation with the State Historic Preservation Office (SHPO), select the appropriate mitigation option within 48 hours of the discovery. The lease holder, under guidance of the BLM, will implement the mitigation in a timely manner. The process will be fully documented in reports, site forms, maps, drawings, and photographs. The BLM will forward documentation to the SHPO for review and concurrence.

3. Pursuant to 43 CFR 10.4(g), the lease holder must notify the AO, by telephone and written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and (d), the lease holder must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the AO.
4. The lease holder is responsible for informing all persons who are associated with the project operations that they will be subject to prosecution for disturbing or collecting vertebrate or other scientifically-important fossils, collecting large amounts of petrified wood (over 25lbs./day, up to 250lbs./year), or collecting fossils for commercial purposes on public lands.
5. If any paleontological resources are discovered as a result of operations under this authorization, the lease holder or any of his agents must stop work immediately at that site, immediately contact the BLM Paleontology Coordinator, and make every effort to protect the site from further impacts, including looting, erosion, or other human or natural damage. Work may not resume at that location until approved by the AO. The BLM or designated paleontologist will evaluate the discovery and take action to protect or remove the resource within 10 working days. Within 10 days, the operator will be allowed to continue construction through the site, or will be given the choice of either (a) following the Paleontology Coordinator's instructions for stabilizing the fossil resource in place and avoiding further disturbance to the fossil resource, or (b) following the Paleontology Coordinator's instructions for mitigating impacts to the fossil resource prior to continuing construction through the project area.
6. Fence construction will take place after July 15 to avoid the migratory bird nesting season.

#### **COMPLIANCE WITH LAWS & CONFORMANCE WITH THE LAND USE PLAN**

This decision is in compliance with the Endangered Species Act and the National Historic Preservation Act. It is also in conformance with the 1997 White River Record of Decision/Approved Resource Management Plan.

#### **PUBLIC INVOLVEMENT**

The Proposed Action was presented to, and reviewed by, the White River Field Office interdisciplinary team on April 1, 2014. A complete list of resource specialists who participated in this review is available upon request from the White River Field Office.

The BLM informed the public about this project by listing it on the online WRFO NEPA Register on 7/3/2014 and a copy of the completed Categorical Exclusion will be posted on the WRFO website.

## **RATIONALE**

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, J9. This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The Proposed Action has been reviewed, and none of the extraordinary circumstances described in 43 CFR 46.215 apply.

## **ADMINISTRATIVE REMEDIES**

Any applicant, permittee, lessee or other interested publics may protest a proposed decision under Sec. 43 CFR 4160.1 and 4160.2, in person or in writing to Kent Walter, Acting Northwest District Manager, 220 E. Market Street, Meeker, CO 81641 within 15 days after receipt of such decision. The protest, if filed, should clearly and concisely state the reason(s) why the proposed decision is in error.

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 unless otherwise provided in the proposed decision.

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.

Any applicant, permittee, lessee or other person whose interest is adversely affected by the final decision may file an appeal (in writing) 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 or within 30 days after the date the proposed decision becomes final. 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, as noted above. The person/party must also serve a copy of the appeal on the Office of the Solicitor, Rocky Mountain Region, Denver Field Office, U.S. Department of the Interior, 755 Parfet Street, Room 151, Lakewood, CO 80215.

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.

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.

As noted above, the petition for stay must be filed in the office of the authorized officer and served in accordance with 43 CFR 4.471.

Any person named in the decision who 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.

**SIGNATURE OF AUTHORIZED OFFICIAL:**



Acting Northwest District Manager

**DATE SIGNED:**

07/09/14