UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Farmington District
Farmington Field Office
6251 N College Blvd., Ste. A
Farmington, NM 87402

DECISION RECORD
for the
Excavation of a Pentaceratops skull and Partial Skeleton from the Ah-Shi-Sle-Pah Wilderness Study Area
NEPA No. DOI-BLM-NM-FO*10-2014-0071*

I. Decision

I have decided to select Proposed Action for implementation as described in the November 2014 Excavation of a Pentaceratops skull and Partial Skeleton from the Ah-Shi-Sle-Pah Wilderness Study Area EA. Based on my review of the Environmental Assessment (EA) and project record, I have concluded that that the Proposed Action was analyzed in sufficient detail to allow me to make an informed decision. I have selected this alternative because the proposed treatments will grant Dr. Spencer Lucas a paleontological excavation permit on BLM managed lands established by the BLM's responsibility under the Federal Land Policy and Management Act (FLMPA). This Act requires that public lands be managed in a manner that protects the quality of scientific and other values.

II. Conformance and Compliance

The Proposed Action is in conformance with the September 2003 Farmington Resource Management Plan with Record of Decision, as updated in December 2003 (BLM, 2003).). Management Prescriptions of the RMP state that the collection of paleontological resources is permitted by permits granted for scientific endeavors within the Ah-Shi-Sle-Pah Wilderness Study Area and the Bisti/De-Na-Zin Wilderness Area.

This EA is prepared under the authority of the National Environmental Policy Act (NEPA) of 1969 (PL 91-852) and its regulations (40 CFR Parts 1500-1508) for implementation.

The Paleontological Resources Preservation Act (PRPA), (Sections 6302-6312 of the Omnibus Public Lands Act of 2009, 16 USC 470aaa) codifies the practice of the BLM requiring that rare and scientifically significant fossils be collected only by qualified researchers who obtain a permit.

The proposed project would not be in conflict with any state, county, or local plans. The Proposed Action is in conformance with the September 2003 Farmington Resource Management Plan with Record of Decision, as updated in December 2003 (BLM, 2003).

III. Finding of No Significant Impact

I have reviewed the direct, indirect and cumulative effects of the proposed activities documented in the EA for the excavations of a Pentaceratops skull and Partial Skeleton from the Bisti/De-Na-Zin WA and the Pentaceratops skull from the Ah-Shi-Sle-Pah Wilderness Study Area. I have also reviewed the project record for this analysis. The effects of the proposed action and alternatives

are disclosed in the Alternatives and Environmental Consequences sections of the EA. I have determined that the excavation and helicopter airlift of two Pentaceratops skulls and skeletons from the Bisti/De-Na-Zin WA and one Pentaceratops skull from the Ah-Shi-Sle-Pah WSA from FFO managed lands as described in the EA will not significantly affect the quality of the human environment. Accordingly, I have determined that the preparation of an Environmental Impact Statement is not necessary.

IV. Other Alternatives Considered

Under the No Action Alternative, the FFO would not grant the excavation permit of the Pentaceratiops skulls and skeletons. This alternative would leave the fossil skulls to be exposed to deterioration from natural conditions or risk being collected illegally by recreationists or fossil hunters (p.8).

Another alternative action proposed by not analyzed in detail would be to issue Dr. Lucas a paleontological permit to conduct a field study of the two Pentaceratops skulls and skeletons. This type of field study would be an on the ground study with no excavation or removal of fossil bones. Granting a permit under this alternative, the fossil bone bed would be subjected to and eventually lost to natural ecological processes or removal by fossil hunters (p. 8).

V. Rationale for the Decision

Excavation of the Pentaceratops skulls and skeletons will provide significate information to the scientific community as well as provide education opportunities to the public.

I have determined that the activities described in the proposed action will not adversely affect or cause loss or destruction of scientific, cultural, or historical resources, including those listed in or eligible for listing in the National Register of Historic Places (40 CFR 1508.27(b)(8)). The excavation sites and staging area have been subject to an FFO In-House Archaeological Survey. This survey concluded that the nature of the proposed action is such that no impacts can be expected on significant cultural resources.

The proposed activities are not likely to adversely affect any endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act (40 CFR 1508.27(b) (9)). The proposed project area provides potential foraging habitat for falcons, eagles, and hawks but does not provide nesting habitat. There are no recorded SMS raptor nest sites in the proposed action area (p. 11).

VI. Public Involvement

The EA was posted on the NEPA Log for public comment and no comments were received.

VII. Administrative Review and Appeal

This decision may be appealed to the Interior Board of Land Appeals (IBLA), Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 4. Any appeal must be filed within 30 days of this decision. Any notice of appeal must be filed Gary Torres, Field Manager, Farmington Field Office, 6251 College Boulevard, Suite A, Farmington, NM 87402. The appellant shall serve a copy of the notice of appeal and any statement of reasons, written arguments, or briefs on each adverse party named in the decision, not later than 15 days after filing such document (see 43 CFR 4.413(a)). Failure to serve within the time required will subject the appeal to summary dismissal (see 43 CFR 4.413(b)). If a statement of reasons for the appeal is not included with the notice, it must be filed with the IBLA, Office of Hearings and Appeals, U. S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, VA 22203 within 30 days after the notice of appeal is filed with Garry Torres, Farmington Field Office Manager.

Notwithstanding the provisions of 43 CFR 4.21(a)(1), filing a notice of appeal under 43 CFR Part 4 does not automatically suspend the effect of the decision. If you wish to file a petition for a stay

of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal.

A petition for a stay is required to 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.

In the event a request for stay or an appeal is filed, the person/party requesting the stay or filing the appeal must serve a copy of the appeal on the Office of the Field Solicitor: United States Dept. of the Interior, Office of the Solicitor, Southwest Regional Office, 505 Marquette Avenue NW, Suite 1800, Albuquerque, NM 87102.

Maureen Joe
Assistant Field Manager
Farmington Field Office

Date 11/21/14