

**U.S. Department of the Interior  
Bureau of Land Management**



**Decision Record  
For the  
High Bar Placer Group (OR-63719)  
and  
Upper/Lower Pine Creek Mining (OR-60224)**

**Environmental Assessment #DOI-BLM-OR-V050-2013-010-EA**

High Bar Group and Upper/Lower Pine Creek Mining Project  
Environmental Assessment  
#DOI-BLM-OR-V050-2013-010-EA

## **DECISION RECORD**

This decision record documents my decision to authorize the High Bar Group and Upper/Lower Pine Creek Mining Project as presented under Alternative 2, including environmental protection measures as determined by the BLM to prevent undue and unnecessary degradation.

According to the best available records and field observations, no federally listed threatened or endangered plant, animal or aquatic species currently occur within the project area; therefore, no consultation was required with the U.S. Fish and Wildlife Service and/or the National Oceanic and Atmospheric Administration. The Columbia spotted frog and the Greater Sage-Grouse have been identified as federal candidate species under the Endangered Species Act (ESA) and as special status species for the Bureau of Land Management (BLM). The Columbia spotted frog has been recorded within the Pine Creek drainage and there is a Greater Sage-Grouse lek located near the project area. The project area supports habitat for these two federal candidate species as well as for Neotropical bird species. The action described in Alternative 2 would not significantly adversely affect any candidate species or their habitat due to the protection measures added to the proposed action to minimize the potential for impacts to these candidate species and their habitats.

The project area has been surveyed for cultural resources. Survey results from field inventories identified 11 cultural resources within the survey area. Six of the resources have been determined not to be eligible for listing on the NRHP, by the BLM and Oregon State Historical Preservation Office (SHPO) in letters dated July 12, 2011, and January 14, 2013. One historic cabin (OR BLM 504) was evaluated as an above-ground structure and was determined not eligible for its above-ground features, but has not been evaluated for its archaeological (subsurface) features. The archaeological component of this cabin site and three other sites are unevaluated and will be protected by a twenty meter buffer until further evaluation can occur. The last of the 11 identified resources is a historic mining ditch that has segments on BLM and Forest Service administered lands. It was determined that the BLM segment of the ditch lacks integrity and removal of the BLM segment would result in a no adverse effect (SHPO letter, January 14, 2013).

## **BACKGROUND**

The Baker Field Office, BLM, received two Plans of Operation (Plans) from Phillip Wirth, manager of High Bar Mining, LLC to conduct placer mining over a period of 20 years on federally managed lands near Hereford, Oregon on Pine Creek in Baker County. The legal description for the project area includes sections 14, 15, 22, 23, 26, and 27, T. 12 S., R.39 E., W.M. on unpatented mining claims. The High Bar Plan (OR-63719) was initially submitted by Jack Cogswell in 2006. The Upper/Lower Pine Creek Plan (OR-60224) was initially submitted by Ken Casper in 2004. There were many revisions to these Plans once High Bar Mining, LLC

purchased all the claims. High Bar Placer was submitted as final in April of 2012, Upper/Lower Pine Creek in October of 2011. There has been extensive exploration of these areas under Notices pursuant to 43 CFR 3809.301.

Wildlife, botany, and cultural surveys were conducted during the summers of 2010 and 2011. The wildlife and botany surveys were done by BLM personnel and are included in Appendix C of the EA. No threatened or endangered wildlife or plant species were found, but habitat for BLM sensitive wildlife species was found and addressed in the EA on pages 42-47. The cultural resource inventory was conducted on behalf of the BLM by North Wind Inc. of Idaho Falls, Idaho and submitted to the State Historical Preservation Office (SHPO), CTUIR and the Burns Paiute Tribe on June 20, 2011. SHPO and the CTUIR responded with concerns that were addressed by further testing of sites by North Wind Inc. Additional information including results of further testing was provided to SHPO and SHPO issued concurrence letters on July 14, 2011, July 20, 2011, and January 20, 2013, for SHPO Case No. 11-1119.

The High Bar Group and Upper/Lower Pine Creek Mining Project Environmental Assessment (#DOI-BLM-OR-V050-2013-010-EA) was prepared to disclose and analyze the consequences of authorizing the action under a Plan of Operation to mine and extract gold from placer gravels on BLM administered public lands open to mineral entry.

### **INTER-GOVERNMENT, AGENCY, AND PUBLIC INVOLVEMENT**

Scoping has occurred within the agency and in coordination with other agencies since the Plans of Operation were received in 2004 and 2006. Conferencing has occurred throughout this process with ODFW and U.S. Fish and Wildlife Service (USFWS). Consultation took place with the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) and the Burns Paiute Tribe. The proponent has provided BLM with all permits regarding other state agencies such as the Oregon Water Resources Department (OWRD), Oregon Department of Environmental Quality (ODEQ), and Oregon Department of Geology and Mineral Industries (DOGAMI).

After the EA was prepared, it was available for review both online and printed by request, for a formal 30-day public comment period. A legal notice was placed in the newspaper of record, the Baker City Herald, on March 20, 2013, requesting comments on the EA. A Notice of Availability was sent to the proponent, the grazing permit holder in the area, CTUIR, Burns Paiute Tribe, Baker County Road Department, ODFW, USFWS, ODEQ, DOGAMI, Army Corps of Engineers, Oregon Department of State Lands, OWRD, Whitman Ranger District-U.S. Forest Service, Baker County Commissioners, Oregon Wild, Senator Ron Wyden's local representative, Hells Canyon Preservation Council, and other miners or interested parties in the area.

The BLM received comments on the EA from six interested parties. Two letters supported mining without restrictions, one identified the need for a permit, and three were about wildlife and other resource concerns. The full response to comments may be found as Appendix F in the EA.

Issues raised through the comment period included:

- The potential impacts from seasonal wildlife restrictions.
- Addressing eagles and raptors in the evaluation.
- Concerns on water supply and quality.
- Slight oversights on what was originally proposed, including additional acreage currently being disturbed under Notice level operations.
- Comments regarding the science behind noise levels effecting sage-grouse.
- Temporary fencing to prevent livestock from impacting reclaimed areas.
- Addressing permits issued by other agencies.

As a result of the comments received, minor changes made to the EA that was submitted for public comment on March 20, 2013 were made. The changes include clarifications on best management practices to make them more site specific, an eagle and raptor habitat assessment was added (the survey had already been done), a Habitat Mitigation Plan for Greater Sage-Grouse has been written according to OAR 635-415-0025, comments were addressed, and editorial changes were made for clarification. The BLM believes that the additional analysis does not change the Finding of No Significant Impact for the project; therefore, another public comment period is not necessary.

### **DECISION**

My decision is to select Alternative 2 in its entirety, with the additional environmental protection measures and Habitat Mitigation Plan, and is based upon the interdisciplinary analysis contained in the EA (DOI-BLM-V050-2013-010-EA) and the comments received. Alternative 2 places limitations on operations in the stream bottom, while allowing High Bar Mining, LLC to explore for and produce gold resources on public domain lands open to mineral entry. Authorizing portions of two Plans proposed by High Bar Mining LLC with environmental protection measures added, prevents undue and unnecessary degradation to the resources in the area. This decision will allow placer gold mining and processing on 217 acres of public lands with known mineral values. The project involves use of heavy machinery, road improvements for hauling, large areas of cleared area for processing sites, use of pipelines to transport water, and occupancy of watchman and safety personnel during operations. The mining operation would last up to 20 years with an estimated additional 3 years for monitoring of vegetation reestablishment.

The activities approved by this decision include:

- Mining excavation and processing of 217 total acres in 5 acre parcels, up to 15 acres annually over 20 years.
- Utilization of 10,000 feet of existing roads, widening these roads to 18 feet for the Mine Safety and Health Administration (MSHA) requirements
- Creating or reopening, and gating of 1.4 miles of road within the project area
- Equipment used will be limited to the list included in the EA and on the Plans
- Temporary structures on site include: metal pump house, 2 Conex trailers, shop trailer, safety trailer, and a watchman trailer
- Fencing of two acres for water hazards with hogwire
- Utilization of a 10,000 gallon fuel tank for onsite storage with smaller amounts of petroleum products being brought in on the service vehicle. A containment vault made

from earthen berms and plastic liner will be created for containment. All hazardous materials are addressed in Appendix B under the Spill and Contingency Plan.

- Four (4) processing sites totaling 12 acres, with settling ponds, sediment drying areas, washplants, stockpiles, and compacted soils.
- Clean water pond for storage of water supplied by two wells and a 12,500 foot pipeline. An additional 2,600 feet of pipe providing water via gravity from a source on Forest Service managed lands.
- Temporary fencing around areas which have been reclaimed and seeded with a state certified weed free native seed mix.

The decision is based on the interdisciplinary analysis contained in the Environmental Assessment #DOI-BLM-OR-V050-2013-010-EA, BLM staff field review, public comments, tribal government consultation, state permitting, and SHPO review.

The environmental protection measures of the project, reclamation measures, stipulations, and monitoring are part of the decision. The Plans will be updated with the information evaluated in the EA and will incorporate all the stipulations listed below. The stipulations and protection measures below would be in effect for the duration of the project to minimize negative impacts to public land resource values:

- The operator shall mine, process, and remove gold from the High Bar Group and Upper/Lower Pine Creek Mining Project in strict conformity with the respective updated Plans of Operation (Plans) which will be approved by this Decision and as described in a single Plan in this Environmental Assessment.
- No chemicals will be used for the gold extraction process. The only hazardous materials on site are handled according to the Spill and Containment Plan provided in the Plan and pursuant to Federal and state laws and regulations. The Spill and Containment Plan is located in Appendix B of the Environmental Assessment.
- Petroleum products used in this operation consist of diesel fuel, gasoline, petroleum based oil, hydraulic oil, and grease. The diesel fuel will continue to be stored in the above ground tank with a lined earthen containment vault. On site storage will be limited to a maximum of 10,200 gallons of fuel. All small amounts of oils and grease for maintenance of equipment will be transported in on the service truck.
- All contaminated soil from spills or leaks of petroleum products will be handled as addressed in the Spill and Contingency Plan. All used oil, batteries, tires, and other waste items will be removed periodically off the mine site and disposed of properly. Spill kits will be on site for larger spills and prevention of leaks into soil.
- Any garbage or scrap material not stored in the storage bins will be removed to keep the area clean. No disposal of waste or scrap will occur on site, all waste or scrap will be removed from public lands.

- The duration of the mining is planned to be 23 years. This duration will allow for 20 years of mining operations with concurrent reclamation and three years after mining is completed for final reclamation and monitoring for revegetation success.
- Use and occupancy of public land, as proposed in the Plans, will be reasonably incident to the planned mining operation, and will be limited to use of the equipment listed in the Plans, which will be focused on Processing Site #2 and adjacent areas in T. 12 S., R.39 E., sec. 15.
- No mining in addition to what has been allowed under Notices will occur in the Pine Creek channel area. Alternative 2 incorporates what is currently being operated under Notices without disturbing known populations of Columbia spotted frog in the Pine Creek channel. Therefore, no direct effects to wetlands, streams, or springs will occur from heavy equipment.
- No interception of ground water is anticipated for any of the mining activities. The wells will be monitored by OWRD for significant draw down under the water rights permit entered with the Water Resources Department.
- Erosion control measures will be used during mining operations which include, but are not limited to: waterbarring of roads, placing of woody material, seeding, and covering of topsoil while stockpiled.
- Water used in the wash plant will be recycled from the settling ponds once suspended sediments dissipate. Clean water from the wells will be stored in the transfer pond at Processing Site #5 which will remain un-mined. All ponds will be lined and bermed to prevent overflow. A permit has been acquired from ODEQ for all wastewater facilities associated with mining operations.
- Screens will be utilized on all pump intake hoses to prevent injury or death to all life stages of the Columbia spotted frog. Screening specifications will be consistent with ODFW guidance, which generally follows National Marine Fisheries Service criteria.
- Dust will be kept down by using water trucks to abate dust on roads and the water used in processing. There is no crushing of material being proposed.
- The operator will coordinate with the Baker County Road Master to ensure that public road access on the Bald Mountain Mine County Road 731 is maintained in a condition similar to that which existed prior to the commencement of operations. Road maintenance will occur only within the existing road berm.
- Road widening of the existing BLM roads to 18 feet with berms will occur to meet MSHA safety requirements. All roads on the BLM Interim Route Network will be returned to the BLM standard upon completion of mining operations during final

reclamation. Roads will be signed for public safety and temporarily closed while operations are active.

- During operation the proponent will ensure that all equipment and vehicles are cleaned of all vegetation (stem, leaves, seeds and other vegetative parts) prior to entering public lands in an effort to minimize the transport and spread of noxious weeds. All equipment will be washed and cleared of vegetative material again before leaving public lands.
- The operator will maintain roadsides, tailings, dried sediment from settling ponds, and disturbed areas in a weed free state. Traveling through weed patches with equipment and personnel will be avoided when possible, especially when plants are seeding to prevent the spread of weed species. When traveling in known weed infestations, especially Mediterranean sage in the High Bar Plan area, equipment will be cleaned, with an emphasis on the undercarriage and moving parts, before moving into other areas to work. Equipment wash-up areas will be monitored and treated for emerging weeds. Processing of mined materials will take place at the closest processing site to avoid introducing weeds to new areas.
- Operator will work with the BLM to implement a weed treatment and control program. Chemical treatments will be performed by a licensed applicator. A BLM approved, all state certified noxious weed free seed mix will be supplied to the operator by the BLM botanist at the time of reclamation.
- All unevaluated historic properties or cultural resources will be avoided with a 20 meter buffer until the BLM archeologist has had a chance to evaluate these resources. Any new discoveries of cultural or paleontological resources will require ceasing operations in the area immediately and the operator will notify the BLM Field manager and the archeologist. Operations in the location of the find will not resume until the BLM archeologist has had the chance to evaluate the discovery and the Field Manager has given written notice to proceed.
- Pursuant to 43 CFR 3809.420 (b)(8)(i) operators shall not knowingly disturb, alter, injure, or destroy any scientifically important paleontological remains or any historical/archeological site, structure, building, or other object on Federal lands.
- The operator will clear areas in the fall or winter, prior to March 1<sup>st</sup> to avoid conflict with ground nesting bird seasonal restrictions.
- Operator will follow all stipulations put forth in the sage-grouse Habitat Mitigation Plan included in Appendix E of the EA, including seasonal restrictions and off site mitigation.
- At the direction of the BLM wildlife biologist, ponds that remain wet throughout the year and develop persistent riparian vegetation will have shallow shelves of 20-30 degree slopes constructed during final reclamation around the outside edge for amphibian use. These ponds will remain in place after reclamation is completed.

- Temporary fences as determined necessary by BLM for exclusion of livestock and wildlife will be installed around all reclaimed areas for 3-5 years or until vegetation has regrown to BLM standards (BLM RMP, 1989).
- The operator will obtain all required Federal, state, and county permits and approvals prior to beginning operations. The permits will be kept current throughout the duration of the project. Copies of all permits will be provided to BLM once issued.
- A financial guarantee, as defined in 43 CFR 3809.500 and 3809.552, must be submitted and adjudicated by the BLM before starting operations. The financial guarantee will include the cost for reclamation and revegetation of 217 acres of placer mining disturbance, the facilities area including all project fencing, water well abandonment, and miscellaneous clean up, removal of the equipment, the Convex trailers, and post-closure monitoring. Although a financial guarantee is required by regulations prior to commencing operations, this stipulation insures that sufficient funds are available for site reclamation should the property be abandoned.
- Only equipment needed for onsite mining operations, as identified in the Plans, is authorized to be onsite for longer than 14 days. Any equipment changes must be authorized in writing by BLM. All equipment not included in the Plans must be removed during seasonal shut-downs unless the posted financial guarantee includes removal costs. As per 43 CFR 3809.431, “You must modify your plan of operations when any of the following apply: (a) before making any changes to the operations described in your approved plan of operations...” The intent of this stipulation is to insure that equipment changes that could fundamentally expand or alter the scope or volume of the operation are approved by the BLM. Also, this stipulation is to insure that equipment mobilized on to public lands are included in the Plans and removal costs will be included in the approved financial guarantee as per 43 CFR 3809.552.
- Hand tools suitable for fighting fire shall be required at the work site, and the operator must be prepared to suppress any wildfires resulting from operations. The operator is responsible for remaining informed and in compliance with fire safety requirements such as any Emergency Fire Prevention Orders and the Industrial Fire Precaution Level (IFPL). Some of these levels may require fire waivers for certain activities.
- Seeding of all disturbed areas will be done between September 15 and December 15 to take advantage of winter moisture. Seeding will be done each year with a state certified noxious weed free seed mix which will be provided by the botanist each season to account for seed availability. Seed tags from each mix will be provided to the BLM within 30 days of the completion of seeding. If mulch is used to minimize erosion on seed areas, it shall be certified weed free straw or hay.
- Seeding will be monitored for three years to determine if it is well established. Well established plant communities will consist of vigorous, deep-rooted, native species capable of providing competition to noxious weeds and providing organic material over



the long term. The authorized officer shall use evidence of these late seral species on site after three (3) growing seasons to determine that seedling establishment is adequate to achieve longer term reclamation objectives. If after three years, the revegetation is not well established, then the operator will seed the areas of disturbance again with a seed mix provided by the botanist.

In addition to the above operation stipulations and environmental protection measures, the proponent would be required to follow the requirements of the Habitat Mitigation Plan which is summarized below.

The BLM will develop a Memorandum of Understanding with the proponent to cover the stipulations and timeline of the Habitat Mitigation Plan (Appendix E in EA). In summary, the Habitat Mitigation Plan was written to address ODFW's Greater Sage-Grouse Conservation Assessment of Oregon (Hagan, 2011) and the revised Mitigation Framework for Sage-grouse Habitats (ODFW, 2012). This project is within BLM's Preliminary General Habitat designation, requiring consideration of offsite mitigations addressed in the Habitat Mitigation Plan.

The mitigation acreage will be in addition to the project site reclamation acreage. Offsite mitigations take into account both direct and indirect impacts for this project. Direct impacts are the clearing of vegetation by mining operations within the proposed 209 acres, not including acreage for roads which will be left in place. The 1:1 offsite mitigation acreage not including roads for this area has been calculated at 196 acres. Indirect effects are determined by the noise levels over 40 decibels at the lek site during the breeding season, causing sage-grouse to avoid an area. An additional 45 acres was calculated for indirect effects.

The final acreage which was calculated for both direct and indirect impacts is 241. The treatment for this offsite mitigation has been determined to address light to moderate juniper encroachment. In order to not incur any net habitat loss during the operations, the proponent will do a juniper cut of 241 acres to open up additional sage-grouse habitat in the same area of the project within the same population subdivision. The mitigation will take place on public lands within identified Primary General Habitat and up to a three mile radius from the project area.

### **Alternatives Considered**

In order to address concerns that were raised in public and agency scoping, while fulfilling BLM's stated purpose and need for the project (EA page 2), BLM explored the following alternatives:

- Proposed action – This alternative would authorize the Plans of Operation as entered by the proponent, High Bar Mining LLC, to mine and extract gold, by processing placer gravels using heavy equipment. There would be occupancy for a watchman during the mining operations for safety and to prevent theft. The proposed action would mine 247 acres of ground between the ridge top and the Pine Creek valley bottom.
- Alternative to the proposed action – This alternative includes limitations on the mining and processing within the Pine Creek channel as proposed by the operator in the Plans. There are additional environmental protection measures to address concerns raised by

both comments and specialists' review. This alternative reduces the disturbance areas down to 217 acres, and minimizes impacts to the riparian and wetland areas.

- No Action – This alternative would not approve the proposed Plans, but would allow the 15 acres of exploration under three current Notices to proceed until they expire or exploration is completed. These Notices have been bonded and are for exploration only, greatly limiting the activities allowed to take place within the project area.

### **Decision Rationale**

After reviewing the EA developed for this project and the comments received on the potential impacts, Alternative 2 with the environmental protection measures and the Habitat Mitigation Plan has been selected. The implementation of Alternative 2 best meets the purpose and need described in the High Bar Group and Upper/Lower Pine Creek Mining EA, as well as environmental concerns. As required, the BLM considered a range of alternatives including a No Action alternative in the analysis. The selection of Alternative 2 minimizes the impacts on the riparian area, and provides additional mitigation and protection for sensitive species, while still allowing the commercial mining operation to proceed with minimal impacts to the human environment. This alternative meets the purpose and need by addressing the process for Plans of Operation laid out in 43 CFR 3809 and all other applicable mining laws.

This alternative is in conformance with the goals for mineral resources of the Baker Resource Management Plan (RMP) and Record of Decision (BLM, 1989). This alternative has been reviewed to determine if it conforms with the Baker RMP/ROD, terms and conditions as required 43 CFR 1610.5. This alternative has been found consistent with all applicable terms, conditions, standards and guidelines specified in the Baker RMP/ROD. This exploration and development would be consistent with the “unnecessary or undue degradation” standard set forth in Surface Management Regulations (43 C.F.R. 3809) and the Federal Land and Policy Management Act of 1976 (FLPMA). Resource values are protected through the observation and implementation of the environmental protection measures and the HMP addressed in the EA.

Both Plans were submitted and considered complete under the 43 C.F.R. 3809 requirements. The Mining Law of 1872 as amended allows public lands owned by the United States to be open to mineral exploration as public domain lands, which does not include withdrawn areas or acquired lands. All applicable claims have been filed according to the FLPMA and are on lands determined to be open to mineral entry.

The activities described in the action alternatives are authorized under the surface management program administered by BLM which includes mineral exploration, mining and reclamation activities on public lands administered by BLM. All operations of any nature that disturb the surface of the mining claim or site require authorization through the proper BLM field office.

The 43 CFR 3809 Surface Management regulations are clear on what actions require a Plan of Operation, which includes; an operator extracting minerals for commercial use or sale, creating over five (5) acres of disturbance or removing 1,000 tons of proposed ore, and the use of mechanized earthmoving equipment. Once these thresholds have been met, a Plan must be submitted and evaluated under the National Environmental Policy Act (NEPA) at the appropriate level and have an adequate bond in place before implementing such mining operations.

This decision is in compliance with the National Historic Preservation Act (NHPA) as described in section 3.1(b) of the EA under Existing Environment: Cultural and Historical Resources. Alternative 2 will have no effect to any property listed on or potentially eligible for listing on the National Register of Historic Places (NRHP) because these resources will be protected by a 20 meter non-disturbance buffer and will not be impacted by the project. Any cultural and/or paleontological resource (historic or prehistoric site or object, including fossils) discovered by anyone working on this project on public lands will be immediately reported to the authorized officer. The authorized officer will determine avoidance, treatment and mitigation measures that are necessary after consulting with the operator and under Section 106 of the NHPA.

This decision is in compliance with the Endangered Species Act because no federally listed threatened or endangered plant, animal or aquatic species currently reside in or around the project area. Two federal candidate species occur within the project area and vicinity, the Columbia spotted frog and the Greater Sage-Grouse, which were both evaluated in the EA. Alternative 2 will not significantly adversely affect any candidate species or their habitat due to additional environmental protection measures and a habitat mitigation plan for sage-grouse incorporated into the Plans to minimize the potential for impacts to the species and their habitat.

The decision is in compliance with the Clean Air Act and the Clean Water Act. Alternative 2 will not significantly affect air quality because no chemicals are being used and dust is being kept to a minimum through watering the roads during operations and avoiding crushing of material. Alternative 2 will not significantly affect water quality because of the limited activity in and around the Pine Creek channel, use of approved water rights, and compliance with state issued water quality permits. Also, the project area will be visually monitored daily for any visible discharges of water.

The project area is not in any National Wild and Scenic River Systems, Area of Critical Environmental Concern, National Wilderness Preservation System lands, National Monuments, National Conservation Areas, or prime farmlands.

### **CONCLUSION**

The BLM recognizes that public lands are an important source of mineral resources. The decision supports multiple use management of public lands in accordance with the FLPMA and recognizes that mineral resource development can occur concurrently with other resource uses. The project has been analyzed, the public has been involved, and appropriate environmental protection measures will be added to the Plans to prevent unnecessary and undue degradation of the surface resources, to reduce the effects to the environment and to respond to public concerns.

### **APPEAL RIGHTS**

This decision may be appealed to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations contained in 43 CFR, Part 4 and Form 1842-1. If an appeal is filed, your notice must be filed in the Vale District Office, 100 Oregon Street, Vale, Oregon, 97918 within 30 days of receipt. The appellant has the burden of showing that the decision appealed is in error.

Filing an appeal does not by itself stay the effectiveness of a final BLM decision. If you wish to file a petition for a stay of the effectiveness of this decision, pursuant to 43 CFR 4.21, the petition for stay must accompany your notice of appeal. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

A petition for stay is required to show sufficient justification based on the standards listed below.

**Standards for Obtaining a Stay**

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall 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.
4. Whether or not the public interest favors granting the stay.

A notice of appeal electronically transmitted (e.g. email, facsimile, or social media) will *not* be accepted as an appeal. Also, a petition for stay that is electronically transmitted (e.g., email, facsimile, or social media) will *not* be accepted as a petition for stay. Both of these documents must be received on paper at the office address above.

Persons named in the Copies sent to: sections of this decision are considered to be persons "named in the decision from which the appeal is taken." Thus, copies of the notice of appeal and petition for a stay must also be served on these parties, in addition to any party who is named elsewhere in this decision (see 43 CFR 4.413(a) & 43 CFR 4.21(b)(3)) and the appropriate Office of the Solicitor (see 43 CFR 4.413(a), (c)) at the same time the original documents are filed with this office.

For privacy reasons, when the decision is posted on the internet, the Copies sent to: section will be attached to a notification of internet availability and persons named in that section are also considered to be persons "named in the decision from which the appeal is taken."

Any person named in the decision, Copies sent to: section of the decision, or who received a notification of internet availability that receives a copy of a petition for a stay and/or an appeal and wishes to respond, see 43 CFR 4.21(b) for procedures to follow.

For more information, contact Margaret Doolittle at the Baker Field Office, 541-523-1256.



Lori Wood  
Field Manager  
Baker Resource Area, Vale District BLM

June 28, 2013

Date