

*Director's Protest Resolution Report*

**Proposed Bishop Resource  
Management Plan  
Amendment  
& Livestock Use  
Authorizations**

October 17, 2014



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## Reader's Guide

### *How do I read the Report?*

The Director's Protest Resolution Report is divided into sections, each with a topic heading, excerpts from individual protest letters, a summary statement (as necessary), and the Bureau of Land Management's (BLM) response to the summary statement.

### **Report Snapshot**

**Issue Topics and Responses**  
NEPA

**Topic heading**

**Submission number**

**Issue Number:** PP-CA-ESD-08-0020-10  
**Protest issue number**

**Organization:** The Forest Initiative  
**Protesting organization**

**Protester:** John Smith  
**Protester's name**

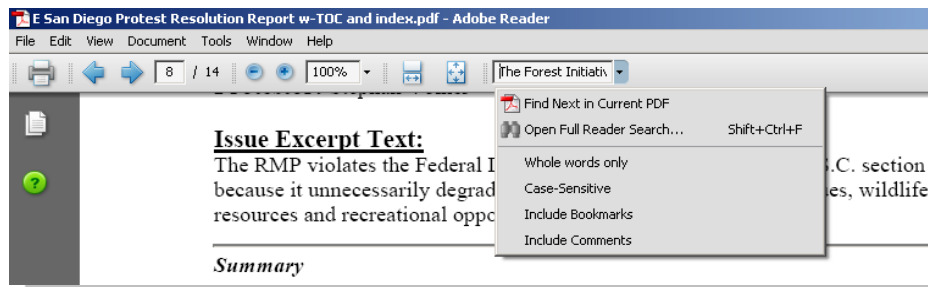
**Issue Excerpt Text:**  
Rather than analyze these potential impacts, as required by NEPA, BLM postpones analysis of renewable energy development projects to a future case-by-case analysis.  
**Direct quote taken from the submission**

**Summary**  
General statement summarizing the issue excerpts (optional).  
There is inadequate NEPA analysis in the PRMP/FEIS for renewable energy projects.

**Response**  
BLM's response to the summary statement or issue excerpt if there is no summary.  
Specific renewable energy projects are implementation-level decisions rather than RMP-level decisions. Upon receipt of an application for a renewable energy project, the BLM would require a

### *How do I find my Protest Issues and Responses?*

1. Find your submission number on the protesting party index which is organized alphabetically by protester's last name.
2. In Adobe Reader search the report for your name, organization or submission number (do not include the protest issue number). Key word or topic searches may also be useful.



### *List of Commonly Used Acronyms*

ACEC	Area of Critical Environmental Concern	IB	Information Bulletin
APD	Application for Permit to Drill	IM	Instruction Memorandum
BA	Biological Assessment	MOU	Memorandum of Understanding
BLM	Bureau of Land Management	NEPA	National Environmental Policy Act of 1969
BMP	Best Management Practice	NHPA	National Historic Preservation Act of 1966, as amended
BO	Biological Opinion	NOA	Notice of Availability
CAA	Clean Air Act	NOI	Notice of Intent
CEQ	Council on Environmental Quality	NRHP	National Register of Historic Places
CFR	Code of Federal Regulations	NSO	No Surface Occupancy
COA	Condition of Approval	OHV	Off-Highway Vehicle (has also been referred to as ORV, Off Road Vehicles)
CSU	Controlled Surface Use	RFDS	Reasonably Foreseeable Development Scenario
CWA	Clean Water Act	RMP	Resource Management Plan
DM	Departmental Manual (Department of the Interior)	ROD	Record of Decision
DOI	Department of the Interior	ROW	Right-of-Way
EA	Environmental Assessment	SHPO	State Historic Preservation Officer
EIS	Environmental Impact Statement	SO	State Office
EO	Executive Order	T&E	Threatened and Endangered
EPA	Environmental Protection Agency	USC	United States Code
ESA	Endangered Species Act	USGS	U.S. Geological Survey
FEIS	Final Environmental Impact Statement	VRM	Visual Resource Management
FLPMA	Federal Land Policy and Management Act of 1976	WA	Wilderness Area
FO	Field Office (BLM)	WSA	Wilderness Study Area
FWS	U.S. Fish and Wildlife Service	WSR	Wild and Scenic River(s)
GIS	Geographic Information Systems		

**Protesting Party Index**

<b>Protester</b>	<b>Organization</b>	<b>Submission Number</b>	<b>Determination</b>
Connor, Michael	Western Watersheds Project	PP-CA-Bishop-13-01	<i>Denied – Issues and Comments</i>
Iturriria, Paco and Miguel	I&M Sheep Company	PP-CA-Bishop-13-02	<i>Denied – Issues and Comments</i>

## **Issue Topics and Responses**

### **Public Law 112-74/IM 2012-096**

**Issue Number:** PP-CA-Bishop-13-01-2

**Organization:** Western Watersheds Project

**Protestor:** Michael Connor

#### **Issue Excerpt Text:**

Here, the Director is proposing to terminate the permits as required in paragraph 1. However, the Director has not ensured "a permanent end to domestic sheep grazing on the land covered by the waived permit". By not closing the allotments to livestock grazing the Director is allowing domestic sheep to trail through Green Creek Allotment, and in fact to trail through the "predicted area of potential contact" between bighorn sheep and domestic sheep. EA at 3-49. Thus the Director's proposed amendment will not eliminate all risks of disease transmission on these public lands nor will it "ensure a permanent end to domestic sheep grazing on the land covered by the waived permit" as required under paragraph (e)2. The proposed amendment thus violates Public Law 112-74 and violates BLM Policy as laid out in Instruction Memorandum No. 2012-096.

#### **Summary:**

The proposed amendment violates Public Law 112-74 and Bureau of Land Management (BLM) Instruction Memorandum No. 2012-096 because it will not ensure a permanent end to domestic sheep grazing on the land covered by the waived permit.

#### **Response:**

The BLM Bishop Field Office did not receive, from either of the two affected permittees, voluntary waivers to relinquish the existing permits for the Dog Creek and Green Creek allotments. Therefore, provisions for waived (relinquished) permits in Public Law 112-74 and BLM Instruction Memorandum 2012-096 do not apply to the Proposed Bishop Resource Management Plan (RMP) Amendment. In addition, contrary to the protester's claim, the proposed RMP amendment would amend the Bishop RMP, in accordance with 43 CFR parts 4100 and 1600, 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 both allotments. While the allotments would remain available for permitted livestock use under a term grazing permit under the Bishop RMP, 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. No new term grazing permit authorizations for either allotment would be issued as part of the proposed RMP amendment. (Proposed Bishop Resource Management Plan Amendment: No Domestic Sheep Grazing, pages 2-11 through 2-12).

## *Cumulative Effects*

**Issue Number:** PP-CA-Bishop-13-01-4

**Organization:** Western Watersheds Project

**Protestor:** Michael Connor

### **Issue Excerpt Text:**

Useful synopses of impacts to sage-grouse from cattle can be found in USFWS 2010 and USFWS 2013. Cattle may directly impact sage-grouse directly by disturbing nesting hens leading to nest abandonment or through predation on sage-grouse eggs (Coates et al., 2008; USFWS, 2013). Indirect impacts from cattle grazing include habitat degradation, competition for forbs, and spread of invasive species. Since the proposed domestic sheep trailing route passes within 1 mile of the Summers Creek lek, the only strutting area west of Highway 395, there will certainly be cumulative effects on Bi-State sage-grouse from adopting Alternative 4.

Because it did not disclose potentially significant cumulative effects from the proposed plan amendment on Sierra Nevada bighorn sheep or Bi-state sage-grouse or other sensitive resources, the EA failed to take NEPA's requisite "hard look" at the environmental effects of the proposed action.

### **Summary:**

The BLM failed to take the National Environmental Policy Act of 1969 (NEPA's) requisite "hard look" at the environmental effects of the proposed action when it did not disclose potentially significant cumulative effects of cattle grazing on Sierra Nevada bighorn sheep.

### **Response:**

Section C of Chapter 1 of the Bishop RMPA/Environmental Assessment (EA) states:

“The purpose of the action is to consider whether or not to authorize domestic sheep grazing for 10 years on the Dog Creek and Green Creek allotments. The purpose of the action is also to ensure that any grazing authorizations implement provisions of, and are in conformance with, the Bishop RMP (U.S. Department of the Interior (USDI) BLM 1993) and the Secretary of the Interior approved Central California Standards and Guidelines (USDI BLM 2000).” (Proposed Bishop Resource Management Plan Amendment: No Domestic Sheep Grazing, page 1-3). Based on the purpose of the action, the BLM developed a reasonable range of alternatives to analyze in further detail.

However, the BLM considered a fifth alternative, the conversion of livestock kind from domestic sheep to cattle on the Dog Creek and Green Creek allotments in the environmental review (Proposed Bishop Resource Management Plan Amendment: No Domestic Sheep Grazing, pages 2-16 through 2-18). Though, this alternative was eliminated from detailed analysis after initial review because: 1) there is currently no infrastructure (e.g., allotment boundary fencing) on these two allotments that would allow for cattle use, and 2) it would not be economically feasible to develop and maintain the infrastructure needed to manage cattle on these allotments in the reasonably foreseeable future. In addition, the proposed conversion is beyond the scope of this environmental assessment and does not meet the purpose and need for action (Proposed Bishop Resource Management Plan Amendment: No Domestic Sheep Grazing, page 2-16).

The EA addresses cumulative impacts to Sierra Nevada bighorn sheep. “Alternatives 1, 3, and 4 would all contribute to a decreased risk of disease transference from domestic sheep to Sierra Nevada bighorn, with Alternatives 3 and 4 providing the greatest increase in security for this federally-listed, endangered species.” (Proposed Bishop Resource Management Plan Amendment: No Domestic Sheep Grazing, page 3-54).

The EA also addresses cumulative impacts to sage-grouse. “Alternatives 1, 3 and 4 would maintain and slightly improve habitat conditions for Greater sage-grouse...and a host of other wildlife species on the allotments. However, the overall small size of both allotments relative to the amount of available habitat for these species would not significantly result in a cumulative benefit to the species.” (Proposed Bishop Resource Management Plan Amendment: No Domestic Sheep Grazing, page 3-43 and 3-55).

Additionally, the EA discusses the relationship of the Dog Creek and Green Creek allotments to other high-risk allotments and the contribution that closure of these allotments would make along with other high-risk allotments and private lands in the region.

As outlined in the Preferred Alternative (Alternative 4), applications for permits to graze cattle would require subsequent, site specific environmental review under NEPA to determine suitability of a proposed grazing use. Subsequent environmental review under NEPA would consider the impacts including the cumulative effects on Sierra Nevada bighorn sheep.



## *Socioeconomic Impacts*

**Issue Number:** PP-CA-Bishop-13-02-3

**Organization:** I&M Sheep Company

**Protestor:** Paco and Miguel Iturriria

### **Issue Excerpt Text:**

Within the "Alternative 4-No Domestic Sheep Grazing/Crossing Permit Only (EA CA 170-09-0002)" Document, under "Adverse Effects" it states: "Implementation of the selected alternative is also expected to have some limited adverse effect on local economies that are tied directly to the two affected sheep operation." "Overall, the magnitude of the predicted adverse effects is limited and restricted to the local and regional scale."

- With a total of 1,540 AUMs affected by the decision - the equivalent of 1.3% of total sheep numbers in California - the impact is far greater than the local economies and two sheep operators suggested by BLM. A reduction of sheep in California by even a small percentage will impact the meat packers and processors, wool mills, textile manufacturers, leather works, and even pharmaceutical manufacturers that use lanolin and other sheep by-products throughout the nation. Additionally, every 1,000 head of sheep produces, on average, 18 year-round full time jobs, not only in the sheep industry directly, but also in the ancillary industries, including those noted previously. Therefore, this decision would impact up to 138 full-time jobs.

### **Summary:**

The BLM does not adequately analyze the economic impacts from the loss of sheep grazing in the local and regional area within the EA.

### **Response:**

In accordance with NEPA, the EA notes that cumulative effects are defined as the "impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions." (Proposed Bishop Resource Management Plan Amendment: No Domestic Sheep Grazing, page 3-50). Additionally, it was noted in the EA that the geographic scope of the impacts analysis encompassed the region around the Bishop Field Office. Under the social and economic values section of Chapter 3 of the EA, the BLM adequately analyzed the impacts of Alternative 4 (noted to be similar to Alternative 3). For Mono County, the BLM found that, indeed, there would be a reduced input into the local economy from not permitting domestic sheep grazing. (Proposed Bishop Resource Management Plan Amendment: No Domestic Sheep Grazing, page 3-21). Though, the protester implies that

the impacts of this alternative are beyond the region.

The protester claims with a total of 1,540 Animal Unit Months (AUM) affected by the decision that it equates to 1.3percent of the total sheep in California. The BLM is unclear on how this number was derived by the protester. According to the U.S. Department of Agriculture, International Standard Serial Number (USDA ISSN): 1949-1611 Report (Released February 1, 2013), all sheep and lambs in California from January 1, 2012 to 2013 equaled 570,000 head. The 1,540 AUMs theoretically affects 641 sheep in a twelve-month period. As a result, our calculation suggests that the decision affects 0.1 percent of total sheep numbers in California. Furthermore, the BLM Bishop Field Office recently worked to secure the protesting operator with two additional allotments providing 1,131 AUMs. Therefore, the protesting sheep operator almost doubled what he lost under Alternative 4 (Preferred Alternative), which is 550 AUMs.