

Diversity, and others (Center) filed for injunctive relief in U.S. District Court, Northern District of California (court) against the Bureau of Land Management (BLM) alleging that the BLM was in violation of Section 7 of the Endangered Species Act (ESA) by failing to enter into formal consultation with the U.S. Fish and Wildlife Service (USFWS) on the effects of adoption of the California Desert Conservation Area Plan (CDCA Plan), as amended, upon threatened and endangered species. On August 25, 2000, the BLM acknowledged through a court stipulation that activities authorized, permitted, or allowed under the CDCA Plan may adversely affect threatened and endangered species, and that the BLM is required to consult with the USFWS to insure that adoption and implementation of the CDCA Plan is not likely to jeopardize the continued existence of threatened and endangered species or to result in the destruction or adverse modification of critical habitat of listed species.

Although BLM has received biological opinions on selected activities, consultation on the overall CDCA Plan is necessary to address the cumulative effects of *all* the activities authorized by the CDCA Plan. Consultation on the overall Plan is complex and the completion date is uncertain. Absent consultation on the entire Plan, the impacts of individual activities, when added together with the impacts of other activities in the desert are not known. The BLM entered into negotiations with plaintiffs regarding interim actions to be taken to provide protection for endangered and threatened species pending completion of the consultation on the CDCA Plan. Agreement on these interim actions avoided litigation of plaintiffs' request for injunctive relief and the threat of an injunction prohibiting all activities authorized under the Plan. These interim agreements have allowed BLM to continue to authorize appropriate levels of activities throughout the planning area during the lengthy consultation process while providing appropriate protection to the desert tortoise and other listed species in the short term. By taking interim actions as allowed under 43 CFR part 8364.1, BLM contributes to the conservation of endangered and threatened species in accordance with 7(a)(1) of the ESA. BLM also avoids making any irreversible or irretrievable commitment of resources which would foreclose any reasonable and prudent alternative measures which might be required as a result of the consultation on the CDCA plan in accordance with

7(d) of the ESA. In November 2001, the stipulation respecting Peirson's milk-vetch became effective. Parcel 1, as identified in this notice, is the Northern closure under the above stipulation. Parcel 2 is the Small Central closure; Parcel 3 is the Large Central closure; Parcel 4 is the Patton Valley closure, part of the Large Central closure; and Parcel 5 is the Southern closure as identified in the stipulation.

An Environmental Assessment (EA) has been prepared for this action. According to the EA, the five closure areas contain many identified high density colonies of Peirson's milk-vetch. About 50 percent of the Peirson's milk-vetch habitat will be protected from potential OHV impacts by these five closures. Closures of these areas will also provide increased protection for several wildlife species such as Colorado Desert fringed-toed lizard, Couch's spadefoot toad and several other species. In addition, the closures will protect cultural resources. Archaeological records indicate that these areas were prehistoric travel ways which also contained important plant and animal foods used by Native Americans.

The EA is available for public comment for a period of 15 days prior to the effective date. Please contact the El Centro Field Office for further information.

**EFFECTIVE DATE:** No sooner than July 16, 2001.

**ADDRESSES:** Written comments may be sent to the attention of Roxie Trost, BLM, El Centro Field Office, 1661 S. 4th Street, El Centro, CA 92243, telephone (760) 337-4400.

Dated: June 8, 2001.

**James Wesley Abbott,**

*Associate State Director.*

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## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[MT-924-1430-ET; MTM 39381]

#### Opening of Land; Montana

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** Public Land Order No. 5748, which withdrew 80.72 acres of National Forest System land from location and entry under the mining laws for a recreation area and trailhead facilities

into the Selway-Bitterroot Wilderness Area, expired August 27, 2000, by operation of law. This action will open the land to mining. The land has been and will remain open to such forms of disposition as may by law be made of National Forest System lands.

**EFFECTIVE DATE:** June 15, 2001.

#### FOR FURTHER INFORMATION CONTACT:

Sandra Ward, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406-896-5052.

**SUPPLEMENTARY INFORMATION:** Public Land Order No. 5748, published in the **Federal Register** August 28, 1980 (45 FR 573398), withdrew 80.72 acres of National Forest System land for a period of 20 years for a recreation area and trailhead facilities into the Selway-Bitterroot Wilderness Area. The public land order expired August 27, 2000, by operation of law. The following land is hereby opened to location and entry under the United States mining laws:

#### Lolo National Forest

Principal Meridian, Montana

T. 11 N., R. 21 W.,

Sec. 6, West 660 feet of lot 3, East 1,000 feet of lot 4, and East 1,000 feet of lot 5.

The area described contains 80.72 acres in Missoula County.

At 9 a.m. on (*publication date*), the land shall be opened to location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempting adverse possession under 30 U.S.C. 38 (1994), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights, since Congress has provided for such determinations in local courts.

Dated: May 24, 2001.

**Howard A. Lemm,**

*Acting Deputy State Director, Division of Resources.*

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