

Dated: May 31, 2005.

**Rebecca W. Watson,**

*Assistant Secretary—Land and Minerals Management.*

[FR Doc. 05-11856 Filed 6-15-05; 8:45 am]

**BILLING CODE 3410-11-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[CO-930-1430-ET; COC-28315]

#### Public Land Order No. 7640; Revocation of Secretarial Order Dated September 4, 1936; Colorado

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

**ACTION:** Public land order.

**SUMMARY:** This order revokes a Secretarial Order in its entirety as it affects the remaining 800 acres of National Forest System land withdrawn for the Bureau of Reclamation's Western Slope Survey/Yampa-White Reclamation Project. This order opens the land to such forms of disposition as may by law be authorized on National Forest System land and to mining.

**DATES:** Effective July 18, 2005.

**FOR FURTHER INFORMATION CONTACT:** Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215-7093, 303-239-3706.

**SUPPLEMENTARY INFORMATION:** The Bureau of Reclamation has determined that this land is no longer needed for reclamation purposes and has requested the revocation.

#### Order

By virtue of the authority vested in the Secretary of the Interior by Section 204(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (2000), it is ordered as follows:

1. The Secretarial Order dated September 4, 1936, which withdrew National Forest System land for the Bureau of Reclamation Western Slope Survey/Yampa-White Project, is hereby revoked in its entirety:

Routt National Forest, Sixth Principal Meridian

T. 1 N., R. 86 W.,  
Sec. 16;  
Sec. 17, SE $\frac{1}{4}$ .

The area described contains 800 acres in Garfield County.

2. At 9 a.m. on July 18, 2005, the land will be opened to such forms of disposition as may by law be authorized on National Forest System lands, including 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 of the land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (2000), 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 31, 2005

**Rebecca W. Watson,**

*Assistant Secretary—Land and Minerals Management.*

[FR Doc. 05-11857 Filed 6-15-05; 8:45 am]

**BILLING CODE 4310-JB-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[WY-921-1430-FQ; WYW 83356-05]

#### Public Land Order No. 7638; Partial Revocation of Two Secretarial Orders; Wyoming

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

**ACTION:** Public land order.

**SUMMARY:** This order partially revokes two Secretarial Orders insofar as they affect 240 acres of public lands withdrawn for stock driveway purposes. The lands are no longer needed for the purpose for which they were withdrawn. This action will open the lands to surface entry unless closed by overlapping withdrawals or temporary segregations of record.

**EFFECTIVE DATE:** July 15, 2005.

**FOR FURTHER INFORMATION CONTACT:** Janet Booth, BLM Wyoming State Office, PO Box 1828, Cheyenne, Wyoming 82003, 307-775-6124.

**SUPPLEMENTARY INFORMATION:** This action will allow for completion of a pending land exchange and clear the records of an unneeded withdrawal.

#### Order

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (2000), it is ordered as follows:

1. The Secretarial Orders dated February 2, 1924, and April 30, 1938, which withdrew public lands for Stock Driveway No. 128 (Wyoming No. 13), are hereby revoked insofar as they affect the following described lands:

#### Sixth Principal Meridian

T. 43 N., R. 86 W.,

Sec. 3, E $\frac{1}{2}$ SE $\frac{1}{4}$ ;

Sec. 10, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;

Sec. 21, W $\frac{1}{2}$ NE $\frac{1}{4}$  and NW $\frac{1}{4}$ SE $\frac{1}{4}$ .

The areas described aggregate approximately 240 acres in Washakie County.

2. At 9 a.m. on July 18, 2005, the lands described in paragraph 1 shall be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on July 18, 2005, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Dated: May 12, 2005.

**Rebecca W. Watson,**

*Assistant Secretary—Land and Minerals Management.*

[FR Doc. 05-11855 Filed 6-15-05; 8:45 am]

**BILLING CODE 4310-22-P**

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### Notice of Intent To Prepare an Environmental Impact Statement

**SUMMARY:** Pursuant to the National Environmental Policy Act of 1969 (NEPA), we, the Office of Surface Mining Reclamation and Enforcement (OSM), plan to prepare an environmental impact statement (EIS) to analyze the effects of possibly revising our regulations pertaining to excess spoil generation and disposal and stream buffer zones. On January 7, 2004, we published in the **Federal Register** proposed changes to regulations regarding excess spoil disposal, the stream buffer zone, and corresponding changes to the stream diversion regulations. We have subsequently determined that preparation of an EIS would be an appropriate mechanism to fully assess alternative approaches to these specific proposed actions and their potential impacts. By this notice, we are announcing our intent to prepare an EIS on this rulemaking initiative and are asking for your help in identifying the significant issues and specific

alternatives related to the proposed action.

**DATES:** *Electronic or written comments:* We must receive your written comments by 4 p.m. eastern standard time on August 15, 2005, to ensure consideration in the preparation of the draft EIS.

**ADDRESSES:** You may mail or hand carry comments to: "EIS Scoping SBZ Rulemaking Comments" c/o OSM Appalachian Region, 3 Parkway Center, Pittsburgh, Pennsylvania 15220, or you may send comments via electronic mail to: *SBZ-EIS@osmre.gov*.

See the **SUPPLEMENTARY INFORMATION** section for a list of potential public meeting places. Public meetings will only be held if a sufficient number of people request a meeting by contacting the person listed below in the section **FOR FURTHER INFORMATION CONTACT**.

**FOR FURTHER INFORMATION CONTACT:** David Hartos, Physical Scientist, OSM Appalachian Region, 3 Parkway Center, Pittsburgh, Pennsylvania 15220; telephone: (412) 937-2909 or by e-mail at *dhartos@osmre.gov*.

**SUPPLEMENTARY INFORMATION:**

- I. Why Is OSM Initiating Rulemaking?
  - A. Why Is OSM Initiating Rulemaking To Minimize the Adverse Environmental Effects From Excess Spoil Fill Construction?
  - B. Why Is OSM Proposing To Revise Its Stream Buffer Zone Regulation?
- II. What Alternatives Have We Identified?
  - A. "No Action" Alternative.
  - B. Strengthening the Excess Spoil Requirements.
  - C. Clarifying the Stream Buffer Zone Requirements.
- III. What Are the Potential Issues Associated With the Action?
- IV. How Will the NEPA Process Integrate With the Rulemaking Process?
- V. How Can I Suggest What Issues and Alternatives the EIS Will Examine?

**I. Why Is OSM Initiating Rulemaking?**

We are considering rulemaking to address issues regarding excess spoil fills and to clarify the stream buffer zone requirements. For a more in depth discussion of reasons for initiating rulemaking, we refer the reader to the January 7, 2004, **Federal Register** (69 FR at 1036).

*A. Why Is OSM Initiating Rulemaking To Minimize the Adverse Environmental Effects Stemming From Excess Spoil Fill Construction?*

\* \* \* \* \*

Mining operations that generate large amounts of excess spoil to be disposed of outside the coal extraction area may cover significant areas over and around stream reaches, especially in

mountainous areas. Such fills may have a variety of effects on stream reaches and related environmental values. As discussed below, available information indicates that in some cases, more land is disturbed for the disposal of excess spoil outside the coal extraction area than is necessary. Existing regulations do not specifically address in detail the size and configuration or environmental effects of excess spoil. Therefore, OSM anticipates that the purpose of this action would be to provide regulatory guidance to ensure that fills are no larger than necessary to accommodate anticipated excess spoil, and to address the adverse environmental effects of excess spoil disposal, particularly impacts on streams, consistent with the underlying authority and purposes of SMCRA.

In SMCRA section 515(b)(3), Congress recognized the importance of returning mine spoil to the mined area as an integral part of reclamation, but Congress also recognized that there are situations where this may not be desirable or possible (30 U.S.C. 1265(b)(3)). This statutory provision requires that all surface coal mining and reclamation operations "backfill, compact (where advisable to ensure stability or to prevent leaching of toxic materials), and grade in order to restore the approximate original contour [AOC] of the land" except for mountaintop mining operations pursuant to SMCRA section 515(c), for which an alternative post mining land use requires a level or gently rolling contour. 30 U.S.C. 1265(b)(3). Section 515(b)(3) also provides for exceptions to the AOC requirement in situations when it may not be possible to return all the spoil to the mined area because the volume of overburden is large relative to the thickness of coal. In those situations, the operator is required to demonstrate that "due to volumetric expansion the amount of overburden and other spoil and waste material is more than sufficient to restore the approximate original contour." *Id.* The operator is also required to "backfill, grade, and compact (where advisable) the excess overburden and other spoil and waste materials to attain the lowest possible grade but not more than the angle of repose," in order to "achieve an ecologically sound land use compatible with the surrounding region" and to prevent slides, erosion, and water pollution. *Id.*

Evidence that Congress anticipated excess spoil is further illustrated by section 515(b)(22) of SMCRA, 30 U.S.C. 1265(b)(22). In this provision, Congress imposed specific controls for the disposal of excess spoil to assure mass

stability and to prevent mass movement and erosion. Among the various controls, section 515(b)(22)(D) requires that the excess spoil disposal area "not contain springs, natural water courses, or wet weather seeps unless lateral drains are constructed from the wet areas to the main underdrains," to prevent filtration of water into the spoil pile. Section 515(b)(22)(I) requires that all other provisions of SMCRA be met.

SMCRA also sets out special requirements for spoil handling for steep-slope surface coal mining. Section 515(d)(1), 30 U.S.C. 1265(d)(1), requires that, "no \* \* \* spoil material \* \* \* be placed on the downslope below the bench or mining cut: Provided, That spoil material in excess of that required for the reconstruction of the approximate original contour under the provisions of paragraph 515(b)(3) or 515(d)(2) shall be permanently stored pursuant to section 515(b)(22)."

Since the early 1970's, large-scale surface mining has become a more prevalent means of coal extraction, especially in the Appalachian coalfields. Most surface coal mining in the mountainous terrain of central Appalachian coalfields unavoidably generates excess spoil. This excess spoil is often placed in the upper reaches of valleys adjacent to the mine. In this terrain and relatively wet climate, even the upper reaches of valleys may include stream channels or watercourses with continual (perennial) or intermittent flow. Most excess spoil fills occur in the steep terrain of the central Appalachian coal region. Excess spoil fills also occur occasionally in other parts of the United States where surface coal mining is conducted in steep terrain.

In 1998, we conducted studies in Kentucky, Virginia and West Virginia. When we examined permit files and reclaimed mines, we found it difficult to distinguish between the topography of mines backfilled and graded to achieve the approximate original contour (AOC) and the topography of mines that were granted a variance from the AOC requirement. We also found that there were no clear differences in the number and size of the excess spoil fills associated with these mines, although we anticipated that non-AOC mines would have larger or more numerous fills. We determined that typically, coal mine operators could have retained more spoil on mined-out areas under applicable AOC requirements than they were actually retaining.

In addition, we found that, in many instances, coal mine operators were overestimating the anticipated volume of excess spoil. As a result, we

concluded that coal companies were designing fills larger than necessary to accommodate the anticipated excess spoil. Where fills are larger than needed, more land outside the coal extraction area is disturbed than is necessary. We attributed these problems, in part, to inadequate regulatory guidance. Therefore, we recommended that each regulatory authority work with us to develop enhanced guidance on material balance determinations, spoil management, and AOC. Kentucky, Virginia and West Virginia have developed such guidance; we also developed such guidance for the Tennessee Federal program.

We commend Kentucky, Virginia, and West Virginia for their improvements in addressing AOC and the volume of excess spoil. However, we believe there is also a need to revise the national regulations concerning excess spoil placement, because surface mining throughout the country may generate excess spoil. We are considering changes to strengthen our regulatory requirements to address the adverse environmental effects of spoil disposal, particularly impacts on streams, stemming from the construction of excess spoil fills.

#### *B. Why Is OSM Proposing To Revise Its Stream Buffer Zone Regulation?*

There are highly contradictory views on the application of the existing SBZ rule, which have been reflected in litigation; and OSM believes there may be a need to clarify the SBZ rule, consistent with SMCRA. Therefore, OSM anticipates that the purpose of this action would be to clarify the requirements of the SBZ rule consistent with underlying authority in SMCRA, the purposes of SMCRA and the SBZ rule, and the legislative history of SMCRA; and to improve regulatory stability.

Recent litigation has brought to light widely divergent opinions on how our stream buffer zone regulatory requirements should be interpreted. These opinions cause confusion and uncertainty among State and Federal regulatory agencies responsible for coal mining as well as the coal industry and the public.

The courts have expressed different opinions relating to the interpretation of the stream buffer zone regulation. For example, the District Court for the Southern District of West Virginia effectively concluded that under the stream buffer zone rule, excess spoil fill cannot be allowed in any segment of an intermittent or perennial stream because the fill will cause adverse effects in that stream segment and violate water

quality standards. *Bragg v. Robertson (Bragg)*, Civ. No. 2:98-0636, Memorandum Opinion and Order at 43-47 (S.D. W. Va., October 20, 1999).

The court stated:

When valley fills are permitted in intermittent and perennial streams, they destroy those stream segments. The normal flow and gradient of the stream is now buried under millions of cubic yards of excess spoil waste material, an extremely adverse effect. If there are fish, they cannot migrate. If there is any life form that cannot acclimate to life deep in a rubble pile, it is eliminated. No effect on related environmental values is more adverse than obliteration. Under a valley fill, the water quantity of the stream becomes zero. Because there is no stream, there is no water quality.

*Id.* at 43.

This opinion regarding the stream buffer zone regulation was later overturned by the 4th Circuit on jurisdictional grounds without addressing the merits. In a separate case, the District Court for the Southern District of West Virginia discussed its view that under SMCRA, excess spoil fill is not allowed in streams. In that case, the 4th Circuit rejected the district court's view:

Indeed, it is beyond dispute that SMCRA recognizes the possibility of placing excess spoil material in waters of the United States. Section 515(b)(22)(D) of SMCRA authorizes mine operators to place excess spoil material in "springs, natural water courses or wet weather seeps" so long as "lateral drains are constructed from the wet areas to the main underdrains in such a manner that filtration of the water into the spoil pile will be prevented. 30 U.S.C. 1265(b)(22)(D). In addition, § 515(b)(24) requires surface mine operators to "minimize disturbances and adverse impacts of the operation on fish, wildlife, and related environmental values, and achieve enhancement of such resources where practicable," implying the placement of fill in the waters of the United States. 30 U.S.C. § 1265(b)(24). It is apparent that SMCRA anticipates the possibility that excess spoil material could and would be placed in waters of the United States'.

*Kentuckians for the Commonwealth v. Rivenburgh*, (Rivenburgh) No. 02-1736 (Sept. 23, 2002) 317 F.3d at 443.

These are examples of the conflicting views that have been expressed related to interpretation of the existing stream buffer zone rule. We believe it is important to ensure that our regulations are clear and understood.

*History of the Stream Buffer Zone Rule:* There are no provisions in SMCRA requiring establishment or protection of a stream buffer zone. With the exception of roads and access ways (see 30 U.S.C.1265(b)(18)), SMCRA does not prohibit mining activities within or near streams. OSM promulgated a stream buffer zone rule initially as an

interim regulatory program provision to establish a "vegetative filter strip" of undisturbed land "to protect stream channels from abnormal erosion" from nearby upslope mining activities. 42 FR 62652 (December 13, 1977). That interim program regulation, which is still in effect, requires only that the regulatory authority approve all incursions into the stream buffer zone.

When we published our permanent program regulations in the **Federal Register** on March 13, 1979, we included a revised stream buffer zone rule and explained that the stream buffer zone concept was a means to implement various SMCRA provisions, particularly, sections 515(b)(10) and 515(b)(24) [30 U.S.C. 1265(b)(10) and (24)]. 44 FR 15176 (March 13, 1979). Section 515(b)(10)(B)(i) of SMCRA requires that mining operations "minimize the disturbances to the prevailing hydrologic balance at the mine-site and in associated offsite areas and to the quality and quantity of water in surface and ground water systems" by preventing, "to the extent possible, using the best technology currently available, additional contributions of suspended solids to stream flow or runoff outside the permit area." This section also requires that operations minimize downstream water quality and quantity impacts using several measures. Section 515(b)(24) of SMCRA requires operations "to the extent possible using the best technology currently available" to "minimize disturbances and adverse impacts of the operation on fish, wildlife, and related environmental values." These standards are consistent with the other requirements of SMCRA to minimize impacts within the mining permit area and prevent material damage to the hydrologic balance offsite (e.g., downstream). For example, section 1260(b)(3) requires:

No permit or revision application shall be approved unless the application affirmatively demonstrates and the regulatory authority finds in writing on the basis of the information set forth in the application or from information otherwise available which will be documented in the approval, and made available to the applicant, that the assessment of the probable cumulative impact of all anticipated mining in the area on the hydrologic balance has been made by the regulatory authority and the proposed operation thereof has been designed to prevent material damage to hydrologic balance outside permit area.

On June 30, 1983, we revised the stream buffer zone rule to include several changes. First, the 1983 stream buffer zone rule applies to intermittent and perennial streams, rather than

streams with a biological community. Second, it allows permanent diversion of stream flow. Third, it adds requirements for findings that the mining activities will not cause or contribute to violations of applicable water quality standards and will not adversely affect other environmental resources of the stream (in addition to the finding concerning effect on water quality and quantity required in the 1979 rule). Finally, it does not retain the phrase from the 1979 rule expressly limiting the required finding concerning adverse effects, to the section of stream within 100 feet of the mining activities.

The current Federal stream buffer zone rule has been in effect since August 1, 1983, and State regulatory programs include similar requirements. Neither OSM nor the State regulatory authorities have interpreted or implemented the stream buffer zone rule to prohibit either placement of excess spoil fills or other surface mining activities within the stream buffer zone. Under the various Federal and State regulatory programs, an operator may conduct a coal mining activity closer than 100 feet from an intermittent or perennial stream, if the operator demonstrates that the activity would meet the conditions set forth in 30 CFR 816/817.57 for a stream buffer zone waiver. Regulatory authorities have approved many mining activities, including excess spoil fill construction in stream buffer zones, because they met all applicable regulatory requirements.

## II. What Alternatives Have We Identified?

For ease of consideration by the public in scoping this EIS, we will be discussing changes to the excess spoil and stream buffer zone regulations separately. However, changes to these regulations will not necessarily be analyzed separately since changes to one regulation may affect the other.

We will consider only those non-substantive word changes to the stream diversion rule that are necessary for consistency with any excess spoil and stream buffer zone changes; therefore, in this EIS, we will not consider alternatives to those changes in the stream diversion rule.

### A. "No Action" Alternative

NEPA requires us to consider the "no action" alternative which would result in no changes to the excess spoil and stream buffer zone regulations as they currently exist in the Federal program.

### B. Strengthening the Excess Spoil Requirements

We are considering changes to the excess spoil regulations that would add the following: Require the applicant to demonstrate that the volume of excess spoil generated has been minimized, that fills would be no larger than necessary, and to submit alternative spoil disposal plans in order to identify the plan that minimizes adverse environmental effects.

### C. Clarifying the Stream Buffer Zone Requirements

We are considering revising the stream buffer zone regulation at 30 CFR 816.57 and 817.57 to clarify under which circumstances the regulatory authority can allow surface coal mining activities within 100 feet of an intermittent or perennial stream. We will consider a clarification that would closely follow our historic interpretation and implementation of the current stream buffer zone rule.

## III. What Are the Potential Issues Associated With the Action?

As a general matter, we will analyze issues such as the effects of the alternatives on the hydrologic balance, streams, fish and wildlife habitat, and compliance with the Clean Water Act. We may consider additional issues that may be identified during scoping.

## IV. How Will the NEPA Process Integrate With the Rulemaking Process?

Section 102(2)(C) of NEPA, 42 U.S.C. 4332(2)(C), and the regulations of the Council on Environmental Quality implementing NEPA, 40 CFR parts 1500 through 1508, require us to take a "hard look" at the consequences of any major Federal action we undertake that may significantly affect the quality of the human environment. We have decided that the NEPA process is applicable to this rulemaking and intend to analyze the impacts of our proposed action and reasonable alternatives that we will consider. We anticipate that the rulemaking and NEPA processes will proceed as follows.

After we complete the initial stages of scoping and identify the reasonable rulemaking alternatives for analysis, we will prepare a draft EIS that will include our "preferred alternative." Upon release of the draft EIS, we anticipate publishing a notice of proposed rulemaking consistent with the preferred alternative, unless we select a preferred alternative that makes rulemaking unnecessary. The public comment periods for the draft EIS and proposed rule will run concurrently for 60 days. Once the public comment

period closes and comments are considered, OSM will publish a final EIS. After a minimum of 30 days following release of a final EIS, OSM will publish a combined final rule and a record of decision unless OSM decides to adopt the "no action" alternative.

## V. How Can I Suggest What Issues and Alternatives the EIS Will Examine?

In accordance with the Council on Environmental Quality's regulations for implementing NEPA, 40 CFR parts 1500 through 1508, OSM is soliciting public comments on the scope and significant issues that you believe we should address in the EIS. We are specifically asking for your opinions as to the feasibility and appropriateness of the proposed alternatives discussed above, and any other reasonable alternatives that you think should be considered by the EIS. Suggestions and information on attendant environmental and economic impacts regarding the alternatives are welcome as well.

Send written comments, including email comments, to OSM at the locations listed under the section **ADDRESSES**.

Comments should be specific and pertain only to the issues relating to the proposals. OSM will include all comments in the administrative record for this EIS.

If you want your name on the mailing list to receive future information, please contact the person listed under the section **FOR FURTHER INFORMATION CONTACT**.

### Availability of Comments

OSM will make comments, including names and addresses of respondents, available for public review during normal business hours. OSM will not consider anonymous comments. If individual respondents request confidentiality, OSM will honor their requests to the extent allowable by law. Individual respondents who wish to withhold their name or address (except for the city or town) from public review must state this prominently at the beginning of their comments and must submit their comments by regular mail, not by e-mail. All submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses will be available for public review in their entirety.

### Public Meetings

We are prepared to hold meetings in five locations. All meetings will be structured to be conducive to a high degree of interaction among participants

and meeting facilitators. The primary purpose of these meetings will be to bring together interested parties to discuss the scope of the proposed action, reasonable alternatives to the proposed action, and other significant issues relating to the EIS preparation. We will consider other reasonable alternatives that may be suggested in the scoping process. The other issues include the identification of impact topics, data needs, and national, State, and local concerns that need to be considered. If meetings are held, the format will be structured to promote interaction among the participants to determine what issues and concerns should be addressed by the EIS.

We have identified five potential locations below where we are prepared to conduct public meetings if we receive sufficient interest. Please call, write, or email the person listed under the section **FOR FURTHER INFORMATION CONTACT** if you are interested in participating in a meeting at the location listed. For logistical reasons and for the benefit of the participants, we need to know approximately how many participants we can expect at each of the meetings.

- Pittsburgh, Pennsylvania.
- Knoxville, Tennessee.
- Alton, Illinois.
- Denver, Colorado.
- Washington, DC.

If a meeting is held, we will have some means available to make a formal record, which will be made part of the administrative record for the EIS. If you have written suggestions regarding issues, alternatives, and sources of additional information, we encourage you to give us a copy at the meeting. We will consider these written comments and also make them part of the record.

Any disabled individual who needs special accommodation to attend a public meeting is encouraged to contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

If you wish to speak to an OSM representative to discuss the scope of the EIS or if you would like to request an additional meeting at a location and date that is more convenient to you, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will exercise our discretion as to whether additional meetings will be held and the form of such meetings. We will announce the details of any future meeting in the **Federal Register**, the OSM Web site (<http://www.osmre.gov>) and local newspapers as the meetings take form.

Dated: May 2, 2005.

**Sterling J. Rideout,**

*Assistant Director, Program Support.*

[FR Doc. 05-11926 Filed 6-15-05; 8:45 am]

**BILLING CODE 4310-05-P**

## **INTERNATIONAL TRADE COMMISSION**

[Investigation No. 337-TA-529]

### **In the Matter of Certain Digital Processors, Digital Processing Systems, Components Thereof, and Products Containing Same; Notice of a Commission Determination Not To Review an Initial Determination Granting a Motion To Amend Complaint and Notice of Investigation**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ's") initial determination ("ID") granting complainant's motion to amend the complaint and notice of investigation in the above-captioned investigation to add claims 5 and 6 of U.S. Patent No. 5,517,628.

**FOR FURTHER INFORMATION CONTACT:**

Timothy P. Monaghan, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-205-3152. Copies of the nonconfidential version of the ID and all nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington DC 20436, telephone 202-205-2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on January 6, 2005 (70 FR 1277) based on a complaint filed on behalf of BIAAX Corporation ("BIAAX"), of Boulder, Colorado. The complaint alleged violations of section 337 in the importation into the United States, sale

for importation, and sale within the United States after importation of certain digital processors, digital processing systems, components thereof, and products containing same by reason of infringement of certain claims of five U.S. patents, US Patent Nos. 4,487,755; 5,021,954; 5,517,628 ("the '628 patent"); 6,253,313; and 5,765,037. The notice of investigation named Texas Instruments, Inc., of Dallas, Texas; iBiquit Digital Corporation, of Columbia, Maryland; Kenwood Corporation, of Japan; and Kenwood U.S.A. Corporation, of Long Beach, California as respondents.

On May 17, 2005, the ALJ issued the subject ID, Order No. 10, granting complainant's motion to amend the complaint and notice of the investigation to add claims 5 and 6 of the 628 patent. No party filed a petition to review the subject ID.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and section 210.42 of Rules of Practice and Procedure, 19 CFR 210.42.

By order of the Commission.

Issued: June 10, 2005.

**Marilyn R. Abbott,**

*Secretary of the Commission.*

[FR Doc. 05-11868 Filed 6-15-05; 8:45 am]

**BILLING CODE 7020-02-M**

## **INTERNATIONAL TRADE COMMISSION**

[Investigation No. 731-TA-287 (Review)]

### **Raw in-Shell Pistachios From Iran**

**AGENCY:** United States International Trade Commission

**ACTION:** Notice of Commission determination to conduct a full five-year review concerning the antidumping duty order on raw in-shell pistachios from Iran.

**SUMMARY:** The Commission hereby gives notice that it will proceed with a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) to determine whether revocation of the antidumping duty order on raw in-shell pistachios from Iran would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the review will be established and announced at a later date. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207,