



United States Department of the Interior  
BUREAU OF LAND MANAGEMENT

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In Reply Refer To:  
4160 ID130

December 2, 2013

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Juniper Mountain Grazing Association  
c/o Michael Stanford  
3581 Cliffs Road  
Jordan Valley, OR 97910

**Notice of Field Manager's Final Decision**  
**Nickel Creek FFR Allotment Permit Renewal: Authorization #1103720**

Dear Mr. Stanford:

Thank you for working with the BLM during the permit renewal process. I appreciate your interest in grazing the allotment in a sustainable fashion and am confident that this final decision achieves that objective. The BLM remains dedicated to processing your August 2, 2012, updated grazing permit application for the Nickel Creek FFR Allotment. I signed a proposed decision to renew that grazing permit on October 18, 2013. The proposed decision included terms and conditions that would make significant progress toward meeting the Idaho Standards for Rangeland Health and Guidelines for Livestock Grazing Management (Idaho S&Gs), as well as the objectives of the Owyhee Resource Management Plan (ORMP). You received that proposed decision on October 21, 2013. The BLM received a letter protesting that proposed decision from you on November 4, 2013. In addition to your protests, the BLM received other protests regarding the proposed decision from Western Watersheds Project.

Protest points raised within the submissions received and my responses are provided in the attached document titled "Response to Protest Points – Nickel Creek FFR Allotment." This Final Decision has been revised somewhat from the proposed decision, to clarify details of the terms and conditions of the permit that will be offered and to address or clarify specific protest points.

## Background

As you know, the BLM evaluated current grazing practices and current conditions in the Nickel Creek FFR Allotment through 2013. We undertook this effort to ensure that any renewed grazing permit on the allotment would be consistent with the BLM's legal and land management obligations. As part of the BLM's evaluation process, an updated Rangeland Health Assessment, Evaluation, and Determination was completed; this final decision incorporates by reference the information contained in those documents.

While completing the Rangeland Health Assessment, Evaluation, and Determination, the BLM engaged in public scoping and met with members of the public interested in grazing issues on the Nickel Creek FFR Allotment. A scoping package was sent to you and other known individuals, groups, and organizations recognized as the interested public for the Nickel Creek FFR Allotment on March 11, 2011. The scoping package solicited comments to better identify issues associated with renewing your livestock grazing permit on this allotment.

After evaluating conditions on the land and meeting with you and the public, it became clear that resource concerns currently exist on the Nickel Creek FFR Allotment. As a focus of addressing those resource concerns, my office prepared and issued the Nickel Creek FFR Grazing Permit Renewal Environmental Assessment<sup>1</sup> (EA) in which we considered a number of options and approaches to maintain and improve resource conditions. Specifically, the BLM considered and analyzed in detail your application for grazing permit renewal and three additional alternatives. We also considered other alternatives that we did not analyze in detail. Our objective in developing alternatives was to consider options that were important to you as the permittee, to address issues and concerns raised during internal and external scoping and to consider options that, if selected, would ensure that the Nickel Creek FFR Allotment's natural resources conform to the goals and objectives of the Owyhee Resource Management Plan (ORMP) and the Idaho Standards for Rangeland Health and Guidelines for Livestock Grazing Management (Idaho S&Gs). This decision incorporates by reference the analysis contained in the EA.

Following public availability of the BLM's October 18, 2013, Proposed Decision, review of protest points, I am now prepared to issue a final decision to renew your permit to graze livestock within the Nickel Creek FFR Allotment.

This final decision will:

- Describe current conditions and issues on the allotment;
- Briefly discuss the alternative grazing management schemes that the BLM considered in the EA;
- Respond to the application for grazing permit renewal for use in the Nickel Creek FFR Allotment;
- Consider protest points received following issuance of the October 18, 2013, proposed decision;
- Outline my final decision to select Alternative A as supplemented; and

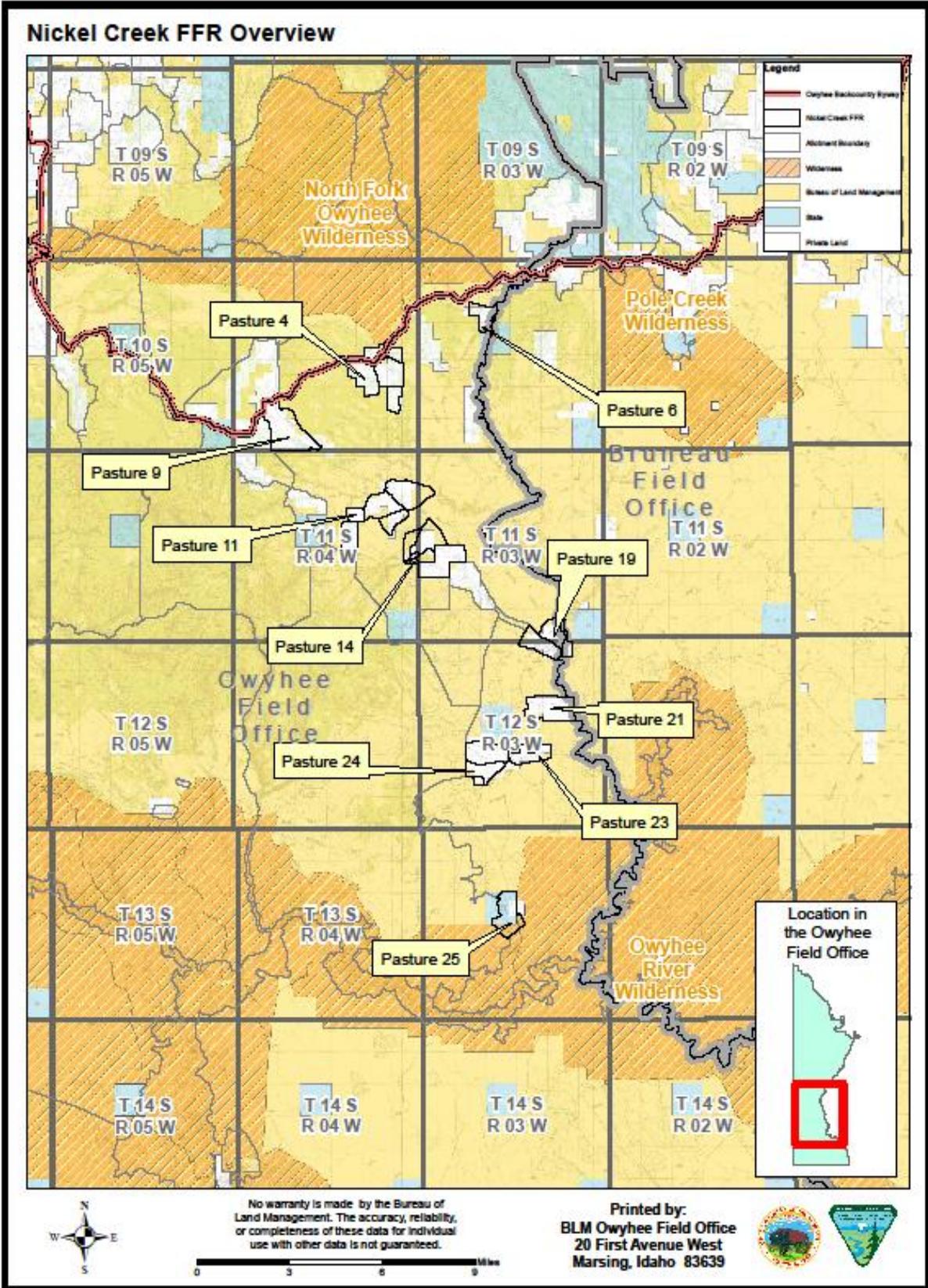
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<sup>1</sup> EA # DOI-BLM-ID-B030-2011-0006-EA analyzed 4 alternatives for livestock grazing management practices to fully process permits within the Nickel Creek FFR Allotment.

- State my reasons for this final decision.

### *Allotment Setting*

The Nickel Creek FFR Allotment is located near Juniper Mountain in Owyhee County, Idaho, approximately 30 miles south of Mud Flat Road (Figure 1.1). The allotment is grazed by the Juniper Mountain Grazing Association (JMGA), which currently consists of three different operators. This allotment is divided into 10 pastures (4, 6, 9, 11, 14, 19, 21, 23, 24 and 25) scattered over approximately 20 air miles, with most pastures subdivided into individual fields. The allotment contains approximately 78% private land, 19% BLM-managed lands, and 3% Idaho State Lands. Because this allotment includes a large acreage of private land, under the current permit the livestock numbers and dates have varied annually as determined by you, the permittee, provided that the 109 animal unit months (AUMs) permitted were not exceeded and unacceptable impacts to public land resources did not occur. *See map.*



Elevations within the Nickel Creek FFR Allotment range between 4,750 feet to 5,730 feet, with precipitation from eight to 16 inches per year. Most of the perennial running water is located on private land, and because livestock tend to graze near water, cattle on the allotment tend to spend the majority of the season grazing private land.

The allotment lies within the Owyhee Uplands, a sagebrush steppe semi-arid landscape of shrubs and widely spaced bunchgrasses where native vegetation communities are diverse. Limited precipitation with cold winters and dry summers constrains plant and animal communities. Primary vegetation types are low sagebrush, mountain big sagebrush, or basin big sagebrush communities with native perennial bunchgrasses in the understories.

***Current Grazing Authorization***

You currently graze livestock within the Nickel Creek FFR Allotment pursuant to a grazing permit issued by the BLM. The terms and conditions of that grazing permit are as follows:

Allotment	Livestock		Grazing Period		% PL	Type Use	AUMs
	Number	Kind	Begin	End			
00657 Nickel Creek FFR	107	Cattle	12/01	12/31	100	Active	109

Other terms and conditions:

1. The number of livestock and season of use is at your discretion. Allotment # 00657 consists of Pastures 4, 6, 9, 11, 12, 14, 19, 21, 24, and 25.
2. Turnout is subject to Boise District range readiness criteria.
3. A properly completed, signed and dated actual grazing use report form (BLM Form 4130-5) must be submitted to BLM, OFO within 15 days from the last day of authorized annual grazing use.
4. Supplemental feeding is limited to salt, mineral, and/or energy/protein in block, granular, or liquid form. If used on public lands, these supplements must be placed at least one-quarter (1/4) mile away from any riparian area, spring, stream, meadow, aspen stand, sensitive plant species, playa, or water development located on public lands unless a site specific exemption is approved by the authorized officer.
5. Pursuant to 43 CFR 10.4(B), BLM OFO field manager must be notified by telephone with written confirmation, immediately upon the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony (as defined in 43 CFR 10.2) on federal lands. Pursuant to 43 CFR 10.2(C), any ongoing activities connected with such discovery must be stopped immediately and a reasonable effort to protect the discovered remains or objects must be made.
6. Changes to the scheduled use require prior approval.
7. You are required to coordinate trailing activities with the BLM prior to initiation. A trailing permit or similar authorization may be required prior to crossing public lands.
8. Livestock exclosures located within your grazing allotment are closed to all domestic grazing use.
9. You are required to maintain rangeland improvements in accordance with the cooperative agreements and range improvement permits in which you are a signature or assignee. All maintenance of range improvements within a wilderness study area requires prior consultation with the authorized officer.

10. All appropriate documentation regarding base property leases, lands offered for exchange-of-use, and livestock control agreements must be approved prior to turn out. Leases of land and/or livestock must be notarized prior to submission and be in compliance with Boise District Policy.

As part of a U.S. District Court settlement agreement, the following terms and conditions were added to the permit in March of 2000:

- Key herbaceous riparian vegetation, where streambank stability is dependent upon it, will have a minimum stubble height of 4 inches on the stream bank, along the greenline, after the growing season;
- Key riparian browse vegetation will not be used more than 50 percent of the current annual twig growth that is within reach of the animals;
- Key herbaceous riparian vegetation on riparian areas, other than the streambanks, will not be grazed more than 50 percent during the growing season, or 60 percent during the dormant season; and
- Streambank damage attributable to grazing livestock will be less than 10 percent on a stream segment.

The current permit authorizes an annual use of 109 animal unit months (AUMs<sup>2</sup>) of forage and a season of use between December 1 and December 31<sup>3</sup>; however, based on recent management actions over the last ten years, it is clear that in most years you have used the allotment with different livestock numbers and seasons compared to the numbers and dates identified in the Mandatory Terms and Conditions, utilizing the flexibility authorized in the permit.

Actual use is important when considering the renewal of a grazing permit because it was actual use and not authorized levels of use that resulted in current conditions on the allotment. In other words, the current condition of the allotment is not the result of what was authorized under the current permit, but rather is the result of varied seasons of use over the past several years.

### ***Resource Conditions***

The BLM completed an updated Rangeland Health Assessment, Evaluation, and Determination for the Nickel Creek FFR Allotment in 2013, which was included in the Draft EA for review prior to signature of the final determination document. Comments were considered prior to signature and incorporated where appropriate. Evaluation and Determination documents have been revised as a response to internal comments initially, and further clarification has been made in light of comments brought forward by the permittee and interested public (although no changes to the standards' determinations resulted). The final determination document was signed on October 16, 2013 and is included in Appendix A of the final EA. Those documents concluded that some of the resources on the Nickel Creek FFR Allotment were not meeting the

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<sup>2</sup> Animal unit month (AUM) means the amount of forage necessary for the sustenance of one cow or its equivalent for a period of one month.

<sup>3</sup> Although the season of use in the grazing permit states 107 cattle and a season from 12/1-12/31 in the Mandatory Terms and Conditions, the permit states that "The number of livestock and season of use is at your discretion" in the Other Terms and Conditions, which allows flexibility.

Idaho S&Gs. Specifically, the BLM determined that the allotment did not meet Standards 1 (Watersheds), 4 (Native Plant Communities), and 8 (Special Status Upland Wildlife). However, current livestock grazing management was not identified as a significant causal factor. Standards 2 (Riparian), 3 (Stream Channel), 7 (Water Quality), and 8 (Special Status Riparian Wildlife) are not being met, but the allotment is making significant progress toward meeting those Standards. Standard 8 (Special Status Plants) is meeting the Standard and Standards 5 (Seedings) and 6 (Exotics) do not apply to the Nickel Creek FFR Allotment.

### *Vegetation - Uplands*

The BLM's 2013 Rangeland Health Evaluation and Determination for the Nickel Creek FFR Allotment showed that the allotment is not meeting the ORMP management objective to improve unsatisfactory and maintain satisfactory vegetation health/condition on all areas. This objective is not being met because plant communities in many areas have shifted from co-dominance of desirable deep-rooted perennial bunchgrasses (e.g., bluebunch wheatgrass, Idaho Fescue) and sagebrush, to greater dominance of less desirable shallow-rooted bunchgrasses (e.g., Sandberg bluegrass and bulbous bluegrass). In addition, there are pockets where plant communities are being impacted by invasive annual grasses and Western juniper.

The 2001 Assessment<sup>4</sup> (based on 2001 Rangeland Indicators) documented altered plant communities, as described above. The 2011 field visits found conditions similar to the 2001 field evaluations at the four sites evaluated. Three primary areas of departure from reference conditions were noted: 1) historic loss of soil (see Standard 1 - Watershed), 2) reductions in large bunchgrasses (particularly bluebunch wheatgrass) and biotic soil crusts, and 3) presence of invasive species. Invasive species included Phase 1-2 juniper encroachment in some areas, and the presence (and in some cases abundance) of non-native annual grasses. Exotic grasses were primarily cheatgrass and some bulbous bluegrass (a perennial), but also included several exotic grasses not noted in the 2001 field evaluation such as North Africa grass, hairy brome, and dense silkybent. The apparent increase in exotic annual grasses since 2001 is the most substantial change on the allotment and constitutes a potential threat to native plant community integrity, although other factors appeared stable. Based on 2009 NAIP imagery, juniper encroachment is evident in portions of Pastures 4, 9, 11, and 19. Juniper encroachment is mostly patchy (Phase 1), but there are areas of Phase 2 juniper stands within these pastures, which is affecting the sagebrush and bunchgrass plant communities in those areas. Utilization monitoring at the end of the 2011 and 2012 grazing seasons showed overall light utilization, with no individual site readings over 40%, and several sites with little or no utilization (<7%).<sup>5</sup>

### *Watersheds*

The BLM's 2013 analysis of the Nickel Creek FFR Allotment concluded that Standard 1 (Watersheds) is not being met. Accelerated soil erosion such as water flow patterns and pedestalled bunchgrasses are identified throughout the allotment. This erosion is caused and exacerbated by reductions of deep-rooted perennial bunchgrasses due to past livestock grazing and increases in shallow-rooted non-native grasses that have reduced soil cover and litter

<sup>4</sup> The 2001 Assessment is incorporated by reference within EA # DOI-BLM-ID-B030-2011-0006-EA.

<sup>5</sup> For more detailed discussion, please refer to EA # DOI-BLM-ID-B030-2011-0006-EA Section 3.1.1 and Appendix A.

necessary for soil site stability. These departures adversely affect upland soil and hydrologic function and influence proper nutrient cycling, hydrologic cycling, and energy flow at various levels.<sup>6</sup>

#### *Water Resources and Riparian/Wetland Areas*

The BLM's 2013 Rangeland Health Evaluation and Determination for the Nickel Creek FFR Allotment concluded that Standards 2 (Riparian Areas and Wetlands) and 3 (Stream Channel/Floodplain) are not meeting the Standards but are making significant progress. Additionally, the riparian areas which are found in the allotment are subject to the ORMP's objective to maintain or improve these areas to attain proper functioning condition. Standards 2 and 3 are not being met, as indicated by deeply entrenched channels, increased width-to-depth ratio, and excessive bedload (sediment). The conditions represented by these channel and riparian characteristics were caused prior to the last decade and current management is maintaining or improving Standards 2 and 3. This conclusion was based on the fact that only the young age class of willow was observed during the 2003 evaluation or the 2011 PFC assessment; suggesting that willows that previously occupied this site were removed by either excessive grazing or mass erosion events<sup>7</sup>. Significant progress toward meeting these Standards is indicated by the presence of herbaceous and woody riparian vegetation that is re-stabilizing streambanks. Castle and Smith Creeks are so deeply entrenched that it is unlikely either would be considered PFC in the near future. Both 2011 lotic PFC assessments identified an apparent upward trend. Riparian vegetation (both woody and herbaceous) increased and improved stabilization of sandbars from what was reported in 2003.<sup>8</sup>

#### *Special Status Plants*

The BLM's 2013 Rangeland Health Evaluation and Determination for the Nickel Creek FFR Allotment concluded that the allotment is meeting Standard 8 for special status plants. Plants of interest include a known occurrence of short-lobed penstemon and occurrences nearby of Mud Flat milkvetch and thinleaf goldenhead. Specifically, the allotment meets Standard 8 (Plants) because habitat conditions do not appear limiting for short-lobed penstemon, and grazing use of its habitat is light. Habitats for Mud Flat milkvetch and thinleaf goldenhead (if present) are expected to be suitable and/or improving (based on general uplands and riparian conditions), and are not limited by current grazing. As noted in the evaluation, sagebrush communities have been altered somewhat from reference conditions. This is due to reductions in large bunchgrasses and biotic crusts and increased invasive annual grasses in some pastures. In general, however, the community structure, plant composition, and plant diversity are close to expected. Therefore, if Mud Flat milkvetch is present on public lands in this allotment, it is likely that its habitat (openings in mountain big sagebrush or low sagebrush communities) is suitable to maintain viable populations of this plant. Likewise, meadow and riparian habitats are improving overall, so if thinleaf goldenhead occurs on public lands in this allotment, its habitat would also be expected to be on an upward trend. No impact from grazing or trampling (or other disturbance) was observed on the occurrence of short-lobed penstemon in Pasture 4 in July 2011, and plants

<sup>6</sup> For more detailed discussion, please refer to EA # DOI-BLM-ID-B030-2011-0006-EA Section 3.2.1 and Appendix A.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

appeared healthy. Utilization in that field (Field 4) was measured at 30% at the end of the 2011 season and competition with weeds was not a substantial impact to the species at this site.<sup>9</sup>

#### *Wildlife/Wildlife Habitats and Special Status Animals*

The BLM's 2013 Rangeland Health Evaluation and Determination for the Nickel Creek FFR Allotment concluded that the allotment is not meeting Standard 8 for special status upland wildlife habitat. Standard 8 for special status riparian wildlife habitat, however, was found to be not meeting but making significant progress.

No threatened or endangered species listed under the ESA occur in the Nickel Creek FFR Allotment. Two birds (greater sage-grouse and yellow-billed cuckoo) and one amphibian (Columbia spotted frog) species listed as candidates under the ESA, and 7 mammals, 12 birds, one reptile, three amphibians, one fish, and one invertebrate with special status could potentially occur within the Nickel Creek FFR Allotment and may be affected by grazing activities<sup>10</sup>.

Suitability of upland and riparian wildlife habitat is closely related to the health and vigor of vegetation community conditions discussed in Standard 4 (Native Plant Communities) and Standard 2 (Riparian Areas and Wetlands). Currently, upland habitats throughout the allotment have reduced, rather than healthy, productive, and diverse, populations of native perennial grasses (especially tall-statured, deep-rooted bunchgrasses). These issues exist to some degree in all pastures. The absence of tall native grasses and forbs affects species that are adapted to foraging on seeds and insects in native habitats. Of primary concern is the ability of these sagebrush communities to provide habitat structure (diverse and intersecting overstory/understory interface) and function (nesting, security, and foraging cover) for shrub-obligate and -dependent species such as greater sage-grouse, pygmy rabbits, Brewer's sparrows, loggerhead shrikes, sage sparrows, and Wyoming ground squirrels. The presence of invasive species is also contributing to reduced cover and forage production for some special status species.

Although riparian and wetland habitats are limited in the Nickel Creek FFR Allotment, some stream courses are supporting woody and herbaceous hydric species. Castle Creek in Pasture 14, and Smith Creek in Pasture 11, were assessed as functional-at-risk with an apparent upward trend. This upward trend was due to expanding riparian plant communities, adequate plant vigor, and minimal impacts from livestock such as hoof shearing, heavy woody browse use, or heavy livestock utilization. Young willows and mature sedges and rushes were observed along both stream reaches and plant vigor was appropriate for the site. Deeply entrenched channels, increased width-to-depth ratio, and excessive bedload (sediment) were also documented. Beneficial uses for the reaches of Castle and Smith Creeks include cold water aquatic life and wildlife habitat. Beneficial uses for Deep Creek include cold water aquatic life, salmonid spawning, secondary contact recreation, and wildlife habitat. Idaho Department of Environmental Quality (IDEQ) identifies the reaches of Castle, Smith, and Deep Creeks as water quality limited and not fully supporting cold water aquatic life or salmonid spawning due to

<sup>9</sup> For more detailed discussion, please refer to Appendix A of the EA.

<sup>10</sup> See Appendix F, Special Status Wildlife Species, in EA # DOI-BLM-ID-B030-2011-0006-EA for a list of special status wildlife species, their status, and occurrence potential within the Nickel Creek FFR Allotment.

sedimentation and water temperature. Total Maximum Daily Loads (TMDLs) were developed for sediment and temperature on these reaches. Current livestock grazing management practices are not a significant causal factor for not meeting Standard 8 because little to no impact from livestock grazing was observed during field visits in 2011. The presence of dense herbaceous riparian vegetation also indicates that current livestock grazing is not negatively impacting riparian vegetation along Smith and Castle Creeks. A significant causal factor for not meeting Standard 8 is that water quality parameters are not being met and cold water aquatic life is not fully supported in the reaches of Castle, Smith, and Deep Creeks due to sedimentation and water temperature.

Overall, the proper composition, structure, and function of native upland vegetation communities needed to meet the habitat requirements for special status wildlife species are lacking to varying degrees within the allotment. The results of historic grazing and invasive plants in upland habitats have variously resulted in a shrub canopy layer with undesirable structural and functional characteristics. These features contribute to inhibited herbaceous vigor and reduced annual production of larger bunchgrasses in the understory and thereby favor an increased occurrence of smaller bunchgrasses and annuals.<sup>11</sup>

### ***Guidelines for Livestock Grazing Management***

In addition to a discussion of land health standards, the BLM's 2013 Determination for the Nickel Creek FFR Allotment identified that all grazing management practices conformed to the BLM's Guidelines for Livestock Grazing Management for Idaho.

### ***Issues***

Based on the BLM's evaluation of the current grazing scheme, the current conditions on the Nickel Creek FFR Allotment, public response to scoping, and the BLM's obligations to meet the Idaho S&Gs and move toward meeting the ORMP management objectives, the BLM identified the following resource issues applicable to the grazing permit renewal for the Nickel Creek FFR Allotment:

*Issue 1: The potential for livestock grazing in the Nickel Creek FFR Allotment to promote the spread of weeds on public lands;*

*Issue 2: The potential for livestock grazing in the Nickel Creek FFR Allotment to reduce cover and health of microbiotic crusts;*

*Issue 3: The potential for livestock grazing in the Nickel Creek FFR Allotment to reduce general habitat requirements for wildlife;*

*Issue 4: The potential for livestock grazing in the Nickel Creek FFR Allotment to reduce native plant community and watershed health by reducing large bunchgrasses;*

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<sup>11</sup> For more detailed discussion, please refer to EA # DOI-BLM-ID-B030-2011-0006-EA Section 3.3.1 and Appendix A.

*Issue 5: The current AUM level is appropriate based on utilization levels.*

### ***Analysis of Alternative Actions***

Based on the current condition of the Nickel Creek FFR Allotment and the issues identified above, the BLM considered a number of alternative livestock management schemes in the EA to ensure that any renewed grazing permit would result in the maintenance or some improved conditions on the allotment. Specifically, the BLM analyzed four alternatives in detail, identified a number of actions common to all alternatives, and considered but did not analyze in detail a number of other possible actions.<sup>12</sup> The BLM considered the following alternatives in detail:

- Alternative A - The BLM would renew the JMGA permit for 10 years consistent with recent livestock grazing management practices that have been in place since about 2003. The new permit would define a season of use from April 1 to November 20 and authorize 109 AUMs of livestock use. The new grazing permit would allow livestock numbers to vary, however the specified season, maximum duration, frequency for each pasture or field could not be adjusted. Terms and conditions for riparian stubble height, herbaceous riparian and woody browse utilization, and stream bank alteration applied to the grazing permit by the United States District Court for the District of Idaho (District Court) would continue.
  1. Key herbaceous riparian vegetation, where streambank stability is dependent upon it, will have a minimum stubble height of 4 inches on the streambank, along the greenline, after the growing season.
  2. Key riparian browse vegetation will not be used more than 50% of the current annual twig growth that is within reach of the animals.
  3. Key herbaceous riparian vegetation on riparian areas, other than the streambanks, will not be grazed more than 50% during the growing season, or 60% during the dormant season.
  4. Streambank damage attributed to grazing livestock will be less than 10% on a stream segment.
- Alternative B - The BLM would renew the permit to JMGA with modification of the existing permit. This alternative would renew the permit to the JMGA for 10 years and would authorize grazing on the Nickel Creek FFR allotment similar to the current permit but would not include the four specific terms and conditions imposed by the District Court. This alternative would authorize livestock numbers and season of use at the JMGA's discretion as long as 109 AUMs were not exceeded. The permit would authorize yearlong grazing.

In order to meet or make significant progress toward meeting Standards and ORMP objectives, the terms and conditions listed below would be included. Exceeding any term and condition would result in complete rest from livestock grazing within that pasture or

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<sup>12</sup> For more detailed discussion, please refer to EA # DOI-BLM-ID-B030-2011-0006-EA Sections 2.1 and 2.2.

field the following year. This alternative would include the following terms and conditions specific to this alternative.

1. Limit utilization by livestock to no more than 40% of key upland herbaceous forage species.
  2. No more than 25% utilization of woody riparian browse.
  3. Residual riparian stubble height of no less than 4 inches.
  4. JMGA would monitor BLM lands for these measures annually and submit information to BLM. Monitoring would be completed as outlined in Appendix H.
- Alternative C – No permit would be issued under this alternative for a ten-year period. This alternative would result in no grazing during the 10-year term.
  - Alternative D – The objective of this alternative is to enhance upland habitat by providing more resource constraints as compared to Alternative A or B. The BLM would accomplish this by limiting the duration of use in any one field or pasture to no more than 30 days per year. This alternative would also include a reduced upland utilization level in the spring and an increase in stubble height for riparian vegetation. The BLM would permit 109 AUMs on BLM land from April 1 to November 20. The permittee would be responsible to follow the grazing system outlined in Table 2.3 of the EA, but with the following terms and conditions:
    1. Livestock utilization is limited to no more than 30% of key upland herbaceous forage species from 4/1 to 7/1. Utilization is limited to not more than 40% the remainder of the grazing season.
    2. Season of use is limited to 9/15 to 11/20, residual riparian stubble height is limited to 6-inches at the end of the grazing season, and riparian woody browse utilization is limited to 25% at the end of the grazing season (11/20) in the following pastures:
      - a. Pasture 6
      - b. Pasture 11 – Field 2
      - c. Pasture 14 – Fields 2 and 6
      - d. Pasture 19 – Field 1

The Draft EA detailing the above alternatives was made available for public review and comment for a 30-day period ending September 19, 2013. In addition to timely comments received from you, a number of government organizations and interest groups also provided comments. Comments that were received are summarized and responses are provided in Appendix E of the EA.

### **Final Decision**

After considering the current grazing practices, the current conditions of the natural resources, and the alternatives and analysis in the EA, comments received from you and other interested publics, protests, as well as other information, it is my final decision to renew your grazing permit for ten years consistent with Alternative A (current situation) with modifications and supplements to “Other Terms and Conditions” as follows:

- Key riparian herbaceous vegetation utilization will be limited to no more than 50% at the end of the grazing season (November 20).
- Alternative A will adopt the 30% utilization limit from 4/1 - 7/1 and 40% use for the remainder of the grazing season as analyzed in Alternative D of the Final EA.
- Use of supplemental feed will not be authorized on public lands.

Implementation of Alternative A as modified and supplemented over the next 10 years will allow the Nickel Creek FFR Allotment to make significant progress toward meeting the Idaho S&Gs in the long term (greater than 10 years) while also moving toward achieving the resource objectives outlined in the ORMP.

The terms and conditions of the renewed grazing permit (applied only to the public lands) will be as follows:

**Table FINAL 1.0. Terms and Conditions.**

Allotment	Livestock		Grazing Period		% PL	Type Use	AUMs
	Number	Kind	Begin	End			
00657 Nickel Creek FFR	107	Cattle	04/01	11/20	100	Active	109

Other Terms and Conditions

1. Grazing use will be in accordance with the grazing schedule (Table FINAL 1.1) identified in the final decision dated \_\_\_\_\_.
2. The number of livestock on the Nickel Creek FFR Allotment #00657 is at the permittee's discretion.
3. Livestock turnout dates are subject to District Range Readiness Criteria.
4. Key herbaceous riparian vegetation accessible to livestock, where streambank stability is dependent upon it, will have a minimum stubble height of 4 inches on the streambank, along the greenline, after the growing season.
5. Key riparian browse vegetation accessible to livestock will not be used more than 50% of the current annual twig growth that is within reach of the animals.
6. Key herbaceous riparian vegetation on riparian areas accessible to livestock, other than the streambanks, will not be grazed more than 50% at the end of the grazing season.
7. Streambank damage attributable to grazing livestock will be less than 10% on stream segments accessible to livestock.
8. Livestock utilization on key upland species is limited to no more than 30% from 4/1 to 7/1.
9. Livestock utilization on key upland species is limited to no more than 40% during the remainder of the grazing season.
10. Use of supplemental feed will not be authorized on public lands.
11. Rangeland improvements must be maintained in accordance with all cooperative agreements and range improvement permits.
12. A properly completed, signed, and dated actual grazing use report form (BLM Form 4130-5) must be submitted to BLM, OFO within 15 days from the last day of authorized annual grazing use.
13. Pursuant to 43 CFR §10.4(b), the BLM Owyhee Field Manager must be notified by telephone with written confirmation immediately upon the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony (as defined in 43 CFR §10.2) on federal lands.

Pursuant to 43 CFR §10.4(c), any ongoing activities connected with such discovery must be stopped immediately and a reasonable effort to protect the discovered remains or objects must be made.

**Table FINAL 1.1. Grazing Schedule.**

Pasture	Field	Season	Duration	Frequency of use
4	3, 4, 5	5/15-11/1	Up to 45 days in each field, for a total duration of 171 days.	Fields would be grazed only once per grazing season.
6	1			
4	1, 2	4/1-5/1	Up to 14 days in both fields combined.	Fields would be grazed only once per grazing season.
		10/1-11/15		
9	1	4/1-5/1 and 10/1-11/15	Up to 10 days in the spring and 21 days in the fall.	Field would be grazed twice per grazing season.
11	1	4/1-5/15	Up to 40 days.	Field would be grazed only once per grazing season.
11	2, 4	5/1-11/1	Up to 45 days in each field (90 total days in both fields).	Each field may be grazed multiple times during the grazing season.
11	5	5/1-11/1 May be grazed in the fall after seed ripe and in the spring.	Up to 45 days.	Cattle may graze this field multiple times within the grazing season.
11	3	5/1-11/1	Up to 45 days.	Cattle would graze this field multiple times within the grazing season.
14	1, 4, 5, 6, 7	5/15-11/1	Up to 45 days in each field, with a total duration of 171 days.	Fields would be grazed only once per grazing season.
14	2	4/15-5/15	Up to 7 days in spring.	Field would be grazed once per grazing season.
14	3		PRIVATE FIELD	
19	1, 2	4/1-10/1	Up to 92 days (3 months) in all pastures and fields combined.	Fields would be used only once per grazing season.
21	1	After seed ripe/fall most years.		
23	1	4/1-10/1 Generally used when cattle move off the Nickel Creek Allotment, and periodically throughout the season.	Up to 184 days in all pastures and fields combined.	Cattle may graze fields multiple times.
24	1, 3			
25	1			
24	4		PRIVATE FIELD	

***Notes on the Terms and Conditions***

My final decision is to offer you a grazing permit for a term of 10 years for the Nickel Creek FFR Allotment. Flexibility is provided as included in your grazing schedule. Implementation of Alternative A, as modified and supplemented, will result in no reduction or increase in AUMs from your current permit. Permitted use within the Nickel Creek FFR Allotment will be as follows:

Active Use	Suspension	Permitted Use
109 AUMs	0	109 AUMs

**Rationale**

***Record of Performance***

Pursuant to 43 CFR § 4110.1(b)(1), a grazing permit may not be renewed if the permittee seeking renewal has an unsatisfactory record of performance with respect to its last grazing permit. Accordingly, I have reviewed your record as a grazing permit holder for the Nickel Creek FFR Allotment, and have determined that you have a satisfactory record of performance and are a qualified applicant for the purposes of a permit renewal.

***Justification for the Final Decision***

Based on my review of the EA, the rangeland health assessment/evaluation, determination, protests, and other documents in the grazing files, it is my decision to select Alternative A, as modified and supplemented. I have made this selection for a variety of reasons, but most importantly because of my understanding that implementation of this decision will continue to fulfill the BLM’s obligation to manage the public lands under the Federal Land Policy and Management Act’s multiple use and sustained yield mandate, and will result in the Nickel Creek FFR Allotment making significant progress in the long-term towards meeting the resource objectives of the ORMP and the Idaho S&Gs.

***Issues Addressed***

Earlier in this final decision I outlined the major issues that drove the analysis and decision making process for the Nickel Creek FFR Allotment. I want you to know that I considered each alternative in light of the specific issues raised in conjunction with this allotment before I made my decision. My selection of Alternative A, as modified and supplemented, was in large part because of my understanding that this selection best addressed those issues, given the BLM’s legal and land management obligations.

*Issue 1: The potential for livestock grazing in the Nickel Creek FFR Allotment to promote the spread of weeds on public lands.*

AND

*Issue 2: The potential for livestock grazing in the Nickel Creek FFR Allotment to reduce cover and health of microbiotic crusts.*

Annual grasses and noxious weed infestations, which in this allotment are mostly non-native invasive species, will be expected to remain static under Alternative A. The grazing intensity under Alternative A during the critical time for controlling annual grasses is not expected to be high enough to have a measurable direct effect on their abundance. Effects from Alternative A on invasive annual forbs, which are relatively few in the allotment, are likely to be similar, and no increase in these weeds is expected. The existing small patches of Scotch thistle will continue to be treated under the Boise District's Noxious and Invasive Weed Treatment EA (USDI-BLM 2005). Plant community structure is expected to maintain sufficient vegetative cover to remain healthy, providing few open niche areas for noxious weeds to become established or thrive. Thus, an increase in noxious weeds is not expected.

The effects of Alternative A, as modified and supplemented, on biological soil crusts are expected to be similar to those on vegetation in general. Under the proposed level and seasons of use, biological soil crusts are expected to be maintained in the short term and would improve over the long term (greater than 10 years). Alternative A will also be expected to maintain existing upland vegetation in the Nickel Creek FFR Allotment because pasture rotations limit the length of time per pasture and upland utilization will be at or below 40% (as per the supplemental term and condition). The effects from past grazing (top soil loss and reduction of large bunchgrasses) and the presence of invasive annual grasses (and to a lesser extent Western juniper) in some pastures, which are causal factors for not meeting Standard 4, will still influence upland native plant communities in the allotment, at least for the short term (next ten years). Recovery from soil loss will take longer than the ten-year term of this permit, and invasive grasses (and Western juniper) are expected to be stable, at best, precluding significant progress. The effects described above are expected to be similar in all of the three major types of ecological sites in the allotment (low sagebrush, mountain big sagebrush, and basin big sagebrush-dominated communities).<sup>13</sup>

*Issue 3: The potential for livestock grazing in the Nickel Creek FFR Allotment to reduce general habitat requirements for wildlife.*

Current livestock grazing management is not identified as a significant causal factor for not meeting the Standard for threatened and endangered animals (Standard 8). Implementation of Alternative A (continuation of current grazing management) will still not meet or make significant progress toward meeting Standard 8 because the causal factors (soil loss, past livestock grazing, and invasive plants) will still affect upland wildlife habitat over the term of the permit. Upland wildlife habitat will be expected to be maintained in its current condition, which is currently not providing adequate resources (nesting cover, foraging cover, forage production) for some special status species in some pastures.

However, Alternative A (as modified and supplemented) will result in no more than 30% utilization from April 1 through July 1 and no more than 40% during the remainder of the grazing season. Utilization limits of 30% in the spring and 40% in other seasons limits the intensity of use in all pastures, and grazing impacts to perennial bunchgrass vigor and

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<sup>13</sup> For more detailed discussion, please refer to EA number EA number DOI-BLM-ID-B030-2011-0006-EA Sections 3.1.2.2 and 3.2.2.2.

productivity will be minimized. This level of utilization appears to be appropriate for maintaining the current condition of upland wildlife habitat in the Nickel Creek FFR Allotment. As identified in the 2013 Determination, this grazing intensity and management will generally maintain perennial bunchgrass vigor and was not determined to be a causal factor for not meeting or making significant progress toward meeting Standard 8.

Some fields will have deferred use (summer or fall rather than spring), which provides for a mosaic of seasonal use across the landscape and allow rest during the spring growing and nesting/foraging season in deferred pastures and potential regrowth in early use pastures. Season of use is very important in affecting wildlife seasonal habitat, with greatest negative effects to some upland wildlife species occurring during the spring nesting/foraging season (Connelly et al. 2007; Dobkin & Sauder 2004).

The 2013 Determination described recent improvements in hydric vegetation within the Nickel Creek FFR Allotment, and riparian areas do not appear to be detrimentally affected by livestock grazing. Under Alternative A, pasture rotations and durations will include spring, summer, and fall use in pastures containing riparian habitat (Pastures 6, 11, 14, and 19), providing for a mosaic of seasonal use across the landscape and allowing for potential regrowth in early use pastures. The continuation of current grazing management is expected to continue to improve riparian habitat within the allotment in the short and long term (2 to 10 years respectively, and depending on the current degradation and ecological resiliency of the site) and will continue through the term of the permit. Due to these factors, this grazing system is making significant progress toward meeting Standard 8 for riparian wildlife habitat and will continue with current management.

Under Alternative A, pasture rotation and durations will be as discussed above. Pastures containing riparian wildlife habitat can be grazed up to their maximum allowed number of days at any time during their season of use (spring, summer or fall). Specific riparian vegetation utilization and streambank alteration limits will apply under this decision. While the lack of rest, potential seasons of use, and allowable vegetation utilization in these pastures could result in negative impacts to some wildlife species within the allotment, I am confident that the terms and conditions as modified and supplemented, and your recent satisfactory management and interest in full rangeland health for this allotment will further continued improvement to riparian habitats as identified.

### **Greater Sage-Grouse**

Under Alternative A, perennial herbaceous vegetation heights are expected to average 7 inches or more at the end of the nesting season in Pastures 4, 6, 9, 11, 14, 19 and 25, based on data collected within the allotment in 2011-2012. Average perennial herbaceous vegetation heights of 7 inches or greater will continue to provide suitable nesting cover in those pastures. In Pastures 21, 23, and 24, perennial herbaceous vegetation heights are expected to average 5 inches or more at the end of the nesting season, based on data collected within the allotment in 2011-2012. Although average perennial herbaceous vegetation heights of fewer than 7 inches that would result from grazing under Alternative A will continue to provide only unsuitable to marginal nesting cover in those pastures, I expect a slight increase in vegetation heights given an upland utilization limit of 30% on those pastures grazed in the spring.

A review of the literature suggests that 40 to 45% utilization (i.e., moderate levels (Holechek, et al. 2006)) will maintain the health and vigor of bunchgrasses and other rangeland vegetation, and 30 to 35% utilization (i.e., conservative levels (Holechek, et al. 2006)) is needed to improve the health and vigor of bunchgrasses and other rangeland vegetation (Holechek, et al. 1999). Alternative A (as modified and supplemented) will result in no more than 30% utilization in the spring and 40% at all other times of the grazing season. Current management has also typically resulted in utilization at or below 40%. This level of utilization is appropriate for maintaining upland vegetation in the Nickel Creek FFR Allotment.

By supplementing Alternative A with upland utilization limits as identified above, grazing impacts to upland sage-grouse habitat will be minimized and a slight increase in perennial herbaceous vegetation heights is expected. We therefore expect average perennial herbaceous vegetation heights of 7 inches or more in sagebrush during the breeding season, which would promote high plant community vigor, provide an adequate perennial herbaceous vegetation height during the subsequent nesting/early brood-rearing season, and continue improvement of sage-grouse nesting habitats.

Under Alternative A (as modified and supplemented), sage-grouse late brood-rearing riparian habitat is expected to improve throughout the allotment because herbaceous cover in riparian areas will continue to increase. Because vegetation within riparian areas will increase, riparian habitat would continue to make significant progress toward meeting the Standard.

As a result of the upland utilization terms and conditions along with expected continued improvement to riparian areas and the association habitat, Alternative A (as modified and supplemented) is consistent with objectives of the BLM special status species policy in Manual 6840 (USDI BLM 2008); in particular “to initiate proactive conservation measures that reduce or eliminate threats to Bureau sensitive species to minimize the likelihood of and need for listing of these species under the ESA.”<sup>14</sup>

*Issue 4: The potential for livestock grazing in the Nickel Creek FFR Allotment to reduce native plant community and watershed health by reducing large bunchgrasses.*

Effects from Alternative A (as modified and supplemented) will not be immediately realized in the watershed as a whole even though the terms and conditions identified within all of the alternatives may result in a direct, observable, and positive response within the riparian areas. Because many variables contribute to watershed health and function, it is difficult to link grazing management within the Nickel Creek FFR to direct or immediate improvement of Standard 1 within the timeframe associated with the permit renewal. Full recovery to meet this Standard will require more than ten years and may not be gained solely because of changes exclusive to livestock management. As a whole, prescribing livestock management in the allotment has very little influence on achieving the Standards because of other activities within the watershed that also influence conditions (irrigation, private land development, past excessive livestock use, wildfire, invasive or noxious weeds, and vegetation structure and diversity).

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<sup>14</sup> For more detailed discussion, please refer to EA # DOI-BLM-ID-B030-2011-0006-EA Section 3.3.2.

Because Standard 4 is not being met due to factors other than current livestock grazing management, changes in grazing management alone will not cause the allotment to meet or make significant progress toward meeting the Standard. The allotment will still be influenced by the causal factors of soil and large bunchgrass loss from past grazing and the presence of invasive weeds over the term of the permit. Soil recovery will take much longer than ten years, and invasive weeds are expected to be stable. The alternatives differ somewhat in their effects on vegetation, and trends are identified for each alternative, but because of the other limiting factors, short-term recovery is not expected.

Alternative A (as modified and supplemented) places utilization constraints of 30% in the spring and 40% in other seasons which limits the intensity of use in all pastures; thus grazing impacts to perennial bunchgrass vigor and productivity will be minimized. Ultimately, as stated in my rationale and the effects analysis of the Nickel Creek FFR Permit Renewal EA, changes in livestock management will not amount to significant progress for upland vegetation Standards (1, 4, 8), although slow and incremental improvement will occur.<sup>15</sup>

*Issue 5: The current AUM level is appropriate based on utilization levels.*

Limited utilization and actual use data are available. The season of use varies between pastures, and because use under the current permit was at your discretion, pastures may or may not have had similar management over time. Before the early 2000s, many fields and pastures were used season long (USDI-BLM 2003a), but since about 2003, use in most fields has been more limited and Active AUMs used have been 109.

The EA at Section 3.1.1.1 shows utilization monitored in 2011 and 2012; utilization before 2011 is not available. General utilization categories can be described as slight (0-20%), light (20-40%), moderate (40-60%), heavy (60-80%), and extreme (80-100%). Using these categories, utilization on the Nickel Creek FFR Allotment in 2011 and 2012 was slight to light. Although utilization data is limited and because livestock are not a causal factor in not meeting standards, I believe that prescribed AUM levels are and will continue to result in utilization at or below levels identified in the terms and conditions.<sup>16</sup>

### ***Additional Rationale***

A tremendous amount of thought and effort went into developing grazing management that is responsive to the Nickel Creek FFR Allotment's specific resource needs, geography, and size. These considerations were taken to address all concerns and requirements mandated to the BLM. Each allotment has different ecology and management capability due to the size and location/topography that result in various issues and priorities. All attempts to coordinate grazing throughout the entire allotment were made by me and my staff with you and the interested public. I recognize the difficulty of not only meeting the mandated needs for the resources, but also the needs and capability that you, the permittee, have. I believe I have balanced those needs of the resource and your capabilities with the information I have to the extent possible.

<sup>15</sup> For more detailed discussion, please refer to EA # DOI-BLM-ID-B030-2011-0006-EA Sections 3.1.2 and 3.2.2.

<sup>16</sup> For more detailed discussion, please refer to EA # DOI-BLM-ID-B030-2011-0006-EA Section 3.1.1.

Although I could have selected Alternative A without supplemental terms and conditions, I was concerned over the lack of any upland vegetation utilization limits. The analysis for Alternative A found that the 50% utilization level as identified in the ORMP would not allow for maintenance or improvement of key upland vegetation for the Nickel Creek FFR Allotment. Because of the potential that utilization could be heavier than recommended by the ID team, and because analysis in the EA for Alternative D states that continued maintenance and/or improvement to key upland vegetative species could occur with implementation of the lighter utilization levels, I adopted these additional terms and conditions to address this need.

In addition, the key riparian herbaceous utilization limits are restricted to a minimum stubble height of 4 inches on the streambank (along the greenline), after the growing season and no more than 50% at the end of the grazing season for non-streambank riparian areas. These utilization limits have been carried forward as terms and conditions of the permit to provide indicators for appropriate residual cover for wildlife habitat and riparian management. Sixty percent utilization during the dormant season is not supported by the literature to maintain (or continue with improved conditions) riparian systems or associated wildlife habitat. Although these resources have not witnessed utilization in excess of 60%, I cannot meet the objectives identified in the ORMP by carrying this utilization limit forward in the terms and conditions of your grazing permit for the Nickel Creek FFR Allotment.

Due to the amount of intermingled private lands within the allotment, I find the term and condition allowing for the use of supplemental feeding (identified in your current permit as being limited to salt, mineral, and/or energy/ protein in block, granular, or liquid form) is not a necessary practice for herd or range management on public lands in this allotment. The term and condition has been modified from that identified in Alternative A of the EA to state that use of supplemental feed will not be allowed on public lands.

I did consider selecting Alternatives B, C, or D for this allotment. Based on all the information used in developing my decision, I believe that the BLM can meet resource objectives and still allow grazing on the allotments. In selecting Alternative A (as supplemented) for the Nickel Creek FFR Allotment rather than Alternatives B, C, or D, I especially considered (1) BLM's ability to meet resource objectives using the selected alternatives, (2) the impact of implementation of Alternative C on your operation, and (3) your past performance under previous permits. The resource issues identified (soil loss, past livestock grazing, and invasive plants) are not related to current livestock management, therefore, it is appropriate to continue current management. I have included additional upland vegetation utilization terms and conditions to ensure utilization levels and resource conditions continue to maintain and/or improve. Ultimately, the suspension of grazing for a ten-year period as analyzed in Alternative C is not the management decision most appropriate at this time in light of these factors.

Climate change is another factor I considered in building my decision around Alternative A for the Nickel Creek FFR Allotment. Climate change is a stressor that can reduce the long-term competitive advantage of native perennial plant species. Since livestock management practices can also stress sensitive perennial species in arid sagebrush steppe environments, I considered the issues together—albeit based on the limited information available on how they relate in actual range conditions. Although the factors that contribute to climate change are complex, long-term, and not fully understood, the opportunity to provide resistance and resilience within

native perennial vegetation communities from livestock grazing induced impacts is within the scope of this decision. The selected alternative combined seasons, intensities, and durations of livestock use to promote long-term plant health and vigor, while, in the case of this allotment, recognizing the limited effects changes in grazing management can accomplish over the term of a permit. Assuming that climate change affects the arid landscapes in the long-term, the native plant communities on this allotment will be able to continue to improve, and thus be better armed to survive such changes.

It continues to be my intention to include the Nickel Creek FFR Allotment in the alternatives, analysis, and subsequent decision in the Nickel Creek Allotment permit renewal process. I anticipate that allotment to undergo the permit renewal process prior to the expiration of the Nickel Creek FFR Allotment grazing permit issued as a result of this decision. Therefore, the Nickel Creek FFR Allotment grazing permit may be modified prior to the expiration of Authorization #1103720 in conjunction with the Nickel Creek Allotment.

### **Finding of No Significant Impact (FONSI)**

A Finding of No Significant Impact (FONSI) was signed on October 17, 2013, and concluded that the proposed decision to implement Alternative A, as supplemented, is not a major federal action that will have a significant effect on the quality of the human environment, individually or cumulatively with other actions in the general area. That finding was based on the context and intensity of impacts organized around the 10 significance criteria described at 40 CFR § 1508.27. Therefore, an environmental impact statement is not required. A copy of the FONSI for EA number DOI-BLM-ID-B030-2011-0006-EA is available on the web at:

<https://www.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=renderDefaultPlanOrProjectSite&projectId=11453&dctmId=0b0003e88017350f>

### **Conclusion**

In conclusion, it is my decision to select Alternative A, as modified and supplemented, over the other three alternatives analyzed because livestock management practices under this selection best meet regulatory requirements, the ORMP objectives allotment-wide, and the Idaho S&Gs. This grazing decision is being issued under the authority of the Owyhee Resource Management Plan; the permit issued to authorize grazing as a result of this decision must comply with the objectives of the ORMP.

### **Authority**

The authorities under which this decision is being issued include the Taylor Grazing Act of 1934, as amended, and the Federal Land Policy and Management Act of 1976, as promulgated through Title 43 of the Code of Federal Regulations (CFR) Subpart 4100 Grazing Administration - Exclusive of Alaska. My decision is issued under the following specific regulations:

- 4100.0-8 Land use plans; The ORMP designates the Nickel Creek FFR Allotment available for livestock grazing;

- 4130.2 Grazing permits or leases. Grazing permits may be issued to qualified applicants on lands designated as available for livestock grazing. Grazing permits shall be issued for a term of 10 years unless the authorized officer determines that a lesser term is in the best interest of sound management;
- 4130.3 Terms and conditions. Grazing permits must specify the term and conditions that are needed to achieve desired resource conditions, including both mandatory and other terms and conditions; and
- 4180 Fundamentals of Rangeland Health and Standards and Guidelines for Grazing Administration. This proposed decision will result in taking appropriate action to modifying existing grazing management in order to make significant progress toward achieving rangeland health.

### **Right of Appeal**

Any applicant, permittee, lessee or other person whose interest is adversely affected by the final decision may file an appeal in writing for the purpose of a hearing before an administrative law judge in accordance with 43 CFR §§ 4160.3(c), 4160.4, 4.21, and 4.470. The appeal must be filed within 30 days following receipt of the final decision. The appeal may be accompanied by a petition for a stay of the decision in accordance with 43 CFR § 4.471, pending final determination on appeal. The appeal and petition for a stay must be filed in the office of the authorized officer, as noted:

Loretta V. Chandler  
Owyhee Field Office Manager  
20 First Avenue West  
Marsing, Idaho 83639

In accordance with 43 CFR § 4.401, the BLM does not accept fax or email filing of a notice of appeal and petition for stay. Any notice of appeal and/or petition for stay must be sent or delivered to the office of the authorized officer by mail or personal delivery.

Within 15 days of filing the appeal or the appeal and petition for stay with the BLM officer named above, the appellant must also serve copies on other persons named in the copies sent to section of this decision in accordance with 43 CFR § 4.421 and on the Office of the Field Solicitor located at the address below in accordance with 43 CFR §§ 4.470(a) and 4.471(b).

Boise Field Solicitors Office  
University Plaza  
960 Broadway Ave., Suite 400  
Boise Idaho, 83706

The appeal shall state the reasons, clearly and concisely, why the appellant thinks the final decision is in error and otherwise complies with the provisions of 43 CFR § 4.470.

Should you wish to file a petition for a stay, see 43 CFR § 4.471 (a) and (b). In accordance with 43 CFR § 4.471(c), a petition for a stay must 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.

As noted above, the petition for stay must be filed in the office of the authorized officer and served in accordance with 43 CFR § 4.471.

Any person named in the decision that receives a copy of a petition for a stay and/or an appeal, see 43 CFR § 4.472(b) for procedures to follow if you wish to respond.

If you have any questions, please contact me at 208-896-5913.

Sincerely,

*Loretta V. Chandler*

Loretta V. Chandler  
Field Manager  
Owyhee Field Office

Attachments: Response to Protest Points – Nickel Creek FFR Allotment

cc: Nickel Creek FFR Allotment Interested Public

## LITERATURE CITED

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### Nickel Creek FFR Interested Public

Company Name	First Name	Last Name	Address 1	City	State	Zip
06 Livestock	Dennis	Stanford	PO Box 167	Jordan Valley	OR	97910
Boise District Grazing Board	Stan	Boyd	PO Box 2596	Boise	ID	83701
Colyer Cattle Co.	Ray & Bonnie	Colyer	31001 Colyer Rd.	Bruneau	ID	83604
Friends of Mustangs	Robert	Amidon	8699 Gantz Ave.	Boise	ID	83709
Gusman Ranch Grazing Association LLC	Forest	Fretwell	27058 Pleasant Valley Rd.	Jordan Valley	OR	97910
Hanley Ranch Partnership	Michael	Hanley	PO Box 271	Jordan Valley	OR	97910
Holland & Hart LLP			PO Box 2527	Boise	ID	83701
ID Cattle Association			PO Box 15397	Boise	ID	83715
ID Conservation League	John	Robison	PO Box 844	Boise	ID	83701
ID Dept. of Agriculture	John	Biar	PO Box 790	Boise	ID	83701-0790
ID Dept. of Parks & Recreation			PO Box 83720	Boise	ID	83720
ID Fish & Game			3101 S. Powerline Rd.	Nampa	ID	83686
ID Wild Sheep Foundation	Director: Jim	Jeffress	PO Box 8224	Boise	ID	83707
Idaho Dept. of Lands			PO Box 83720	Boise	ID	83720-0050
Idaho Farm Bureau Fed.			PO Box 167	Boise	ID	83701
IDEQ			1445 N. Orchard	Boise	ID	83706
Intermountain Range Consultants	Bob	Schweigert	5700 Dimick Ln.	Winnemucca	NV	89445
International Society for the Protection of Horses & Burros			PO Box 55	Lantry	SD	57636
Jaca Livestock	Elias	Jaca	817 Blaine Ave.	Nampa	ID	83651
Juniper Mtn. Grazing Assn.	Michael	Stanford	3581 Cliffs Rd.	Jordan Valley	OR	97910
Land & Water Fund	William	Eddie	PO Box 1612	Boise	ID	83701
LU Ranching	Tim	Lowry	PO Box 132	Jordan Valley	OR	97910
Teo & Sara Maestrejuan			26613 Pleasant Valley Rd.	Jordan Valley	OR	97910
Moore Smith Buxton & Turcke	Paul	Turcke	950 W. Bannock, Ste. 520	Boise	ID	83702
Natural Resources Defense Council	Johanna	Wald	111 Sutter St. 20th Floor	San Francisco	CA	94104
Oregon Division State Lands			1645 NE Forbes RD. Ste. 112	Bend	OR	97701
Owyhee Cattlemen's Assn.			PO Box 400	Marsing	ID	83639
Owyhee County Commissioners			PO Box 128	Murphy	ID	83650
Owyhee County Natural Resources Committee	Jim	Desmond	PO Box 38	Murphy	ID	83650
R&S Enterprise	Ray	Mitchell	265 Millard Rd.	Shoshone	ID	83352
Ranges West			2410 Little Weiser Rd.	Indian Valley	ID	83632
Resource Advisory Council	Chair	Gene Gray	2393 Watts Lane	Payette	ID	83661
Schroeder & Lezamiz Law Offices			PO Box 267	Boise	ID	83701
Shoshone-Bannock Tribes	Tribal Chair: Nathan	Small	PO Box 306	Ft. Hall	ID	83203
Sierra Club			PO Box 552	Boise	ID	83701

Company Name	First Name	Last Name	Address 1	City	State	Zip
Soil Conservation District	Cindy	Bachman	PO Box 186	Bruneau	ID	83604
State Historic Preservation Office			210 Main St.	Boise	ID	83702
State of NV Div. of Wildlife			60 Youth Center Rd.	Elko	NV	89801
The Fund for the Animals, Inc.	Andrea	Lococo	1363 Overbacker	Louisville	KY	40208
The Nature Conservancy			950 W. Bannock St., Ste. 210	Boise	ID	83702
The Wilderness Society			950 W. Bannock St., Ste. 605	Boise	ID	83702
US Fish & Wildlife Service			1387 S. Vinnell Way, Rm. 368	Boise	ID	83709
USDA Farm Services			9173 W. Barnes	Boise	ID	83704
Western Watershed Projects			PO Box 1770	Hailey	ID	83333
Western Watershed Projects	Katie	Fite	PO Box 2863	Boise	ID	83701
	Russ	Heughins	10370 W. Landmark Ct.	Boise	ID	83704
	Brett	Nelson	9127 W. Preece St.	Boise	ID	83704
	Anthony & Brenda	Richards	8935 Whiskey Mtn. Rd.	Murphy	ID	83650
	Sandra	Mitchell	501 Baybrook Court	Boise	ID	83706
	Martin & Susan	Jaca	21127 Upper Reynolds Creek Rd.	Murphy	ID	83650
	Vernon	Kershner	PO Box 38	Jordan Valley	OR	97910
	Ramona	Pascoe	PO Box 126	Jordan Valley	OR	97910
	Chad	Gibson	16770 Agate Ln.	Wilder	ID	83676
	Kenny	Kershner	PO Box 300	Jordan Valley	OR	97910
	Senator: James E.	Risch	483 Russell Senate Office Building	Washington	DC	20510
	Senator: Mike	Crapo	239 Dirksen Senate Office Building	Washington	DC	20510
	Congressman: Mike	Simpson	2312 Rayburn House Office Building	Washington	DC	20515
	Congressman: Raul	Labrador	1523 Longworth HOB	Washington	DC	20515
	Conrad	Bateman	740 Yakima St.	Vale	OR	97918
	Gene	Bray	5654 W. El Gato Ln.	Meridian	ID	83642
	Dan	Jordan	30911 Hwy. 78	Oreana	ID	83650
	Floyd	Kelly Breach	9674 Hardtrigger Rd.	Given Springs	ID	83641
	Lloyd	Knight	PO Box 47	Hammett	ID	83627
	Earl	Maggard	7833 Happy Valley Rd.	Kuna	ID	83634
	John	Romero	17000 2X Ranch Rd.	Murphy	ID	83650
	Bob	Salter	6109 N. River Glenn	Garden City	ID	83714
	Karen	Sussman	PO Box 55	Lantry	SD	57636
	John	Townsend	8306 Road 3.2 NE	Moses Lake	WA	98837
	Brad	Huff	13201 Boulder Pasture Ln.	Guffey	ID	83641
	Bill	Baker	2432 N. Washington	Emmett	ID	83617-9126
	Ed	Moser	22901 N. Lansing Ln.	Middleton	ID	83644
	John	Richards	8933 State Hwy. 78	Marsing	ID	83639

Response to Protest Points - Nickel Creek FFR Allotment  
Field Manager's Proposed Decision dated October 18, 2013  
Juniper Mountain Grazing Association, LLC

The Owyhee Field Office (OFO) received two protests regarding the Field Manager's Proposed Decision for the Nickel Creek Fenced Federal Range (FFR) Allotment issued to the Payne Family Grazing Association, LLC. Protests were received from:

- A. Western Watersheds Project – Katie Fite (WWP)
- B. Juniper Mountain Grazing Association, LLC (JMGA)

Protest points will be addressed in the order listed above.

### WWP

1. WWP protests *“In maintaining any connectivity or restoring any streams, it is essential a rangeland health and grazing impacts NEPA analysis take a close and hard look at the direct indirect and cumulative impacts of this whole inter-connected series of decisions and grazing management actions and rangeland health failure across watersheds. We Protest the failure to do so.”*

**BLM Response:** Section 4.0 of the EA, beginning on page 91, discusses cumulative impacts for resources analyzed. As discussed in Section 4.0, the scope of each cumulative effects analysis area is defined for each resource. For example, the scope of cumulative impacts for upland vegetation and noxious and invasive weeds is defined as “the entire Juniper Mountain area, delineated roughly by the North Fork Owyhee River on the north, Deep Creek on the east, the Owyhee River on the south, and the Oregon border on the west, approximately 288,000 acres” (p. 92), and as “the Nickel Creek Allotment, Nickel Creek FFR Allotment, and a quarter mile buffer of surrounding land” for cultural resources (p. 115). Past, present and reasonably foreseeable future activities are also identified for each resource (see Table 4.1, page 94, Table 4.2, page 99, and Table 4.4 page 104 as examples).

Bounding this analysis to the resource-specific scope as described for each resource is necessary and appropriate to provide a meaningful discussion of the cumulative effects of the proposed action and alternatives and past, present, and reasonably foreseeable future actions. By doing so, the effects analysis can focus on effects where there is an overlap in time and space.

2. WWP protests that BLM did not consider re-alignment of fences. *“We strongly Protest that BLM has not decided to re-align fences.”*

**BLM Response:** In Section 2.2 – Alternatives Considered But Not Analyzed in Detail, the BLM discusses at point 2 (page 15) an option to fence BLM boundaries and incorporate public land portions of the Nickel Creek FFR into the larger Nickel Creek Allotment. As discussed, the alternative was not fully analyzed because of cultural and paleontological considerations. This does not prevent the private landowner from fencing property boundaries if they so choose. This

does not preclude the private landowner from fencing property boundaries, nor does it prevent analysis of this option at a future date.

3. WWP protests BLM's failure to adequately address invasive weeds during the analysis. *"...ALL the recent Owyhee grazing decisions (like Garat-CHL-Swisher, and Proposed Trout Springs and others) completely fail to apply necessary preventative, minimization measures regarding invasive exotic species. . . We Protest this profound lack of effort to protect the lands and depleted watersheds from unnecessary and undue degradation."* (p. 2 of protest letter)

*"We protest this extreme lack of necessary protection and mitigation for damaged weed-vulnerable lands and watersheds."* (p. 6 of protest letter)

*"We Protest the failure to take a precautionary approach to lands where THREE NEW SPECIES OF AGGRESSIVE WEEDS HAVE BEEN FOUND. . . Mgr. Chandler simply cannot make this false and arbitrary Determination. We Protest this."* (p. 11 of protest letter)

**BLM Response:** BLM's analysis identifies that Alternative A (Current Management) would maintain upland vegetation, and invasive annual and noxious weeds would remain static (EA Section 3.1.2.3). Riparian vegetation would continue to improve (EA Section 3.2.2.2), and thus provide improved competition with undesirable weed species. With the addition of upland utilization standards (per the Proposed Decision), perennial bunchgrasses that compete with invasive and noxious weeds would gradually improve over the long term, which reduces bare ground and limits annual invasive grasses (EA Section 3.1.2.5). The EA also identifies that noxious weed inventory and treatment are occurring with Boise District's weed program (EA Section 3.1.2.2). Noxious weeds are also treated as part of the Jordan Valley Cooperative Weed Management Area program. As a result, the EA and proposed decision adequately considered the grazing decision's effects on noxious and invasive weeds.

4. WWP protests that BLM has failed to conduct adequate baseline inventory on Nickel Creek FFR and surrounding allotments. WWP states *"We Protest that BLM has not collected necessary baseline information on sensitive species occurrence, habitat quality and quantity including the condition of the soils, crusts, native veg and risk of weed expansion."* (p. 3 of protest letter)

*"BLM failed to conduct adequate current baseline and site-specific inventories for rare plants and animals across the FFR and Nickel Creek allotment and its surroundings. BLM has not even bothered to conduct systematic current surveys for rare plants. We Protest this."* (p. 10 of protest letter)

**BLM Response:** The BLM used all available information for the analysis, including Rangeland Health Assessments, utilization, riparian monitoring, and sage-grouse habitat assessments (EA Section 3.0). This information includes data on plant and animal special status species, habitat, biological soil crusts, native vegetation condition, and weed risk at site-specific locations across the allotment and vicinity (EA Sections 3.1.1, 3.3.1, and 3.4.1). Although comprehensive, site-specific inventories have not been conducted within the entire allotment and surroundings, BLM

feels that the available information provides an adequate baseline for analyzing grazing management alternatives.

5. *Sage-grouse as well as juniper-dependent species are under great stress from harmful use periods, facilities salting/feeding, overstocking, harmful tree eradication projects on private and BLM land, and other factors. We Protest that these very harmful periods continue under the Proposed decision. BLM must analyze all the direct indirect and cumulative effects of this across this landscape. We Protest this – see immediately preceding Protest point above, discussing the need for this critical data, and the current large-scale harm and species extinctions – like redband trout in East Fork Red Canyon Creek – that are occurring.”*

**BLM Response:** In Section 3.3.1 of the EA, BLM discusses the affected environment for all wildlife species beginning on page 50, with a specific sage-grouse discussion beginning on page 51 of the EA. The impacts of Alternative A (the proposed alternative) to wildlife, including sage-grouse, are thoroughly discussed in Section 3.3.2.1. The proposed decision, as modified, also incorporates terms and conditions from Alternative D which serve to enhance protection of sage-grouse and their habitat during the periods that livestock and sage-grouse use could be in conflict (see page 80).

Section 4.0 – Cumulative Effects of the EA, analyzes the impacts of past, present and reasonably foreseeable actions in conjunction with the proposed action. As discussed in the EA, the cumulative effects analysis area is defined by resource. As indicated in Section 4.3.1.1 (page 100), “the cumulative effects analysis area for sage-grouse and other large and/or highly mobile species upland wildlife species (e.g., big game, raptors, and migratory birds) is delineated by the approximately 5.9 million acre sage-grouse Owyhee subpopulation” as defined by Connelly et al. 2004. See also BLM Response to protest point 4.

6. *WWP protests “How is grazing here related to grazing on other allotments? Including by parties to the Grazing Ass’n in Trout Springs or elsewhere? How are watersheds, water quality, water flows, losses to redband trout and CSF related between these lands? What do current surveys show? We Protest that this has not been answered – despite the fact that now these interconnected ranching operations are responsible for introducing a raft of new invasive species into the fragile sage-grouse, pygmy rabbit migratory songbird habitats and redband trout and CSF watersheds of the Owyhee Uplands by Wilderness, ACECs, Lands with Wilderness Characteristic, etc.”*

**BLM Response:** Section 4.0 – Cumulative Effects, discusses how grazing on the Nickel Creek FFR Allotment relates to other grazing allotments in the cumulative effects areas. Section 3.2.1 of the EA discusses current conditions within the watershed (page 39), including water quality (page 42) and Section 3.2.2.1 and 3.2.2.2 discusses environmental consequences associated with implementation of Alternative A, the proposed decision. Additionally, Section 4.2 discusses the effects cumulatively, including within the 407,517 acre cumulative effects area. Redband trout and Columbia spotted frog are discussed in Sections 3.3.1, 3.3.2 and 4.3 of the EA.

7. *“Site-specific baseline surveys must be conducted. Recovery and restoration actions must be identified. See Preceding Protest- carried forward.”*

**BLM Response:** Although WWP may disagree with the amount or type of data and other information used to conduct to assess rangeland health and analyze the alternatives for this permit renewal, the BLM followed its regulatory requirements in utilizing the information available to complete the process. BLM Interdisciplinary Teams (IDTs) utilized available data, literature, and professional knowledge to assess the impacts of grazing across a range of alternatives. Recovery and restoration actions could be identified through future NEPA and decision processes.

8. WWP protests . . . *“Again, the EA completely lacks necessary integrated weed management measures and careful inventory, mapping and analysis of exotic species occurrences. Measures such as quarantining livestock before entering NC lands, not allowing livestock to be moved from infested lands into non-infested areas, closing infested areas to grazing use until infestation is eradicated, etc. are all ignored. Passive restoration is also ignored. See WWP alternative submissions. We Protest all of this, and the failure to examine the needs of the lands, waters, and watersheds for passive restoration so that they can heal to some degree and better withstand the wave of new invaders that have taken root in the sacrifice area FFR lands.”*

**BLM Response:** See BLM Response to Protest 3 above in regard to weed management. At page 16, the EA discusses the alternatives submitted by WWP as part of the alternatives considered but not analyzed in detail.

9. WWP cites references (Connelly et al. 2004, Knick and Connelly 2009/2011, Fleischner, 1994, Belksy and Gelbard 2000, Riesner et al. 2013, Beschta et al. 2012, Pellant Congressional testimony, other climate information long available to BLM (on cd)) regarding grazing, promotion of invasives and effects of climate change and protests *“the failure to rely on this and the broad range of current sage-grouse literatures that addresses threats to sagebrush species populations and their viability.”*

**BLM Response:** BLM relies on scientific, peer-reviewed literature and provides, in Section 6.0 (p. 118-129) a list of literature cited. BLM specifically references literature relied on regarding sage-grouse in Section 3.3.1 beginning on page 51, where the Affected Environment of sage-grouse is discussed. In Section 3.3.2 – Environmental Consequences, BLM also references scientific data while addressing the specific effects of each alternative on sage-grouse. Although it may not be the literature that WWP would prefer that BLM rely on, it has been peer reviewed and accepted as valid throughout the scientific community.

10. WWP protests *“the lack of adequate information related to all past vegetation treatments on all of these lands, including across Juniper Mountain watershed and the new BLM extensive firebreak impacts and degradation.”*

**BLM Response:** In Section 3.1 of the EA, BLM discusses upland vegetation conditions and specifically at page 35 discusses disturbance and fire history specific to the Nickel Creek FFR Allotment. In Section 4.0 – Cumulative Effects, Table 4.1 (page 94) identifies past, present and reasonably foreseeable future activities that were analyzed. Prescribed burning, fire suppression activities, juniper cutting or mastication, road construction and maintenance, and weed treatment were all included in this analysis (see Section 4.1 for complete discussion).

11. *“Plus, BLM has never examined the additive cumulative utilization that will occur in grazing/herding events repeated several times in some of these poor battered pastures. We protest this.”*

**BLM Response:** Utilization limits identified in Other Terms and Conditions will apply at the end of the grazing season; therefore, if pastures or fields can be used multiple times as identified in Table 2.3 of the EA the utilization limit will apply after all livestock grazing has occurred. No trailing is analyzed through the EA; all movement of livestock between pastures and fields occurs within the authorized season of use and was analyzed as part of the alternative.

12. WWP protests *“the lack of necessary protective upland trampling standards, and limitations on use during muddy periods.”*

**BLM Response:** As indicated in the Terms and Conditions for Alternative A (page 18) and identified in the Proposed Decision on page 13, grazing on the allotment will be subject to district range readiness criteria, which set requirements for soil conditions before livestock turnout is allowed. As discussed in the Proposed Decision on page 16, implementation of Alternative A not expected to detrimentally impact biological crusts or soils (page 16).

13. WWP protests BLM’s lack of consideration of a reasonable range of alternatives, and states *“There is no alternative that would remove grazing from damaged areas to allow them to heal, or remove grazing to protect better conditions remaining sage lands and sensitive species habitats from exotic species expansion in the wake of livestock grazing disturbance. We Protest this.”*

**BLM Response:** Alternative C in the EA considers and analyzes the no grazing alternative, which proposed to remove livestock grazing from public lands within the Nickel Creek FFR for a 10-year period. On page 20 of the Proposed Decision, the BLM briefly discusses why the no grazing alternative (Alternative C) was not selected. Based on issues raised through internal and public scoping processes, the BLM believes the range of alternatives analyzed in the Nickel Creek FFR EA is reasonable. BLM also analyzed a range of reasonable alternatives in detail (see Section 2.4 of the EA, pages 17-24) that met the purpose and need of the EA.

14. WWP protests utilization limits in the proposed decision, indicating that they are *“NOT sufficient to provide RESIDUAL nesting cover for sage grouse. . . We Protest the Proposed Decisions deficient utilization.”*

**BLM Response:** As identified in the Proposed Decision, the supplemental upland utilization limits are expected to maintain an average 7-inch stubble height on perennial herbaceous vegetation (page 18-19). The EA (as well as the Proposed Decision) discusses at pages 68, 69 and 80 the effects of implementing the selected upland utilization standards on sage-grouse. In fact, Alternative A was supplemented with stricter upland utilization limits from Alternative D to ensure that sage-grouse nesting and brood-rearing habitat was adequately protected. Even though you may disagree with the utilization limit proposed, the BLM has relied on peer-reviewed and widely-accepted scientific literature on which to base its decision.

15. *“Where have all systematic surveys and analysis of livestock impacts to cultural sites been conducted here? We still cannot find this information, and Protest this failure, and the failure to critically examine the adverse footprint of livestock facilities on all elements of the environment.”*

**BLM Response:** A number of intensive pedestrian surveys have been undertaken in the greater Nickel Creek area to modern standards. These were included in survey acres listed in the EA (page 89); environmental consequences of the various alternatives were analyzed (pg 89-91; 115-117). Additionally, other surveys that did not meet certain requirements for a modern Class III inventory (i.e., a standard 30 meters or less spacing between pedestrian transects), were performed beginning in 1959, but mainly in the 1970s through 1980s in the area. These focused on the highest probability areas for site locations. Thus, most significant sites have likely been recorded in the FFRs on BLM land. Site locations and other specific information is confidential per federal and state laws; however, a map showing intensively surveyed to modern standards is available at the Owyhee Field Office upon request.

It has been common practice to document site effects, when present, since at least the 1970s. Site effects within not only the Nickel Creek FFR, but also the Nickel Creek Allotment and within a quarter mile of both allotments were analyzed to gain a better understanding of the potential for site disturbances. All available site and survey records and aerial imagery was reviewed. The lack of range improvements, combined with the low acreage of BLM land within the allotment, presence of fairly recent surveys that allow for a sampling of current conditions, and lack of significant documented disturbances, makes additional targeted inventory for cattle grazing permit renewals a low priority in the area at this time. Records revealed a low potential for cattle impacts that could change NRHP eligibility or damage paleontological research values, and no Tribal concerns have been voiced during scoping over any specific cultural resources or values in the area in relation to the grazing permit renewals.

Actions such as these renewals and proposed range improvement projects are also subject to review and consultation with the Idaho State Historic Preservation Office. This review is one of several standards that works to ensure proper analysis of for projects such as these, regardless of the needs or concerns of outside factions.

16. WWP states *“We Protest the lack of monitoring, the lack of actual use in some areas, and a failure to provide evidence that the lands can sustain such a stocking rate – which is a slap in the face to the public – in increasing AUMs.”*

**BLM Response:** The Proposed Decision does not increase AUMs above what is currently authorized. In fact, none of the proposed alternatives in the Nickel Creek FFR Allotment EA analyzes AUMs above what is currently authorized (109 AUMs), so there is no increase in AUMs analyzed or selected in the proposed decision.

17. *“BLM has not explained what happened with the 2010 process. What data was on hand for that, and how does that differ from current information? Why was note accurate and systematic information not collected? We Protest this.”*

**BLM Response:** As discussed in the Response to Comments (Appendix E, page 9), it is unclear what “process” is being referred to. Scoping for this EA was initiated in March of 2011. The 2013 Evaluation and Determination (Appendix A of the EA) provides a brief discussion of data and information relied on, but references no specific “process” that occurred in 2010. As discussed in Section 1.0 of the EA, a decision issued in 2003 was remanded by the Court and BLM agreed to complete new analysis.

18. WWP protests *“BLM has not adequately balanced upland and riparian species and habitat population needs, nor taken a hard look at how imposing grazing disturbance conflicts with ecological processes and species need for cover and space as part of habitat security. We Protest this.”*

**BLM Response:** Section 3.0 - Affected Environment and Environmental Consequences (page 26) of the EA specifically addresses current conditions for uplands, watershed, soils, riparian, fish and wildlife and special status plants and animals, as well as analyzes the effects of the alternatives on each. Based on this analysis, specific terms and conditions have been applied to the Proposed Decision (page 13-14) to ensure that the needs of all resources, including soils, upland and riparian vegetation, wildlife species and cultural resources are afforded proper protection.

19. *“We Protest that BLM failed to consider our alternative and mitigation proposals and instead chose INCREASE AUMs in these degraded lands.”*

**BLM Response:** BLM considered WWP’s alternative that included active and passive restoration actions but did not analyze in detail for the reasons identified in the EA at page 16. Specifically, BLM analyzed the No Grazing Alternative, which BLM found to be very similar to the alternative you submitted. None of the proposed alternatives in the Nickel Creek FFR Allotment EA analyzes AUMs above those currently authorized, so there is no increase in AUMs analyzed or selected in the proposed decision. See also BLM Response to Protest 16.

20. WWP protests that BLM does not define the total number of livestock that can be stocked in individual pastures, including the private land. *“BLM provides no data or analysis of the total number of cattle being grazed in each FFR parcel that includes BLM, private and potentially state lands. . . There is no regulation on the total number of cattle and their very damaging hoof tramping, copious livestock waste, and at times very large grass-eating calves that may be grazed on the BLM lands for a protracted period of time. . . We protest all of these significant deficiencies.”*

**BLM Response:** Implementing the Mandatory and Other Terms and Conditions (limiting the total number of AUMs available, defining a season of use, limiting total number of days that a pasture or field can be used and utilization limits, for example) analyzed in Alternatives A and D will provide resource protection and allow for improvement as discussed in in the Proposed Decision (page 15). Therefore, it is unnecessary to define a specific number of cattle that will graze in each pasture or field. For example, stocking a large number of cattle will result in utilization limits being reached sooner than the number of days allowed for a particular pasture.

21. *“The EA mapping is poor, and greatly fails to depict the complexity of the scattered land parcels and their relation to resources in surrounding lands and watersheds. This included the location of streams, springs, native vegetation community composition, function and structure, cheatgrass/invasive species, intact microbiotic crusts, degraded microbiotic crusts, etc. We protest this.”*

**BLM Response:** Maps provided in the EA are not intended to deliver in-depth detail but are provided to give the reader an overview and general impression of the information being displayed.

22. WWP disputes the accuracy of the Evaluation for the Nickel Creek FFR Allotment. *“This FRH process is completely divorced from reality. We protest this.”*

**BLM Response:** BLM followed processes outlined in 43 CFR 4180 and Idaho Standards for Rangeland Health and Guidelines for Livestock Grazing Management when updating the Evaluation and Determination for the Nickel Creek FFR Allotment. Also refer to BLM Response to Protests 4 and 7.

23. *“BLM FRH at 3 clearly errs in finding that currently Watershed standards are being met – there is no evidence of recovery of microbiotic crusts, and lack of crusts is the result of chronic livestock grazing disturbance.”*

**BLM Response:** It is unclear what is meant by FRH at 3. Page 3 of the 2013 Evaluation and Determination does not discuss watershed standards; Standard 1 is the standard that evaluates watershed condition. Regardless, the EA in Sections 3.1.2.2 and 3.1.2.5 discusses the effects of the Proposed Decision, as modified and supplemented, on microbiotic crusts. Specifically, at page 38, the EA discusses that the limited grazing intensity associated with Alternative D would lead to improvement.

24. WWP states *“We Protest the determination, stocking rate, and BLM continuing to graze lands undergoing weed invasions.”*

**BLM Response:** See BLM Response to Protests 3, 18, 20 and 22.

25. WWP disputes that juniper encroachment is affecting conditions on the allotment and *“protest BLM ignoring the information in its own General land Office Surveyor Records, which we have provided to you time after time.”*

**BLM Response:** During this and other permit renewal processes, BLM has reviewed available information regarding juniper expansion, including but not limited to the referenced surveyor records, ecological site descriptions, repeated historical photographs, and cited literature. BLM has determined that the occurrence of Western juniper has exceeded the potential for the dominant ecological sites and has therefore impacted the ecological function of the watersheds and wildlife habitats across the landscape. The ecological site descriptions which state that bunchgrasses and shrubs, rather than juniper, are reference condition vegetation, are based on widely accepted science. BLM has taken a hard look at current ecological conditions, and

identified departures from reference conditions due to both grazing management and an increase in juniper. See the 2013 Evaluation and Determination for the Nickel Creek FFR Allotment (Appendix A of the EA).

26. *“We are greatly concerned at the inadequate PFC analysis and Protest that competent And current riparian and aquatic habitat and species analysis has not taken place.”*

**BLM Response:** PFC assessments were completed within representative areas across the allotment. BLM found although Standards 2, 3 and 7 were not being met, significant progress toward meeting the standards was occurring (Evaluation and Determination, Appendix A of the EA). Section 3.2.1 of the EA discusses current conditions relative to the watershed, soils, riparian systems and water quality. Sections 3.2.2.2 and 3.2.2.5 specifically discuss the impacts associated with the Proposed Decision.

27. Regarding the *“4 sites for FRH analyses”* WWP protests *“that BLM continues with this severely limited cherry-picking of a few better condition sites.”*

**BLM Response:** FRH assessments were completed within representative areas across the allotment.

28. *“In reading the FRH findings, BLM ignores direct, indirect and cumulative impacts of livestock grazing and trampling disturbance in promoting invasive species – and the dramatic changes between 2003 and 2011. . . We Protest this.”*

**BLM Response:** The FRH process is a site-specific process and is not intended to address cumulative impacts at a broad scale. However, direct, indirect, and cumulative effects of grazing on invasive species are discussed in Sections 3.1.2 and 4.1 of the EA. Implementation of Alternative A, as modified and supplemented, is expected to result in static conditions relating to invasive species.

29. WWP states that *“BLM tries to use utilization monitoring at the end of the season – which must mean end of the grazing season – to try to support its flawed FRH analysis. End of season utilization provides no info ration at all of the degree and severity of cattle uses that occurred during spring grazing periods – which are very harmful. We Protest this.”*

**BLM Response:** Utilization on the Nickel Creek FFR was measured in May, October and November 2011 and October 2012. Results of monitoring conducted in May were in the slight category (0-20%). BLM attempts to monitor utilization within two weeks of livestock leaving a pasture, but based on the number of pastures to monitor and allotment priority, not all pastures are monitored within that timeframe. Although it is considered, utilization is not the only indicator used in determining whether a standard is met or not as pointed out in the 2013 Evaluation and Determination for Nickel Creek FFR (p. 9). BLM also relied on site visits, rangeland health indicators and other information to support the analysis.

30. WWP protests a 40% utilization limit on the Nickel Creek FFR Allotment. *“BLM cites in “fields” visited as being 40% or less and that this is somehow meant the lands are a shining*

*beacon of rangeland health progress. But 40% utilization means that many areas receive levels of grazing equal to 50-70% or greater, since utilization is averaged across plants. We Protest this – Anderson BLM Tech. Bull. described this damage.”*

**BLM Response:** BLM utilizes the “Key Species Utilization” methodology as described by Interagency Technical Reference 1734-3 – Utilization Studies and Residual Measurements. This is approved methodology for estimating percentage of forage removed, and measurements are recorded in one of seven broad classes. Although some plants across a transect may be grazed at a level of 40%, others may be grazed more than 40%, less than 40% or not at all. Therefore, the average use across the representative sample will be at an acceptable use to allow plants to maintain and/or improve in their vegetative condition.

31. *“We Protest such a lack of care and concern for the public lands resources that are reflected in these cherry-picked limited monitoring site decisions.”*

**BLM Response:** Limited information is available for FFR allotments; although the Nickel Creek FFR Allotment is identified as an “Improve” category, it is also classified as “Low Priority” under the ORMP. Monitoring sites were chosen based off of areas that are representative of the landscape and grazing management practices as a whole – not cherry picked as indicated by the protestant.

32. WWP disputes *“BLM’s FRH consideration of water quality”* and states that *“Necessary site-specific data and analysis have not been conducted, including in relation to livestock use periods. We Protest this, and believe it violates water quality restoration and the CWA.”*

**BLM Response:** Please refer to section 1.5.1 on pages 12 and 13 for a brief discussion of the evaluation and determination related to water quality (standard 7). Section 3.2.1 Affected Environment on page 42 has a full description of the analysis of water quality that includes reference to both PFC assessments and the Upper Owyhee River Five Year Review (IDEQ 2009). IDEQ independently concluded that water quality ranges from a static trend to an improving trend. Section 3.2.2 Environmental Consequences discussed the effects of each of the alternatives on the current condition related to water quality.

33. WWP states *“BLM fails to provide evidence that meadow habitats are “improving overall” – as headcutting, entrenchment, and continued trampling damage is rampant across these watersheds. The entire FRH assessment is written to give current damaging livestock grazing a “pass”. Significant irreversible harm and erosion is occurring, further reducing the potential of mesic areas. We Protest this arbitrary and false finding.”*

**BLM Response:** Section 3.1.1.1 identifies current vegetation within the project area and wet meadow types make up a total of 7% of the entire allotment, of which only 4% is within BLM jurisdiction. Page 27 states, “...wet meadows, and riparian areas are expected to occur as unmapped inclusions within the larger ecological sites, and each should make up only a small percentage of the area”. Section 3.2.2 discusses the environmental consequences of each alternative. Section 3.2.2 uses riparian areas and wet meadows interchangeably as the effects on these small inclusions (pg. 27) would be similar.

34. WWP protests *“These pastures are contributing to downstream degradation of redband trout and Columbia spotted frog habitat, as well as suffering very significant adverse effects from use on other allotments in these watersheds –at times grazed by the same ranch interests as graze cattle here. We Protest this.”*

**BLM Response:** As described in Appendix A of the EA: Because IDEQ water quality parameters are not being met, the allotment is not meeting Standard 8 for riparian wildlife habitat. However, significant progress toward meeting Standard 8 is indicated by recent improvements in the reaches of Castle and Smith creeks. The 2003 Assessment rated these reaches as FAR, with no apparent trend. The 2011 PFC assessments rated both reaches as FAR with an apparent upward trend. While both reaches were not rated as PFC, improvements in functioning condition from FAR to FAR with an apparent upward trend does indicate significant progress toward meeting Standard 8. Improvements in existing deep rooted riparian vegetation also indicate significant progress toward meeting Standard 8. Effects to redband trout, Columbia spotted frogs, and their habitats resulting from livestock grazing management under analyzed alternatives are described in EA Section 3.3. Cumulative effects to redband trout, Columbia spotted frogs, and their habitats are analyzed in EA Section 4.3.

35. *“We are concerned that BLM has not accurately mapped sage-grouse habitats – and in the Owyhees has been playing all kinds of games with habitat based on whether lands burned in the Crutcher or other fires, or in setting up junipers for eradication – by calling large areas of canyons, rugged, steep or highly dissected terrain on Juniper Mountain sage-grouse habitat when it is really not. This is also done so the agency, using the highly flawed NRCS Ecosites, can blame juniper for ecological woes and turn a blind eye to livestock grazing impacts. We Protest this.”*

**BLM Response:** Sage-grouse analyses specific to each alternative and maps (Figures 3.6 and 3.7) depicting sage-grouse leks, sagebrush habitat, and habitat with high restoration potential within the Nickel Creek FFR Allotment and surrounding areas can be found in EA Section 3.3.

36. WWP protests that current livestock grazing is not a causal factor for degraded conditions. *“All of the degradation factors described for uplands – few large bunchgrasses, much Sandberg’s bluegrass and lack of forbs are caused by CHRONIC grazing degradation. Plus, BLM may have cherry-picked sage-grouse assessment sites in areas in better condition – thus downplaying invasive annual grass and other weeds being promoted by livestock grazing disturbance. . . We Protest this gross negligence and arbitrary papering over of serious ecological degradation.”*

**BLM Response:** As described in the 2013 Evaluation and Determination for the Nickel Creek FFR (Appendix A of the EA): “Current grazing management is not a significant causal factor because use is relatively light (no more than 40% in all fields visited in 2011 and 2012), particularly during the critical growing season. The reduction in large bunchgrasses appeared to be the result of past impacts because the vigor of the plants present was appropriate for the site, reflecting recent adequate to high precipitation, little current utilization at the time of evaluation, and recent years’ grazing management. The shift in species composition (from more palatable decreaseers like bluebunch wheatgrass to less palatable increaseers such as Sandberg bluegrass and

rabbitbrush) has occurred due to past grazing (over ten years ago), based on observed seed production.”

37. *“There is a tremendous lack of current analysis of the status of the local and regional population and the very large series of threats that sage-grouse and other sensitive species – include northern goshawk ferruginous hawk, black-throated gray warbler, rare bats and other western juniper species face. We Protest this.”*

**BLM Response:** The EA is based on best available information, including habitat and species inventories, targeted monitoring, and incidental observations. Although comprehensive, site-specific inventories have not been conducted within the entire allotment and surroundings, the information available is sufficient to provide an adequate baseline to evaluate effects of the alternatives analyzed. No special status animal species that occur within the Nickel Creek FFR Allotment are considered Western juniper obligates. However, juniper woodlands do provide effective nesting, escape, hiding, travel and foraging cover for some wildlife species associated with open woodland and sagebrush steppe habitats within the allotment. Effects to wildlife species and their habitat resulting from livestock grazing management under analyzed alternatives are described in Sections 3.4 and 4.3 in the EA.

### **Juniper Mountain Grazing Association, LLC**

1. *“JMGA protests any change in the “existing grazing management practices or levels” within the Nickel Creek FFR Allotment in accordance with 43 C.F.R. 4180.2(c).” JMGA provides the rationale that the evaluation and determination reports that “all applicable IRHA standards are being met, are making significant progress or their failure to meet standards, or make significant progress is unrelated to current grazing practices. Thus, the determination has already concluded that changes in grazing practices would not have any measurable or identifiable effect on meeting the ISRH during the term of the permit.”*

**BLM Response:** Although current grazing management was not identified as the significant causal factor for non-attainment of the Standards not being met, BLM is in its regulatory authority to make modifications to an existing permit; 43 CFR 4180.2(c) specifies the timeframe in which BLM is required to implement actions “pursuant to 4110, 4120, 4130, and 4160 of this part that will result in significant progress towards fulfillment of the standards...” if existing grazing management practices or levels of use are the significant causal factors for non-attainment. BLM finds that specifying the use as described for the current situation and identifying other terms and conditions that represent a change in the expiring permit are necessary for the reasons specified in the Proposed Decision.

2. *“JMGA protests the failure of the Proposed Decision to acknowledge and specifically limit the applicability of the “Other Terms and Conditions” at pages 13 & 14 to the public lands within the Allotment.”*

**BLM Response:** All terms and conditions are limited to the public lands. Specificity has been added to the Final Decision.

3. *“JMGA protests bullet points 1 and 2 on page 13 which are termed modifications and supplements to “Other Terms and Conditions” (OTC)”. They question the lack of definition of “key herbaceous riparian vegetation” and “end of the grazing season”, as well as BLM’s ability to perform all monitoring these OTCs would require. They also indicate that “bullet points 1 & 2 and OTC 6, 8 & 9 are of no consequence to what is actually occurring on the ground and should not be included in a final decision.”*

**BLM Response:** BLM will identify key herbaceous riparian vegetation when establishing riparian monitoring sites. The end of grazing season is currently and will continue to be the last date that grazing is permitted in a particular pasture or field. Although your current permit authorizes riparian use up to 60% during the dormant season, this level of use is outside that authorized in the ORMP and would therefore not meet the objective defined in that guiding document.

Although the stocking rate and system JMGA has implemented had resulted in 40% or less utilization, the BLM finds that this term and condition is necessary. As specified in the Proposed Decision, 50% utilization on key upland vegetative species would not allow for maintenance or improvement of these systems within the Nickel Creek FFR (page 20).

4. *“JMGA protests the inclusion of “Other Terms and Conditions” numbers 4, 5 and 7.” JMGA bases this protest on the reason that “OFO has virtually no compliance assessment data for any of the four pastures with riparian habitat” and believe the “lack of a monitoring and assessment plan clearly indicates that the same absence of assessment and monitoring will continue in the future. JMGA management of their private and intermingled public land in the Nickel Creek FFR Allotment has resulting in significant progress regardless of the status of these OTC. Thus, these OTC are meaningless and should be deleted from the final decision.”*

**BLM Response:** BLM has included these terms and conditions to ensure continued improvement to riparian areas, wet meadows, stream channels, and floodplains (Standards 2 and 3). Improvement from the current condition of those aquatic characteristics will improve water quality within the impaired tributaries. Monitoring has been identified in Section 2.3 and may be part of the strategy to improve water quality wherever possible. BLM has further qualified that these terms and conditions would apply to those areas accessible to livestock.

5. JMGA protests *“the inclusion of Pasture 24 field 1 in the grazing schedule.”* They contend that aerial maps show that the mapped boundaries are incorrect and there is less than ½ acre of public land within the field; therefore it should be listed as a private field and excluded from applicable terms and conditions.

**BLM Response:** Only the public lands within the FFR would be subject to applicable terms and conditions. Pasture 24 is also identified as a private field within the grazing schedule that specifies the season of use and duration for each pasture within the FFR (pg. 15 of the Proposed Decision).

6. JMGA protests the *“absolute restriction against changes in the season, duration or frequency of use as depicted in the EA alternative A.”* JMGA contends that the grazing schedule represents

the general discretionary use applied since 2003 and that removal of the flexibility to vary grazing among pastures and fields will lead to improper grazing management. *“In order to assure that JMGA can apply proper grazing management the above restriction should be deleted from any final decision.”*

**BLM Response:** BLM found that the current situation, as provided by the permittee, has resulted in either significant progress being made toward Idaho Standards or where Standards weren't attained, that current livestock grazing was not identified as the significant causal factor. The permit specifies the maximum number of days allowed for each pasture, but livestock numbers can fluctuate as long as AUMs for the FFR are not exceeded. BLM finds the permit to retain some flexibility while ensuring that seasons of use that have resulted in improved conditions per information you provided will allow to be continued.

7. *“JMGA protests your disclosure that the Nickel Creek FFR Allotment permit is not intended to be operational for the full 10 years prescribed by law. You state, “It is my intention to include the Nickel Creek FFR Allotment in the alternatives, analysis and subsequent decision in the Nickel Creek Allotment permit renewal.” (page 21).”* They contend that the statement is *“in direct contradiction to your response to JMGA prior comment (#15 at EA Appendix E page 5) that the alternatives for Nickel Creek FFR Allotment will affect JMGA management of the Nickel Creel Allotment and should be so analyzed. . . If the Nickel Creek FFR Allotment is in fact entirely independent of the Nickel Creek Allotment the permit should remain in place for the full 10 years prescribed by law.”*

**BLM Response:** As stated in the response to comments, the Nickel Creek and Nickel Creek FFR allotments are considered separate and independent systems. For the orderly administration of both Authorization #1103720 (Nickel Creek FFR) and #1101410 (Nickel Creek), it may be in the best interest for the permittee and the BLM to place both allotments on one authorization. Therefore, the authorization for Nickel Creek FFR may be re-evaluated prior to the expiration of the 10-year permit.