



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

Owyhee Field Office
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In Reply Refer To:
4160 ID130

November 18, 2013

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Cert# 70123050000105729806

Cert# 70123050000105729837

Vernon H & Kenneth Kershner

PO Box 38
Jordan Valley, OR 97910

PO Box 300
Jordan Valley, OR 97910

Notice of Field Manager's Proposed Decision

Dear Mr. Kershner:

Thank you for your application for permit renewal on the Fossil Butte Allotment. Thank you as well 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 proposed decision achieves that objective.

As you know, the BLM evaluated current grazing practices and current conditions in the Fossil Butte, Con Shea, Sinker Butte, Joyce FFR, Montini FFR, and Murphy FFR (hereinafter Fossil Butte Group) allotments through 2013. We undertook this effort to ensure that renewed grazing permits on the allotments would be consistent with the BLM's legal and land management obligations. As part of the BLM's Fundamentals for Rangeland Health (FRH) process, an updated Rangeland Health Assessment, Evaluation, and Determination was completed on all allotments except the Murphy FFR Allotment; the evaluation process for the Murphy FFR Allotment relies on the 2003 Rangeland Health Assessment, Evaluation, and Determination, which was determined to still be appropriate and adequate. This proposed decision incorporates by reference applicable information contained in those documents.

With completion of the FRH process, including the 2013 Fossil Butte Group Permit Renewal Environmental Assessment (2013 Fossil Butte Group EA), I am now prepared to issue my Proposed Decision to renew your permit to graze livestock within the Fossil Butte Allotment. Upon implementation of the decision, your permit to graze livestock on this allotment will be fully processed.

This proposed 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 Fossil Butte Allotment;
- Outline my proposed decision to select Alternative D; and
- State my reasons for proposing this decision.

Background

Allotment Setting

The Fossil Butte Group allotments are generally located between Oreana and Murphy, Idaho bordered to the east by the Snake River and to the west by the Owyhee Front (Figure 1). Elevations range between 2,300 to 5,200 feet. Landforms are generally composed of terraces, slopes, table lands, plug domes and bottomlands with shallow to very deep loamy to fine sandy soils and scattered badlands.

The majority of the allotments lie within two ecological sites which account for approximately 70 percent of the Fossil Butte Group area; the remaining 30 percent is made up of several different ecological sites. The dominant vegetation communities within the Fossil Butte Group allotments include sagebrush steppe, salt-desert shrub, and native and annual grasslands. Riparian areas are limited in abundance and extent; they include woody and herbaceous riparian areas along perennial and intermittent streams, the Snake River, and around springs, seeps, and reservoirs. Limited precipitation with cold winters and dry summers constrains plant and animal communities.

All of the allotments with the exception of Murphy FFR are at least partially located within the Morley Nelson Snake River Birds of Prey National Conservation Area (NCA); grazing management on public lands for all six allotments is administered by the Owyhee Field Office (Table 1).

Table 1 - Allotment Ownership Acreages and AUMs

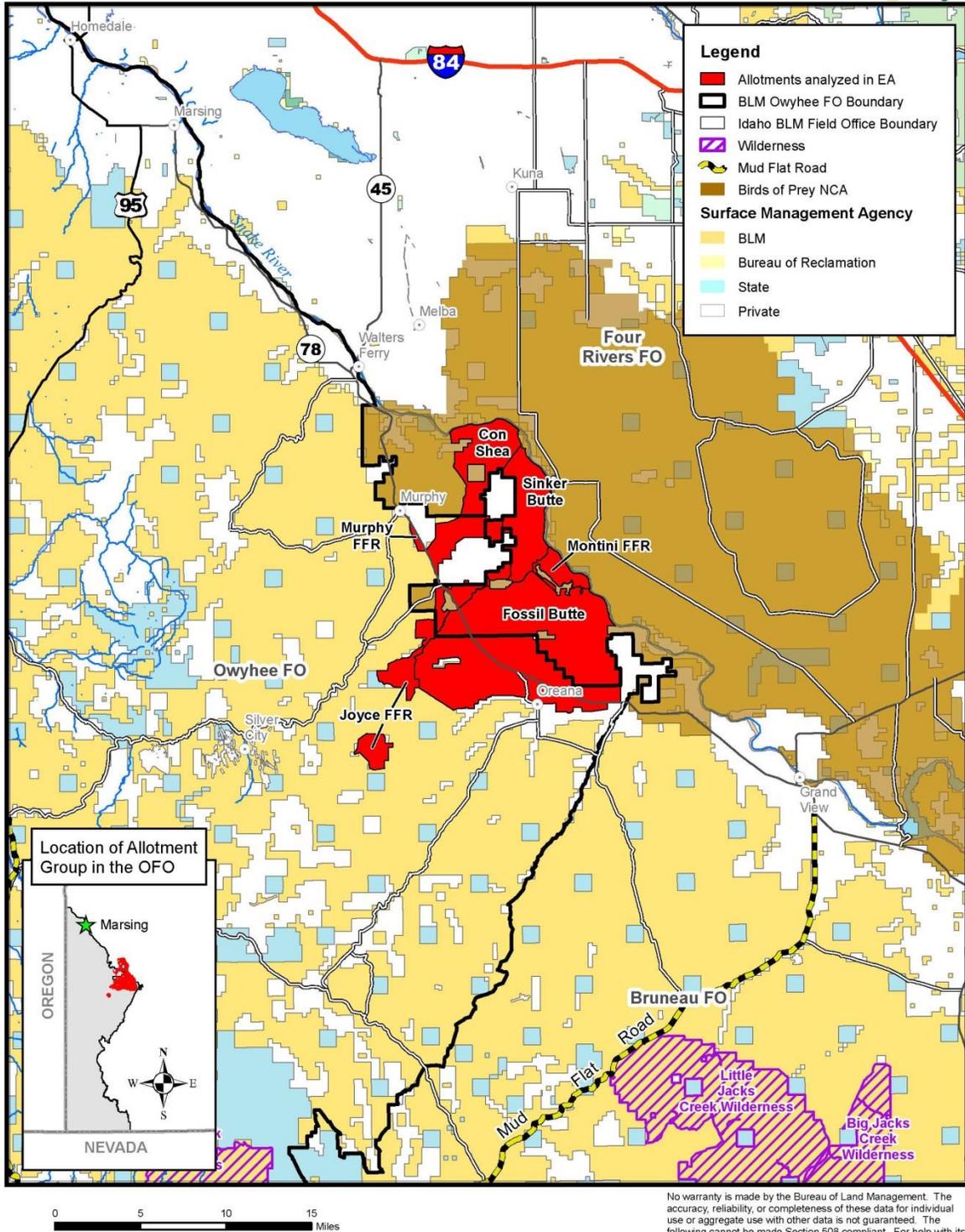
Allotment Name & Number	Category	Active AUMs¹	Public Acres	State Acres	Private Acres	Total Acres
Joyce FFR (00487)	I	87	1,609	634	3,751	5,995
Fossil Butte (00535)	M	1,622	40,744	1,934	1,946	44,624
Con Shea (00571)	M	990	12,468	0	1,220	13,668
Sinker Butte (00578)	M	707	8,541	0	390	8,931
Murphy FFR (00486)	C	5	56	0	250	306
Montini FFR (00654)	C	140	1,664	294	388	2,346
Total		3,551	65,083	2,862	7,944	75,889

I = Improve; M = Maintain; C = Custodial, per the ORMP.

Note - allotment acreages have been updated since the ORMP based on improved inventories.

¹ 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.

Locator Map



cmb 9/16/2013 R:\locgis\Projects_GISUser\OwyheeFO\Planning\Fossil_Butte_Group_EA\MXDs\Map1_LocatorMap.mxd

Figure 1– Fossil Butte Group Allotments Locator Map

Current Grazing Authorization

You currently graze livestock within the Fossil Butte Allotment pursuant to a grazing permit issued by the BLM. Nick Nettleton and Paul Nettleton are also permitted to graze livestock within the Fossil Butte Allotment; however their grazing authorizations are not discussed further in this proposed decision. The terms and conditions of your grazing permit are as replicated in Table 2 and the accompanying other terms and conditions.

Table 2: Vernon H. and Kenneth Kershner’s existing grazing permit terms and conditions

Allotment	Livestock		Grazing Period		% PL	AUMs		
	Number	Kind	Begin	End		Active	Suspended	Permitted
00535 Fossil Butte	51	Cattle	10/01	02/28	100	253	0	253
<p>Other terms and conditions:</p> <ol style="list-style-type: none"> 1. Turnout is subject to Boise District range readiness criteria. 2. Your certified actual use report is due within 15 days of completing your authorized annual grazing use. 3. Salt and/or supplement shall not be placed within one quarter (1/4) mile of springs, streams, meadows, aspen stands, playas, or water developments. 4. Changes to the scheduled use require prior approval. 5. Trailing activities must be coordinated with the BLM prior to initiation. A trailing permit or similar authorization may be required prior to crossing public lands. 6. Livestock exclosures located within your grazing allotments are closed to all domestic livestock use. 7. Range improvements must be maintained on accordance with the cooperative agreements and range improvement permits in which you are a signator or assignee. All maintenance of range improvements within a wilderness study area requires prior consultation with the authorized officer. 8. 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. 9. Failure to pay the grazing bill within 15 days of the due date specified shall result in a late fee assessment of \$25.00 or 10% of the grazing bill, whichever is greater, not to exceed \$250.00. Payment made later than 15 days after the due date shall include the appropriate late fee assessment. Failure to make payment within 30 days may be a violation of 43 CFR 4140.1(B)(1) and shall result in action by the authorized officer under 43 CFR 4150.1 and 4160.1. 10. Livestock grazing will be in accordance with your allotment grazing schematic(s). Changes in scheduled use dates will require prior authorization. 11. Utilization may not exceed 50% of the current year’s growth. 								

As part of a settlement agreement, the following terms and conditions were added to the permits 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.

Fundamentals for Rangeland Health (FRH) Process

In 2009, the BLM issued Environmental Assessment #DOI-BLM-ID-103-2008-312-EA and a Proposed Decision for the Fossil Butte Group allotments. Upon review of protest statements, the Field Manager found that alternatives in the EA needed to be reconsidered and withdrew the Proposed Decision.

In 2011 BLM reengaged in the permit renewal and FRH process for the Fossil Butte Group allotments. A scoping package was sent to you and other known individuals, groups, and organizations recognized as the interested public for the Fossil Butte Group allotments on March 15, 2011. The scoping package solicited comments to better identify issues associated with the renewal of your livestock permit on the allotments. All comments were considered in completing the National Environmental Policy Act (NEPA) requirements².

Meetings were held with you in 2011-2013 to discuss allotment conditions, objectives, and livestock management. BLM was in receipt of a grazing permit renewal application from Stephen J. Miller for your grazing permit (#1104187) on September 9, 2011. The application was updated in September 2013, following discussion with the BLM.

Issues – Fossil Butte Group Allotments

Based on our evaluation of the current grazing scheme, the current conditions on the Fossil Butte Group allotments, public response to scoping, and the BLM's obligations to meet the Idaho Standards for Rangeland Health and Guidelines for Livestock Grazing Management (Idaho S&Gs) and move toward meeting the ORMP and NCA Resource Management Plan (RMP) management objectives, the BLM identified the following resource issues applicable to the grazing permit renewal for the Fossil Butte Group allotments:

The potential for livestock grazing in the Fossil Butte Group Allotments to:

- promote the spread of weeds on public lands, including at existing and proposed water haul sites
- reduce the cover and health of microbiotic crusts
- adversely affect general habitat requirements for upland and riparian wildlife species, including raptors, sage-grouse, and big game
- cause detrimental impacts to special status plants and their habitats when combined with off-highway vehicle (OHV) use in the area
- result in a shift from desirable to undesirable native plant communities
- impair upland watershed conditions
- reduce riparian vegetation and stream-bank stability

Idaho Standards and Guidelines – Fossil Butte Group Allotments

The BLM completed an updated Rangeland Health Assessment, Evaluation, and Determination for the Fossil Butte, Con Shea, Sinker Butte, Joyce FFR, and Montini FFR allotments in 2013.

² Scoping comments and BLM's responses are included in Attachment B of EA #DOI-BLM-ID-B030-2011-0010-EA: Fossil Butte Group Grazing Permit Renewal EA (2013). This EA can be found at the BLM e-planning website at <https://www.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=dispatchToPatternPage¤tPageId=22003>

The 2003 Rangeland Health Assessment, Evaluation, and Determination were used in the evaluation process for the Murphy FFR Allotment. Those documents concluded that generally, the Fossil Butte Group allotments were found to not meet Idaho S&Gs, but current livestock management was not the significant causal factor. The final determination documents are included in Appendix A of the final EA. Resource conditions and a summary of the Standards Assessments and Determinations for each allotment will be discussed individually in the “Allotment-Specific Resource Concerns and Analysis of Alternatives” section below.

In addition to a discussion of land health standards, the BLM’s 2013 Determination for the Fossil Butte Group allotments identified that all grazing management practices conformed to the BLM’s Guidelines for Livestock Grazing Management for Idaho.

Alternative Development – Fossil Butte Group Allotments

As a focus of addressing livestock impacts to public land resources, my office prepared and issued the 2013 Fossil Butte Group EA in which we considered a number of options and approaches to maintain and/or continue to improve resource conditions. Specifically, the BLM considered and analyzed in detail up to six alternatives per allotment. 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 address current resource conditions. The development of the alternatives allowed me to consider options that, if selected, would ensure that the Fossil Butte Group allotments’ natural resources conform to the goals and objectives of the ORMP, the NCA RMP, and the Idaho S&Gs. This proposed decision incorporates by reference the analysis contained in the EA.

The Draft EA detailing the alternatives was made available for public review and comment for a 15-day period ending October 30, 2013. The BLM then extended the 15-day comment period an additional 5 days (October 30 to November 4). Several permittees, government organizations, and interest groups provided comments. Comments that were received are summarized and responses are provided in Appendix G of the final EA. A summary of the alternatives for your allotment is identified in the following section.

Fossil Butte

The BLM determined that the allotment did not meet Standard 8 (Special Status Plants). However, current livestock grazing management was not identified as a significant causal factor. Standards 1 (Watersheds), 4 (Native Plant Communities), and 8 (Special Status Upland Wildlife) are not being met, but the allotment is making significant progress toward meeting those Standards. As identified in the Evaluation/Determination (see EA Appendix A), the BLM determined that Standards 2 (Riparian and Wetlands), 3 (Stream Channel and Floodplain), 5 (Seedings), 6 (Exotic Plant Communities), 7 (Water Quality), and 8 (Special Status Riparian Wildlife) do not apply to the Fossil Butte Allotment.

Watersheds (Standard 1)

The BLM’s 2013 Rangeland Health Evaluation and Determination (Evaluation/Determination) for the Fossil Butte Allotment concluded that Standard 1 is not met, but the allotment is making significant progress toward meeting the Standard. The Standard is not being met because the

reduction of deep-rooted perennial bunchgrasses across the entire allotment reduces soil cover and litter necessary for soil site stability, and changes hydrologic and nutrient cycling capabilities of the area. Although there are signs of soil loss (loss of surface horizon and pedestaling), they are not extensive. The loss of bunchgrasses has already had an impact on soil stability, but conclusive evidence gathered through the evaluation of rangeland indicators identifies that vegetation has maintained soil site stability. Significant progress toward meeting Standard 1 is indicated by recent (2008-present) improvements in frequency of bunchgrasses, along with increased ground cover by basal perennial vegetation and biological soil crusts.³

Native Plant Communities (Standard 4)

The BLM's 2013 Evaluation/Determination for the Fossil Butte Allotment concluded that Standard 4 is not met, but the allotment is making significant progress. The Standard is not being met because large bunchgrasses have been highly reduced in frequency and abundance across the entire allotment and have been replaced by Sandberg bluegrass and/or cheatgrass. In addition, native forb abundance, basal vegetation, and biological soil crusts are lower than expected, while bare ground and non-persistent litter are higher than expected. Significant progress toward meeting Standard 4 is indicated by recent (2008-present) improvements in frequency of bunchgrasses, along with increased ground cover by basal perennial vegetation and biological soil crusts.⁴

Special Status Plants (Standard 8)

The 2013 Evaluation/Determination concluded that the Fossil Butte Allotment is not meeting Standard 8 for special status plants, but current livestock management is not a significant causal factor. Seven species of special status plants are known to occur within the allotment. Five are small annuals that grow in open, often sandy or cindery areas. One biennial grows in sparsely vegetated clay soil (ash/sediment outcrops), and a perennial grows on sandy or gravelly openings within salt desert or Wyoming sagebrush communities. The Standard is not being met because special status plant habitat and surrounding areas have been impacted by cheatgrass and other invasive plants. In addition, some occurrences of special status plants are being impacted by Off Highway Vehicle (OHV) activity. This activity occurs during the growing season, when plants are most susceptible to damage. Both Malheur prince's plume occurrences have shown motorcycle damage, so there is a high degree of impact to this species within the allotment.⁵

Wildlife/Wildlife Habitats and Special Status Animals (Standard 8)

The BLM's 2013 Evaluation/Determination for the Fossil Butte Allotment concluded that the allotment is not meeting Standard 8 for special status upland wildlife habitat but is making significant progress. Standard 8 for special status riparian wildlife habitat is not applicable to this allotment. Suitability of upland and riparian wildlife habitat is closely related to the health and vigor of vegetation community conditions discussed in Standard 4.

³ For more detailed discussion, please refer to EA # DOI-BLM-ID-B030-2011-0010-EA Section 3.1.2, 3.3.1.1.2 and Appendix A.

⁴ For more detailed discussion, please refer to EA # DOI-BLM-ID-B030-2011-0010-EA Section 3.3.1.1.1 and Appendix A.

⁵ For more detailed discussion, please refer to EA # DOI-BLM-ID-B030-2011-0010-EA Section 3.3.1.1.4 and Appendix A.

Upland wildlife habitat has been highly altered by the reduction of perennial grasses and the dominance of Sandberg bluegrass and/or cheatgrass (Standard 4). The altered vegetation composition, structure, and function substantially reduce effective nesting, hiding, escape, travel, and foraging cover values for all upland wildlife species. Current livestock grazing is not a significant causal factor for not meeting Standard 8 for upland wildlife habitat because the season of use occurs mostly during perennial plants' dormant season, which has fewer effects than growing-season grazing.

Significant progress toward meeting Standard 8 for special status upland wildlife habitat is indicated by recent (post-2008) improvements in the occurrence of large bunchgrasses and basal perennial vegetation ground cover collected at two trend sites in 2011. Continuing improvements in the amount and distribution of basal perennial vegetation ground cover, biological soil crusts, and structural diversity of native upland plant communities will provide suitable upland habitat conditions for sagebrush steppe-associated wildlife, including sage-grouse, in the long-term.⁶

Analysis of Alternative Actions

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 in the EA.⁷ The following alternatives were considered for the Fossil Butte Allotment:

- Alternative A (Current Permit) – The current permit for the Fossil Butte Allotment was not analyzed in detail because it was not meeting Standards in the 2007 Evaluation/Determination. It was determined that livestock grazing at the level of AUMs and/or season of use permitted was a significant causal factor in not meeting applicable Standards.
- Alternative B (Current Situation) – The BLM would renew the Vernon H. & Kenneth Kershner permit for 10 years consistent with livestock grazing management practices that have been in place on the Fossil Butte Allotment since 2008. The new permit would define a season of use from October 15 to February 28 and authorize 220 AUMs of cattle use on the allotment. The new grazing permit would allow livestock numbers to vary, however the specified season and number of active AUMs could not be adjusted. Under this alternative, eight existing water haul sites would be retained for use in the allotment (Figure 2). Maintenance of several existing push ponds (small dugout reservoirs) would be authorized.

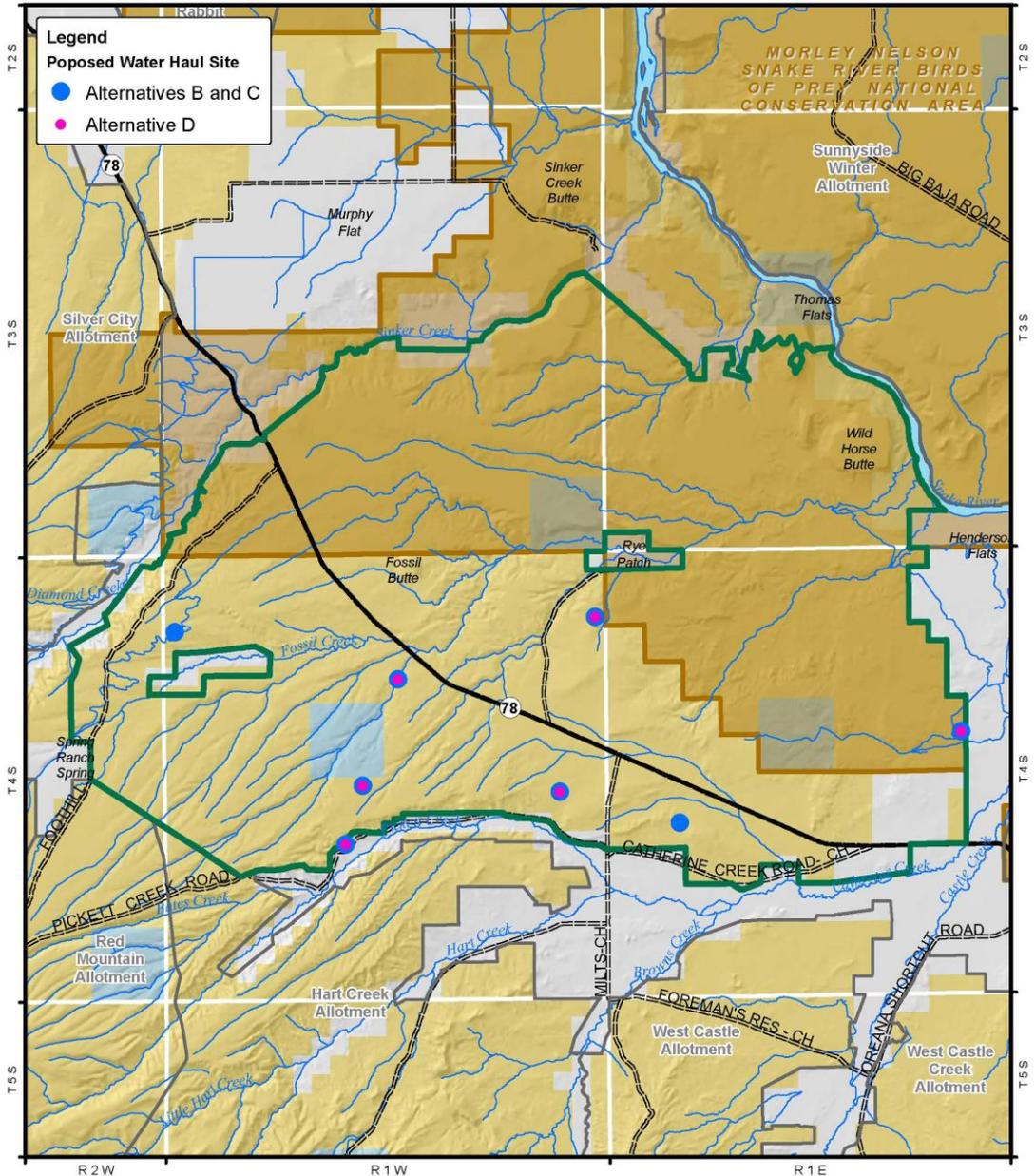
Terms and conditions for riparian stubble height, herbaceous riparian and woody browse utilization, and stream bank alteration applied to the grazing permit by the United States District Court for the District of Idaho would continue.

⁶ For more detailed discussion, please refer to EA # DOI-BLM-ID-B030-2011-0010-EA Section 3.3.1.1.5 and Appendix A.

⁷ For more detailed discussion, please refer to EA # DOI-BLM-ID-B030-2011-0010-EA Sections 2.1 and 2.2.

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 C (Applicant’s Proposal) – The BLM would renew the permit for Vernon H. & Kenneth Kershner in accordance with your submitted application. This alternative would renew the permit for 10 years and would authorize grazing on the Fossil Butte Allotment similar to the current permit without including the United States District Court for the District of Idaho terms and conditions identified in Alternative B. This alternative would define a season of use from October 1 to February 28 and authorize 251 AUMs of cattle use on the allotment. Eight existing water haul sites (Figure 2) would be authorized, as would maintenance of specified existing push ponds. Push ponds to be maintained would be identified and included in inventory for upkeep; others would be considered abandoned and no maintenance would be authorized.
 - Alternative D (BLM Preferred) – The BLM would renew the Vernon H. & Kenneth Kershner permit for 10 years similar to recent livestock grazing management practices that have been in place on the Fossil Butte Allotment since 2008. However, the season of use would be shortened to 120 days by moving the livestock turn-out-date from October 15 to November 1. The new permit would define a season of use from November 1 to February 28 and authorize 220 AUMs of cattle use on the allotment. Six existing water haul sites would be authorized (Figure 2). No maintenance of push ponds would be authorized.
 - Alternative E (No Grazing) – 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.

Fossil Butte Allotment Alternatives B-D



Location in Owyhee Field Office



- Surface Management**
- Bureau of Land Management
 - State of Idaho
 - Private
 - Birds of Prey NCA
 - Fossil Butte Allotment
 - Other Allotments



U.S. Department of the Interior
Bureau of Land Management, Idaho
Boise District, Owyhee Field Office
Map Date: 9/16/2013



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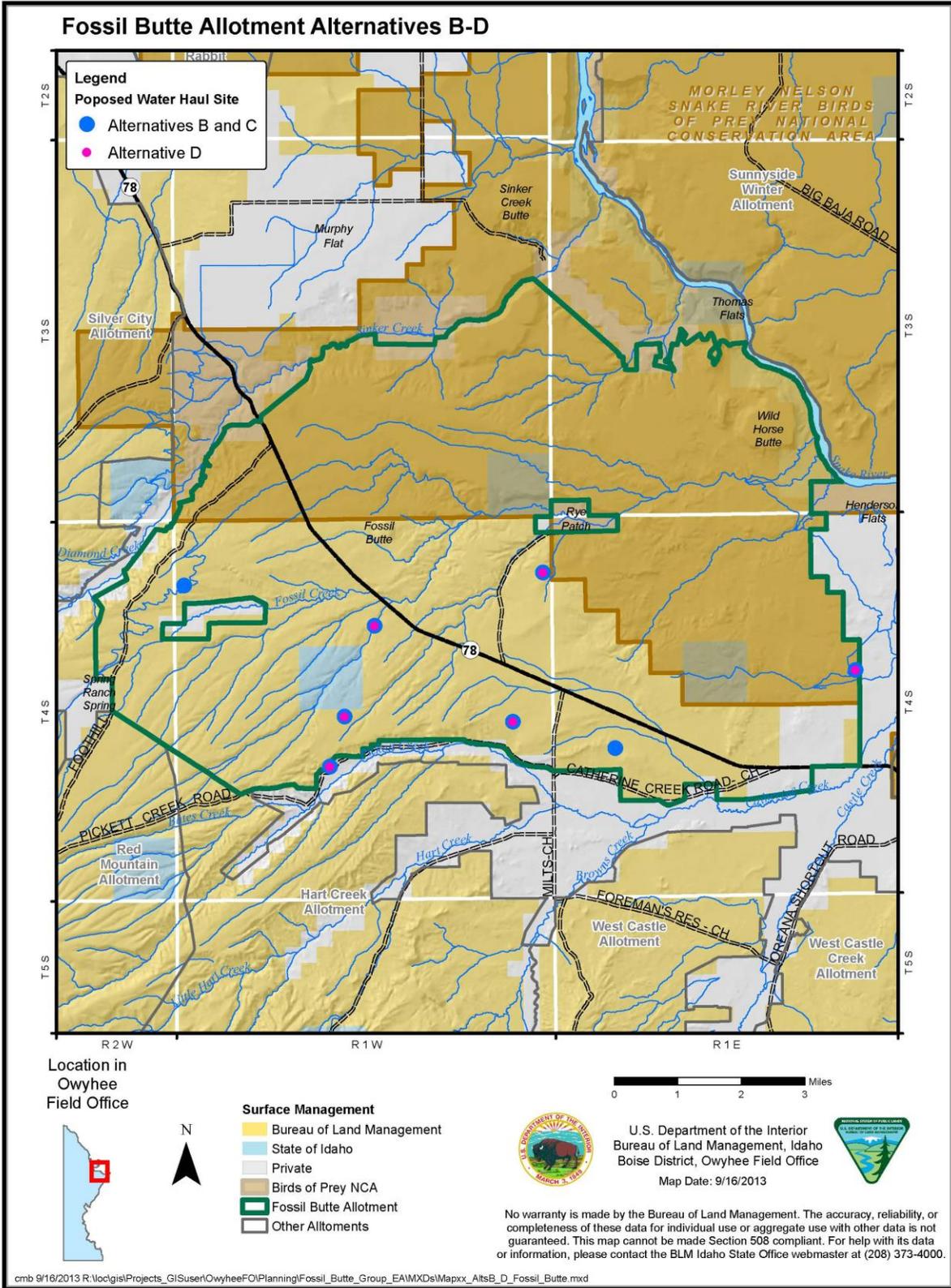


Figure 2 - Fossil Butte Allotment Water Haul Sites

Proposed 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, as well as other information, it is my proposed decision to renew your grazing permit for the Fossil Butte #00535 Allotment for ten years and authorize 6 water haul sites consistent with Alternative D (Preferred Alternative).

The terms and conditions of the renewed grazing permit will be as follows:

Vernon H. and Kenneth Kersner's Terms and Conditions

Allotment	Livestock		Grazing Period		% PL	AUMs		
	Number	Kind	Begin	End		Active	Suspended	Permitted
00535 Fossil Butte	56	Cattle	11/01	02/28	100	220	0	220

Other terms and conditions:

1. Grazing use will be in accordance with the Final Decision of the Owyhee Field Manager dated TBD.
2. Livestock grazing exclosures located within your grazing allotments are closed to all domestic grazing use.
3. You are required to properly complete, sign, and date an actual grazing use report form (4130-5) for each allotment. The completed form(s) must be submitted to this office within 15 days from the last day of your authorized annual grazing use.
4. Supplemental feeding is limited to salt, mineral, and/or protein in block, granular, or liquid form. If used, these supplements must be placed at least one-quarter mile away from any riparian area, spring, stream, meadow, aspen stand, playa, special status plant population, or water development.
5. Trailing activities must be coordinated with the BLM prior to initiation. A trailing permit or similar authorization will be required prior to crossing public lands.
6. Range improvements must be maintained in accordance with the cooperative agreements and range improvement permits in which you are a signator or assignee.
7. Livestock grazing will be in accordance with your allotment grazing schematic(s). Changes in scheduled pasture use dates will require prior authorization.
8. Failure to pay the grazing bill within 15 days of the due date specified shall result in a late fee assessment of \$25.00 or 10% percent of the grazing bill, whichever is greater, not to exceed \$250.00. Payment made later than 15 days after the due date shall include the appropriate late fee assessment. Failure to make payment within 30 days may be a violation of 43 CFR 4140.1(B)(1) and shall result in action by the authorized officer under 43 CFR 4150.1 and 4160.1
9. 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.

Notes on the Terms and Conditions

Implementation of Alternative D will result in a decrease of 31 AUMs in the Fossil Butte Allotment from your current permit. In accordance with regulation pertaining to reducing permitted use (43 CFR 4110.3-2), reductions in active use AUMs to meet Rangeland Health Standards or make significant progress, as well as reductions in active use AUMs to meet ORMP management objectives, would be implemented by reducing permitted use. Active use AUMs no longer available would not be converted to suspension. Suspension AUMs held on permits prior to this planning process would continue to be held on permits as suspension.

Permitted use within the allotment will be as follows:

Allotment	Active Use	Suspension	Permitted Use
00535 Fossil Butte	220 AUMs	0	220 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 Fossil Butte 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 Proposed Decision

Based on my review of the EA, the Evaluation/Determination, and other documents in the grazing files, it is my decision to select Alternative D. 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 Fossil Butte Allotment making significant progress in the long term towards meeting the resource objectives of the ORMP, NCA RMP, and the Idaho S&Gs.

Issues Addressed

Earlier in this decision I outlined the major issues that drove the analysis and decision making process for the Fossil Butte 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 D is 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 Fossil Butte Group allotments to promote the spread of weeds on public lands, including at existing and proposed water haul sites.

AND

Issue 2: The potential for livestock grazing in the Fossil Butte Group allotments to reduce cover and health of microbiotic crusts.

Annual invasive grasses and noxious weed infestations are expected to remain static under Alternative D. Cheatgrass is expected to continue to be subdominant with Sandberg bluegrass in the Fossil Butte Allotment, but not increase. Winter grazing on fall-sprouting annuals like cheatgrass is expected to reduce their competition with desirable perennial herbaceous species during the following growing season. Noxious weeds would be kept in check by noxious weed

treatments in all allotments, as per Environmental Assessment #ID100-2005-EA-265 (Noxious and Invasive Weed Treatment for the Boise District and Jarbidge Field Offices). Competition with existing perennial grasses would also help to control instances of noxious weed infestations in the allotment. Concentrated use areas, including around water haul sites, would remain similar to existing conditions, resulting in localized bare-ground areas conducive for weeds; these areas make up a very small proportion of the allotment.

Alternative D is expected to maintain existing biological soil crusts in the Fossil Butte Allotment. Biological soil crusts on most soils are most fragile and sensitive to disturbance when dry, because they are more brittle and subject to displacement that breaks microbiotic connections between soil particles (Belnap and Gardner 1993, Cole 1990). Winter grazing, when soils are wet or frozen, results in less soil crust damage than use in other seasons (Belnap and Eldridge 2003). Removing livestock while soils are moist and soil crust species are still metabolically active in late winter/early spring allows organisms to recover from the disturbance and reduces soil erosion. The intensity of grazing under Alternative D, similar to past use, and short duration spring and winter season of use is expected to maintain biological soil crusts at existing reduced cover levels. Biological soil crusts would continue to be limited in some areas within the allotments by cheatgrass litter.⁸

Thus, my decision to implement Alternative D will maintain microbiotic crust cover and will not promote the spread of noxious or invasive weeds in the Fossil Butte Allotment, consistent with ORMP and NCA RMP management objectives.

Issue 3: The potential for livestock grazing in the Fossil Butte Group allotments to adversely affect general habitat requirements for upland and riparian wildlife species, including raptors, sage-grouse, and big game.

Light to moderate winter grazing prescribed in Alternative D would be expected to have negligible effects to upland bird habitats, including raptors, due to the maintenance of current upland habitat conditions, lack of physical impacts, and potential increases in raptor prey species. This may lead to increased raptor reproduction over time as conditions are maintained or improve for prey species across the allotments. Potential effects of light to moderate winter grazing on big game mammals and associated upland habitats would be negligible due to the maintenance of current upland habitat conditions and lack of physical impacts.

In the Fossil Butte Allotment, this level of dormant season use is expected to continue to improve existing native perennials, shrubs, and soil cover. Cheatgrass would continue to be subdominant with Sandberg bluegrass, but not increase. Noxious weeds would be kept in check by the combination of noxious weed treatment and perennial grasses. Standard 8 for threatened and endangered animals in upland habitats would continue to not be met due to invasive plants and historic grazing, but current grazing management would not be a causal factor. Continuing improvements in the amount and distribution of basal perennial vegetation ground cover and structural diversity of native upland plant communities will provide suitable upland habitat conditions for sagebrush steppe-associated wildlife, including sage-grouse, in the long-term.

⁸ For more detailed discussion, please refer to EA # DOI-BLM-ID-B030-2011-0010-EA Sections 3.2.4.1 and 3.3.

Light to moderate winter grazing prescribed in Alternative D would be expected to have negligible effects to sage-grouse due to the maintenance or improvement of current upland and riparian habitat conditions and lack of physical impacts. This level of use is expected to maintain existing native perennials, shrubs, and soil cover in upland sage-grouse habitat. Although the trampling of eggs and nests by livestock and subsequent displacement and nest abandonment have been documented, these direct effects are rare and isolated, and more than likely have a negligible influence on population levels.

Therefore, my selection of Alternative D implements livestock management practices that will maintain or improve upland wildlife habitats consistent with BLM's Idaho S&Gs and move toward meeting ORMP and NCA RMP management objectives.

Issue 4: The potential for livestock grazing in the Fossil Butte Group allotments to cause detrimental impacts to special status plants and their habitats when combined with off-highway vehicle use in the area.

The Fossil Butte Allotment is not meeting Standard 8 for special status plants, but current livestock grazing is not a significant causal factor. Little or no livestock impact to special status plant occurrence areas is expected under Alternative D because of the winter season of use which occurs when plants are dormant, and because most occurrence areas in the allotments are not readily accessible to livestock. Off-highway vehicle use has affected special status plant habitat in areas within the Fossil Butte Allotment, so occurrences would continue to be limited primarily by weeds and OHV damage. Current livestock management would not be a causal factor for failing to meet Standard 8 for special status plants.⁹

My decision to implement Alternative D will maintain special status plant habitat in the Fossil Butte Allotment, consistent with Idaho S&Gs and with ORMP and NCA RMP management objectives.

Issue 5: The potential for livestock grazing in the Fossil Butte Group allotments to result in a shift from desirable to undesirable native plant communities.

AND

Issue 6: The potential for livestock grazing in the Fossil Butte Group allotments to impair upland watershed conditions.

The native plant communities in the Fossil Butte Allotment have already been highly altered from reference, desirable plant communities by the loss or reduction of large bunchgrasses throughout, the loss of shrub cover in localized areas, a reduction in native forb abundance and diversity, a reduction in biological soil crust cover, and an increase in cheatgrass and other invasive weeds due to historic livestock grazing. Likewise, watershed conditions have been highly also been highly altered due to these changes in native plant communities.

Alternative D is expected to maintain current upland conditions (existing shrubs, native and seeded bunchgrasses, biological soil crusts, and native forbs at their reduced levels) because

⁹ For more detailed discussion, please refer to EA # DOI-BLM-ID-B030-2011-0010-EA Sections 3.2.4.4 and 3.3.

winter grazing at a moderate or lower (less than 50% utilization) level is appropriate for maintaining perennial plant health. As a result, no further shift toward undesirable native plant communities is expected and watershed conditions are expected to remain stable.

The allotment has transitioned from large bunchgrass communities to shallow rooted perennial and annual grass communities (e.g. Sandberg bluegrass and cheatgrass), but the management of livestock grazing is essential to maintain the intact native components and watershed function. It would take decades to notice any significant (defined as measurable and/or observable changes to the indicators) progress toward meeting all Standards; progress in these lower elevation areas would be slow and climatically dependent. As outlined in the transitional models in the USDA NRCS (2005) Ecological Site Descriptions for these vegetative communities, a transition back to a state that is dominated by deep rooted cool season plants is unlikely. According to Laycock (1991), these communities have crossed a threshold into a different vegetation state and the transition back to a perennial grass understory is “difficult to cross, and is highly unlikely if annuals are adapted to the area.” Alternative D is expected to maintain existing desirable components, and perhaps improve them over the long term.¹⁰

Therefore, my decision to implement Alternative D results in livestock management practices that will maintain or improve remaining native plant communities and upland watershed conditions. Thus, my selection is consistent with Idaho S&Gs and ORMP and NCA RMP management objectives.

Issue 7: The potential for livestock grazing in the Fossil Butte Group allotments to reduce riparian vegetation and stream-bank stability.

The Fossil Butte Allotment does not have any known naturally occurring or functionally unaltered riparian areas; therefore Standards 2, 3, and 7 do not apply to the allotment. In any case, livestock grazing management resulting in light to moderate utilization during the dormant season is expected to continue under Alternative D, so no reduction in riparian vegetation and stream-bank stability is expected under the proposed decision. Masters et al. (1996) found that winter grazing has maintained or improved riparian conditions. Kauffman et al. (1983) suggested late-season (fall) grazing for some riparian areas on the basis of livestock production, maintenance of plant vigor and production, and minimum disturbance of wildlife populations. Studies have suggested that streambanks were most stable, and associated sediment losses were at their lowest levels, when riparian areas were grazed in the fall (Agouridis et al. 2005).

Therefore, my selection of Alternative D implements livestock management practices that will maintain or improve riparian vegetation and stream-bank stability consistent with BLM’s Idaho S&Gs and move toward meeting ORMP and NCA RMP management objectives.

Additional Rationale

A tremendous amount of thought and effort went into developing grazing management that is responsive to your allotment’s specific resource needs, geography, and size. These considerations were taken to address all concerns and requirements mandated to the BLM. Each

¹⁰ For more detailed discussion, please refer to EA # DOI-BLM-ID-B030-2011-0010-EA Sections 3.2.1.1 and 3.2.1.2.

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.

I considered selecting Alternatives A, B, or C for this allotment. However, I felt that Alternative D provides the best combination of resource protection and livestock management flexibility. Although I know that you would prefer to resume grazing at levels consistent with the current permit in the Fossil Butte Allotment, the fact that the allotment is not meeting all applicable Standards does not support the incorporation of these AUMs, which resulted in the allotment failing to meet Standards due to current livestock management in 2007. The grazing period starting date of Alternative D for the Fossil Butte Allotment (11/01) is designed to minimize grazing impacts to perennial bunchgrasses during fall green-up.

This proposed decision provides for six water haul sites rather than the eight that you requested in the Fossil Butte Allotment. The authorization of six water haul sites will provide for adequate cattle distribution throughout the allotment. Analysis in the EA shows that the disturbance around these six sites has only localized impacts on soils and vegetation, an acceptable trade-off to the improved livestock distribution across the allotment. The two additional water haul sites are not authorized in order to reduce impacts to sage-grouse habitat in the southwest part of the allotment and to a stand of needle-and-thread grass (See EA Section 3.3.1.2.4.1). Maintenance of push ponds is not authorized because the authorized water haul sites are sufficient for livestock distribution at this time and the elimination of push ponds would further reduce soil disturbance from pond maintenance and cattle use to push pond areas.

I also considered selecting Alternative E. However, 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 D I especially considered (1) BLM's ability to meet resource objectives using the selected alternatives, (2) the impact of implementation of alternatives on your operation, and (3) your past performance under previous permits. The resource issues identified (large bunchgrass and soil loss, past livestock grazing, invasive plants, and water diversions) are not related to current livestock management, therefore, it is appropriate to continue similar to current management.

Climate change is another factor I considered in building my decision around Alternative D for the Fossil Butte 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. Assuming that climate change affects these arid landscapes in the long

term, the native plant communities on the allotment will be maintained and thus be better armed to survive such changes.

Finding of No Significant Impact (FONSI)

A Finding of No Significant Impact (FONSI) was signed on November 15, 2013, and concluded that the proposed decision to implement Alternative D 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=dispatchToPatternPage¤tPageId=2003>

Conclusion

In conclusion, it is my decision to select Alternative D over the other alternatives analyzed because livestock management practices under this selection best meet regulatory requirements, the ORMP and Snake River Birds of Prey NCA RMP objectives allotment-wide, and the Idaho S&Gs.

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 Fossil Butte Allotment as 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 Protest and/or Appeal

Any applicant, permittee, lessee or other interested public may protest the proposed decision under Sec. 43 CFR § 4160.1 and 4160.2, in person or in writing within 15 days after receipt of such decision to:

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

The protest, if filed should clearly and concisely state the reason(s) why the proposed decision is in error.

In accordance with 43 CFR § 4160.3(a), in the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice unless otherwise provided in the proposed decision.

In accordance with 43 CFR § 4160.3(b), upon a timely filing of a protest, after a review of protest received and other information pertinent to the case, the authorized officer shall issue a final decision.

Any applicant, permittee, lessee or other person whose interest is adversely affected by the final decision may file an appeal in writing in 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 or within 30 days after the date the proposed decision becomes final. 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 above. 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 person named in the copies sent to section of this decision in accordance with 43 CFR 4.421 and on the Office of the Regional 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,

/s/ Loretta Chandler

Loretta V. Chandler
Field Manager
Owyhee Field Office

cc: Fossil Butte Group Interested Public

LITERATURE CITED

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- USDA-NRCS. 2005. Ecological Site Descriptions. Draft electronic documents filed on BLM server.

Fossil Butte Group Interested Public

Company Name	First Name	Last Name	Address 1	City	State	Zip
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
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 Wild Sheep Foundation	Director: Jim	Jeffress	PO Box 8224	Boise	ID	83707
ID Wild Sheep Foundation	Herb	Meyr	570 E. 16th N.	Mountain Home	ID	83647
ID Dept. of Parks & Recreation	Director		PO Box 83720	Boise	ID	83720
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	Karen	Sussman	PO Box 55	Lantry	SD	57636
Jaca Livestock	Elias	Jaca	817 Blaine Ave.	Nampa	ID	83651
Joyce Livestock	Paul	Nettleton	14568 Joyce Ranch Rd.	Murphy	ID	83650
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
Moore Smith Buxton & Turcke	Paul	Turcke	950 W. Bannock, Ste. 520	Boise	ID	83702
Natural Resources Defense Council	Johanna	Wald	111 Sutter St., 20 th 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 128	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
Sierra Del Rio	Craig	Baker	PO Box 127	Murphy	ID	83650
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	83702-5999
US Fish & Wildlife Service			1387 S. Vinnell Way Rm. 368	Boise	ID	83709
USDA Farm Services			9173 W. Barnes	Boise	ID	83704
Wells Fargo Bank NW	Loan Servicing Rep: Alice	Ellis	102 Main Ave. South	Twin Falls	ID	83303
Western Watershed Projects			PO Box 1770	Hailey	ID	83333

Company Name	First Name	Last Name	Address 1	City	State	Zip
Western Watershed Projects	Katie	Fite	PO Box 2863	Boise	ID	83701
	Russ	Heughins	10370 W. Landmark Ct.	Boise	ID	83704
	Bill	Baker	2432 N. Washington	Emmett	ID	83617-9126
	Brett	Nelson	9127 W. Preece St.	Boise	ID	83704
	Anthony & Brenda	Richards	8935 Whiskey Mtn. Rd	Murphy	ID	83650
	Ed	Moser	22901 N. Lansing Ln.	Middleton	ID	83644
	Sandra	Mitchell	PO Box 70001	Boise	ID	83707
	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
	John	Edwards	15804 Tyson Rd.	Murphy	ID	83650
	John	Miller	PO Box 59	Melba	ID	83641
	Nick	Nettleton	18542 Wilson Rd.	Glenns Ferry	ID	83623
	Senator: James E.	Risch	350 N. 9th St., Ste. 302	Boise	ID	83702
	Senator: Mike	Crapo	251 E. Front St., Ste. 205	Boise	ID	83702
	Congressman: Mike	Simpson	802 W. Bannock, Ste. 600	Boise	ID	83702
	Congressman: Raul	Labrador	33 E. Broadway Ave., Ste. 251	Meridian	ID	83642
	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	
Hook Family LLC	Thomas	Hook	20509 Upper Reynolds Ck. Rd.	Murphy	ID	83650
	Lloyd	Knight	PO Box 47	Hammett	ID	83627
	John	Romero	17000 2X Ranch Rd.	Murphy	ID	83650
	Bob	Salter	6109 N. River Glenn	Garden City	ID	83714
	John	Townsend	8306 Road 3.2 NE	Moses Lake	WA	98837
John	Richards	8933 State Hwy. 78	Marsing	ID	83639	
Office of Species Conversation	Cally	Younger	304 N. 8th St., Ste. 149	Boise	ID	83702