United States Department of the Interior
BUREAU OF LAND MANAGEMENT
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In Reply Refer To:
4160 ID130

December 23, 2013

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Cert# 70123050000105729868

Nick Nettleton
18542 Wilson Rd
Glenns Ferry, ID 83623

Notice of Field Manager's Proposed Decision -
Fossil Butte Allotment Permit Renewal: Authorization #1101482

Dear Mr. Nettleton:

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 September 4, 2013, updated grazing permit application for the Fossil Butte Allotment.

The "Notice of Field Manager's Proposed Decision" (Proposed Decision) for the Fossil Butte Allotment (Authorization #1101482) was issued on November 18, 2013 and was subsequently protested. In accordance with 43 CFR 4160, I reconsidered the Proposed Decision in light of the protest statements and am now prepared to issue this Final Decision for your permit renewal associated with the Fossil Butte Allotment.

Background

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 Final 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 Final Decision to renew your permit to graze livestock within the Fossil Butte Allotment. Upon implementation of the Final Decision, your permit to graze livestock on this allotment will be fully processed.

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 Fossil Butte Allotment;
- Outline my Final Decision to select Alternative D; and
- State my reasons for this Final Decision.

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 AUMs[1]	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.

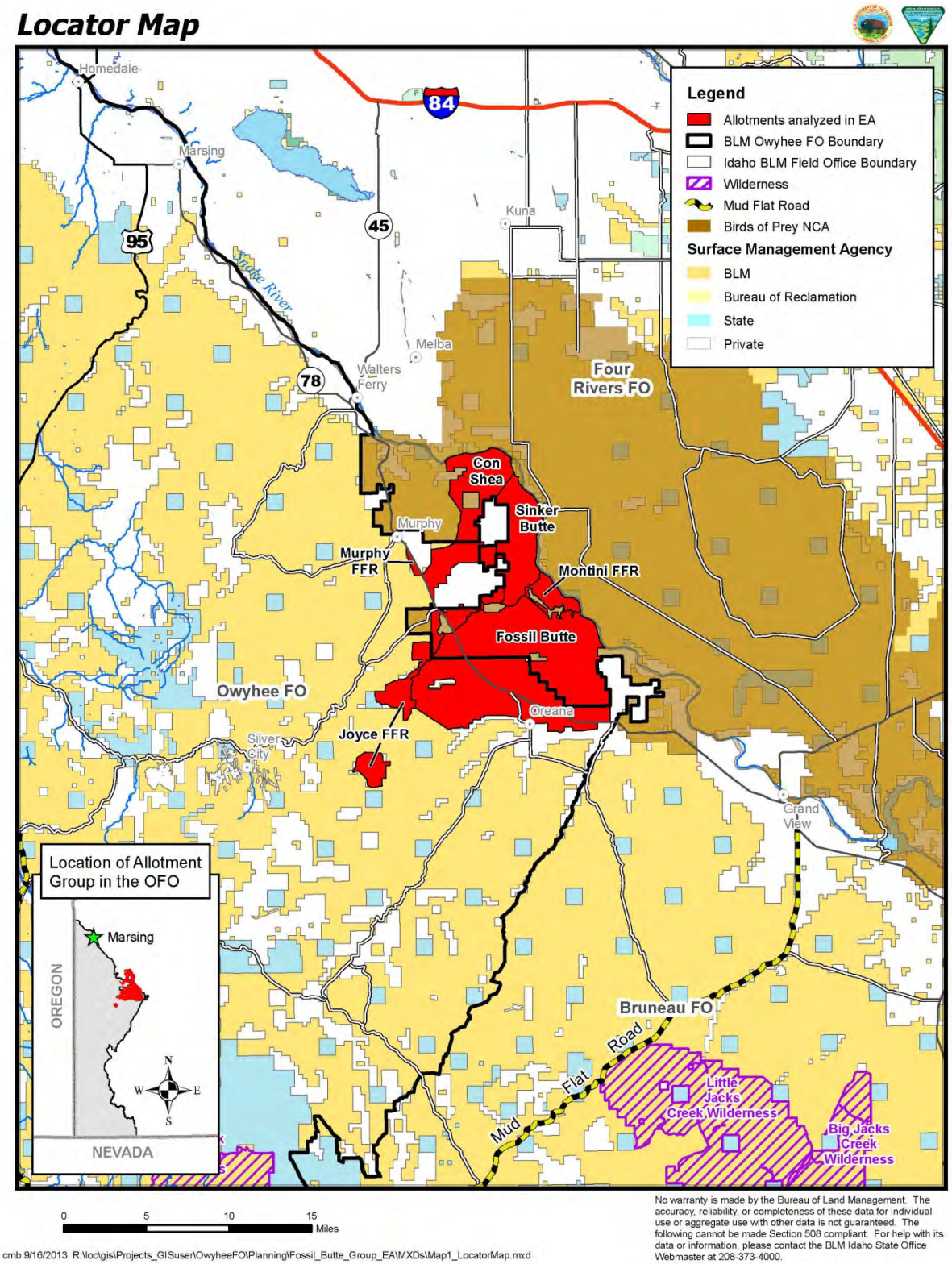

Figure 1– Fossil Butte Group Allotments Locator Map

Current Grazing Authorization

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

Table 2: Nick Nettleton's grazing permit terms and conditions

Allotment	Livestock		Grazing Period		% PL	AUMs		
	Number	Kind	Begin	End		Active	Suspended	Permitted
00535 Fossil Butte	76	Cattle	10/01	02/28	100	377	0	377

Other terms and conditions:

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 the 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) requirements[2].

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 you for your grazing permit (#1101482) on May 7, 2013. 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; and
- 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. 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

[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&currentPageId=22003

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 Final 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.

Allotment-Specific Resource Conditions and Analysis of Alternatives

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 Rangeland Health Evaluation and 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 wildlife habitat is closely related to the health and vigor of vegetation community conditions discussed in Standard 4.

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

[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.

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 Nick Nettleton 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 332 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.

  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.

[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.

- Alternative C (Applicant's Proposal) – The BLM would renew the permit for Nick Nettleton 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, but would not include 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 380 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 Nick Nettleton 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 to120 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 332 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.

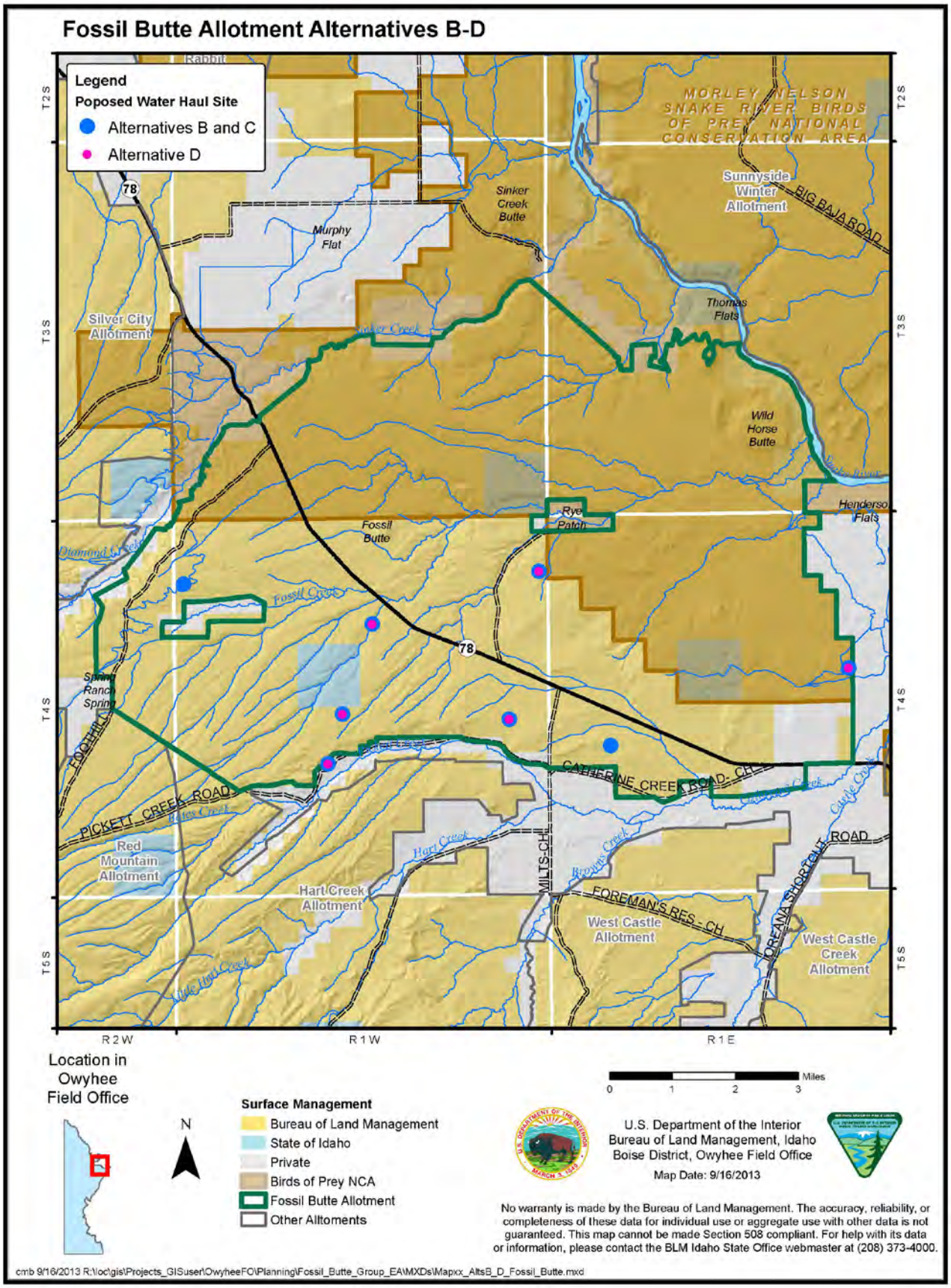

Figure 2 - Fossil Butte Allotment Water Haul Sites

Proposed Decision and Statement of Reasons for Protest

With completion of the FRH and NEPA processes, I issued a Proposed Decision to renew your grazing permit on November 18, 2013. The Proposed Decision included terms and conditions that would would allow for maintenance or improvement of upland watershed conditions, key upland vegetation, and riparian areas in the Fossil Butte Group allotments, consistent with Idaho S&Gs, ORMP, and NCA RMP management objectives. Protest statements were received from Joyce Livestock Company, the Idaho State Office of the Governor, Miller Land Company, and Western Watersheds Project (WWP). Meetings were held with Joyce Livestock Company, Miller Land Company, and WWP by request in order to discuss protest points. I have carefully considered each protestant's statement of reasons as to why the Proposed Decision was in error in the development of this Final Decision. My response to the protests is included in Attachment 1 of this Final Decision.

In review of the statement of reasons for protests I have found that changes to the analysis of the Final EA are not required. However, changes and clarification to the terms and conditions of the permit identified in the Proposed Decision were made. I am prepared to move forward with a Final Decision that is designed to authorize grazing and other actions in order to allow for maintenance or improvement of upland watershed conditions, key upland vegetation, and riparian areas in the Fossil Butte Group allotments, consistent with Idaho S&Gs, ORMP, and NCA RMP management objectives. These management actions will become effective at the conclusion of the appeal period for this Decision.

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, as well as other information, it is my Final 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 with modifications and supplements to "Other Terms and Conditions". The modifications and supplements to "Other Terms and Conditions" will be as follows:

- Salt and/or supplement shall not be placed within one quarter (1/4)-mile of springs, streams, meadows, aspen stands, playas or water developments. Use of supplements other than the standard salt or mineral block on public land requires prior approval from the authorized officer.
- Prior to turn-out, all range improvements must be maintained and in accordance with the cooperative agreement and range improvement permit in which you are a signatory or assignee. All maintenance activities that may result in ground disturbance require prior approval from the authorized officer.
- Upland forage utilization by livestock on key upland herbaceous forage species is limited to 50%.
- To correct a calculation error, the number of AUMs assigned to each permittee in Alternatives B and D has been changed. This change in assigned AUMs will not alter the alternative analysis in the Final EA. Appendix H hereby incorporates by reference the corrections in their entirety into the DOI-BLM-ID-130-2011-0010-EA: Final Fossil Butte Group Grazing Permit Renewal.

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

Nick Nettleton's Terms and Conditions

Allotment	Livestock		Grazing Period		% PL	AUMs		
	Number	Kind	Begin	End		Active	Suspended	Permitted
00535 Fossil Butte	84	Cattle	11/01	02/28	100	328	0	328

Other Terms and Conditions

1. Grazing use will be in accordance with grazing schedule identified in the Final Decision of the Owyhee Field Manager dated December 23, 2013. Changes to the scheduled use require approval.
2. Upland forage utilization by livestock on key upland herbaceous forage species is limited to 50%.
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. Use of supplements other than the standard salt or mineral block on public land requires prior approval from the authorized officer.
4. Livestock exclosures located within the grazing allotments are closed to all domestic grazing use.
5. You are required to properly complete, sign, and date an Actual Grazing Use Report Form (BLM Form 4130-5) for each allotment you graze. The completed form(s) must be submitted to this office within 15 days of the last day of your authorized annual grazing use.
6. Prior to turn-out, all range improvements must be maintained and in accordance with the cooperative agreement and range improvement permit in which you are a signatory or assignee. All maintenance activities that may result in ground disturbance require prior approval from the authorized officer.
7. All appropriate documentation regarding base property leases, lands offered for exchange-of-use, and livestock control agreements must be approved prior to turn out.
8. Trailing activities must be coordinated with the BLM prior to initiation. A crossing permit may be required prior to trailing livestock across public lands. Permittee will notify any/all affected permittees or landowners in advance of crossing.
9. Pursuant to 43 CFR 10.4(B), the permittee must notify the BLM field manager, 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), the permittee must immediately stop any ongoing activities connected with such discovery and make a reasonable effort to protect the discovered remains or objects.

Notes on the Terms and Conditions

Implementation of Alternative D will result in a decrease of 45 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	328 AUMs	0	328 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 Final 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, as modified. 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, as modified as a result of protest statements made, 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, as modified, 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.

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.

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

Therefore, my selection of Alternative D, as modified, 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, as modified, 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 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

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

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, as modified, 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 Final Decision. Masters et al. (1996) found that winter grazing has maintained or improved riparian conditions. Kauffman et al. (1983) suggested late-season grazing for some riparian areas based on the maintenance of plant vigor, plant production, and minimizing disturbances to 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, as modified, 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 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.

Although I could have selected Alternative D without supplemental terms and conditions, I was concerned over the lack of upland vegetation utilization limits. The analysis for Alternative D found that the 50% utilization level as identified in the ORMP would allow for maintenance or

[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.

potential improvement of key upland vegetation for the Fossil Butte Group allotments. Because of the potential that utilization could be heavier than recommended by the ID team, I adopted the additional term and condition to address this need.

Based on submitted protest points concerning vegetation disturbance and concentrated livestock use areas, the supplement term and condition in the Fossil Butte Group allotments has been modified to specify that supplements are limited to block form only, precluding the use of granular or liquid supplements without prior BLM authorization. This is due to the tendency of granular or liquid supplements to concentrate livestock use to a greater extent than supplements in block form.

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 Final 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)

An updated Finding of No Significant Impact (FONSI) was signed on December 20, 2013, and concluded that the Final 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&currentPageId=22003

Conclusion

In conclusion, it is my decision to select Alternative D, as modified, 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.

This grazing Decision and subsequent permits are being issued under the authority of 43 CFR 4100 and in accordance with the ORMP (43 CFR 4100.0-8), thus all activity thereunder must comply with the objectives and management actions of the Plan.

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 Final 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 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,

/s/ Loretta Chandler

Loretta V. Chandler
Field Manager
Owyhee Field Office

Attachments: 1 — Response to Protest Points – Fossil Butte Group allotments
2 — Appendix H – Permitted Livestock Use Table Calculations

cc: Fossil Butte Group Interested Public

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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	2270 Old Penitentiary Rd., PO Box 7249	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
Miller Land Co., Inc.	President: Stephen J.	Miller	451 E. Glendale Ave.	Phoenix	AZ	85020-4920
Miller Land Co., Inc.			PO Box 59	Melba	ID	83641
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 128	Murphy	ID	83650
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
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
	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	501 Baybrook Ct.	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
	John	Edwards	15804 Tyson Rd.	Murphy	ID	83650
	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
	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

Attachment 1

Response to Protest Points – Fossil Butte, Con Shea, Sinker Butte, Joyce FFR, Montini FFR, and Murphy FFR allotments

Field Manager's Proposed Decisions dated November 18, 2013

The Owyhee Field Office (OFO) received protests regarding the Field Manager's Proposed Decisions for the Fossil Butte, Con Shea, Sinker Butte, Joyce Fenced Federal Range (FFR), Montini FFR, and Murphy FFR (hereafter Fossil Butte Group) allotments. Protests were received from the following:

- Idaho State Office of the Governor (12/6/2013) – Protested the Joyce Livestock Company Decision, Nick Nettleton Decision, and Vernon H. and Kenneth Kershner Decision
- Joyce Livestock Company (12/9/2013) – Protested the Joyce Livestock Decision
- Miller Land Company and Kenneth Kershner (12/5/2013, 12/13/2013) – Protested the Vernon H. and Kenneth Kershner Decision
- Western Watersheds Project (WWP) – Katie Fite (12/2/2013, 12/3/2013, 12/4/2013) – Protested the Joyce Livestock Co. Decision, Vernon H. and Kenneth Kershner Decision, Nick Nettleton Decision, and Sierra Del Rio Decision

Protests received from each party were reviewed and summarized, and the BLM's response follows each protest. Protests duplicating comments received for the Draft Fossil Butte Group Grazing Permit Renewal Environmental Assessment (EA), DOI-BLM-ID-B030-0010-EA, are referred to the appropriate response in the Final EA Appendix G – Analysis of Public Comments on the Draft EA Fossil Butte Group Grazing Permit Renewal. All relevant and applicable comments and protest points were considered during the development of the Proposed and Final Decisions.

<u>Idaho State Office of the Governor</u>

1. Office of the Governor protests: *"The State of Idaho believes it is not necessary to shorten the grazing season by moving the turn-out-date from October 15 to November 1 as identified in Alternative D for the Joyce Livestock Company Decision.* [There is similar wording for "*moving turn-out-dates from October 1 to November 1"* for the Nick Nettleton Decision and Kershner Decision.] *Plants are already dormant in October and due to limited opportunities of precipitation in this area … fall green-up does not always occur on a consistent basis."*

BLM Response: Weather data was analyzed in the Fossil Butte Group EA in Table 3.4 (p 55). This information indicates that October generally has temperature and precipitation combinations suitable for fall green-up or regrowth, as shown in EA Table 3.3. The shortened season in Alternative D reduces grazing during the October fall green-up period, as discussed in EA Section 3.3.1.2.4.1. See also EA Appendix G – Analysis of Public Comments on the Draft EA: Joyce Livestock Co. #4 (p 4).

2. Office of the Governor protests: "*The State of Idaho also protests the reduction of AUMS … [I]n the Fossil Butte and the Con Shea Allotments, Standards are either making significant progress towards meeting the Standard, if not met, current livestock grazing management is not a significant causal factor, or they are not applicable for the allotment. In addition, the BLM's 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"*

BLM Response: In the Final Decision, AUMs will not be transferred from the Con Shea Allotment to the Joyce FFR Allotment, and the new permit will authorize 990 AUMs for the Con Shea Allotment and 87 AUMs for the Joyce FFR Allotment (which includes the former Con Shea Pasture 3), based on submitted comment and Protest statements.

The proposed decision (Alternative D for the Fossil Butte Allotment) is based on current actual use, including the previous voluntary reductions in the Fossil Butte Allotment. Use levels without the voluntary reductions (Alternative A) resulted in not meeting Standards due to current livestock grazing (2007 Determination) and utilization at times exceeding 50% (EA Appendix F). The current, reduced use (reflected in Alternatives B and D) has resulted in significant progress in meeting applicable Standards (2013 Determination), meeting Guidelines for Livestock Grazing Management for Idaho, and utilization rates below 50%. Therefore, it is appropriate to continue management at the reduced AUM level. See also EA Appendix G – Analysis of Public Comments on the Draft EA: ISDA #8 (p 3).

Although current livestock management is not a causal factor for Standards not being met, BLM's preferred alternative (D) includes management changes (primarily date changes) to improve resources and further reduce grazing effects, consistent with the Owyhee Resource Management Plan (ORMP) and Snake River Birds of Prey (SRBOP) RMP. The BLM is responsible for developing a reasonable range of alternatives in the analysis for permitting activities on the public lands. In addition, the BLM's stewardship responsibilities for the public lands extend beyond the minimal requirements found in the Fundamentals of Rangeland Health (FRH) Standards, ORMP, and SRBOP RMP. Where there is opportunity to improve the health of the range, the BLM has the authority and discretion to take that opportunity. Although current grazing management is not identified as a significant causal factor for the non-attainment of the Standards, the IDT has identified issues that could be addressed with some modification to Terms and Conditions of the existing permit.

3. Office of the Governor protests: *"In the EA and the proposed decision, BLM has provided no clear rationale on how they arrived at the total of their arbitrary 215 AUM reduction for the Fossil Butte Allotment in the Joyce Livestock Company Proposed Decision.* [There is similar wording for "*arbitrary reduction of 45 AUMS"* for the Nick Nettleton Decision and "*arbitrary reduction of 31 AUMS"* for the Kershner Decision.] *There are no mathematical equations on how BLM arrived at the AUMS being reduced in the Fossil Butte Group Allotment(s), including the Joyce Livestock Company Proposed Decision."*

BLM Response: The BLM has discretion in the methodologies utilized in calculating carrying capacity for a given allotment as long as the methodology is not arbitrary and capricious. In the

case of the Fossil Butte Allotment, the BLM found that since current livestock use was not identified as causal factors for non-attainment of Idaho Standards and Guidelines, in part as a result of the actions taken in 2008 that calculating the median actual use since 2008 would provide a reasonable allowable use over a 10-year period given periods of below average and/or above average precipitation years. The 1,328 total AUM value for the Fossil Butte Allotment for Alternative D (proposed decisions) is the median actual use reported between 2008 and 2012 (EA Section 2.3.3.1). Individual available AUMs for Alternative D reflect the total reduction, based on the median actual use of each permittee. Calculations and relevant numerical comparisons are shown in the table below. The percent of the median total was used to calculate each permittee's AUMs (rounded to whole numbers) based on the allotment total of 1,328 AUMs. To correct a calculation error, the number of AUMs assigned to each permittee in Alternatives B and D has been changed. This change in assigned AUMs will not alter the alternative analysis in the Final EA and will be carried forward in the Final Decisions.

Fossil Butte Actual Use (per EA Table 2.10)				
	Joyce Livestock Co.	Nick Nettleton	Kershner	Total:
2008	580	335	184	1099
2009	795	289	nonuse	1084
2010	767	325	236	1328
2011	852	370	233	1455
2012	824	347	220	1391
Median	795	335	227	1328
Alts B & D	778	328	222	1328
% of total	58.6	24.7	16.7	
Alt A (permit)	994	377	251	1622
% of total	61.3	23.2	15.5	
Equal reductions:	814	309	205	1328
(-18.13%)				
% reduction (A to D):	21.9	11.9	12.4	

4. Office of the Governor protests AUMs proposed for reduction are not placed in suspension: "*Statements and expectations like the above statements which BLM has identified in their proposed decision, tends to make the State of Idaho believe that in the foreseeable future, the AUMS BLM has proposed for reductions on page 24 of the proposed decision could very likely returned to active use. Again, while the State believes no reductions are even warranted for the Joyce Livestock Company permit.* [There is similar wording for "*reductions of AUMS"* for the Nick Nettleton Decision and "*reduction of AUMS"* for the Kershner Decision.] *based on their comments/protest identified above, if BLM moves forward with AUM reductions, these AUMS should be placed into suspended use."*

BLM Response: In the Final Decision, AUMs will not be transferred from the Con Shea Allotment to the Joyce FFR Allotment, and the new permit will authorize 990 AUMs for the Con Shea Allotment and 87 AUMs for the Joyce FFR Allotment (which includes the former Con Shea Pasture 3), based on submitted comment and Protest statements.

See EA Appendix A for analysis regarding voluntary AUM reduction resulting in improving resource conditions on the Fossil Butte Allotment. 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.

The State has identified in its protest statement that the Federal Register Notice for the February 1995 regulations identify that "Although in some cases reductions made under this Section of the Rule may be carried in temporary suspension, the Department does not believe that it serves in the best interest of either the rangeland or the operator to carry suspended numbers on a permit, unless there is a realistic expectation that the AUMs can be returned to active livestock use in the foreseeable future....". Although the BLM finds the Proposed Decision to make or continue to make significant progress towards the Idaho Standards for Rangeland Health, it is not expected that the AUMs would be available in the foreseeable future. AUMs placed in temporary suspension occur after impacts such as drought or wildfire, and are generally reactivated after a 2-5 year period. AUMs placed in suspended use would require the same process to reactivate suspended AUMs as it is to increase AUMs. A NEPA document and a subsequent decision in accordance with 4110.3-1, 4130.3-3, and 4160 is required to implement any modification of the grazing permit, including an increase in active AUMs. See also EA Appendix G – Analysis of Public Comments on the Draft EA: ISDA #4 (p 2-3).

<u>Joyce Livestock Company</u>

1. Joyce Livestock Company protests: *"Specific reasons for protesting are outlined in my comments on the draft EA. I feel this decision is not in keeping with proper range management, was completed with inadequate data, and is inconsistent in its findings."*

BLM Response: BLM considered and addressed your comments in response to the draft EA. Responses to comments from Joyce Livestock Company on the draft EA are provided in Appendix G - Analysis of Public Comments on the Draft EA Fossil Butte Group Grazing Permit Renewal Joyce Livestock Co. comments #1–7. We have reconsidered these comments as Protest statements to the proposed decision. BLM finds the responses to fully address the Protests, although a few changes in the Final Decision to the Terms and Conditions will be made. Specifically, in the Final Decision, AUMs will not be transferred from the Con Shea Allotment to the Joyce FFR Allotment, and the new permit will authorize 990 AUMs for the Con Shea Allotment (Pasture 1) and 87 AUMs for the Joyce FFR Allotment (which includes the former Con Shea Pasture 3), based on your comment and Protest statements.

Miller Land Company

1. Miller Land Company protests: *"The issuance of the Ref. Proposed Decision does not fully comply with 43 CFR 4160.1(a) in that the Miller Land Co., Inc. was never served as required by the rules. The Miller Land Co., Inc. is an affected party as well as an interested public because it is the base property owner of record."*

BLM Response: BLM has reviewed its records for an updated contact and address in relation to the Miller/Kershner base property lease. The address on record was that for John Miller. The Proposed Decisions were sent by certified mail to John Miller at the address on record with the OFO BLM. The document was mailed on 11/18/2013 and was received by a representative for John Miller on 11/25/2013. Steve Miller contacted the BLM by phone on 11/25/2013 to request an electronic copy of the Proposed Decisions. The BLM then provided Steve Miller an electronic copy of the Kershner Proposed Decision and a link where he could view and download the other Fossil Butte Group documents electronically via email on 11/25/2013. Steve Miller confirmed in an email dated 12/3/2013 that he had received the BLM's 11/25 email and was able to download the Proposed Decisions and Final EA. In that same email, Steve Miller requested that the Miller Land Company address be updated to include his address in Arizona as well as the address that the Proposed Decisions were sent to on 11/18/2013. The BLM's interested public list was updated to include the additional address subsequent to Steve Miller's request.

2. Miller Land Company protests: *"Both parties are protesting the reduction of AUMs tied to the base property from 253 Active to 220 Active. In our opinion the Final Decision should allow 228 AUMs versus the 220. Reductions below ten percent in our view is not warranted by the current condition of the Allotment."*

BLM Response: See the response to the Governor's Protest # 3, above. The reduction in AUMs represents a percentage of the overall actual use. The 220 AUM figure is derived from the median of total actual use rather than a straight 10% reduction.

3. Miller Land Company protests: "*Further we contend that the Authorized Officer should make reductions in active use in accordance with 43 CFR 4110.3-2(a)(1) which states that reducing active use through a decision that exceeds ten percent will implement changes over a five year period. This is not the case with this decision."*

BLM Response: The referenced grazing regulation [43 CFR § 4110.3-2(a)(1)] was contained in grazing regulations that were enjoined by Idaho District Court in 2007. The current grazing regulation § 4110(a) states that "After consultation, cooperation, and coordination with the affected permittee or lessee, the State having lands or managing resources within the area, and the interested public, reduction of permitted use shall be implemented through a documented agreement or by decision of the authorized officer. Decisions implementing 4110.3-2 shall be issued as proposed decisions pursuant to 4160.1, except as provided in paragraph (b) of this section".

4. Miller Land Company protests: *"The Miller Land Co., Inc. has requested, on several occasions through the process of finalizing the Environmental Assessment, that the AUMs reduced be placed into a "suspended" status. We question that the science contained in the EA completely supports removing AUMs without allowance for increasing them at a later date. Therefore, this has the affect of being, in our opinion, somewhat arbitrary and capricious."*

BLM Response: See the response to the Governor's Protest #4, above, addressing suspended AUMs. This comment was also addressed in EA Appendix G - Analysis of Public Comments on the Draft EA: ISDA #4 (p 2-3).

4. Miller Land Company protests: *"Reducing AUMs because it might have negative effects in the future due to climate change makes little sense. In the past years the permittees in this allotment reacted voluntarily to the requests of BLM to adjust grazing in years where there was an obvious need. It now appears that if this occurs during the term of this decision that the reported actual use values for that year will cause another reduction of AUMs in the next decision. This potential penalty is unacceptable to the permittees unless some assurances that it will not happen are made in this decision."*

BLM Response: The proposed decision (Alternative D) is based on current actual use, including the previous voluntary reductions in the Fossil Butte Allotment. Use levels without the voluntary reductions (Alternative A) resulted in not meeting Standards due to current livestock grazing (2007 Determination) and utilization at times exceeding 50% (EA Appendix F). The current, reduced use (reflected in Alternatives B and D) has resulted in significant progress in meeting applicable Standards (2013 Determination) and utilization rates below 50%. Therefore, it is appropriate to continue management at the reduced AUM level.

WWP

BLM has placed Protest statements from WWP into categories because numerous broad statements were made in the Protest documents. Many of the Protests are similar to comments made on the draft EA, and Protest responses refer to specific comment responses in the EA Appendix G. However, relevant Protest points have been considered further prior to completion of the Final Decisions, and some adjustments have been made to the Final Decisions based on Protests.

Permit Terms and Conditions

1. WWP protests the terms and conditions in the proposed permits: *"We Protest the Owyhee FO's highly uncertain and minimal permit terms and conditions. We Protest the lack of all measurable use standards of any kind on Sinker Butte and Montini permits."*

BLM Response: As responded to in previous comments (see Appendix G - Analysis of Public Comments on the Draft EA Fossil Butte Group Grazing Permit Renewal WWP comment #9, p 13-14), Section 2.1 of the EA specifically addresses monitoring studies to be conducted during the term of the grazing permits and in accordance with guidance provided by an Idaho State

Office Instruction Memorandum. Section 2.1 also identifies that these monitoring studies would include upland utilization, woody browse, and riparian vegetation. In addition, measurable Terms and Conditions for upland utilization have been added to the Final Decisions.

2. WWP protests the livestock number flexibility term and condition on some allotments in the proposed permits: *"We Protest the large-scale flexibility in many allotments, and references to making changes in schematics or annual grazing plans."*

BLM Response: Effects to resources resulting from livestock grazing and livestock grazing management during all applicable seasons of use are described in Sections 3.2 and 3.3 in the EA. See also Appendix G - Analysis of Public Comments on the Draft EA Fossil Butte Group Grazing Permit Renewal WWP comment #10 (p 14).

3. WWP protests the annual meeting term and condition on the Joyce FFR Allotment in the Joyce Livestock Company permit: *"We Protest what appears to be provisions allowing changes based on schematics. This slams the door on public involvement."*

BLM Response: Annual grazing schematics are a communication tool that allows the BLM and permittee a way to coordinate livestock grazing management on allotments. Interested publics were provided the opportunity for involvement during the development of the alternatives, and analysis of the environmental assessment. Annual management coordination between the BLM and permitted livestock operators will be within the constraints specified on the grazing permit. Management specified in annual allotment grazing schematics for pasture use dates would be constrained by the terms and conditions of livestock numbers and season of use dates on the permit, which have been developed with public involvement. Any changes outside of that analyzed and carried forward in the Final Decisions would require cooperation, communication, and consultation, the appropriate NEPA review, and decision process.

4. WWP protests the livestock supplement term and condition in the proposed permits: *"We are alarmed at the BLM allowing supplement- including the greatly damaging liquid supplement- without any controls at all."*

BLM Response: As responded to in previous comments (see Appendix G - Analysis of Public Comments on the Draft EA Fossil Butte Group Grazing Permit Renewal WWP comment #2, p 11), water hauling and salt/mineral supplement are acceptable livestock management practices to improve cattle distribution on public lands to utilize available forage. Specific effects of supplemental hay feeding are described in the Montini Allotment for Alternative C. Effects resulting from salt/mineral supplement feeding is discussed in Cumulative Effects (EA Section 3.4) and would be similar to those described for water haul sites which affect cattle distribution (EA Section 3.2.1.1). BLM has considered a provision for placing supplement away from native vegetation communities. In addition, based on consideration of this protest point, the supplement Term and Condition has been modified in the Final Decisions to the following:

- *Salt and/or supplement shall not be placed within one quarter (1/4)-mile of springs, streams, meadows, aspen stands, playas or water developments. Use of supplements*

other than the standard salt or mineral block on public land requires prior approval from the authorized officer.

Trailing

1. WWP protests the analysis of trailing in the Final EA: *"We Protest the failure to adequately analyze the impacts of trailing- within allotments and between allotments."*

BLM Response: No trailing between allotments is included in the Fossil Butte Group allotments' permits, so no effects analysis is included. Cattle movement within an allotment is covered by the terms and conditions of the permit, and effects are analyzed in EA Sections 3.2, 3.3, and 3.4.

References

1. WWP protests the lack of references supporting the analysis of Alternative D and in general: *"No scientific references are provided to support BLMs blithe claims about the impacts of Alt D and the Decisions." "BLM provides limited, and often hopelessly vague, general, outdated or irrelevant references."*

BLM Response: An extensive literature search has been conducted to support the analysis of all alternatives. See EA Section 6 (p 249 – 261) for literature cited in the EA.

Upland Vegetation/Invasive and Sensitive Plants/Fire

1. WWP protests the analysis of invasive plants in the Final EA: *"BLM failed to systematically consider the expansion of cheatgrass and other weeds, and the lack of microbiotic crusts."*

BLM Response: Effects to resources resulting from livestock grazing and livestock grazing management during all applicable seasons of use are described in Sections 3.2 and 3.3 in the EA. Specifically, effects of alternatives on cheatgrass and biological soil crusts are found in Sections 3.2.1.1 and 3.2.2.1. In addition, refer to Appendix G - Analysis of Public Comments on the Draft EA Fossil Butte Group Grazing Permit Renewal WWP comment #13 (p 14).

2. WWP protests the analysis of impacts resulting from drought in the Final EA: *"We Protest the failure of BLM to take into account the impacts of drought, including the 2013 drought, livestock use, etc."*

BLM Response: As responded to in previous comments (see Appendix G - Analysis of Public Comments on the Draft EA Fossil Butte Group Grazing Permit Renewal WWP comment #15, p 15), drought was considered in the analysis. Recent drought or high moisture years are all part of the range of variation expected, and permitted grazing management is designed to provide adequate resource protection under all but the most extreme cases, when site-specific adjustments are made.

3. WWP protests the analysis of impacts resulting from recent wildfires in the Final EA: "*We Protest the failure of BLM to adequately assess the changed conditions due to the 2012 fire, and to use this process to take necessary action to restore those lands with sage and salt desert shrub.*"

BLM Response: Grazing management has been adjusted as a result of the 2012 Con Shea Wildfire, with temporary pasture fences constructed allowing at least two growing seasons rest for the burned area in the Con Shea and Sinker Butte Allotments. Post-fire restoration is managed under the Emergency Stabilization and Rehabilitation program rather than grazing permit renewal process, so is beyond the scope of this decision. In addition, refer to Appendix G - Analysis of Public Comments on the Draft EA Fossil Butte Group Grazing Permit Renewal WWP comment #15 (p 15).

4. WWP protests the lack of assessment/analysis of the restoration potential for burned/degraded vegetation in the Final EA: "*We Protest that BLM has failed to provide any assessment or analysis for restoration of degraded and/or burned lands including both inside and outside the SRBOPA.*"

BLM Response: The range of alternatives in the Fossil Butte Group EA includes a No Grazing alternative, increases over the current permit (in some cases), and alternatives developed by the BLM that would provide for passive restoration while also providing for multiple uses on public lands. Active restoration was not within the scope of the Purpose and Need. Such actions would be better suited in site-specific analyses and projects. See BLM response to WWP Protest #3 of this section, above, in reference to burned area restoration. See also Appendix G - Analysis of Public Comments on the Draft EA Fossil Butte Group Grazing Permit Renewal WWP comments #8 (p 13) and #15 (p 15).

5. WWP protests the lack of protection for shrubs: "*BLM also fails to assess the impacts of increased competition and use by native wildlife herbivores as well as domestic livestock on shrubs in remaining unburned lands. BLM provides no use measurements (from previous grazing bouts) or applies use levels of any kind for sagebrush and many other native shrubs.*"

BLM Response: Livestock grazing effects to shrubs are disclosed in the EA Section 3.2.1.1, which indicates that "*No heavy use of shrubs in the Fossil Butte group allotments has been observed.*" As a result, no shrub use condition was included in the alternatives.

<u>Wildlife</u>

1. WWP protests habitat mapping and the analysis of impacts to birds of prey in the Final EA: "*Given the great importance of this entire area for Birds of Prey, it is appalling that current data are not examined in order to provide context to the significance of the outcome of this process. Nowhere is habitat mapped and identified for each species of raptor and its prey related to vegetation community condition, acreage, or specific habitat attributes, critical habitat components, etc. in the allotments and surrounding lands.*"

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. Effects to raptor species and their habitat resulting from livestock grazing management under analyzed alternatives are described in Sections 3.2 and 3.3 in the EA.

2. WWP protests habitat mapping and the analysis of impacts to sage-grouse in the Final EA: "*What other leks still remain in lower elevations of Owyhee County, and are also in danger disappearing? We Protest the failure to conduct this analysis, and develop a reasonable range of alternatives to address species needs.*"

BLM Response: A map (Figure 3.2) depicting sage-grouse leks, sagebrush habitat, and habitat with high restoration potential within the Fossil Butte Group allotments can be found in EA Section 3.1.5. Sage-grouse and upland vegetation analyses specific to each allotment can be found in EA Section 3.3. See also Appendix G - Analysis of Public Comments on the Draft EA Fossil Butte Group Grazing Permit Renewal WWP comments #18 (p 16) and #8 (p 13).

The range of alternatives in the Fossil Butte Group EA includes a No Grazing alternative, increases over the current permit (in some cases), and alternatives developed by the BLM that would provide for passive restoration while also providing for multiple uses on public lands. This range (No Grazing to increased AUMs) is sufficient to provide a reasoned decision about whether and how to renew livestock grazing permits on these allotments. The alternatives analyzed are those that were reasonable and sufficient to address the Purpose and Need and meet applicable objectives.

3. WWP protests the habitat mapping and the analysis of impacts to other special status wildlife species in the Final EA: *"BLM must provide information necessary to assess a range of alternatives that take a hard look at the effects of livestock grazing and management actions on both important species- such as antelope, mule deer, elk as well as special status species- Mojave collared lizard, sage sparrow, Brewer's sparrow, sage grouse, golden eagle, pygmy rabbit, loggerhead shrike, bats that rely on insects produced over broad areas of upland habitat, and other essential information for the public to understand the impacts of actions proposed."*

BLM Response: The EA is based on best available information for these species, 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. Effects to wildlife species and their habitat resulting from livestock grazing management under analyzed alternatives are described in Sections 3.2 and 3.3 in the EA. See also Appendix G - Analysis of Public Comments on the Draft EA Fossil Butte Group Grazing Permit Renewal WWP comment #4 and #6.

<u>Riparian/Wetlands</u>

1. WWP protests the analysis of impacts to riparian/wetland areas in the Final EA: *"Essential information on springs, seeps, streams, intermittent-ephemeral drainages, aquifer characteristic, flow rates, type of bankside spring, stratigraphy, known or foreseeable changes in flow rates over time, impacts of existing facilities or developments including dams, assessment of areal loss of wetted habitats due to development and/or livestock grazing and trampling, actual water quality measurements taken in relation to periods when livestock are grazed, etc. The EA can not write off livestock effects."*

BLM Response: Although the effects of irrigation and climate change affect the current condition and extent of water available within grazed pastures, analyzing the effects of these activities is outside of the scope of this project. The environmental consequences and cumulative effects were analyzed for locations that "overlap" or "connect with" (via flow) with livestock management activities. The EA discloses other impacts to current condition wherever relevant (i.e. the impacts of irrigation on the extent and presence of riparian areas, perennial streams, and connectivity with other water bodies). Refer to the response to Comment #12 of the Appendix G - Response to Comments and Section 1.7.2 for discussion regarding Climate Change.

2. WWP protests the analysis of impacts to water quality in the Final EA: *"BLM does not adequately reveal impacts of continued grazing use and gross over stocking and overuse on water quality, wetted/riparian areas and the habitats that they provide or would be capable of providing if livestock damage was alleviated, and healthy herbaceous and woody vegetation communities and stable untrampled banks were allowed to develop and exist."*

BLM Response: The response to this protest point has been adequately addressed in the Draft Fossil Butte Group Grazing Permit Renewal EA and in Appendix G - Analysis of Public Comments on the Draft EA Fossil Butte Group Grazing Permit Renewal. Specifically, refer to responses provided for the following comments: #9 (p 13-14), #13 (p 14), and #19.f. (p 16-17).

Sections 3.1.3, 3.3.3.1.3, of the EA provide a description of the perennial streams, riparian areas, and connectivity with downstream water bodies associated with Sinker Creek and Fossil Creek. Sinker Creek flows subsurface just above its confluence with the Snake River and does not have a surface connection. Fossil Creek is dewatered by irrigation facilities prior to its confluence with the Snake River.

Effects to riparian areas, water quality, and wildlife species and their habitats resulting from livestock grazing and livestock grazing management under the analyzed alternatives are described in Sections 3.2 and 3.3 of the EA. Recent observations of riparian areas on Sinker Creek in the Fossil Butte Group allotments indicated healthy riparian vegetation, stable banks, and little or no livestock impacts.

<u>FLPMA/NEPA</u>

1. WWP protests the FONSI for the Fossil Butte Group Proposed Decisions: *"We Protest the greatly deficient FONSI, which uses the same self-serving circular reasoning of the flawed EA and FRH process. We Protest Manager Chandler's arbitrary self-serving FONSI claims that grasps at straws trying to cover up fatally flawed superficial, shallow rubberstamp NEPA process that strips even minimal measurable use standards from decisions."*

BLM Response: It is not clear what aspects of the Finding of No Significant Impacts (FONSI) or decision WWP protests. However, the context and intensity of the effects of the selected alternative, as described in the EA and summarized in the FONSI, are such that they would not constitute significant impacts to the human environment (40 CFR 1508.27).

2. WWP protests the analysis of baseline data in the Final EA: *"BLM has failed to collect vital baseline current information on rare plants, sensitive animals, birds of prey- and their habitat quality and quantity as well as population status, trajectory and viability."*

BLM Response: As responded to in previous comments (see Appendix G - Analysis of Public Comments on the Draft EA Fossil Butte Group Grazing Permit Renewal WWP comment #4, p 12), all available baseline information has been used. 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. Effects to wildlife species and their habitat resulting from livestock grazing management under analyzed alternatives are described in Sections 3.2 and 3.3 in the EA.

3. WWP protests the lack of baseline studies for management of the National Conservation Area (NCA): "*We Protest BLM failing to conduct necessary baseline studies, full and honest biological and ecological analysis required to manage the SRBOPA ecosystem and the values of this nationally significant landscape."*

BLM Response: See BLM response to WWP Protest #2 of this section. As responded to in previous comments (see EA Appendix G – Analysis of Public Comments on the Draft EA: WWP #4 and #5, p 12), available baseline information is sufficient to analyze the proposed grazing alternatives and manage for NCA resources and values. See also EA Appendix A for a list of data sources (baseline information) used for each determination and the EA analysis.

4. WWP protests the formation of the Fossil Butte Group Allotments EA: *"We Protest BLM preparing an EA. when an ElS is essential to address the many important sensitive species habitats and populations, birds of prey habitats and populations, recreational, and other values of this complex of allotments."*

BLM Response: The effects of various past, present, and reasonably foreseeable future actions were analyzed to determine the context and intensity of the accumulation of effects on this landscape. The alternatives proposed in this document are in compliance with the applicable land use plan objectives as described in EA Section 1.8. See also Appendix G - Analysis of Public

Comments on the Draft EA Fossil Butte Group Grazing Permit Renewal WWP comment #21 (p 17).

5. WWP protests the analysis of carrying capacity and stocking rates in the Final EA: *"We are concerned about the failure to provide any basis for stocking rates, and continuing to base stocking on weed lands, or drawing numbers out of thin air, or by claiming all lands in allotments or pastures are uniform."*

BLM Response: As responded to in previous comments (see Appendix G - Analysis of Public Comments on the Draft EA Fossil Butte Group Grazing Permit Renewal WWP comment #2, p 11), stocking rates were analyzed in the EA. Although a formal carrying capacity analysis has not been completed, the stocking rate is evaluated based on comparing actual use figures to utilization measurements monitored under current grazing management. Utilization not exceeding 50% during dormant season use (the case in the majority of Fossil Butte Group area) generally indicates an adequate stocking rate (EA Section 3.2.1.1).

6. WWP protests the failure to follow Owyhee RMP objectives: *"The Owyhee RMP requires many protective and recovery actions that BLM has ignored here, as well. We Protest this."*

BLM Response: The terms and conditions (AUM level and season of use) for each permit have been explicitly designed to meet Owyhee RMP objectives (EA Section 1.8.1) and Snake River Birds of Prey NCA RMP (EA Section 1.8.2). See also Appendix G - Analysis of Public Comments on the Draft EA Fossil Butte Group Grazing Permit Renewal WWP comment #2 (p 11).

7. WWP protests the lack of Winmill Stipulations monitoring information: *"BLM does not provide info showing if it adequately complied with the terms of the Interim injunction. We Protest this."*

BLM Response: All monitoring information available (including of Interim Terms and Conditions) was considered in the Determinations and EA. See the Data Sources table in each Determination (EA Appendix A) for types, dates, and location of monitoring information. See also Appendix G - Analysis of Public Comments on the Draft EA Fossil Butte Group Grazing Permit Renewal WWP comment #19 (p 16).

<u>Livestock Facilities/Water Haul Sites</u>

1. WWP protests the analysis of impacts resulting from water haul sites and push-ponds in the Final EA: *"We Protest the failure to provide detailed site-specific information on the ponds to be dug out, and to assess all direct, indirect and cumulative impacts of the ponds and also this action. These same concerns apply to the water haul sites, and we Protest this blanket authorization of these very harmful sites."*

BLM Response: The effects from differing numbers of water haul sites, push pond maintenance, and levels of livestock distribution on the Fossil Butte Allotment are analyzed in

Sections 3.2 and 3.3.1.2 of the EA under Alternative B and in Cumulative Effects (EA Section 3.4). No push ponds have been authorized in the Proposed and Final Decisions. See also Appendix G - Analysis of Public Comments on the Draft EA Fossil Butte Group Grazing Permit Renewal WWP comment #16 (p 15).

2. WWP protests the analysis of impacts resulting from livestock facilities in the Final EA: " *We Protest the failure to provide full and fair science-based analysis of all the adverse impacts of the livestock facilities across these allotments and surrounding lands."*

BLM Response: Effects to wildlife species and their habitats resulting from livestock grazing and livestock grazing management, including facilities, under the analyzed alternatives are described in Sections 3.2 and 3.3 in the EA. Cumulative effects to resources resulting from livestock grazing management in addition to existing, proposed, and reasonably foreseeable livestock facilities under analyzed alternatives are described in Section 3.4 in the EA. See also Appendix G - Analysis of Public Comments on the Draft EA Fossil Butte Group Grazing Permit Renewal WWP comments #6 (p 12) and #11 (p 14).

<u>Alternative Development/Analysis</u>

1. WWP protests the analysis of the No Grazing Alternative (Alt E) in the Final EA: *"BLM set up the analysis of No Grazing in any areas of the allotments to fail. It never even bothered to assess removal of grazing from a single pasture, while grazing continued elsewhere in an allotment even in the SRBOPA lands where restoration is a high priority."*

BLM Response: As responded to in previous comments (see Appendix G - Analysis of Public Comments on the Draft EA Fossil Butte Group Grazing Permit Renewal WWP comment #8, p 13), a reasonable range of alternatives have been analyzed. The range of alternatives in the Fossil Butte Group EA includes a No Grazing alternative, increases over the current permit (in some cases), and alternatives developed by the BLM that would provide for passive restoration while also providing for multiple uses on public lands. This range (No Grazing to increased AUMs) is sufficient to provide a reasoned decision about whether and how to renew livestock grazing permits on these allotments. The alternatives analyzed are those that were reasonable and sufficient to address the Purpose and Need and meet applicable objectives. Removal of livestock in any given pasture, including those in the "SRBOPA lands", was not identified through the scoping process or through the review of available data, and therefore was not identified as an alternative. Subsequent changes in livestock management would be required upon any restoration activity, similar to that required upon the impacts of wildfire.

2. WWP protests the lack of evaluation of their alternative submission, and the range of alternatives analyzed in the Final EA: *"We Protest the Owyhee FO's failure to fully and fairly evaluate WWP's alternative submission and comments. We Protest that BLM failed to analyze a reasonable range of alternative actions and mitigation."*

BLM Response: See the response to WWP Protest #1 in this section in reference to the range of alternatives analyzed. WWP's alternative to include active restoration is not within the scope of

the Purpose and Need. Such actions would be better suited in site-specific analyses and projects. See EA Appendix B. See also Appendix G - Analysis of Public Comments on the Draft EA Fossil Butte Group Grazing Permit Renewal WWP comment #8 (p 13).

Public Health and Safety

1. WWP protests the analysis of livestock impacts to public health and safety in the Final EA: *"The cows BLM allows to graze in Fossil Butte stand in the middle of Highway 78 in the long dark winter nights and often foggy and/or smoggy inversion conditions- threatening human health and safety. BLM also fails to assess pathogens in livestock waste polluting waters in high recreational uses areas including in the SRBOPA."*

BLM Response: Public safety along Highway 78 is administered by the Idaho Department of Transportation and is outside of the scope of this document. Livestock grazing effects on water quality are discussed in EA Sections 3.1.3 and 3.2.1.3. See also EA Appendix B – Response to Scoping Comments WWP comment #21 (p 2).

ACECs/Cultural

1. WWP protests the lack of ACECs within the Fossil Butte Group Allotments: *"We Protest the failure to establish ACECs to protect this greatly imperiled low elevation sage- grouse habitats, rare plant habitats, sage sparrows, Brewer's sparrow, loggerhead shrike and other migratory birds and sensitive species, as well as to provide for raptor prey species and restoration of vital habitats."*

BLM Response: As responded to in previous comments (see Appendix B – Response to Scoping Comments WWP comment #10, p 1), the designation of ACECs is not within the scope of this project or analysis.

2. WWP protests the adequacy of protection for cultural resources within the Fossil Butte Group Allotments: *"BLM also has failed to adequately address protection of the relevant and important values of the Guffey/Black Butte area, and livestock trampling damage, livestock- caused erosion, and other impacts to cultural sites."*

BLM Response: Current and potential future site protection, including the Guffey/Black Butte area resources is discussed within the EA Section 3.1.8.1, and effects to cultural resources are discussed in EA Sections 3.2.1.8, 3.2.2.7, and allotment-specific sections. Site monitoring to determine the need for mitigation at significant sites is discussed in the EA, however no additional protections were deemed necessary for grazing due to the apparent lack of significant grazing-related disturbance thus far.

FRH Process

1. WWP protests the analysis and conclusions in the 2012 Evaluations/Determinations for the Fossil Butte Group Allotments: *"We Protest BLM using claims of "historical" livestock*

degradation that are used to avoid making necessary cuts in livestock numbers and to avoid conservative controls on use in these Decisions."

BLM Response: Determinations of whether Standards are being met and causal factors for not meeting Standards are based on all of the best, available information, as listed in the Background section of each Fossil Butte Group Allotment Determination (EA Appendix A). The description of historic grazing in EA Section 3.1.1 has been expanded between the draft and final EA. See also Appendix G - Analysis of Public Comments on the Draft EA Fossil Butte Group Grazing Permit Renewal WWP comment #1 (p 10-11).

2. WWP protests the FRH monitoring/assessment sites: *"We Protest the BLMs very biased Rangeland Health Assessment and Determination process, including the selective use of cherry-picked better condition sites, and the agency giving extreme deference to excuses made by ranchers for soil compaction and other serious ecological problems across this landscape."*

BLM Response: As responded to in previous comments (see EA Appendix G – Analysis of Public Comments on the Draft EA: WWP #14, p 15), trend sites were specifically established at areas with perennial grasses present (if possible) so that changes in either direction (increase or decrease) could be detected. These and other monitoring sites (such as utilization or Rangeland Indicator sites) are all in areas accessible to livestock and representative of use in the allotment/pasture. Although some areas within an allotment will always be more heavily used than others (See EA Section 3.2.1.1 on Distribution of Use), multiple monitoring sites within an allotment provide a reasonably accurate representation of overall use.

3. WWP protests the definition of "historic livestock grazing" used in the 2012 Evaluations/Determinations and the Final EA: *"We Protest the failure of BLM to define "historic" use, and the specific measures, methods and rationales used to differentiate historic vs. current impacts."*

BLM Response: Historic versus current grazing effects are described in Section 3.1.1 of the EA. Trend data (on allotments where available) has been used to analyze effects of current grazing (see for example EA Section 3.3.1.1.1). See also Appendix G - Analysis of Public Comments on the Draft EA Fossil Butte Group Grazing Permit Renewal WWP comment #1 (p 11).

4. WWP protests the ecosite descriptions and state and transition models used in the analysis for the Fossil Butte Allotments: *"The false and f1awed NRCS Ecosites and state/transition models relied upon by BLM are based on very limited work by Penyman and others who are greatly biased towards the livestock industry - and work to cover up livestock disturbance impacts."*

BLM Response: As responded to in previous comments (see Appendix G – Analysis of Public Comments on the Draft EA: WWP #3, p 11-12), use of NRCS Ecosites is standard, accepted BLM practice. We have not used the Ecological Site Descriptions (ESDs) to calculate carrying capacity in the Fossil Butte Group allotments, but rather evaluate the stocking rate based on

actual use and utilization. The ESDs were used to describe reference conditions or the expected vegetation for sites (See EA Section 3.1.1). NRCS ESDs and their state/transition models are based on the Owyhee County Soil Survey along with vegetation sampling, and are widely accepted as the best available, unbiased scientific information.

Cumulative Effects

1. WWP protests the analysis of impacts resulting from all-terrain vehicle use in the Final EA: "*We Protest the failure of BLM to take a hard look at all the direct, indirect and cumulative adverse impacts of the horror show of ATV trails and escalating ATV use in this area.*"

BLM Response: Cumulative effects to resources resulting from livestock grazing management under analyzed alternatives, along with all other disturbances including ATV use, are described in Section 3.4 in the EA. See Appendix G - Analysis of Public Comments on the Draft EA Fossil Butte Group Grazing Permit Renewal WWP comment #11 (p 14).

2. WWP protests the analysis of impacts resulting from the Gateway West Project in the Final EA: *"We Protest the failure of BLM to adequately assess the added direct, indirect and cumulative adverse impacts of the Idaho Power Gateway West high tension powerline on sensitive species, recreation, raptors, raptor prey, etc."*

BLM Response: Effects from the Gateway West Project were included in the cumulative effects analysis for vegetation (EA Section 3.4.2), wildlife (EA Section 3.4.4), and recreation (EA Section 3.4.5).

3. WWP protests the analysis of associated livestock operations in the Final EA: *"We Protest the failure to provide adequate assessment of the full footprint of ecological degradation caused by grazing entities, as well as the full footprint of the weed risk posed by the cumulative effects of the grazing, trailing, management activities across the landscape."*

BLM Response: The full footprint of grazing activities are discussed in the effects analysis for direct and indirect grazing effects within each allotment (EA Sections 3.2 and 3.3), and combined with other activities (such as private land grazing, training, etc.) in the cumulative effects analysis (EA Section 3.4).

Attachment 2

Appendix H – Permitted Livestock Use Table Corrections

To correct a calculation error, the number of AUMs assigned to each permittee in Alternatives B and D has been changed. This change in assigned AUMs will not alter the alternative analysis in the Final EA and will be carried forward in the Final Decisions. This appendix hereby incorporates by reference the below correction in their entirety into the DOI-BLM-ID-130-2011-0010-EA: Final Fossil Butte Group Grazing Permit Renewal.

Table 2.1 - Alternative B: Permitted Livestock Use for Fossil Butte Allotment (page 26)

Operator Name (Number)	Livestock		Season of Use	Federal Land	AUMs		
	Number	Kind			Active	Suspended	Permitted
Joyce Livestock Co. (1101423)	189	Cattle	10/15-02/28	94%	778	0	778
Nick Nettleton (1101482)	76	Cattle	10/15-02/28	100%	328	0	328
Vernon and Kenneth Kershner* (1104187)	51	Cattle	10/15-02/28	100%	222	0	222
Total					1,328	0	1,328

Tables 1-4 (pages 35-38)

Terms and Conditions of the livestock grazing permit for Joyce Livestock Co. under Alternative B – Current Situation

Allotment	Livestock		Grazing Period		% PL	Type Use	AUMs
	Number	Kind	Begin	End			
00535 Fossil Butte	189	Cattle	10/15	02/28	94	Active	778
00571 Con Shea	295	Cattle	11/01	02/28	100	Active	1,167
00487 Joyce FFR	13	Cattle	03/01	02/28	100	Active	158
00487 Joyce FFR	7	Horse	03/01	02/28	100	Active	88
00486 Murphy FFR	5	Cattle	3/01	3/31	100	Active	5

1. Number of livestock may vary annually, with prior approval by the authorized officer, as long as season of use and active AUMs are not exceeded.
2. Livestock grazing exclosures located within your grazing allotment(s) 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. Pursuant to 43 CFR 10.4(B) you must notify the BLM Field Manager, 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), you must immediately stop any ongoing activities connected with such discovery and make a reasonable effort to protect the discovered remains or objects.

United States District Court for the District of Idaho imposed terms and conditions

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; and
4. Streambank damage attributable to grazing livestock will be less than 10% on a stream segment.

Terms and Conditions of the livestock grazing permit for Nick Nettleton under Alternative B – Current Situation.

Allotment	Livestock		Grazing Period		% PL	Type Use	AUMs
	Number	Kind	Begin	End			
00535 Fossil Butte	76	Cattle	10/15	02/28	100	Active	328

1. Your certified actual use report is due within 15 days of completing your authorized annual grazing use.
2. Salt and/or supplement shall not be placed within one quarter (1/4) mile of springs, streams, meadows, aspen stands, playas, or water developments.
3. Changes to the scheduled use requires prior approval.
4. 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.
5. Livestock exclosures located within your grazing allotments are closed to all domestic grazing use.
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. 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.
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. Utilization may not exceed 50% of the current year's growth.

United States District Court for the District of Idaho imposed terms and conditions

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; and
4. Streambank damage attributable to grazing livestock will be less than 10% on a stream segment.

Terms and Conditions of livestock grazing permit for Vernon and Kenneth Kershner under Alternative B – Current Situation.

Allotment	Livestock		Grazing Period		% PL	Type Use	AUMs
	Number	Kind	Begin	End			
00535 Fossil Butte	51	Cattle	10/15	02/28	100	Active	222

1. Your certified actual use report is due within 15 days of completing your authorized annual grazing use.
2. Salt and/or supplement shall not be placed within one quarter (1/4) mile of springs, streams, meadows, aspen stands, playas, or water developments.
3. Changes to the scheduled use requires prior approval.
4. 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.
5. Livestock exclosures located within your grazing allotments are closed to all domestic grazing use.
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. 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.
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. Utilization may not exceed 50% of the current year's growth.

United States District Court for the District of Idaho imposed terms and conditions

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; and
4. Streambank damage attributable to grazing livestock will be less than 10% on a stream segment.

Terms and Conditions of the livestock grazing permit for Sierra Del Rio under Alternative B – Current Situation.

Allotment	Livestock		Grazing Period		% PL	Type Use	AUMs
	Number	Kind	Begin	End			
00578 Sinker Butte	178	Cattle	10/20	02/28	100	Active	771
00654 Montini	38	Cattle	1/10	04/30	100	Active	140

1. Your certified actual use report is due within 15 days of completing your authorized annual grazing use.
2. Salt and/or supplement shall not be placed within one quarter (1/4) mile of springs, streams, meadows, aspen stands, playas, or water developments.
3. Changes to the scheduled use requires prior approval.
4. 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.
5. Livestock exclosures located within your grazing allotments are closed to all domestic grazing use.
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. 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.
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. Utilization may not exceed 50% of the current year's growth.

United States District Court for the District of Idaho terms and conditions

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; and
4. Streambank damage attributable to grazing livestock will be less than 10% on a stream segment.

Table 2.2 - Alternative D: Fossil Butte Permitted Use (page 46)

Operator Name (Number)	Livestock		Season of Use	Federal Land	AUMs		
	Number	Kind			Active	Suspended	Permitted
Joyce Livestock (1101423)	209	Cattle	11/01-02/28	94%	778	0	778
Nick Nettleton (1101482)	84	Cattle	11/01-02/28	100%	328	0	328
Vernon and Kenneth Kershner (1104187)*	56	Cattle	11/01-02/28	100%	222	0	222
Total**					1,328	0	1,328

Tables 1-4 (pages 49-52)

Terms and conditions of the grazing permit for the Joyce Livestock Co. on Fossil Butte, Con Shea, Joyce FFR, and Murphy FFR allotments under implementation of Alternative D – Preferred Alternative.

Allotment	Livestock		Season of Use		% PL	Type Use	AUMs
	Number	Kind	Begin	End			
00535 Fossil Butte	209	Cattle	11/01	02/28	94	Active	776
00571 Con Shea	242	Cattle	11/01	02/28	100	Active	953
00487 Joyce FFR	7	Cattle	03/01	02/28	100	Active	80
	4	Horse	03/01	02/28	100	Active	44
00486 Murphy FFR	1	Cattle	11/01	03/31	100	Active	5

1. Grazing use will be in accordance with the Final Decision of the Owyhee Field Manager dated _____.
2. Livestock grazing exclosures located within your grazing allotment(s) 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) you must notify the BLM Field Manager, 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), you must immediately stop any ongoing activities connected with such discovery and make a reasonable effort to protect the discovered remains or objects.

ALLOT NO CONDITIONS

ID 00487 The permittee will be required to meet with the BLM prior to each grazing year in order to determine turnout dates(s) and location(s) and the overall management of livestock within Pasture 3 of the Joyce FFR Allotment. Annual meetings will determine if changes in annual authorizations are required either by request of the permittee, or at the discretion of the BLM. Such modification must be in accordance with the ten-year grazing permit.

Terms and conditions of the grazing permit for Nick Nettleton for the Fossil Butte Allotment under implementation of Alternative D – Preferred Alternative.

Allotment	Livestock		Grazing Period		% PL	Type Use	AUMs
	Number	Kind	Begin	End			
00535 Fossil Butte	84	Cattle	11/01	02/28	100	Active	328

1. Grazing use will be in accordance with the Final Decision of the Owyhee Field Manager dated _____.
2. Livestock grazing exclosures located within your grazing allotment(s) 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) you must notify the BLM Field Manager, 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), you must immediately stop any ongoing activities connected with such discovery and make a reasonable effort to protect the discovered remains or objects.

Terms and conditions of the livestock grazing permit for Vernon and Kenneth Kershner for the Fossil Butte Allotment with implementation of Alternative D – Preferred Alternative.

Allotment	Livestock		Grazing Period		% PL	Type Use	AUMs
	Number	Kind	Begin	End			
00535 Fossil Butte	56	Cattle	11/01	02/28	100	Active	222

1. Grazing use will be in accordance with the Final Decision of the Owyhee Field Manager dated _____.
2. Livestock grazing exclosures located within your grazing allotment(s) 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) you must notify the BLM Field Manager, 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), you must immediately stop any ongoing activities connected with such discovery and make a reasonable effort to protect the discovered remains or objects.

Terms and conditions of the livestock grazing permit for Sierra Del Rio for the Sinker Butte and Montini FFR allotments with implementation of Alternative D – Preferred Alternative.

Allotment	Livestock		Grazing Period		% PL	Type Use	AUMs
	Number	Kind	Begin	End			
00578 Sinker Butte	195	Cattle	11/01	02/28	100	Active	771
00654 Montini FFR	31	Cattle	11/01	03/15	100	Active	140

1. Grazing use will be in accordance with the Final Decision of the Owyhee Field Manager dated _____.
2. Livestock grazing exclosures located within your grazing allotment(s) 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) you must notify the BLM Field Manager, 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), you must immediately stop any ongoing activities connected with such discovery and make a reasonable effort to protect the discovered remains or objects.