



United States Department of the Interior
BUREAU OF LAND MANAGEMENT
Four Rivers Field Office
3948 Development Avenue
Boise, Idaho 83705-5339



In Reply Refer To:
4130 (ID110)

November 18, 2015

CERTIFIED MAIL – RETURN RECEIPT REQUESTED - 7005 0390 0006 6873 7120

Dennis J. & Debra J. Joost
1316 S. Pine Featherville Road
Mountain Home, Idaho 83647-8719

Notice of Field Manager's Final Decision
for the Joost Section 15 Allotment (Joost Application)

Dear Mr. and Mrs. Joost:

Thank you for your application for a grazing lease on the Joost Section 15 Allotment (01199). While I will not be authorizing the use for which you applied, I appreciate you working with the Bureau of Land Management (BLM) during this permit/lease renewal process and your interest in grazing the allotment in a sustainable fashion. I signed a Proposed Decision to not issue you a grazing lease on May 27, 2014, which you received June 2, 2014. The Proposed Decision indicated your application would not allow the allotment to continue to meet Idaho Standards for Rangeland Health (Standards), comply with Guidelines for Livestock Grazing Management (Guidelines), or conform to the Jarbidge Resource Management Plan (RMP) objectives, the current land use plan for the area. The BLM received a protest letter regarding the Proposed Decision from Western Watersheds Project on June 7, 2014. We held a protest meeting with Western Watersheds Project on July 15, 2014. All protest points submitted were considered and my responses to protest points are provided in the attached section titled Protest Responses.

The BLM recently evaluated current grazing practices and conditions on the allotment in preparation for the renewing livestock grazing permits in the Bennett Mountain Management Area. We undertook this effort to ensure that any renewed grazing permit/lease is consistent with the BLM's legal and land management obligations. As part of the BLM's evaluation process, Rangeland Health Assessments and Evaluations were completed, and Determinations were signed May 27, 2014.

Public scoping for grazing permit/lease renewals associated with the 12 Bennett Mountain North allotments (your lease application affects one of those allotments) was initiated April 2, 2012. The scoping letter informed recipients that the purpose of the public outreach effort was to identify resource and management issues associated with rangeland health standards and the Jarbidge RMP. Comments received during this process and meetings with you and other interested publics were used to develop the alternatives analyzed in the Bennett Mountain North Grazing Permit Renewal Environmental Assessment (EA) DOI-BLM-ID-B010-2011-0021-EA, published May 27, 2014.

Following public availability of my Proposed Decision and review of protest points, I am now prepared to issue my Final Decision to deny your application to graze cattle in the Joost Section 15 Allotment. After careful consideration, I have selected Alternative C as the Final Decision for the allotment. My Final Decision incorporates by reference the analysis contained in the EA, supporting documents, and the Jarbidge RMP.

This Final Decision will:

- Briefly 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 a grazing permit for use in the Joost Section 15 Allotment;
- Outline my Final Decision to select Alternative C in the allotment; and
- State the rationale for making this selection.

Background

Allotment Setting

The Joost Section 15 Allotment is located 2 miles east and southeast of Pine, Idaho (Map 1). The allotment includes 399 acres of BLM-administered lands in one pasture. Elevations range from 4,400 to 5,100 feet and topography is characterized by mountain sides and side slopes. South Slope Gravelly 12-16” is the primary ecological site, characterized by intact mountain big sagebrush and bluebunch wheatgrass.

Current Grazing Authorization

At present, there is no active grazing authorization in effect for the Joost Section 15 Allotment. The previous active lease for cattle use (Table 1) was canceled by decision in 1992 for Failure to Use (43 CFR 4170.1-2).

Table 1. Mandatory terms and conditions for the Joost Section 15 Allotment, Elmore County Idaho.

Allotment	Livestock		Grazing Period		% Public Land	AUMs ^A
	Number	Kind	Begin	End		
01199 Joost Section 15	20	Cattle	05/01	06/30	100	0

^A Animal Unit Months

Grazing Applications

The BLM received two applications for grazing use in the Joost Section 15 Allotment. Your application for 20 cattle from May 1 to June 30 was received November 9, 2004. Faulkner Land & Livestock's application, received March 27, 2011, was to incorporate the Joost Section 15 Allotment as a pasture in the Hammett Livestock Company Allotment and the associated 40 AUMs would be converted to sheep use. The allotment would be grazed by 435 sheep between June 15 and November 1; however, up to 2,000 sheep could be on the allotment at one time providing AUMs were not exceeded.

Resource Conditions (Standards)

Rangeland health assessment and monitoring data collected between 2002 and 2011 were used to assess allotment conditions. A 2014 Determination concluded that BLM-administered lands in the allotment were meeting the following applicable Standards, specifically Standard 1 (Watersheds), Standard 2 (Riparian Areas and Wetlands), Standard 3 (Stream Channel and Floodplains), Standard 4 (Native Plant Communities), Standard 7 (Water Quality), and Standard 8 (Threatened and Endangered Plants and Animals). Standard 5 (Seedings) and Standard 6 (Exotic Plant Communities, other than Seedings) did not apply to the allotment.

Issues

Based on the BLM's evaluation of current grazing management, current conditions on the allotments, public response to scoping, and the BLM's requirement to meet or make significant progress toward meeting Idaho Standards and Guidelines, and to move the allotments toward meeting Jarbidge RMP management objectives, the BLM identified the following resource issues associated with the grazing permit/lease renewal:

- Watersheds: How can livestock grazing be modified to improve watershed function?
- Vegetation and Special Status Plants: How can native perennial grasses and forbs be maintained or increase?
- Fuels Management: Is the issuance of temporary non-renewable use (TNR) an appropriate method to manage fuels in the area?
- Greater Sage-grouse: What is the BLM considering sage-grouse habitat and will BLM implement protection measures for it?
- Migratory Birds: How will BLM ensure that habitat conditions will support migratory birds?
- Wildlife: What management actions will be taken to minimize forage competition and fencing impacts, especially in mule deer winter range?
- Riparian/Wetland Areas/Fisheries: What management actions, especially those that don't require fencing, can be implemented to improve habitat conditions?
- Water Quality: What management changes will be made to ensure water quality standards will be met?
- Cultural Resources: What steps will be taken to avoid or minimized impacts to cultural resources?
- Livestock Management/Social and Economics: How will proposed alternatives balance the need for meeting Standards with operational and economic needs?

Analysis of Alternative Actions

Based on the current condition in the allotment and the issues identified above, the BLM considered alternative livestock management schemes that would ensure that any grazing lease would maintain or improve satisfactory conditions and continue to meet Standards. Temporary non-renewable (TNR) use was considered, but not analyzed in detail because suitable conditions for TNR do not exist in the allotments (EA Section 2.2.1)¹. The following four alternatives were considered in detail (see EA Section 2.3 for more detailed descriptions):

Alternative A – No Grazing: Livestock grazing would not be permitted for a 10-year period in all allotments.

Alternative B – Continue Current Use: Livestock use would not be permitted in the Joost Section 15 Allotment.

Alternative C – Faulkner Application: The Joost Section 15 Allotment would become a pasture in the Hammett Livestock Company Allotment and the associated 40 AUMs would be converted to sheep use. A total of 401 AUMs would be permitted June 15 to November 1 for 435 head of sheep; however, up to 2,000 head could be on the allotment at one time providing AUMs were not exceeded. The allotment would typically be used during spring and fall trailing periods as described in Alternative B for the Hammett Livestock Company Allotment.

Alternative D – Joost Application: Cattle use would be permitted during the spring (20 head, May 1 to June 30, 40 AUMs) in the Joost Section 15 Allotment.

Final Decision

After considering the current conditions of the natural resources, current grazing practices, and the alternatives and analyses in the EA, as well as other information, it is my Final Decision to deny your application to graze in the Joost Section 15 Allotment.

Rationale

The grazing regulations at 43 CFR 4130.1-2 provide direction on evaluating conflicting applications for grazing use.

When more than one qualified applicant applies for livestock grazing use of the same public lands and/or where additional forage for livestock or additional acreage becomes available, the authorized officer may authorize grazing use of such land or forage on the basis of § 4110.3–1 of this title or on the basis of any of the following factors:

- (a) Historical use of the public lands (see § 4130.2(e));
- (b) Proper use of rangeland resources;
- (c) General needs of the applicant's livestock operations;
- (d) Public ingress or egress across privately owned or controlled land to public lands;

¹ The permittee/lessee could apply for TNR in the allotments; however, the BLM would need to evaluate the request in accordance with the NEPA.

- (e) Topography;
- (f) Other land use requirements unique to the situation.
- (g) Demonstrated stewardship by the applicant to improve or maintain and protect the rangeland ecosystem; and
- (h) The applicant's and affiliate's history of compliance with the terms and conditions of grazing permits and leases of the Bureau of Land Management and any other Federal or State agency, including any record of suspensions or cancellations of grazing use for violations of terms and conditions of agency grazing rules.

Because use is not currently permitted in the Joost Section 15 Allotment, § 4110.3-1 does not apply in this case as that subpart deals with increasing authorized use. I determined that both you and the other applicant had a satisfactory record of performance. You under § 4110.1(b)(2) and Faulkner Land & Livestock under § 4110.1(b)(1).

In accordance with 43 CFR 4130.1-2 (b)&(e) and upon my review of the applicable portions of DOI-BLM-ID-B010-2011-0021-EA, I have determined that the public lands within the boundaries of the Joost Section 15 Allotment are better suited for sheep grazing than for cattle grazing. The period of use proposed in your application coincides with the perennial grass growth periods. The topography in the Joost Section 15 Allotment would concentrate cattle use in areas with gentle slopes, whereas sheep would tend to be distributed more evenly throughout the allotment. Grazing throughout this growth period every year would adversely affect abundance and vigor of these desirable species, and would be exacerbated by limited cattle distribution. Because of this, watershed, vegetation, riparian, and wildlife Standards would not be met over the long term (EA Sections 3.1.2.5, 3.2.2.6, 3.5.2.5, and 3.6.2.6). The proposed sheep use would allow for use during similar timeframes, but for shorter time periods. Also, sheep can distribute more widely over the landscape than cattle as their distribution is less limited by topography. Sheep use will allow watershed, vegetation, riparian, and wildlife Standards to continue to be met over the long term (EA Sections 3.1.2.4, 3.2.2.5, 3.5.2.4, and 3.6.2.5).

Authority

The authorities under which this decision is being issued include the Taylor Grazing Act of 1934, as amended, Public Rangelands Improvement Act of 1978, and the Federal Land Policy and Management Act of 1976, as promulgated through Title 43 of the Code of Federal Regulations (CFR) Part 4100 Grazing Administration - Exclusive of Alaska (2005). My decision is issued under the following specific regulations:

- 4100.0-8 Land use plans; the Jarbidge RMP designates the Joost Section 15 Allotment available for livestock grazing;
- 4130.1-2 Conflicting applications;
- 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;
- 4160 Administrative Remedies. Guidance on issuance of proposed and final decisions, and protests and appeals.
- 4180 Fundamentals of Rangeland Health and Standards and Guidelines for Grazing Administration. Implementation of the decision will result in the continuation of the subject public lands to meet the Idaho Standards for Rangeland Health.

Right of Appeal

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

Tate Fischer
 Four Rivers Field Manager
 3948 S. Development Avenue
 Boise, Idaho 83705-5339

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 Solicitor's Office
 University Plaza
 960 S. Broadway Avenue Suite 400
 Boise, Idaho 83706-6240

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 either Matt McCoy Four Rivers Assistant Field Manager at (208) 384-3343 or matthewmccoy@blm.gov, or myself at 208-384-3430 or tfischer@blm.gov.

Sincerely,

/s/ *Tate Fischer*

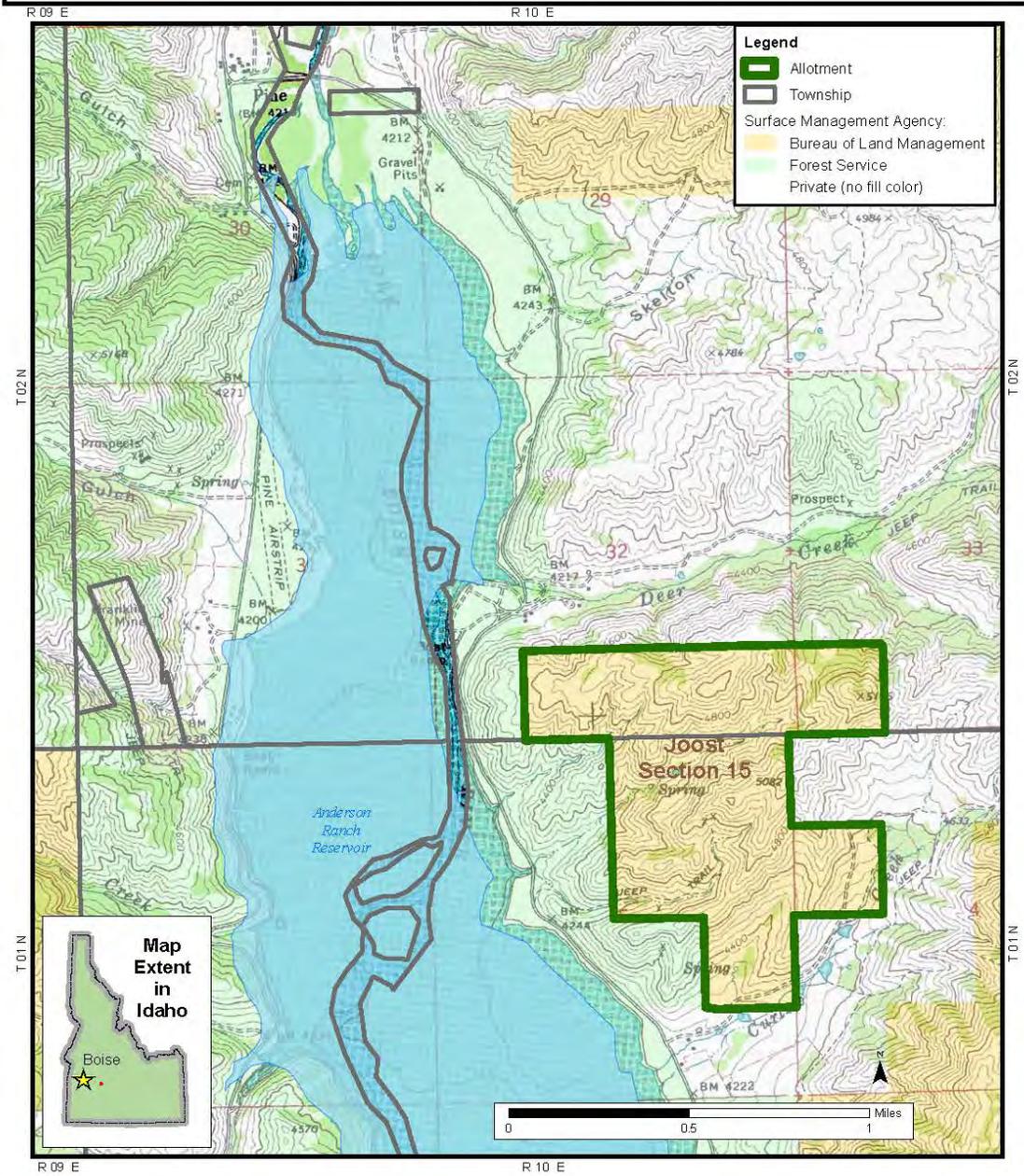
Tate Fischer
Field Manager
Four Rivers Field Office

Copies sent by certified mail to:

Advocates for the West, PO Box 1612, Boise, ID 83701-1612
J. D. Aldecoa & Sons, Inc., 4312 W. Edgemont Street, Boise, ID 83706-2304
Stacey Baczkowski, 1221 W. Idaho Street, Boise, ID 83702-5627
Barber Caven Ranches, 911 E. Winding Creek Drive, Suite 150, Eagle, ID 83616-6973
Donna Bennett, 573 N Bennett Road, Grand View, ID 83624
Samuel Blackwell, 5486 W. Wintercamp Lane, Glens Ferry, ID 83623-5061
Alayne Blickle, 7235 Southside Boulevard, Nampa, ID 83686-9431
Boise National Forest, 2180 American Legion Blvd, Mountain Home, ID 83647-3140
Bureau of Reclamation, 1150 North Curtis Road, Suite 100, Boise, ID 83706-1234
Burns Paiute Tribe, Tribal Chairman, 100 Pasigo Street, Burns, OR 97720-2442
Casa Del Norte LP, 11204 N Bar 21 Drive, Glens Ferry, ID 83623-5028
Committee for Idaho's High Desert, PO Box 2863, Boise, ID 83701-2863
Confederated Tribes of the Umatilla Indian Reservation, 46411 Timine Way, Pendleton, OR 97801-9467
Steve Damele, 928 E. Rumsey Lane, Mountain Home, ID 83647-5719
L. G. Davison & Sons, 1969 Prairie Road, Prairie, ID 83647-8435
Double Anchor Ranches, Inc., 5714 W. Double Anchor Drive, Glens Ferry, ID 83623-5022
Elmore County Commissioners, 150 South 4th East, Suite 302, Mountain Home, ID 83647-3060
Faulkner Land & Livestock, C/O John Faulkner, 1989 South 1875 East, Gooding, ID 83330-5330
Golden Eagle Audubon, PO Box 8261, Boise, ID 83707-8261
Gene Gray, 2393 Watts Lane, Payette, ID 83661-5326
Richard Hall, 101 S. Capitol Boulevard Suite 1900, Boise, ID 83702-7705
Honorable Mike Crapo, 251 E. Front Street Suite 205, Boise, ID 83702-7312
Honorable Raul Labrador, 33 E. Broadway Avenue Suite 251, Meridian, ID 83642-2619
Honorable C.L. "Butch" Otter, PO Box 83720, Boise, ID 83720-0003
Honorable Jim Risch, 350 North 9th Street, Suite 302, Boise, ID 83702-5470
Honorable Mike Simpson, 802 W. Bannock Street, Suite 600, Boise, ID 83702-5843
Ted Howard, Cultural Resources Director, Shoshone-Paiute Tribes, PO Box 219, Owyhee, NV 89832

Idaho Air & Army National Guard, 4040 West Guard Street, Boise, ID 83705-5004
Idaho Cattle Association, PO Box 15397, Boise, ID 83715-5397
Idaho Conservation League, PO Box 844, Boise, ID 83701-0844
Idaho Department of Agriculture, PO Box 790, Boise, ID 83701-0790
Idaho Department of Fish & Game, 3101 South Powerline Road, Nampa, ID 83686-8520
Idaho Department of Lands, 8355 W. State Street, Boise, ID 83714-6071
Idaho Department of Parks & Recreation, PO Box 83720, Boise, ID 83720-0003
Idaho Farm Bureau Federation, 500 W. Washington, Boise, ID 83702-5965
Idaho Grazing Board, Attn: Stan Boyd, PO Box 2596, Boise, ID 83701-2596
Idaho State Historic Preservation, 210 W. Main Street, Boise, ID 83702-7264
Idaho Wildlife Federation, PO Box 6426, Boise, ID 83707-6426
Charles Lyons, 11408 E. Highway 20, Mountain Home, ID 83647-5316
Jerry McAdams, 333 N. Mark Stall Place, Boise, ID 83704
Joe Merrick, 27632 River Road, Bruneau, ID 83650
Mountain Home Air Force Base, 336th Gunfighter Avenue, Mountain Home AFB, ID 83648
The Nature Conservancy, 950 West Bannock, Suite 210, Boise, ID 83702-6093
Nez Perce Tribes, Tribal Chairman, PO Box 365, Lapwai, ID 83540-0365
David E. Owen, Jr, 1959 SE Ross Road, Glenns Ferry, ID 83623-5032
Richard Raymond, 5670 N. Collister Drive, Boise, ID 83703-3826
Tina Reay, 78 Stone Lane, Horseshoe Bend, ID 83629-9006
Resolution Advocates, C/O Doug McConnaughey, P.O. Box 1335, Nampa, ID 83653-1335
Dr. Neil Rimbey, 1904 E. Chicago Suite A & B, Caldwell, ID 83605-5599
Shoshone-Bannock Tribes, Tribal Chairman, PO Box 306, Fort Hall, ID 83203-0306
Shoshone-Paiute Tribes, Tribal Chairman, PO Box 219, Owyhee, NV 89832-0219
Sierra Club, Middle Snake Group, PO Box 552, Boise, ID 83701-0552
Karen Steenhof, 18109 Briar Creek Road, Murphy, ID 83650-5006
Arthur Talsma, 10400 Duck Lane, Nampa, ID 83686
Tree Top Ranches LP, PO Box 8126, Boise, ID 83707-8126
US Fish and Wildlife Service, 1387 S. Vinnell Way, Boise, ID 83709-1657
Western Watersheds Project, PO Box 2863, Boise, ID 83701-2863
The Wilderness Society, 950 W. Bannock Street Suite 605, Boise, ID 83702-6106
Wildlands Defense, Attn: Katie Fite, PO Box 125, Boise, ID 83701-0125
Wool Growers Association, Attn: Stan Boyd, 802 W. Bannock Street Suite 205, Boise, ID 83702-5839

Map 1. Joost Section 15 Allotment (01199)





U.S. Department of the Interior
Bureau of Land Management, Idaho
Boise District, Four Rivers Field Office
Map date: August 17, 2015



No warranty is made by the Bureau of Land Management. The accuracy, reliability, or completeness of these data for individual use or aggregate use with other data is not guaranteed. This map cannot be made Section 508 compliant. For help with its data or information, please contact the BLM Idaho State Office webmaster at (208) 373-4000.

Protest Responses

Western Watersheds Project Bennett Mountain North Protest Points and Responses

1. *Need for an EIS.* The BLM followed guidance in the BLM National Environmental Policy Act (NEPA) Handbook (H-1790-1). The proposed actions do not automatically warrant an EIS; therefore, an environmental assessment (EA) was completed and a finding of no significant impacts was made. The EA presents a reasoned analysis containing quantitative and detailed qualitative information, thereby meeting the NEPA requirement of a “hard look.”

15. *The BLM relied on deficient, biased, and outdated assessments.* The 2014 assessments reflected 2009-11 site visits to observe condition changes from 2004 observations. These data and observations are presented in the assessments. Although not identified as sage-grouse habitat based on classifications at the time of the Assessment, the Hammett Livestock Allotment was evaluated for sage-grouse habitat suitability. Assessments, evaluations, and determinations were developed using an interdisciplinary team approach that addressed potential individual biases. The assessments and EA address conditions and impacts on sage-grouse habitat and shrub-steppe habitat outside identified sage-grouse habitat.

18. *Lack of a reasonable range of alternatives and measurable “standards” for allotments BLM considers are meeting standards.* The BLM analyzed four alternatives including No Grazing (Alternative A) and analyzed their potential impacts for 12 issues identified during scoping related to eight broad resource groups. Cumulative impacts were discussed for all resources where more than negligible direct or indirect impacts were identified. The BLM identifies what factors were responsible for meeting or not meeting Standards (e.g., use period, stocking rate, and resiliency). Where allotments are meeting Standards and the identified factors were not changing, the BLM chose not to apply measurable “standards” as terms and conditions.

The remaining protest points are not related to the action of this Final Decision to deny the application for a grazing lease in the Joost Section 15 Allotment.

2. *Lack of rancher accountability.*
3. *Lack of measurable standards of use for upland and riparian areas.*
4. *Need for full and detailed analysis of sensitive species.*
5. *Lack of clarity on how allotments will be grazed.*
6. *Lack of measurable standards.*
7. *Failure to adequately address complexity of issues associated with State and private lands.*
8. *Improper stocking rates and use of suspension rather than permanent reductions.*
9. *Biased and arbitrary FRH process.*
10. *Failure to adequately address exotic annuals and noxious weeds.*
11. *Failure to consider alternative actions proposed by WWP.*
12. *Lack of a basis for determining carrying capacity, stocking rate, capability, suitability, and production.*

13. *Failure to provide the 9/10/04 decision that implemented the CCAA for slickspot peppergrass.*
14. *Confusing, uncertain wording and provisions of the decisions.*
16. *Ability of BLM to monitor at five-year period as described in Appendix 7.*
17. *Lack of substantial AUM reductions.*
19. *Inadequately addressing impacts of holistic grazing (Hammett #6).*
20. *Relationship between public and private lands grazing.*
21. *Providing flexibility in livestock numbers.*
22. *Annual use in the SW Alkali Allotment.*
23. *Fall use should not be allowed in the SW Alkali Allotment.*
24. *BLM does not provide use criteria (e.g., bank trampling, stubble height, and browse utilization) in proposed decisions.*
25. *Concern about the accuracy of actual use reports (AUR).*
26. *Location and maintenance of exclosures and other fencing, their efficacy, and use for informing management.*
27. *Failure to address and provide for special status species habitat needs, specifically sage-grouse.*
28. *Failure of the assessments, evaluations, and determinations to represent conditions.*
29. *Failure to adequately map, identify, and quantify exotic annual species.*
30. *Livestock use overlap and impacts during critical wildlife nesting and rearing periods.*
31. *Inadequate baseline surveys of sensitive species.*
32. *Failure to ensure non-impairment of WSA values.*