



United States Department of the Interior
BUREAU OF LAND MANAGEMENT
Owyhee Field Office
20 First Ave West
Marsing, ID 83639
(208) 896-5912



In Reply Refer To:
4160 ID130

November 22, 2013

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

K. John & M. Martha Corrigan
P.O. Box 844
Crane, Oregon 97732

NOTICE OF FIELD MANAGER'S FINAL DECISION

Dear K. John & M. Martha Corrigan,

By application dated August 1, 2013, you applied to transfer grazing preference on the Trout Springs and Hanley FFR Allotments from Hanley Ranch Partnership to yourselves. As part of the same application package, you also applied for grazing permits on both allotments. By proposed decision dated September 20, 2013, I proposed to deny your applications for preference transfer and a grazing permit and indicated that if I received no protests of that proposed decision, it would become my final decision without further notice.

You and Hanley Ranch Partnership (HRP) filed timely protests to my proposed decision. I have concluded my review of these protests and have decided not to change the actions described in the proposed decision. My response to these protests is attached with this final decision.

Final Decision

Preference

I am hereby informing you that Hanley Ranch Partnership (HRP) no longer possesses grazing preference for the Trout Springs or Hanley FFR grazing allotments. Accordingly, BLM cannot approve your request for preference transfer. That request is hereby denied.

Request for Issuance of a New Grazing Permit

Your application for a new grazing permit was filed along with your application to transfer grazing preference from HRP to yourselves. As has been noted in this final decision, HRP does not hold preference that can be transferred. Thus, the BLM will not give your application for a permit preferential consideration as against other applicants for grazing use within the Trout Springs and Hanley FFR allotments. On September 20, 2013, the BLM issued a proposed decision to authorize a total of 699 active AUMs for the Trout Springs Allotment to Payne Family Grazing Association, LLC. That proposed decision provided that at this time no additional AUMs beyond the 669 AUMs will be permitted on the Trout Springs allotment due to impacts associated with fires in 2012 and 2013, along with past unauthorized use. Permitted use for the Hanley FFR allotment will not be authorized until BLM solicits applications for the preference and term permit for this allotment. Therefore, at this time I am denying your application for a grazing permit in the Trout Springs and Hanley FFR allotments. You are free to apply for an additional permit in the future should AUMs be available.

Rationale

As confirmed by the Interior Board of Land Appeals (IBLA) Order dated March 12, 2013, HRP no longer possesses a grazing permit for the Trout Springs and Hanley FFR allotments. For a variety of reasons, this resulted in HRP not having the ability to transfer the preference or a term grazing permit for the Trout Springs or Hanley FFR Allotments.

Authorized grazing has not occurred within the Trout Springs Allotment since 2008. In re-introducing grazing I have found that BLM needs to take a more conservative approach with the re-introduction of authorized livestock grazing use to further ensure that upland and riparian conditions improve. Measures will be taken to address resource concerns associated with the 2012 and 2013 wildfires; however, past unauthorized use has contributed to degraded resource conditions. Unauthorized use on the Trout Springs allotment continues to impact resource conditions in some portions of the allotment, particularly during the spring and summer months. In order to mitigate these impacts and further ensure that significant progress towards the Idaho Standards for Rangeland Health will occur, BLM will not consider additional AUMs to be available on a sustainable basis until another assessment and evaluation of range conditions through the permit renewal process is completed, which will be in approximately 10 years.

Should the BLM determine in the future to allow additional grazing use on these allotments, you will be free to apply (along with other members of the public), subject to the requirements at 43 CFR 4110.3-1 (b) and (c).

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 in for the purpose of a hearing before an administrative law judge in accordance with 43 CFR § 4160.3(c), 4160.4, 4.21, and 4.470. The appeal must be filed within 30 days following receipt of the final decision or within 30 days 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 person named in the copies sent to section of this decision in accordance with 43 CFR 4.421 and on the Office of the Regional Solicitor located at the address below in accordance with 43 CFR § 4.470(a) and 4.471(b).

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

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

Should you wish to file a petition for a stay, see 43 CFR § 4.471 (a) and (b). In accordance with 43 CFR § 4.471(c), a petition for a stay must show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied.
- (2) The likelihood of the appellant's success on the merits.
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

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

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

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

Sincerely,

/s/ Loretta V. Chandler

Loretta V. Chandler
Field Office Manager
Owyhee Field Office

Attachment:

- 1) Response to Protest Statements

cc: Interested Publics for the Trout Springs and Hanley FFR Allotments

**TROUT SPRINGS and HANLEY FFR ALLOTMENTS APPLICANTS AND INTERESTED PUBLIC:
Corrigan Final Decision**

Name & Address

Golden Eagle Audubon Society, PO Box 8261, Boise, ID 83707
Boise District Grazing Board, Stan Boyd, PO Box 2596, Boise, ID 83701
Budd-Falen Law Offices PC, PO Box 346, Cheyenne, WY 82003
Idaho Wild Sheep Foundation, Herby Meyr, 570 E 16th N, Mountain Home, ID 83647
Friends of Mustangs, Robert Amidon, 8699 Gantz Ave, Boise, ID 83709
Gusman Ranch Grazing Assoc. LLC., Forest Fretwell, 27058 Pleasant Valley Rd., Jordan Valley, OR 97910
Hanley Ranch Partnership, Michael Hanley, PO Box 271, Jordan Valley, OR 97910
ID Cattle Association, PO Box 15397, Boise, ID 83715
ID Conservation League, John Robison, PO Box 844, Boise, ID 83701
ID Dept. of Agriculture, John Biar, PO Box 790, Boise, ID 83701-0790
ID Dept. of Parks & Recreation, Director, PO Box 83720, Boise, ID 83720
ID Native Plant Society, President, PO Box 9451, Boise, ID 83707
Idaho Dept. of Lands, PO Box 83720, Boise, ID 83720
IDEQ, 1445 N Orchard, Boise, ID 83706
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
Maestrejuan, Teo & Sara, 26613 Pleasant Valley Rd., Jordan Valley, OR 97910
Moore Smith Buxton & Turcke, Paul Turcke, 950 W Bannock, Ste. 520, Boise, ID 83702
OR Natural Desert Assoc., Brent Fenty, 50 SW St #4, Bend OR 97702
Oregon Division State Lands, 1645 NE Forbes Rd., Ste 112, Bend OR 97701
Oregon Natural Resources Council, 5825 N. Greeley, Portland, OR 97217
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
Payne Family LLC., Ted Payne, 41691 Juniper Mtn. Rd., Jordan Valley, OR 97910
R&S Enterprise, Ray Mitchell, 265 Millard Rd., Shoshone, ID 83352
Ranges West, 2410 Little Weiser Rd, Indian Valley, ID 8362
Resource Advisory Council, Chair, Gen Gray, 2393 Watts Lane, Payette, ID 83661
Schroeder & Lezamiz Law Offices, PO Box 267, Boise, ID 83203
Shoshone-Bannock Tribes, Tribal Chair, Nathan Small, PO Box 306, Ft. Hall, ID 83203
Sierra Club, PO Box 552, Boise, ID 83701
State Historic Preservation Office, 210 Main St., Boise, ID 83702
The Nature Conservancy, Lou Lunte, 950 W. Bannock St., Ste. 210, Boise, ID 83702

The Wilderness Society, 950 W. Bannock St., Ste. 210, Boise, ID 83702
TROUT SPRINGS and HANLEY FFR ALLOTMENTS APPLICANTS AND INTERESTED PUBLIC: Corrigan Final Decision
Name & Address
US Fish & Wildlife Service, 1387 S Vinnell Way, Rm. 368, Boise, ID 83709
Western Watershed Projects, PO Box 1770, Hailey, ID 83333
Western Watershed Projects, Katie Fite, PO Box 2863, Boise, ID 83701
Alice Armstrong, 2781 NE Sunset View Lane, Prineville, OR 97754
John Barringer, 6016 Pierce Park, Boise, ID 83703
Chad Gibson, 16770 Agate Ln., Wilder, ID 83676
Brian Goller, 2722 E Starcrest, Boise, ID 83712
Vernon Kershner, PO Box 38, Jordan Valley, OR 97910
Kenny Kerhsner, PO Box 300, Jordan Valley, OR 97910
Brett Nelson, 9127 Preece St, Boise, ID 8374
Ramona Pascoe, PO Box 126, Jordan Valley, OR 97910
Bob Salter, 6109 N. River Glenn, Garden City, ID 83714
John Richards, 8933 State Hwy. 78, Marsing ID. 83639
Colyer Cattle Co., Ray & Bonnie Colyer, 31001 Colyer Rd. Bruneau, ID 83604
Holland & Hart LLP, PO Box 2527, Boise, ID 83701
Idaho Wild Sheep Foundation, Jim Jeffress, PO Box 8224, Boise, ID 83707
Idaho Farm Bureau Fed., PO Box 167, Boise, ID 83701
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
Natural Resources Defense Council, Johanna Wald, 111 Sutter St. 20th Floor, San Francisco, CA 94104
Congressman: Raul Labrador, 33 E. Broadway Ave., Ste. 251, Meridian, ID 83642
Soil Conservation District, Cindy Bachman, PO Box 186, Bruneau, ID 83604
State of NV Division of Wildlife, 60 Youth Center Rd., Elko, NV 89801
The Fund for the Animals Inc., Andrea Lococo, 1363 Overbacker, Louisville, KY 40208
USDA Farm Services, 9173 W. Barnes, Boise, ID 83704
Russ Heughins, 10370 W. Landmark Ct., Boise, ID 83704
Tony & Brenda Richards, 8935 Whiskey Mtn. Rd., Reynolds Cr., Murphy, ID 83650
Sandra Mitchell, PO Box 70001, Boise, ID 83707
Martin & Susan Jaca, 21127 Upper Reynolds Cr. Rd., Murphy, ID 83650
Senator: James E. Risch, 350 N. 9th St., Ste. 302, Boise, ID 83702
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

**TROUT SPRINGS and HANLEY FFR ALLOTMENTS APPLICANTS AND INTERESTED PUBLIC:
Corrigan Final Decision**

Name & Address

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

Senator: Mike Crapo, 251 E. Front St., Ste. 205, Boise, ID 83702

Congressman: Mike Simpson, 802 W. Bannock, Ste. 600, Boise, ID 83702

Response to Protest Points

Field Manager's Proposed Decision dated September 20, 2013

Corrigan Application to Transfer Grazing Preference and Application for Grazing Permit
Trout Springs and Hanley FFR

The Owyhee Field Office (OFO) received two protests regarding the Field Manager's Proposed Decision for the Corrigan Application to Transfer Grazing Preference and Application for Grazing Permit - Trout Springs and Hanley FFR allotments. Protests were received from:

- A. K. John and M. Martha Corrigan (Corrigan) received on October 17, 2013
- B. Hanley Ranch Partnership (HRP) received on October 17, 2013

Protest points will be addressed in the order listed above.

Corrigan -

Protest 1. Corrigan protests denial of the application for grazing preference transfer from Hanley to Corrigan. *"The foregoing statement is factually and legally erroneous; to the extent the Corrigan Decision finds or concludes that "Hanley Ranch Partnership no longer possesses grazing preference for the Trout Springs and Hanley FFR grazing allotments. See Hanley Protest Point #3." (Hanley Protest Point #3: "The cited 'BLM's December 2009 decision' (aka 'Notice of Field Manager's Proposed Decision' dated December 16, 2009, issued to Hanley Ranch Partnership) and the cited IBLA decision (aka Hanley ranch Partnership et al. v. Bureau of Land Management, 183 IBLA 184 (2013)), did not 'terminate' HRP's Grazing Preferences. HRP's USDI-BLM Grazing Preferences (and associated Permitted use) within the Hanley FFR Allotment and Trout Springs Allotment remain attached to HRP's 'base property'. 43 C.F.R. 4110.2; 43 C.F.R. 4110.2-1; 43 C.F.R. 4110.2-3.").*

BLM Response: HRP's grazing preference "terminated" upon the expiration of the HRP grazing permit because HRP was found to have an unsatisfactory record of performance. This finding was affirmed by Administrative Law Judge Robert G. Holt on April 6, 2011, and further upheld by Administrative Judge James K. Jackson on March 12, 2013.

Grazing preference is identified as "a superior or priority position against others for the purpose of receiving a grazing permit or lease. This priority is attached to base property owned or controlled by the permittee or lessee." "Preference" serves as the relative position to receive a grazing permit before any other applicant, but, if the preference holder is not a qualified applicant, the "preference" would have no existence with respect to such an entity, as in this case. You reference 4110.2-1, which identifies the process and requirements for base property. In addition, you reference 4110.2-3, which identifies the transfer process we follow when control or ownership of base property with attached preference changes hands. It is mutually agreed that 1) HRP did NOT lose ownership or control of their base property, and 2) HRP did NOT make application to transfer grazing preference prior to the expiration of their grazing permit. Therefore, the sections of the regulations referenced are irrelevant for this decision.

HRP exercised their preference when they applied for permit renewal on the Trout Springs and Hanley FFR Allotments. This application triggered BLM's inquiry into their record of performance. HRP was subsequently found to have an unsatisfactory record of performance, resulting in the disapproval of a renewed grazing permit. Because HRP could not realize the basic (and only) benefit of receiving "priority position against others for the purpose of receiving a grazing permit," HRP's preference disappeared when it could no longer take advantage of that priority.

Protest 2. Corrigan protests that BLM's failure to complete the grazing transfer to them, and issue a subsequent bill, was unlawful. *"The Corrigan Decision violates:*

- a) *Public Law 112-74, Section 415, in not issuing a grazing permit to Corrigan on or about August 1, 2013, pending completion of any future intended permit process;*
- b) *Administrative Procedures Act, 5 U.S.C. 558(c), in not issuing a grazing permit to Corrigan on or about August 1, 2013, pending completion of any future intended permit process; and/or,*
- c) *43 C.F.R. 4110.2-3, in failing to transfer said Grazing Preferences from HRP to Corrigan, and issuing to Corrigan a Grazing Permit based upon Corrigan's application for a grazing permit.*

BLM should forthwith approve the transfer from HRP to Corrigan and issue Corrigan a Grazing Permit."

BLM Response: Because HRP did not have preference, there was no preference available that could have been transferred. As such, the provisions of P.L. 112-74, Section 415 and the Administrative Procedures Act, 5 U.S.C. 558(c) do not apply and no permit could be issued under the authority of these laws. The Proposed Decision clearly indicates, however, that should the BLM decide to solicit applications because additional AUMs become available, you will be notified along with the interested public. See also BLM Response to Protest 1.

Protest 3. *"Corrigan applied for a 2013 grazing bill via a grazing application dated August 7, 2013. While the Corrigan Decision ignores such point, the Corrigan Decision errs in defacto denying such application. See Corrigan Protest Point #2."*

BLM Response: Because there was no permit, approved grazing application, or permitted grazing, in place for you, there was no need to issue a grazing bill. Also see BLM Response to Protests 1 and 2.

Protest 4. Corrigan states *"The Corrigan Decision, including its associated 2013 FONSI and 2013 EA, errs in failing to consider the comments and alternative submitted by Owyhee Range Service dated August 9, 2012, which Corrigan referenced in its letter to the BLM dated August 7, 2013. The Owyhee Range Service letter dated August 9, 2012, is incorporated herein."*

BLM Response: The transfer applications were denied because there was no preference to transfer. Given the lack of preference or a subsequent grazing permit, the alternative submitted by Owyhee Range Service was not considered for your Decision.

HRP -

Protest 1. Hanley protests denial of the request for transfer. *“The foregoing statement is factually and legally erroneous; to the extent the Corrigan Decision finds or concludes that ‘Hanley Ranch Partnership no longer possesses grazing preference for the Trout Springs and Hanley FFR grazing allotments. See Hanley Protest Point #3.’ (Hanley Protest Point #3: ‘The cited ‘BLM’s December 2009 decision’ (aka ‘Notice of Field Manager’s Proposed Decision’ dated December 16, 2009, issued to Hanley Ranch Partnership) and the cited IBLA decision (aka Hanley ranch Partnership et al. v. Bureau of Land Management, 183 IBLA 184 (2013)), did not ‘terminate’ HRP’s Grazing Preferences. HRP’s USDI-BLM Grazing Preferences (and associated Permitted use) within the Hanley FFR Allotment and Trout Springs Allotment remain attached to HRP’s ‘base property’. 43 C.F.R. 4110.2; 43 C.F.R. 4110.2-1; 43 C.F.R. 4110.2-3.’”.*

BLM Response: See BLM Response to Corrigan Protest 1. As explained, HRP does not have grazing preference; therefore, there is no preference to be transferred.

Protest 2. Hanley protests that the BLM’s failure to complete the grazing transfer to Corrigan, and issue a subsequent bill, was unlawful. *“The Corrigan Decision violates:*

- a) Public Law 112-74, Section 415, in not issuing a grazing permit to Corrigan on or about August 1, 2013, pending completion of any future intended permit process;*
- b) Administrative Procedures Act, 5 U.S.C. 558(c), in not issuing a grazing permit to Corrigan on or about August 1, 2013, pending completion of any future intended permit process; and/or,*
- c) 43 C.F.R. 4110.2-3, in failing to transfer said Grazing Preferences from HRP to Corrigan, and issuing to Corrigan a Grazing Permit based upon Corrigan’s application for a grazing permit.*

BLM should forthwith approve the transfer from HRP to Corrigan and issue Corrigan a Grazing Permit.”

BLM Response: See BLM Response to Corrigan Protest #2. You hold no preference to transfer and as such, the provisions of P.L. 112-74, Section 415 and the Administrative Procedures Act, 5 U.S.C. 558(c) do not apply. Therefore, no permit or bill could be issued to Corrigan.

Protest 3. *“Corrigan applied for a 2013 grazing bill via a grazing application dated August 7, 2013. While the Corrigan Decision ignores such point, the Corrigan Decision errs in defacto denying such application. See Corrigan Protest Point #2.”*

BLM Response: Because there was no permit, approved grazing application, or permitted grazing in place for Corrigan, there was no need to issue a grazing bill. Also see BLM Response to Corrigan Protests 1 and 2.

Protest 4. HRP states *“The Corrigan Decision, including its associated 2013 FONSI and 2013 EA, errs in failing to consider the comments and alternative submitted by Owyhee Range Service dated August 9, 2012, which Corrigan referenced in its letter to the BLM dated August 7, 2013. The Owyhee Range Service letter dated August 9, 2012, is incorporated herein.”*

BLM Response: The transfer applications were denied because there was no preference to transfer. Given the lack of preference or a subsequent grazing permit, the alternative submitted by Owyhee Range Service was not considered for the Corrigan Decision.