



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

Owyhee Field Office
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Marsing, ID 83639
(208) 896-5912



In Reply Refer To:
4160 (IDB030)

May 2, 2013

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Payne Family Grazing Association, LLC
c/o Mr. Ted and Mrs. Dorothy Payne
41691 Juniper Mtn. Rd.
Jordan Valley, Oregon 97910

NOTICE OF FIELD MANAGER'S PROPOSED GRAZING DECISION

Interim Livestock Grazing Management: Trout Springs Allotment

Dear Mr. & Mrs. Payne:

On May 2, 2014, I signed the Final Decision for the Trout Springs Juniper Treatment. An interim grazing system to promote success of the treatment and overall health of the rangeland was identified and analyzed in the "Trout Springs and Hanley FFR Allotments Permit Renewal Environmental Assessment #DOI-BLM-ID-B030-2009-0030-EA". This Proposed Decision will identify the interim livestock grazing management system to be implemented.

Background

The Bureau of Land Management's (BLM) Owyhee Field Office (OFO) recently completed the Fundamentals of Rangeland Health (FRH) (43 CFR 4180) process for the Trout Springs Allotment. In support of the FRH process, an interdisciplinary team (IDT) of BLM resource management specialists analyzed and summarized available data to identify resource issues and evaluate the Idaho Standards for Rangeland Health (Standards) and Guidelines for Livestock Management (S&Gs).

Through the FRH process, the IDT identified a number of resource issues and S&Gs that were not met. Current livestock grazing was the significant causal factor for all Standards not met while the expansion of western juniper (juniper) was identified as an additional significant causal factor for non-attainment of Standards 1, 4, and 8 (both plants and animals). Western juniper

(juniper) expansion was determined to be a secondary causal factor for non-attainment of Standards 2, 3 and 7.

To address resource issues on the allotment, my office prepared and issued the Trout Springs and Hanley FFR Permit Renewal Environmental Assessment (EA) in which we considered a number of options and approaches to improving resource conditions. The alternatives in this EA result from the complexity of resource issues identified by the BLM and from scoping comments which recommended developing alternatives with a range of juniper treatments (including no treatment), stocking levels, and grazing seasons. These factors and the failure of the Trout Springs Allotment to meet applicable Standards, with livestock grazing and juniper encroachment being significant causal factors, necessitate that BLM “take a hard look” by analyzing an assortment of alternatives to make significant progress toward meeting all applicable Standards. BLM analyzed juniper treatments in conjunction with grazing management in alternatives B-E of the EA. Three additional juniper treatment alternatives were identified but not analyzed in detail.

On July 12, 2012, the Draft EA was issued for a 30-day review period. Comments were received from the Southwest Region of the Idaho Department of Fish and Game, Owyhee Range Service (on behalf of Hanley Ranch Partnership), Ted and Dorothy Payne, Brett Nelson and Western Watersheds Project (WWP). Comments were considered and incorporated into the Final EA or were addressed individually (Appendix N of the final EA).

Upon review and response to protest points to the Proposed Grazing Decision, a Final Grazing Decision was issued on November 13, 2013. The decision identified the selection of the grazing management system analyzed in Alternative E of the EA. The decision was appealed by multiple parties, and a petition to stay the decision was filed by Western Watersheds Project (WWP). On January 30, 2014, the Honorable Harvey C. Sweitzer, Administrative Law Judge (ALJ) of the Office of Hearings and Appeals (OHA) ruled to deny the petition for stay the portion of the Final Decision authorizing grazing use submitted by WWP. As a result, livestock grazing will be permitted as described in the November 13, 2013 Final Grazing Decision until the appeal is ruled upon.

On May 2, 2014, I signed the final decision authorizing the Trout Springs Juniper Treatment project. An interim livestock grazing management system is necessary in order to ensure success of the treatment and adequate resource recovery. If the May 2, 2014 Juniper Treatment decision for the Trout Springs Allotment is challenged and Petition for a Stay is granted, the interim grazing system will not go into effect until the Interior Board of Land Appeals (IBLA) either affirms or denies BLM’s decision on the treatment. If the treatment decision is not affirmed, the interim grazing system will not go into effect.

Finding of No Significant Impact (FONSI)

A Finding of No Significant Impact (FONSI) was signed on May 1, 2014, and concluded that the Proposed Decision to implement the interim grazing prescription 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 the juniper treatment and interim grazing prescription actions analyzed in EA No. DOI-BLM-ID-B030-2009-0030-EA is available on the web at:

https://www.blm.gov/epl-front-office/eplanning/nepa/nepa_register.do

Therefore, it is my Proposed Decision to implement the following interim livestock grazing management prescription:

PROPOSED GRAZING DECISION

In order to facilitate juniper treatment effectiveness in the Trout Springs Allotment, interim modifications to the grazing system as described by the Final Grazing Decision will be required. The BLM proposes to implement the following interim livestock management plan¹:

1. The year of a broadcast burn treatment, the treated pastures may be rested from livestock grazing in order to provide enough fine fuels to adequately carry fire.
2. Following burning, the entire area within the broadcast burned pasture(s) will be rested for at least two years.
3. The minimum of two years of rest will necessitate deviations from the rotations identified in the November 13, 2013 Final Grazing Decision. Pasture rotations will continue as outlined and identified in Alternative E of the EA and the Final Grazing Decision. Following the two years of rest, the following criteria would be used to determine the re-introduction of livestock to the effected pasture(s):
 - Following the second year of post-burn rest, canopy and ground cover of herbaceous vegetation at least 80% of what is found in the unburned islands and adjacent areas.
 - Post-broadcast burn aspen leaders are an average height of at least five feet on areas accessible to livestock after the second growing season.
4. During the required rest period for the burned pastures, livestock use will be reduced on the allotment, and the AUMs associated with the treated pasture(s) will be unavailable. The stocking rates of the authorized (unburned) pastures will not be increased to compensate for the rested burned pastures.

Rationale

As part of the juniper treatment analysis, the IDT determined that the grazing procedures identified are needed to ensure treatment effectiveness and adequate resource recovery. Objectives identified will allow for resources to recover sufficiently prior to re-introduction of livestock and were brought forward in part as a result of lessons learned from the 2007 Crutcher fire. Although re-introduction objectives were obtained within two years post fire, it was recommended through the Emergency Stabilization and Rehabilitation (ES&R) Monitoring Report – End of Year Closeout Summary for the Crutcher fire that more stringent objectives to ensure stability of areas, particularly those that have the greatest amount of divergence from historic fire regimes be adopted. The burn area associated with the Crutcher fire was to remain

¹ The interim grazing procedures were consistent and analyzed across Alternatives B, C, D & E of EA# DOI-BLM-ID-B030-2009-0003-EA.

closed to livestock until native perennial grasses within burned areas obtained approximately 70% of canopy cover found in adjacent unburned areas of similar ecological sites. Burn severity was analyzed to be less extreme than wildfire conditions such as those that occurred during the Crutcher fire, some pockets of higher burn severity may occur (Section 3.2.2.2 of the EA). Under prescribed fire conditions, a certain amount of litter and duff is expected to persist, and the soil seed bank is expected to remain. However, to increase the assurance of success of resource recovery (soil and vegetative conditions) the re-introduction objective has been increased to at least 80% of the herbaceous canopy and ground cover found in adjacent unburned sites. Although the EA identified a four (4) foot lead height objective for re-introduction of livestock grazing, literature supports that for improvement of stands that aspen leaders should reach a minimum of 58.8 – 70 inches in height before grazing by cattle to occur (USDA 1985, Strong et al. 2010). Due to potential use by elk and other native ungulates, and to obtain healthy stands as supported by the literature, the modification from 4 foot to 5 foot leader heights is necessary. There would not be additional impacts as originally analyzed by the EA with this modification.

Prior to implementation of each treatment, the BLM will coordinate with the grazing permittee. In the EA, analysis of the interim grazing prescription identified the need for rest from livestock grazing the year prior to burning to facilitate sufficient buildup of fine fuels to meet the objectives of the treatment and to adequately carry fire. The grazing system authorized through the November 13, 2013 Final Grazing Decision included a season of use from 09/15 – 12/05 with a rest-rotation for Pastures 1A, 1B, and 2A. It is anticipated that this schedule will provide adequate fine fuels; therefore, rest during the year that treatment is planned to be implemented may not be required. Field observations to assess fine fuel availability will occur prior to treatment in order to determine if closure to livestock grazing needs to occur prior to burning a given treatment area. Impacts to the affected environment would remain the same as analyzed through the EA.

Two years of post-burn of rest is required to facilitate soil and vegetative health, vigor, reproduction, establishment, and wildlife habitat requirements (Section 3.1.2.2, 3.2.2.2, 3.3.2.2, and 3.4.2.2 of the EA). The minimum two-growing season closure is required to be in conformance with the ORMP.

Reductions in livestock AUMs associated with treated pasture(s) are necessary in order to reduce concentrated use in pastures that are not subject to burning in a particular year. This will allow for continued progress towards attaining Idaho Standards of Rangeland Health and ORMP objectives. When project objectives and monitoring criteria are met, permitted livestock grazing will resume to that permitted by the November 13, 2013 Final Grazing Decision without additional notice to the interested public.

Authority

The authority 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 – Excluding of Alaska. My decision is issued under the following specific regulations:

CFR 4100.3 Changes in permitted use

The authorized officer shall periodically review the permitted use specified in a grazing permit or lease and shall make changes in the permitted use as needed to manage, maintain or improve rangeland productivity, to assist in restoring ecosystems to properly functioning condition, to conform with land use plans or activity plans, or to comply with the provisions of subpart 4180 of this part. These changes must be supported by monitoring, field observations, ecological site inventory or other data acceptable to the authorized officer. [60 FR 9963, Feb. 22, 1995]

CFR 4110.3-2(a) Decreasing permitted use

Permitted use may be suspended in whole or in part on a temporary basis due to drought, fire, or other natural causes, or to facilitate installation, maintenance, or modification of range improvements.

CFR 4110.3-3 (a) Implementing reductions in permitted use

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, reductions of permitted use shall be implemented through a documented agreement or by decision of the authorized officer. Decisions implementing CFR 4110.3-2 shall be issued as proposed decision pursuant to CFR 4160, except as provided in paragraph (b) of this section.

CFR 4130.3-2 (f) Other terms and conditions.

(f) Provision for livestock grazing temporarily to be delayed, discontinued or modified to allow for the reproduction, establishment, or restoration of vigor of plants, provide for the improvement of riparian areas to achieve proper functioning condition or for the protection of other rangeland resources and values consistent with objectives of applicable land use plans, or to prevent compaction of wet soils, such as where delay of spring turnout is required because of weather conditions or lack of plant growth;

CFR 4160.1 Proposed Decisions

(a) Proposed decisions shall be served on any affected applicant, permittee or lessee, and any agent and lien holder of record, who is affected by the proposed actions, terms or conditions, or modifications relating to applications, permits and agreements (including range improvement permits) or leases, by certified mail or personal delivery. Copies of proposed decisions shall also be sent to the interested public.

(b) Proposed decisions shall state the reasons for the action and shall reference the pertinent terms, conditions and the provision of applicable regulations. As appropriate, decisions shall state the alleged violations of specific terms and conditions and provisions of these regulations alleged to have been violated, and shall state the amount due under CFR 4130.8 and 4150.3 and the action to be taken under CFR 4170.1.

(c) The authorized officer may elect not to issue a proposed decision prior to a final decision where the authorized officer has made a determination in accordance with CFR 4110.3-3(b) or CFR 4150.2(d). [60 FR 9968, Feb. 22, 1995]

CFR 4160.2 Protests

Any applicant, permittee, lessee or other interested public may protest the proposed decision under CFR 4160.1 of this title in person or in writing to the authorized officer within 15 days after receipt of such decision. [47 FR 41713, Sept. 21, 1983, as amended at 49 FR 6455, Feb. 21, 1984; 61 FR 4227, Feb. 5, 1996]

Right of Protest and/or Appeal Interim Grazing Decision

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

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

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

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

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

Any applicant, permittee, lessee or other person whose interest is adversely affected by the final decision may file an appeal in writing in for the purpose of a hearing before an administrative law judge in accordance with 43 CFR §4160.3(c), 4160.4, 4.21, and 4.470. The appeal must be filed within 30 days following receipt of the final decision or within 30 days after the date the proposed decision becomes final. The appeal may be accompanied by a petition for a stay of the decision in accordance with 43 CFR §4.471 pending final determination on appeal. The appeal and petition for a stay must be filed in the office of the authorized officer, as noted above. In accordance with 43 CFR § 4.401, the BLM does not accept fax or email filing of a notice of appeal and petition for stay. Any notice of appeal and/or petition for stay must be sent or delivered to the office of the authorized officer by mail or personal delivery.

Within 15 days of filing the appeal, or the appeal and petition for stay, with the BLM officer named above, the appellant must also serve copies on other person named in the copies sent to

section of this decision in accordance with 43 CFR 4.421 and on the Office of the Regional Solicitor located at the address below in accordance with 43 CFR §4.470(a) and 4.471(b).

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

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

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

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

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

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

If you have any questions, please contact me at 208-896-5912.

Sincerely,

/s/ Loretta V. Chandler

Loretta V. Chandler
Field Manager
Owyhee Field Office

cc: Trout Springs Interested Public

LITERATURE CITED

DeByle and R.P Winokur. 1985. Aspen: Ecology and Management in the Western United States. USDA Forest Service, General Technical Reference Report, RM-119.

Strong, N., D. Darin, T. Welch, B. Littlefield. 2010. Land Manager's Guide to Aspen - Management in Oregon. Oregon State University Extension Service. EM 9005. Available on-line: <http://ir.library.oregonstate.edu/xmlui/handle/1957/18399> [accessed April 24, 2014].

Trout Springs Allotment Interested Public

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, 2270 Old Penitentiary Rd., PO Box 7249, Boise, ID 83707
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
Teo & Sara Maestrejuan, 26613 Pleasant Valley Rd., Jordan Valley, OR 97910
Moore Smith Buxton & Turcke, Paul Turcke, 950 W Bannock, Ste. 520, Boise, ID 83702
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, Gene 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, 950 W. Bannock St., Ste. 210, Boise, ID 83702
US Fish & Wildlife Service, 1387 S Vinnell Way, Rm. 368, Boise, ID 83709
Western Watersheds Project, PO Box 1770, Hailey, ID 83333
Western Watersheds Project, Katie Fite, PO Box 2863, Boise, ID 83701
Chad Gibson, 16770 Agate Ln., Wilder, ID 83676
Vernon Kershner, PO Box 38, Jordan Valley, OR 97910
Kenny Kerhsner, PO Box 300, Jordan Valley, OR 97910

Trout Springs Allotment Interested Public

Brett Nelson, 9127 Preece St, Boise, ID 8374
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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
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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
Office of Species Conservation, Cally Younger, 304 N 8 th St., Ste. 149, Boise, ID 83702