



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

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In Reply Refer To:
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March 2, 2012

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Tommy and Barbara Moore
PO Box 237
Jordan Valley, Oregon 97910

Notice of Field Manager's Proposed Decision

Dear Mr. and Mrs. Moore:

This Proposed Decision is in response to requirements set forth in settlement agreements and your March 2, 2011 Application for Permit Renewal (grazing management proposal) for the Pole Creek Allotment.

Introduction

This proposed decision addresses grazing management in the Pole Creek Allotment (# 00635), and if finalized would serve as the Decision Record for Environmental Assessment (EA) # DOI-BLM-ID-B030-2009-0004-EA (also known as EA # ID130-2009-EA-3783), which this proposed decision incorporates by reference. In addition to authorizing livestock grazing at reduced levels and a different season of use this proposed decision authorizes the construction of range improvement projects on the allotment. This proposed decision reflects previous monitoring and inventory in addition to current monitoring and inventory used in the completion of an evaluation and determination of the applicable Idaho Standards for Rangeland Health (Standards) in 2012.

Standards are not being met on the Pole Creek Allotment, and livestock grazing and juniper expansion are causal factors. The following is a summary of the Determination (EA # DOI-BLM-ID-B030-2009-0004-EA, Appendix B).

- The occurrence of water flow patterns and pedestalled bunchgrass in the interspatial areas indicate that Standard 1 (Watersheds) is not being met.
- Standard 2 (Riparian Areas and Wetlands), Standard 3 (Stream Channel/Floodplain), Standard 7 (Water Quality), and Standard 8 (Threatened and Endangered Plants and Animals) are not being met on 19.89 miles of stream but are being met on 11.01 miles of stream. For the most part, those reaches meeting the Standards are inaccessible to livestock, while those failing to meet the Standards do so as a result of livestock grazing. These areas are generally been grazed every year from July through August/September and are dominated by shallow-rooted early seral species.
- Standard 4 (Native Plant Communities) is not being met due to juniper expansion. At the higher elevations mountain big sagebrush have largely been replaced by juniper, and large perennial bunchgrasses have been reduced, indicating degraded species diversity and loss of plant community integrity. Bare ground or a gravel surface is very common and interspatial litter is less than expected. On lower elevation low sagebrush sites, sagebrush has been replaced by juniper only in localized areas, and large perennial bunchgrass density is closer to reference conditions, but is influenced by pockets of invasive non-native grasses.

Background

On March 31, 1999, the Honorable B. Lynn Winmill, Chief Judge, U.S. District Court, issued a Memorandum Decision and Order (Civil Case No. 97-0519-S-BLW) finding that the BLM violated NEPA when it issued 68 grazing permits (including the permit for the Pole Creek Allotment) in 1997. The decision did not impose a remedy to rectify the NEPA violation. However, on February 29, 2000, Judge Winmill signed a Memorandum Decision and Order (Civil Case No. 97-0519-S-BLW) directing the BLM to complete the review of the allotments associated with the 68 grazing permits.

Livestock grazing in the Pole Creek Allotment was to follow the 1997 grazing permit with the inclusion of interim terms and conditions until a new EA was completed and a final decision was issued. From 1997 through 2007, 500 cattle were authorized to graze the Pole Creek Allotment from July 1 through September 30 (1,468 AUMs) with no specified pasture rotations, although certain rotations were identified on actual use forms. In 2003, BLM developed an EA for grazing the Pole Creek Allotment and issued a final decision in September 2003. This decision was administratively appealed, and after a change in permittees, the decision was remanded. [Appeal #ID-096-04-001 (WWP, IBH, CIHD) and #ID-096-04-015 (Mendieta)]

On May 15, 2008, the BLM entered into a Stipulated Settlement Agreement with WWP, which in part, concerned the Pole Creek Allotment. This agreement limited livestock grazing to 1,467 AUMs (a slight discrepancy of one AUM was made between the agreement and the 1997 grazing permit – 1,468 AUMs) and agreed to removal of livestock from the pasture or allotment if monitoring criteria (interim terms and conditions) were exceeded, and to make changes the following year if criteria were exceeded.

After over two and a half years of in-depth background work and analysis, this Proposed Decision is designed to authorize grazing and other action(s) in order to make significant progress toward achieving land health standards over the course of the next ten years in the Pole Creek Allotment.

Proposed Decision

In accordance with 43 CFR 4110.1(b), upon my review of the record of performance for Tommy and Barbara Moore, I have determined that they have a satisfactory record of performance for the Pole Creek Allotment. Therefore, it is my proposed decision as the authorized officer to:

- Renew the grazing permit for Tommy and Barbara Moore for the Pole Creek Allotment. The permit will be for a term of 10 years (03/01/2012 to 02/28/2022).
- Authorize use of 892 Active AUMs (848 Active AUMs on alternate years).
- Select Alternative C1, as described in EA # DOI-BLM-ID-B030-2009-0004-EA, but with a reduction of authorized Active AUMs. This reduction reflects actual use of the allotment for the years 2008 – 2011 and acknowledges the absence of utilization records for this new season of use. Grazing management in Alternative C1 includes rotational grazing with prescribed rest, reductions in Active AUMS, and range improvements. A greater reduction to 892 Active AUMs will be implemented.

Table C1B. Mandatory Terms and Conditions. Permitted Use for the Pole Creek Allotment.

Operator Name (Number)	Livestock		Season of Use	Federal Land	AUMs		
	Num.	Kind			Active	Suspended	Permitted
Tommy and Barbara Moore (1103499)	350	Cattle	04/16 – 06/30	97%	848	1,707	2,599
	30	Cattle	10/01 – 11/15	97%	44		

Table C1A. Grazing Rotation.

Pasture	Authorized Use Period		
	Year 1	Year 2	Year 3
Pole Creek Breaks	4/16 – 6/30	Rest	Revert to Year 1
Horse Flat/Berry Gulch	Rest	4/16 – 6/30	
Scott Spring ¹	Rest	4/16 – 6/30	
Dutcher ²	4/16 – 6/30	10/1 – 11/15	

¹ Scott Spring Pasture will be used in conjunction with the Horse Flat Pasture. After construction of the Horse Flat Division Fence, a two pasture rotation will be utilized between the Horse Flat and Scott Spring Pastures.

² The Dutcher Pasture will be used as a gathering field in the spring during the years the Pole Creek Breaks Pasture is used. Although individual livestock will stay no more than seven days, livestock could be present the entire period. During years that the Pole Creek Breaks Pasture is rested, 30 cattle will be authorized on the Dutcher Pasture from 10/01 – 11/15. Livestock numbers may vary in the Dutcher Pasture during the fall as long as AUMs are not exceeded.

Interim Livestock Grazing Management

A separate decision proposing the implementation of juniper treatments may be completed and is not included within this proposed decision. If/when that decision is implemented, livestock grazing management, as outlined in EA # DOI-BLM-ID-B030-2009-0004-EA, will be followed which will further restrict grazing. Section 2.4.4, Table C1C provides the interim management considered under alternative C1.

Other Terms and Conditions

1. During the even year rotations, total AUMs for the Pole Creek Allotment will not exceed 848 Active AUMs (Line 1 on the permit). During even years, trailing will occur through the Dutcher Pasture beginning on April 16, and cattle will not be authorized to actively graze. The Dutcher Pasture will be used as a gathering field from 6/16 to 6/30 on even years; individual livestock will stay no more than seven days. Line 2 on the permit reflects fall use on the Dutcher Pasture during the odd year rotations: livestock numbers may vary (up to 100) as long as 44 AUMs are not exceeded. During odd years, 892 Active AUMs are authorized for the Pole Creek Allotment. See Table C1A in the Final Decision for the grazing rotations.
2. Livestock grazing will be in accordance with the Pole Creek Allotment Final Decision dated TBD. The grazing rotation will be as outlined in Table C1A of this decision.
3. The permittee is expected to remove all livestock by 6/30, but will be given an additional ten days to remove any remaining stragglers (not to exceed 15 cattle) missed in the rugged terrain and juniper areas as long as AUMs are not exceeded.
4. Changes to scheduled grazing use require prior approval by the Authorized Officer.
5. Livestock turnout dates are subject to Boise District Range Readiness Criteria. If turnout is delayed, livestock numbers may be increased due to a shortened season of use. Livestock numbers will not exceed 500 cattle and Active Use will not exceed 848 AUMs in the Pole Creek Breaks or Horse Flat/Berry Gulch/Scott Spring Pastures.
6. Grazing is not authorized in the Manada Flat, Little Willow Spring, Big Willow Spring, Two Spring, Scott Spring, CCC Spring, Middle Fork Owyhee River, and Horsehead Spring enclosures.
7. Properly complete, sign and date an Actual Grazing Use Report Form (BLM Form 4130-5) annually. The completed form(s) must be submitted to BLM, Owyhee Field Office (OFO) within 15 days from the last day of authorized annual grazing use.
8. 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 (1/4) mile away from any riparian area, spring, stream, meadow, aspen stand, sensitive plant species, playa, or water development on public land.
9. Pursuant to 43 CFR 10.4(b), the BLM Owyhee Field Manager must be notified by telephone with written confirmation immediately upon the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony (as defined in 43 CFR 10.2) on federal lands. Pursuant to 43 CFR 10.4(c), any ongoing activities connected with such discovery must be stopped immediately and a reasonable effort to protect the discovered remains or objects must be made.
10. BLM will monitor the resources associated with the various management objectives to determine whether objectives are being met and/or trending in the right direction. If

monitoring indicates one or more objectives in a pasture have been exceeded for two consecutive years or for two consecutive rotation cycles and livestock grazing is determined to be the causal factor, the BLM will and shall reduce AUMs for the following year or rotation cycle based on monitoring data.

Range Improvement Projects

The following range improvement projects are necessary to move towards meeting Standards by improving the overall management of livestock grazing on public land in the Pole Creek Allotment and implementing grazing management outlined in this decision. These projects will be constructed within five years of this decision. Any new fences located on public land will conform to the specifications for standard livestock fences in deer/elk/antelope habitat, in accordance with the ORMP or Boise District Office fence specifications and fence marking guidelines. Motorized travel for survey, design, construction, or maintenance of projects (i.e. fences) will be limited to existing, authorized roads and trails, unless approved by the Authorized Officer. Total miles of fence will include a maximum of 3.6 miles of new construction, of which 2.1 miles will be along the Oregon/Idaho border.

The following range improvements will be constructed:

- State Line Fence – Approximately 2.1 miles of Oregon State Lands and Owyhee Field Office BLM lands will be fenced/gap fenced on the Oregon/Idaho state line. This will be a 4-wire, smooth bottom wire fence.
- Horse Flat Pasture Division Fence – Approximately 1 mile of new 3-wire (smooth bottom) fence will be constructed and tied into the Pole Creek Fence, a cliff above CCC Spring, and a small gap fence near the Middle Fork Owyhee River. A cattleguard will be placed where the fence crosses the road.
- Middle Fork Owyhee River Enclosure – Approximately 0.5 miles of new 3-wire (smooth bottom) fence will be constructed on the north side of the Middle Fork Owyhee River to provide an enclosure.
- Middle Fork Owyhee River Gap Fences (2) – Approximately 50 ft. each of new 3-wire (smooth bottom) fence will be constructed in the Middle Fork Owyhee River canyon. One gap fence will be located at the Idaho/Oregon boundary and the other will be upriver approximately 2.5 miles to restrict livestock down the river.
- Scott Spring Creek Gap Fence – Approximately 50 ft. of new 3-wire (smooth bottom) fence will be constructed in the canyon below Scott Spring to restrict livestock down the creek.
- Little Willow Springs Gap Fence – Approximately 50 ft. of new 3-wire (smooth bottom) fence will be constructed in the canyon below Little Willow Spring to prevent livestock from trailing down the steep canyon.
- Little Willow Spring Enclosure Expansion – The enclosure around Little Willow Spring will be expanded to include the entire wetland area and protect thinleaf goldenhead, a sensitive plant. The pipeline and trough will be moved away from the spring approximately 100 ft.
- Big Willow Spring Enclosure Expansion and Rehabilitation – Big Willow Spring Enclosure will be expanded to protect the upper end of the riparian area. Big Willow Spring will be recontoured to restore the natural topography with surrounding areas.

- CCC Spring Exclosure – An exclosure around CCC Spring will be constructed to protect the cultural sites and riparian areas.
- Manada Flat Spring/Pipeline Reconstruction (1 trough) – Manada Flat Spring/Pipeline will be reconstructed where leaking.
- Manada Flat Juniper Cutting Area Fence Removal – Approximately 1 mile of barbed wire fence in disrepair will be removed from an old juniper treatment area north of Scott Spring.
- Pole Creek/Trout Springs Allotment Cattleguard – One cattleguard will be placed at the fenceline where the road enters the Pole Creek Allotment from Bedstead Ridge.
- Horsehead Spring Rehabilitation – The BLM will recontour and revegetate surrounding soils to restore the natural topography with surrounding areas.

Monitoring

Monitoring studies will be conducted during the term of the permit in accordance with the Idaho Minimum Monitoring Standards (USDI-BLM 1984) and IM ID-2008-022 (USDI- BLM 2008a). Monitoring studies (occurring every 1-6 years) will include, but are not limited to, the following: nested plot frequency, upland utilization, browse utilization, photo plots, multiple indicator monitoring (MIM), stubble height measurement, bank alteration, riparian woody browse utilization, and water quality testing.

Rationale

BLM analyzed six alternatives (Alternatives A1-D) and considered seven additional alternatives not analyzed in detail in EA # DOI-BLM-ID-B030-2009-0004-EA. The alternatives in that EA result from the complexity of resource issues identified by the BLM, an alternative submitted by the permittee (Alternative C1), and from scoping comments which recommended developing alternatives with a range of stocking levels and grazing seasons. These factors and the failure of the Pole Creek Allotment to meet applicable Standards with livestock and juniper encroachment being significant causal factors necessitate that BLM analyze an assortment of alternatives to make significant progress toward meeting all applicable Standards.

I have determined that the renewal of this grazing permit is in accordance with the 1999 Owyhee Resource Management Plan, will make significant progress towards meeting Standards, and will allow grazing to continue on public land. In accordance with EA # DOI-BLM-ID-B030-2009-0004-EA, this Proposed Decision authorizes Tommy and Barbara Moore to graze cattle in accordance with Alternative C1, but with additional Active AUM reductions. These reductions have been made in recognition of the allotment's failure to meet or make progress towards Standards (see below; also, Evaluation and Determination Appendix B), the lack of monitoring information reflective of the new grazing season of use and actual use AUM numbers for the past four years.

Livestock grazing management specified in this proposed decision will make significant progress towards meeting the Standards as summarized below:

- Standard 4, Native Plant Communities, is not being met due to juniper expansion. In the higher elevations, mountain big sagebrush has largely been replaced by juniper. On

lower elevation low sagebrush sites, sagebrush has been replaced by juniper only in localized areas and large perennial bunchgrasses have been reduced. (Section 3.1.1)

- A rest rotation will provide an entire year of rest on the Pole Creek Breaks, Scott Spring, Horse Flat, and Berry Gulch Pastures every other year. (While this schedule may vary in response to juniper treatment, the pasture will continue to rest five out of ten years.) The year of rest will provide residual litter/cover/forage during rested and grazed years for wildlife and protection of soils (Section 3.1.2.4). An increase in species composition, species diversity, and palatable species will result from the rest rotation (Section 3.1.2.4). Spring use will improve livestock distribution due to increased available water resources, cooler temperatures, and palatable forage on the uplands (Section 3.1.2.4). Implementing rest, spring use (increased available water resources), and range readiness will improve distribution and increase plant vigor and residual litter/cover/forage (Section 3.1.2.4). The reduction to 892 Active AUMs will provide a lighter utilization (approximately 40% or less) throughout the allotment compared to Alternative C1. Utilization was expected to be less than 50% with 973 AUMs in Alternative C1 as described in the EA (Sections 3.1.2.4 and 3.5.2.4), 20% or less with 509 AUMs in Alternative C2 (Section 3.1.2.5), and approximately 21% in the stocking rate/production analysis (this was assuming uniform distribution, therefore expectations are higher than the analysis). The light stocking rate, deferment every other year, and expected light utilization levels will improve plant vigor, recruitment, and soil cover on the Dutcher Pasture (Section 3.1.2.4). Therefore, significant progress towards Standard 4 will be made in the short and long term (Section 3.1.2.4).
- The accelerated soil erosion and decrease in native bunchgrass cover caused by past grazing management and juniper encroachment, evidenced by water flow patterns and pedestalled bunchgrass in the interspatial areas, indicate that Standard 1 (Watersheds) is not being met. This is due to replacement of mountain big sagebrush by juniper and the continuing encroachment of juniper that is changing the nutrient cycling, hydrologic cycling, and nutrient flow from what is expected for the area absent juniper expansion. Standard 2 (Riparian Areas and Wetlands), Standard 3 (Stream Channel/Floodplain), Standard 7 (Water Quality), and Standard 8 (Threatened and Endangered Plants and Animals) are not being met on 19.89 miles of stream but are being met on 11.01 miles of stream. The failure of those reaches to meet Standards is the result of livestock grazing. These areas have generally been grazed every year from July through August/September and are dominated by shallow-rooted early seral species.
 - Pasture rest and deferment will improve upland and riparian vegetation communities (Sections 3.1.2.4 and 3.4.2.4). Rest, spring grazing, and authorizing fewer active AUMs than were analyzed in Alternative C1 (reductions based on the allotment's failure to meet or make progress towards these Standards, lack of monitoring information reflective of the new grazing season of use and actual use AUM numbers for the past four years) will benefit riparian areas because livestock will spend much less time in riparian areas, riparian areas will have all summer/fall to regrow, and riparian browse will not be targeted by livestock (Section 3.4.2.4). This will result in increased vigor, decreased streambank alteration, increased stubble height, and improved overall riparian vegetative health (Section 3.4.2.4). Water quality will

improve as riparian conditions in all pastures improve; the Middle Fork Owyhee will meet IDEQ water standards by the end of the ten year permit. All other waters will meet or make significant progress towards meeting Standard 7 (Section 3.3.2.4). Vegetation cover and density will improve due to the periods of rest, resulting in increased litter, roots, vigor, and overall soil surface cover (Sections 3.1.2.4, 3.2.2.4, and 3.4.2.4). Increased litter and soil cover will protect the soil surface from raindrop impact and erosion, and increased roots or below ground biomass will improve soil properties such as infiltration and soil nutrients (Section 3.2.2.4). Short and long-term effects to soil and watershed resources will include less physical damage (hoof impact, trampling, soil compaction) to soil surface due to the rest/rotation grazing schedule and deferment (Dutcher Pasture) (Section 3.2.2.4). Stabilization of previous erosional scars and fewer incidents of accelerated erosion will be expected with increased soil cover (Section 3.2.2.4). Additionally, as vegetation conditions improve, surface cover and roots will increase, thereby increasing surface roughness and soil macropores that increase water infiltration and decrease soil erosion (Section 3.2.2.4). Therefore, significant progress towards Standards 1, 2, 3, and 7 will be made in the short and long term (Sections 3.2.2.4, 3.3.2.4, and 3.4.2.4).

- Due to current grazing management and juniper expansion, Standard 8 is not being met in riparian areas. Continuation of hot season grazing would concentrate livestock use on riparian areas, thus decreasing riparian vegetation that wildlife use for nesting substrate, cover, and foraging habitat. Streambank trampling would add sediment to streams and increase channel width to depth ratios which increase water temperatures and decrease water quality to unacceptable levels for some fish and amphibian species. Juniper encroachment has slowly converted shrub steppe communities to woodlands.
 - Alternative C1 will promote recovery of vegetation by implementing rest within most pastures (Sections 3.1.2.4 and 3.5.2.4). The prescribed rest, deferment, and authorizing fewer active AUMs than were analyzed in Alternative C1 will provide increased forage and cover, and no livestock disturbance will occur during rested years for breeding, birthing, and rearing of young for many fish and wildlife species (Section 3.5.2.4). Sage-grouse use is limited to a few small areas in the northern and southern portions of the allotment (Dutcher Pasture (252 acres), Pole Creek Breaks Pasture (166 acres) and Horse Flat/Scott Spring Pastures (98 acres), respectively) where sagebrush habitat is still available and junipers are absent or in the early seral stages (Sections 3.5.1 and 3.5.2.4). Grazing management in sage-grouse habitat includes the long-term objective of promoting desirable plant communities and the annual objective of retaining a standing crop that adequately provides cover for sage-grouse (Section 3.5.2.4). Alternative C1 with 892 Active AUMs will maintain the sagebrush/bunchgrass plant community for nesting/early brood-rearing habitat and provide for high vigor (Section 3.5.2.4). Utilization was estimated to be less than 50% every other year (0% on alternate rested years) with 973 Active AUMs in Alternative C1 (Sections 3.1.2.4 and 3.5.2.4), but is expected to be approximately 40% or less with 892 Active AUMs. An Active use of 892 AUMs will provide a lighter utilization (approximately 40% or less) throughout the allotment compared to Alternative C1 as analyzed in the EA. This is estimated because utilization was expected to be less than 50% with 973 AUMs (Sections 3.1.2.4 and 3.5.2.4), 20% or less with 509 AUMs in Alternative C2 (Section 3.1.2.5), and

approximately 21% in the stocking rate/production analysis (this was assuming uniform distribution; therefore expectations are higher than the analysis).

Upland vegetation will have the opportunity to recover and increase in vigor due to rest five out of ten years and this lower utilization level to assure that the previous year's standing crop is available for hiding cover (Sections 3.1.2.4 and 3.5.2.4). Livestock use of riparian areas will be lower due to the spring season of use and livestock will spend more time on the uplands (Sections 3.4.2.4 and 3.5.2.4). Spring grazing would increase riparian vegetation that wildlife use for nesting substrate, cover, and foraging habitat (Sections 3.4.2.4 and 3.5.2.4). The Dutcher Pasture will only be used as a gather field every other year from 6/16-6/30 which will amount to very little use and trampling; and used from 10/1-11/15 every other year with a 22.6 acre/AUM stocking rate. The fall use and 22.6 acre/AUM stocking rate will result in light utilization to provide a large amount of residual cover for the subsequent nesting/early brood-rearing season (Section 3.5.2.4). Wildlife habitats will improve and allow for the vegetative structure, diversity, residual cover, and available forage to increase in all wildlife habitats, thus resulting in making significant progress towards Standard 8 (Section 3.5.2.4).

The range improvements will provide allotment/pasture boundaries and protection to riparian areas (Sections 2.2.3 and 3.4.2.4). Additional pastures will allow improved management of livestock by reducing the amount of time livestock are grazing within each pasture, which will decrease the possibility of livestock re-grazing plants, grazing/trampling in riparian areas, and disturbing wildlife (Section 3.1.2.4). Livestock exclusion to riparian areas will prevent excessive bank sloughing from hoof impacts and allow deep-rooted riparian vegetation currently present to increase and eventually stabilize the area (Section 3.4.2.4). Cattleguards will reduce the likelihood of gates being left open and gap fences will restrict livestock access down narrow creeks and improve overall resources (Sections 2.2.3 and 3.4.2.4). This proposed decision will drive the allotment towards meeting or progressing towards standards, including Standard 8.

- This proposed grazing decision will drive the allotment towards meeting or progressing towards Standards, thereby benefitting the sage grouse in particular. Of the eight applicable Standards, Watersheds (1) and Native Plant Communities (4) are not being met due to past (not current) grazing practices and juniper incursions. Standards 2 (Riparian), 3 (Stream Channel), 7 (Water Quality) and 8 (Threatened and Endangered Species, special status animals only) are not being met due to current grazing practices. This proposed grazing decision would change the season of use from summer/hot season use to spring use, reduce AUMs alternate years from current actual numbers and institute a use a rest/rotation and deferment schedule for the allotment.
 - The change in season of use from summer/hot use to spring use will allow for the recovery of riparian areas impacted by hot season grazing. Section 3.3.2.4. Recovery of these areas will improve wildlife habitat. Section 3.5.2.4.
 - 516 acres (2%) of the 23,395 acre allotment are classified as key sage-grouse habitat, and are found at the northwest and southwest corners of the allotment. No leks are

located within the allotment, although two are within five miles of the allotment boundary. (Section 3.5.1) Dutcher Pasture contains 252 acres of habitat, Pole Creek Breaks Pasture 166 acres, and Horse Flat/Scott Spring Pasture 98 acres. The last two pastures would be rested five out of ten years; Dutcher Pasture, on a deferment schedule, is discussed below. The rest/rotation schedule is expected to maintain and or improve vigor, healthy root systems and provided adequate cover for sage grouse in the long term. Section 3.5.2.4.

- At present, the potential habitat greatly exceeds actual habitat due to juniper incursion; anticipated juniper treatments would reverse this incursion. Sagebrush-obligate species, including sage grouse, would benefit initially from the increase in open habitat following treatment and from subsequent shrub steppe habitat increase in the long term. (Sections 2.2.4; 4.3.)
- Of all the Pole Creek allotment pastures, Dutcher has the largest amount of sage grouse habitat. The grazing schedule calls for spring use in year 1, the year the Pole Creek pasture is used, when the pasture will be trailed through at the start of the season of use and used as a gathering field at the end of June. In year 2, when the Horse Flat/Scott Spring pasture is used, only fall use (10/1 – 11/15) is contemplated.

During year 1, there would be very little actual use within the Dutcher pasture during the nesting season because cattle will only be trailed through the pasture along a road (probably a few groups of 30-60 cattle for an hour each) and not left to wander around and graze. Although there will be some trampling effects and probably some incidental grazing along the way, the cattle will not impact the key habitat (where sage-grouse potentially would be nesting) identified in the NW corner of the allotment. (The other key habitat within the Dutcher pasture occurs on private land.) Because the cattle are moved through in a few groups for an hour or two each trip, the disturbance should be brief, ephemeral, and concentrated on and along the road. Based on the literature that documents wildlife avoidance of areas surrounding roads, it is likely that nesting sage-grouse already are avoiding roads (Lyon and Anderson 2003) and would therefore be minimally impacted, if at all, by the trailing activity.

Sage-grouse would be minimally affected during the gather that would begin around June 16th, because the nesting and early brood-rearing season would have ended. Female sage-grouse and their broods (who would be able to fly) would be moving to habitats that still had forbs, typically at suitable higher elevations or more likely moist areas around seeps, springs, wet meadows, and areas with north-facing aspects (Braun et al. 2005). Due to the juniper incursion the sage-grouse in the area are most likely to be moving westward to find these types of habitats in Oregon. Livestock use of the Dutcher pasture from June 16-30 would primarily overlap with the mid-summer time period, thus avoid the most serious impacts to nesting and brood-rearing habitat.

During year 2, the year with Horse Flat/Scott Spring pasture use, use of the Dutcher pasture would occur during the fall from 10/1-11/15. At this time, sage-grouse would more than likely be moving to wintering areas (lower elevation, traditionally snow free areas in Oregon) and seeking out the remaining moist areas (lower elevation riparian areas and hayfields in Oregon and on private land) where succulent forbs

- might still be available (Braun et al. 2005). Over this period, additionally, sage-grouse would be shifting their diets to sagebrush. The nominal relatively light use (approx. 30 cattle, 44 AUMs, stocking rate 22 acres/AUM) in the pasture is expected to leave adequate residual cover for nesting sage grouse in the following spring.
- The range improvements planned for the allotment during the life of the proposed permit will benefit the sage grouse.
 - The State line fence project, itself not in sage grouse habitat, will benefit sage grouse by preventing Oregon cattle from moving into the riparian areas found on the Pole Creek Breaks allotment, furthering the recovery of riparian lands on the allotment.
 - The gap fences, individually small in scope (50'), will have a significant beneficial effect by limiting livestock access to riparian areas, thereby eliminating the negative effects of livestock grazing on the riparian areas at the river. While acknowledging the fact that some of these projects occur in current or potential sage grouse habitat areas, the benefit, coupled with the fact that construction disturbance will be minimal (Section 3.2.3) and bird deterrent devices will be affixed, warrants their construction. (Sections 3.4.2.4, 3.4.2.3).
 - The spring enclosures would protect the integrity of the current riparian vegetation community while allowing that community to expand and grow. (Section 3.4.2.4, 3.4.2.3). Renewal of the riparian area would benefit sage grouse and other wildlife.
 - The Horse Flat Pasture Division Fence project would create an additional pasture, allowing for further pasture rotations, thus reducing the time cattle are on a particular pasture.
 - Re-contouring the hole in Horsehead Spring and the trench in Big Willow Spring would reduce the amount of water draining from the wetlands, improving their function, thereby benefitting wildlife and sage grouse. (Section 3.4.2.4, 3.4.2.3).
 - The grazing management schedule proposed is consistent with the Owyhee Resource Management Plan (ORMP). The objective of livestock grazing under the ORMP is to “provide for a sustained level of livestock use compatible with meeting other resource objectives.” (ORMP LVST 1). Specifically, management actions and allocations are to “limit upland forage utilization by livestock on key upland herbaceous forage species to 50 percent unless a higher or lower level of use is appropriate to meet standards for healthy rangelands.” *Id.* The objective for wildlife habitat is to “maintain or enhance the condition, abundance structural stage and distribution of plant communities and special habitat features required to support a high diversity and desired populations of wildlife.” (ORMP WLDF 1). The objective for special status species is more stringent: “manage special status species and habitats to increase or maintain populations at levels where their existence is no longer threatened and there is no need for listing under the Endangered Species Act of 1973, as amended. (ORMP SPSS 1). Management actions and allocations under this objective direct BLM to “identify, protect and enhance key sage grouse habitats and populations. Actions under this proposed decision would ensure that upland vegetation will meet the objective of retaining a standing crop that adequately provides cover for sage grouse. (EA, Section 3.5.2.4).

Authority

The authority under which this decision is being issued is found in Title 43 of the Code of Federal Regulations (CFR) Subpart 4100 Grazing Administration - - Exclusive of Alaska.

Right of Protest and/or Appeal:

Any applicant, permittee, lessee or other interested public may protest a proposed decision under Sec. 43 CFR 4160.1 and 4160.2, in person or in writing to Loretta V. Chandler, Owyhee Field Office Manager, at 20 First Avenue West, Marsing, Idaho 83639 within 15 days after receipt of such decision. 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 accordance with 43 CFR 4.470 and 43 CFR 4160.4. 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. The person/party must also serve a copy of the appeal on the Office of the Solicitor, Boise Field Solicitors Office, University Plaza, 960 Broadway Ave., Suite 400, Boise Idaho, 83706 and person(s) named [43 CFR 4.421(h)] in the *copies sent to:* section of this decision.

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 Manager
Owyhee Field Office

Copies sent to:

Boise District Grazing Board, Stan Boyd PO Box 2596, Boise ID 83701 Cert# 7008 1140 0004 6332 1327
Chad Gibson, 16770 Agate Ln, Wilder, ID 83676 Cert# 7008 1140 0004 6332 1730
Idaho Dept of Agriculture, PO Box 790, Boise ID 83701 Cert# 7008 1140 0004 6331 6927
Idaho Dept of Fish & Game, Bob Martin, 3101 S Powerline Rd., Nampa ID 83686 Cert# 7008 1140 0004 6332 1570
Idaho Dept of Lands, PO Box 83720, Boise ID 83720-0050 Cert# 7008 1140 0004 6331 6934
Idaho Dept of Lands, SW Idaho Area Office, 8355 State St, Boise, ID 83703 Cert# 7008 1140 0004 6332 1563
Katie Fite, Western Watershed Projects, PO Box 2863, Boise, ID 83701 Cert# 7008 1140 0004 6332 1716
Owyhee County Commissioners, PO Box 128, Murphy, ID 83650 Cert# 7008 1140 0004 6332 1631
Shoshone-Bannock Tribes, Tribal Chairman, PO Box 306, Fort Hall ID 83203 Cert# 7008 1140 0004 6332 1686
Western Watershed Projects, PO Box 1770, Hailey, ID 83333 Cert# 7008 1140 0004 6332 1723