



United States Department of the Interior
BUREAU OF LAND MANAGEMENT



Owyhee Field Office
20 First Avenue West
Marsing, Idaho 83639

In Reply Refer To:
4160 (ID130)

August 10, 2012

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: 7008 1140 0004 6331 7726

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

Notice of Field Manager's Decision

Dear Mr. and Mrs. Moore:

This Decision is in response to requirements set forth in settlement agreements and your June 6, 2011, Application for Permit Renewal (grazing management proposal) for the Pole Creek Allotment.

On March 5, 2012, you received my Notice of Proposed Decision regarding grazing on the Pole Creek allotment, identifying the season of use and proposed AUMs.

Timely protests to the Proposed Decision were received from Western Watersheds Project and the current permittees (Moore). I have carefully considered each protest statement of reasons and have responded to these reasons in Appendix A.

Introduction

This decision addresses grazing management in the Pole Creek Allotment (# 00635), serves 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 decision incorporates by reference. In addition to authorizing livestock grazing at reduced levels and a change in season of use, this decision authorizes the construction of range improvement projects on the allotment. This 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.

The EA and this decision document are in conformance with the Owyhee Resource Management Plan (ORMP) and several acts, court orders, collaborative plans, and BLM guidance.

I have reviewed the Council on Environmental Quality Regulations (CEQ) for significance (40 CFR 1508.27) and have determined the actions analyzed in EA # DOI-BLM-ID-B030-2009-0004-EA for the issuance of a grazing permit for the Pole Creek Allotment, Owyhee County, Idaho, will not constitute a major federal action that would significantly affect the quality of the human environment; therefore an Environmental Impact Statement is not required. This finding was made by considering both the context and intensity of the potential effects of the grazing alternative selected and its season of use, grazing management system (rest/rotation or deferment) and enforcement of objectives, as described in this decision document.

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 # ID130-2009-EA-3783, 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 are a result of livestock grazing. These areas are generally 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 of Idaho, 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, part of which covered 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.

On March 11, April 1, and April 22, 2009, meetings were held with the permittee to discuss allotment conditions, objectives, and livestock management on the Pole Creek Allotment. On July 30, 2009, the Owyhee Field Manager issued the Scoping Document for this EA, “Pole Creek Allotment Grazing Permit Renewal” for 30-day comment and review to all affected grazing permittees, interested publics, and other State and local governments of record for the Pole Creek Allotment. The scoping document was presented to the Shoshone-Paiute Tribes and Owyhee County Commissioners on July 16, 2009. On November 10, 2009, a field tour was held with the permittee, Western Watersheds Project (WWP), and the BLM. Several sites were visited and issues were discussed. Additional meetings were held on November 10 and December 15, 2010 with the permittee to discuss grazing alternatives and juniper management.

Comments were received from WWP and the Idaho Department of Fish and Game (IDFG) and responses are provided in Appendix C of the EA. After over two and a half years of in-depth background work and analysis, this Decision is designed to authorize grazing and other action(s) in order to make significant progress¹ toward achieving land health standards over the course of the next ten years in the Pole Creek Allotment.

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 decision as the authorized officer to:

¹ “Significant progress” is defined as “Measurable and/or observable (i.e., photography, use of approved qualitative procedures) changes in the indicators that demonstrate improved rangeland health.” Idaho Standards for Rangeland Health and Guidelines for Livestock Grazing Management, 1997.

- Renew the grazing permit for Tommy and Barbara Moore for the Pole Creek Allotment. The permit will be for a term of 10 years (03/01/2013 to 02/28/2023).
- 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 and the reduced Active AUMs (576 AUMs) will be cancelled as per 43 CFR 4110.3-2(b).

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	1,131	2,023
	30	Cattle	10/01 – 11/15	97%	44		

Line 2 on this permit reflects use on the Dutcher Pasture. This use is authorized every other year and must follow the grazing rotation below.

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 has been issued and is currently stayed and under appeal. Pending the outcome of that ruling, a separate decision may be issued for interim livestock grazing management, as outlined in EA # DOI-BLM-ID-B030-2009-0004-EA, 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 this Final Decision for the grazing rotations.

2. Livestock grazing will be in accordance with the Pole Creek Allotment Final Decision dated August 10, 2012. 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, 2.1 miles of which would follow the Oregon/Idaho border (see discussion below).

The following range improvements will be constructed:

- 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 Exclosure – 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 exclosure.
- 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 Exclosure Expansion – The exclosure 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 Exclosure Expansion and Rehabilitation – Big Willow Spring Exclosure 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.

Among these improvements, four consist of gap fences, each no greater than 50' in length, designed to prevent cattle from accessing riparian areas; of the four exclosure projects, two will

expand existing exclosures and two will create new exclosures to protect riparian areas. All fences constructed will be marked to alert sage-grouse to their presence.

The site of the State line fence identified in the EA and Proposed Grazing Decision for construction will be monitored. The change in season of use identified in this Decision is expected to result in drift of livestock from the Oregon State Lands, where it is lower in elevation and drier, to the Pole Creek Allotment, where it is higher in elevation and there is additional water. In response to comments received regarding the need for and potential impact of this fence, the BLM will delay the construction of this fence and monitor the drift of livestock. If drift occurs that affects the allotment's resources and prevents it from moving towards or meeting the Standards, the fence will be constructed following the third year. If no noticeable livestock drift occurs, the fence will not be constructed. Nevertheless, the Permittee is responsible for adhering to the seasons of use found in this Decision.

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. This large number of alternatives recognizes the complexity of resource issues identified by the BLM, the alternative submitted by the permittee (Alternative C1), and concerns raised in 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, necessitated 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 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. Although the EA and Proposed Decision included the change of 576 AUMs from Active to Suspended, 43 CFR 4110.3-2(b) requires that "When monitoring or field observations show grazing use or patterns of use are not consistent with the provisions of subpart 4180, or grazing use is otherwise causing an unacceptable level or pattern of utilization, or when use exceeds the livestock

carrying capacity as determined through monitoring, ecological site inventory or other acceptable methods, the authorized officer shall reduce permitted grazing use or otherwise modify management practices.” Therefore, this Final Decision cancels those 576 Active AUMs as shown below.

	Active AUMs	Suspended AUMs	Permitted AUMs
1997-Current Permitted Use	1,468	1,131	2,599
2012 Final Decision Permitted Use	892	1,131	2,023
DIFFERENCE	-576	0	-576

Livestock grazing management specified in this 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 pastures will continue to be rested at least 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 from 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). Implementation of this decision will make significant progress towards Standard 8 (Section 3.5.2.4).

- Implementation of this grazing decision will make significant progress towards Standards, including Standard 8 for sage-grouse (Sections 3.1.2.4, 3.2.2.4, 3.3.2.4, 3.4.2.4, and 3.5.2.4) . 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 grazing decision will change the season of use from summer/hot season use to spring use, reduce AUMs alternate years from current actual numbers and institute 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 authorizes trailing on April 16 and is used as a gathering field at the end of June in year 1. In year 2, when the Horse Flat/Scott Spring pasture is used, only fall use (10/1 – 11/15) is authorized.

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 permit will benefit the sage-grouse.
 - The State line fence project, should it be found necessary, and 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/near 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 exclosures 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 disturbance 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).

- Livestock grazing management identified in this decision conforms with the 1999 Owyhee Resource Management Plan Objectives and Management Actions and Allocations summarized below. Actions adopted under this decision ensure that grazing is consistent with other resource objectives; see discussion of Standards, above.
 - LVST 1, to “provide for a sustained level of livestock use compatible with meeting other resource objectives” and Management Actions and Allocations 4, 5 and 7, 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”; and “implement grazing practices that make progress towards achieving proper functioning condition and satisfactory riparian condition.”
 - VEGE 1, to “improve unsatisfactory and maintain satisfactory vegetation health/condition on all areas” and Management Actions and Allocations 1,2,5 and 7, to “implement grazing practices that during and at the end of the grazing season provide adequate amounts of ground cover (determined on an ecological site basis) to support proper infiltration, maintain soil moisture, stabilize soils, and maintain site productivity”; implement grazing practices that improve or maintain native rangeland species to attain composition, density, foliar cover and vigor appropriate to site potential”; in pastures containing riparian areas categorized as unsatisfactory, non-functioning or functional-at-risk, implement grazing practices that make progress towards achieving proper functioning condition and satisfactory riparian condition” and “implement grazing practices designed to meet Idaho Standards for Rangeland Health and conform to the Guidelines for Livestock Grazing Management.”
 - SOIL 1, to “improve unsatisfactory and maintain satisfactory watershed health/condition on all areas” and Management Actions and Allocations 1, 2 and 4: to “implement grazing practices that during and at the end of the grazing decision provide adequate amounts of ground cover (determined on an ecological site basis) to support proper infiltration, maintain soil moisture, stabilize soils, and maintain site productivity”; “implement grazing practices that improve or maintain native rangeland species to attain composition, density, aerial cover and vigor appropriate to site potential” and “grazing systems and other activities will be designed to minimize soil erosion caused by surface disturbing activities through proper timing with regard to soil moisture content and range readiness.”
 - WLDF 1, 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.”
 - SPSS 1, to “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. Management actions and allocations under this more stringent objective direct BLM to “identify, protect and enhance key sage-grouse habitats and populations (Management Action and Allocation 3). Actions under this 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 issued is found in Title 43 of the Code of Federal Regulations, which states in pertinent parts:

4100.0-8 Land use plans - The authorized officer shall manage livestock grazing on public lands under the principle of multiple use and sustained yield, and in accordance with applicable land use plans. Land use plans shall establish allowable resource uses (either singly or in combination), related levels of production or use to be maintained, areas of use, and resource condition goals and objectives to be obtained. The plans also set forth program constraints and general management practices needed to achieve management objectives. Livestock grazing activities and management actions approved by the authorized officer shall be in conformance with the land use plan as defined at 43 CFR 1601.0-5(b).

4110.3 Grazing Permits or Leases - 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 land 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.

4120.2 Allotment management plans and resource activity plans - Allotment management plans or other activity plans intended to serve as the functional equivalent of allotment management plans may be developed by permittees or lessees, other Federal or State resource management agencies, interested citizens, and the Bureau of Land Management. When such plans affecting the administration of grazing allotment are developed, the following provisions apply:

- (a) An allotment management plan or other activity plan intended to serve as the functional equivalent of allotment management plans shall be prepared in careful and considered consultation, cooperation, and coordination with affected permittee(s) or lessee(s), landowners involved, the multiple resource advisory council, and State having lands or responsible for managing resource within the area to be covered by such a plan, and the interested public.
- (d) A requirement to conform with completed allotment management plans or other applicable activity plans intended to serve as the functional equivalent of allotment management plans shall be incorporated into the terms and condition of the grazing permit or lease for the allotment.
- (e) Allotment management plans or other applicable activity plans intended to serve as the functional equivalent of allotment management plans may be revised or terminated by the authorized officer after consultation, cooperation, and coordination with the affected permittees or lessees, landowners involved, the resource advisory council, any State having lands or responsible for managing resources within the area to be covered by the plan, and the interested public.

4130.2(a) Grazing Permits or Leases - Grazing permits or leases shall be issued to qualified applicants to authorize use on the public lands and other lands under the administration of the Bureau of Land Management that are designated as available for livestock grazing through land use plans. Permits or leases shall specify the types and levels of use authorized, including livestock grazing, suspended use, and conservation use. These grazing permits or leases shall also specify terms and conditions pursuant to 4130.3, 4130.3-1, and 4130.3-2.

4130.2(b) Grazing Permits or Leases- The authorized officer shall consult, cooperate and coordinate with affected permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested publics prior to the issuance or renewal of grazing permits and leases.

4130.3 Terms and Conditions - Livestock grazing permits and leases shall contain terms and conditions determined by the authorized officer to be appropriate to achieve the management and resource objectives for the public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with provisions of subpart 4180 of this part.

4130.3-1(a) Mandatory terms and conditions - The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the amount of use, in animal unit months, for every grazing permit or lease. The authorized livestock grazing use shall not exceed the livestock carrying capacity of the allotment.

4130.3-2 Other terms and conditions - The authorized officer may specify in grazing permits or leases other terms and conditions which will assist in achieving management objectives, provide for proper range management or assist in the orderly administration of the public rangelands.

4130.3-3 Modifications of permits or leases - Following consultation, cooperation, and coordination with the affected lessees or permittees, the State having lands or responsible for managing resources within the area, and the interested public, the authorized officer may modify terms and conditions of the permit or lease when the active grazing use or related management practices are not meeting the land use plan, allotment management objectives, or is not in conformance with the provisions of subpart 4180. To the extent practical, the authorized officer shall provide to affected permittees or lessees, States having lands or responsibility for managing resources within the affected area, and the interested public an opportunity to review, comment and give input during the preparation of reports that evaluate monitoring and other data that are used as a basis for making decisions to increase or decrease grazing use, or to change the terms and conditions of a permit or lease.

4160.3(c) Final decisions - A period of 30 days following receipt of the final decision, or 30 days after the date the proposed decision becomes final as provided in paragraph (a) of this section, is provided for filing an appeal and petition for stay of the decision pending final determination on appeal. A decision will not be effective during the 30-day appeal period, except as provided in paragraph (f) of this section. See 4.21 and 4.470 of this title for general provisions of the appeal and stay process.

4160.4 Appeals - Any person whose interest is adversely affected by a final decision of the authorized officer may appeal the decision for the purpose of a hearing before an administrative law judge by following the requirements set out in 4.470 of this title. As stated in that part, the appeal must be filed within 30 days after the receipt of the decision or within 30 days after the date the proposed decision becomes final as provided in 4160.3(a). Appeals and petitions for a stay of the decision shall be filed at the office of the authorized officer. The authorized officer shall promptly transmit the appeal and petition for stay and the accompanying administrative record to ensure their timely arrival at the appropriate Office of Hearings and Appeals.

4180.1 Fundamentals of rangeland health and 4180.2(c), Standards and guidelines for grazing administration²

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 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, ID, 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. The appeal must comply 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.

² As promulgated through the Idaho Standards for Rangeland Health and Guidelines for Livestock Grazing Management (1997).

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

Sincerely,

/s/ Loretta V. Chandler

Loretta V. Chandler
Owyhee Field Office

1 Enclosure:

1 - Appendix A (Response to Protest Points)

Copies sent to:

Boise District Grazing Board, Stan Boyd, PO Box 2596, Boise, ID 83701	Cert # 7008 1140 0004 6331 7337
Brett Nelson, 9127 W Preece St, Boise, ID 83704	Cert # 7008 1140 0004 6331 7344
Chad Gibson, 16770 Agate Ln, Wilder, ID 83676	Cert # 7008 1140 0004 6331 7375
Committee for the High Desert, PO Box 2863, Boise, ID 83701	Cert # 7008 1140 0004 6331 7405
DEQ, 1445 N Orchard, Boise, ID 83706	Cert # 7008 1140 0004 6331 7412
Elias Jaca, 21275 Upper Reynolds Creek Rd, Murphy, ID 83650	Cert # 7008 1140 0004 6331 7429
Fred Kelly Grant, 249 Smith Ave, Nampa, ID 83651	Cert # 7008 1140 0004 6331 7436
High Desert Coalition, Ted Hoffman, 220 Elmcrest St, Mountain Home, ID 83647	Cert # 7008 1140 0004 6331 7467
ID Conservation League, John Robison PO Box 844, Boise, ID 83701	Cert # 7008 1140 0004 6331 7481
ID Dept of Agriculture, Ron Kay, PO Box 7249, Boise, ID 83707	Cert # 7008 1140 0004 6331 7498
ID Dept of Agriculture, PO Box 790, Boise, ID 83701	Cert # 7008 1140 0004 6331 7504
ID Dept of Lands, PO Box 83720 Boise, ID 83720-0050	Cert # 7008 1140 0004 6331 7511
ID Dept of Lands, SW Idaho Area Office, 8355 W State St, Boise, ID 83714	Cert # 7008 1140 0004 6331 7528
ID Fish & Game, 3101 S Powerline Rd, Nampa, ID 83686	Cert # 7008 1140 0004 6331 7542
ID Wildlife Federation, PO Box 6426, Boise, ID 83707	Cert # 7008 1140 0004 6331 7559
John Townsend, 8306 Road 3.2 NE, Moses Lake, WA 98837	Cert # 7008 1140 0004 6331 7566
Juniper Mtn Grazing Assn, Michael Stanford, 3581 Cliffs Rd, Jordan Valley, OR 97910	Cert # 7008 1140 0004 6331 7573
Lazaro Mendieta, PO Box 57, Jordan Valley, OR 97910	Cert # 7008 1140 0004 6331 7580
Moore Smith Buxton & Turcke, Paul Turcke, 950 W Bannock, Ste 520, Boise, ID 83702	Cert # 7008 1140 0004 6331 7597
Oregon Division State Lands, 1645 NE Forbes Rd Ste 112, Bend, OR 97701	Cert # 7008 1140 0004 6331 7603
Owyhee Cattlemen's Assn. PO Box 400, Marsing, ID 83639	Cert # 7008 1140 0004 6331 7610
Owyhee Co. Natural Resource Committee, Jim Desmond, PO Box 38, Murphy, ID 83650	Cert # 7008 1140 0004 6331 7627
Owyhee County Commissioners, PO Box 128, Murphy, ID 83650	Cert # 7008 1140 0004 6331 7634
Ramona Pascoe, PO Box 126, Jordan Valley, OR 97910	Cert # 7008 1140 0004 6331 7641
Ranges West, 2410 Little Weiser Rd, Indian Valley, ID 83632	Cert # 7008 1140 0004 6331 7658
Resource Advisory Council, Chair, 2512 E Garber Dr, Meridian, ID 83646	Cert # 7008 1140 0004 6331 7665
Rocky Mountain Elk Foundation, Dave Torell, 6199 N. Bellecreek Ave, Boise, ID 83713	Cert # 7008 1140 0004 6331 7672
Schroeder & Lezamiz Law Offices, PO Box 267, Boise, ID 83701	Cert # 7008 1140 0004 6331 7689
Shoshone-Bannock Tribes, Nathan Small, PO Box 306, Ft. Hall, ID 83203	Cert # 7008 1140 0004 6331 7696
State Historic Preservation Office, 210 Main St., Boise, ID 83702	Cert # 7008 1140 0004 6331 7702
Tim Lowry, PO Box 132, Jordan Valley, OR 97910	Cert # 7008 1140 0004 6331 7719
Vernon Kershner, PO Box 38, Jordan Valley, OR 97910	Cert # 7008 1140 0004 6331 7733
Western Watersheds, PO Box 1770, Hailey, ID 83333	Cert # 7008 1140 0004 6331 7740
Western Watersheds, Katie Fite, PO Box 2863, Boise, ID 83701	Cert # 7008 1140 0004 6331 7757

APPENDIX A

RESPONSE TO PROTEST POINTS FOR THE POLE CREEK ALLOTMENT

Protest received on March 26, 2012 from WWP

1. *Western Watersheds Project (WWP) protests: “BLM’s failure to consider the ACEC proposal submitted by WWP to aid in integrated protection of the tremendous values of the public lands of the Juniper Mountain landscape.”*

BLM response:

This alternative was determined to be outside the scope of this EA and is one which should be analyzed, developed, and considered through the Land Use Plan process (43 CFR 1610.7-2; 94 P.L. 579§ 202.(c)(3)). This is discussed in Section 2.3 (Alternatives Considered But Not Analyzed in Detail) in DOI-BLM-ID-B030-2009-0004-EA (EA). An ACEC for the Juniper Mountain was analyzed in the Proposed Owyhee Resource Management Plan and Final Environmental Impact Statement (PORMP/FEIS), Alternatives C and D (USDI-BLM 1999a); however, it was not selected in the final decision (USDI-BLM 1999b). Therefore, as described in the EA, the ACEC alternative was considered but not analyzed in detail.

2. *WWP also expresses concerns that “Sage-grouse habitats are greatly threatened by expansion of cheatgrass and medusahead from intensive overstocking with livestock, a plethora of new facilities, and scorched earth native tree and sagebrush destruction with wildfire, which will act synergistically with the grazing disturbance to doom these wild lands if BLM’s severely flawed livestock grazing decision is allowed to move forward.”*

Map 6 of the EA documents that currently there is very limited key sage grouse habitat in the Pole Creek Allotment. However, this map also shows that Juniper treatments will increase sage grouse habitat. As for the expansion of cheatgrass and medusahead from intensive overstocking with livestock, the recent Evaluation and Determination dated October 27, 2011 found that Standard 6 (Exotic Plant Communities) were not applicable for the Pole Creek Allotment. Under section 3.1.1, the EA states “cheatgrass, Japanese brome, medusahead, and other annual weeds are scattered throughout the allotment, generally in localized disturbed areas but seldom dominate”. The EA further states “in general, the plant communities in the Pole Creek Allotment are dominated by native species, with little influence of non-natives other than bulbous bluegrass.” Id.

The proposed grazing system reduces active AUMs and eliminates hot season grazing of riparian areas. In addition, it incorporates rest every other year in the Pole Creek Breaks, Horse Flat/Berry Gulch and Scott Springs pastures. The proposed decision also includes a Term and Condition that 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.

3. *We protest the failure of the BLM to address all the very important issues raised in the WWP Juniper Mountain ACEC proposal.*

BLM Response:

See response to Protest Point #1.

4. WWP states that “*We protest the failure to do so [designation of an ACEC].*”

BLM Response:

See response to Protest Point #1.

5. *WWP protest the failure analyze the serious adverse impacts of the radical Juniper treatment and livestock forage scheme that BLM is seeking to impose across Owyhee landscapes-without ever having conducted NEPA review of the sweep of this juniper eradication-for-livestock-forage scheme. There is no valid carrying capacity grazing suitability, ecological site inventory, or other analysis of the ability of this land to sustain livestock grazing at such high and abusive levels.*

BLM response:

As discussed in response to Protest Point # 6, below, the EA comprehensively analyzed all issues associated with the grazing and juniper treatment decisions. (Section 4.0). As per the EA, “Cumulative effects from activities proposed in the Pole Creek Allotment in combination with other activities are discussed below for each resource” (Section 4.0). Additionally, the protest points that challenge the BLM’s juniper treatment plan are outside the scope of this grazing decision. The BLM issued a separate decision addressing juniper treatments in this allotment pursuant to 43 CFR 4.410. Challenges to the rationale and conclusions reached in the juniper treatment decision need to be made in the context of an appeal of that decision.

Section 2.3 E. of the EA discusses how carrying capacity was calculated for the Pole Creek allotment. Based on the Need for Action (Section 1.2) and Management Objectives (Section 2.2.2), the proposed decision reduces active AUMS authorized under the previous 10 year permit from 1,468 active AUMS to 892 active AUMS.

WWP has provided no data or information in their protest to support the claim that use levels far exceed the capability and carrying capacity of the land to support livestock in Juniper Mountain watersheds. Moreover, BLM has analyzed several alternatives with regards to livestock carrying capacity and stocking rates that provide a variety of different AUM levels. Five of the six alternatives analyzed in detail are reductions in AUMS from the current grazing permit.

6. *WWP protests BLM “purposefully flaunting” NEPA, and issuing separate piecemeal grazing and fire decisions. WWP believes an EIS is clearly essential to analyze all direct, indirect, and cumulative impacts of this action on all elements of the environment.*

BLM response:

BLM believes that adequate grazing management changes in the Pole Creek Allotment can be made within the scope of this EA and Finding of No Significant Impact (FONSI) dated 3/1/2012. The EA comprehensively addressed the issues covered in the proposed grazing decision, the juniper treatment decision, and the (as yet unpublished) interim grazing decision, in consequence of which there is no segmentation (or “piecemealing”) of the NEPA analysis. The Owyhee Field Office Manager has reviewed the Council on Environmental Quality (CEQ) regulations for significance (40 CFR 1508.27) and determined the actions analyzed in the EA for the issuance of a grazing permit for the Pole Creek Allotment, Owyhee County, Idaho, would not constitute a major federal action that would significantly affect the quality of the human environment; therefore an Environmental Impact Statement (EIS) is not required. This finding was made by considering both the context and intensity of the potential effects of the grazing alternative selected and its season of use, grazing management system (rest/rotation or deferment) and enforcement of objectives, as will be described in the decision document.

The protest points that challenge the BLM’s juniper treatment plan are outside the scope of this grazing decision. The BLM issued a separate decision addressing juniper treatments in this allotment pursuant to 43 CFR 4.410. Challenges to the rationale and conclusions reached in the juniper treatment decision need to be made in the context of an appeal of that decision.

7. *WWP also challenges and states “We protest the much too early grazing season and the rampant ecological damage that will result.”*

BLM response:

The proposed decision includes a Term and Condition that requires adherence to Boise District Range Readiness Criteria. These criteria ensure that soils are firm, reducing or eliminating impacts to soils. Additionally the Criteria provide that plants will have reached the appropriate growth height prior to turnout. As stated in Sections 3.1.2.3 and 3.1.2.4, the BLM acknowledges that spring grazing during the critical growing season reduces native bunchgrass vigor and the plants’ ability to reproduce (Smith 1998, Brewer et al. 2007). These impacts are mitigated, however, by implementing five out of ten years rest, overall increasing the vigor and revegetative capability. The plants won’t be grazed by livestock five out of ten years on approximately 96% of the allotment. This represents a significant amount of rest for vegetation, particularly considering the utilization levels that are expected (40% or less).

For discussion of specific resources see further protest points. Infra.

Protest received on March 28, 2012 from WWP

8. WWP ask that “*BLM retract the Finalization of the massive fire destruction project that would burn wild land areas in the beautiful Pole Creek Canyonlands.*”

BLM Response:

The protest points that challenge the BLM’s juniper treatment plan are outside the scope of this grazing decision. The BLM issued a separate decision addressing juniper treatments in this allotment pursuant to 43 CFR 4.410. Challenges to the rationale and conclusions reached in the juniper treatment decision need to be made in the context of an appeal of that decision.

9. WWP “*protest the lack of an EIS, and the failure of BLM to prepare a Draft EA.*”

BLM Response:

Please see response to Protest Point #6 for a discussion regarding an EIS.

All comments received in response to the scoping document, dated July 31, 2009, were considered. See Appendix C of the EA.

While regulations at 40 CFR 1503.1 require the circulation of a draft EIS, they do not speak to the necessity of a draft EA. The Department of the Interior (DOI) amended its regulations by adding a new part to codify its procedures for implementing NEPA (Federal Register, Vol. 73, No. 200, October 15, 2008). The regulations at 43 CFR 46.305 address public involvement in environmental assessment process and states in part “*Publication of a “draft” environmental assessment is not required. . . .*” This guidance is also referred to in the Grazing Permit Renewal Desk Guide and a specific Instruction Memorandum (IM No. ID-2009-008).

WWP had multiple comment opportunities throughout the development of the EA. BLM issued a scoping document which provided WWP a 30-day comment. The scoping document provided that “The BLM will not reject public feedback outside established public involvement timeframes; however, these comments may be considered secondary to comments received in a timely manner and may only be assessed to determine if they identify concerns that would substantially alter the assumptions, proposal, design, or analysis presented in the EA.” The scoping document contained identified alternatives that had been developed up to the date the scoping document went out. Other alternatives could have been provided during the scoping period, which the BLM extended at WWP’s request. In addition, there was a phone conversation between the Owyhee Field Manager and Jon Marvel in order to better understand WWP’s concerns, and a WWP-requested tour of Pole Creek Allotment with the Interdisciplinary (ID) Team and Field Manager. Substantial changes from the scoping package to the EA were made in response to

WWP's comments. These included the incorporation of two alternatives considered but not analyzed in detail, and incorporating a wider range of alternatives analyzed (Alternatives C2 and D) in the EA.

10. WWP claims: *"The BLM documents were not Scoping . . . There has been no current carrying capacity and capability analysis provided. "*

BLM Response:

In regard to scoping, please see the responses to Protest Points 9 and 13.

In regard to carrying capacity, please see the response to Protest Points 5 and 17.

11. WWP *"protest massive deforestation as a way to eke out more AUMs in understory-depleted lands highly vulnerable to further weed infestation.*

BLM Response:

Please see BLM response #5; see also the Need for and Purpose of Action identified in Section 1.2 of the EA.

12. *"WWP protest BLM failing to conduct full and integrated analysis of how its grazing disturbance, deforestation and girdling and other proposals would alter, harm, and destroy not only the "target foundational species of western juniper, and also the foundational species sagebrush in the depleted Juniper Mountain sites.*

BLM Response:

Please see BLM response #5.

13. *WWP protests the lack of Critical Assessment in Scoping, BLM's failure to Prepare a Draft EA, and the agency's failure to address in any significant way the very serious ecological concerns related to synergistic impacts of disturbance – and cumulative effects of foreseeable disturbance that spans artificial allotment boundaries.*

BLM Response:

The Owyhee Field Office issued the notice of a 30-day public scoping period on July 31, 2009. With the public scoping notice, the BLM included a scoping package that identified each rangeland health standard not being met and recognized livestock grazing management practices as well as juniper encroachment as factors contributing to this. To focus public input, the scoping package identified three preliminary alternatives and described preliminary resource and management issues for each of these alternatives, and invited the public to identify other resource issues and alternatives using a description of the Affected Environment as a guide. Among the identified resources of concern described in the Affected Environment were upland vegetation, special status plants, wildlife (including special status species), riparian and aquatic resources, water quality, and soils. All of this was presented to maximize the interested public's input that the

BLM received not only during the scoping period, but throughout the development of the EA.

To accommodate a broad public review, the scoping notice stated that public feedback outside the established comment timeframe would not be rejected. The BLM received comments from Western Watersheds Project representatives four times during the 30-day public scoping period and approximately six additional times during September through November 2009. All of these comments were considered and are included in Appendix C of the Environmental Assessment. Western Watersheds Project also accompanied the BLM on a Field trip to the Pole Creek Allotment in November, 2009. The BLM has also properly observed the Stipulated Settlement Agreement of 2008 which requires that the agency consult and coordinate with Western Watersheds Project during monitoring activities of the Pole Creek Allotment, as is described in detail in BLM's response to Protest Point #9.

The CEQ regulations do not require agencies to make EAs available for public comment and review. The CEQ regulations direct agencies to encourage and facilitate public involvement in the NEPA process to the fullest extent possible (40 CFR 1500.2(d), 40 CFR 1506.6). This means that while some public involvement is required in the preparation of an EA, the BLM has the discretion to determine how much, and what kind of involvement works best for each individual EA. For preparation of an EA, public involvement may include any of the following: external scoping, public notification before or during preparation of an EA, public meetings, or public review and comment of the completed EA and unsigned FONSI. The type of public involvement is at the discretion of the decision-maker (H-1790-1 - NEPA HANDBOOK at 61).

Synergistic effects are the effects of actions that together are greater than the sum of their individual effects (NEPA Handbook at 61). The Pole Creek EA addresses this topic in the Cumulative Impacts Analysis sections in two places. The first is related to the synergistic adverse effects from fire suppression, non-native plant invasion, and grazing.

Fire suppression activities have been applied to Juniper Mountain for decades. Non-native invasive plants have been introduced and spread. Synergistic interactions of these changes over time have stressed the ecosystem (Miller and Narayanan 2008). An example of these interactions is the combination of increased juniper and selective grazing both affecting large bunchgrasses (EA at section 4.1 Cumulative Effects—Upland Vegetation/Noxious Weeds).

The second reference is related to the beneficial synergistic effects resulting from implementing juniper treatments and new grazing systems. Long-term juniper treatment effects combined with the improved grazing schemes would work synergistically causing plant communities to move closer to reference environmental conditions for the two watersheds. These effects (as described in the previous paragraph) would improve the capture, storage, and safe release of precipitation, and improve energy flow and nutrient cycling in the area (EA at 4.2 Cumulative Effects—Watershed/Soils, Water Quality, and Wetland/Riparian Areas).

Finally, the effects from reasonably foreseeable future actions involving livestock grazing, juniper treatments, fencing, and other activities is addressed throughout section, 4.0—Cumulative Effects in the EA.

Discussion of the boundaries for the Cumulative Effects analysis (both spatially and temporally) was not based on “artificial allotment boundaries”.; Here is the description and rationale included in the introduction section 4.0 Cumulative Effects from the EA.

Scope

The scope (area and timeframe) of the cumulative effects analysis is described for each resource. Past, present, and reasonably foreseeable future activities and events in the general area that affect all or most resources include livestock grazing, wildfires, juniper treatments (cutting and prescribed burns), and transportation planning. Other activities that may affect only one or a few resources will be discussed in the individual resource sections based on that resource’s cumulative effects analysis area and specific effects to that resource. Reasonably foreseeable additions include activities with completed NEPA scoping or decisions, with implementation planned to begin within three years.

Cumulative Effect Activities

Although different resources used different cumulative effects analysis areas, tailored to the specific issues, a general area can be defined that includes most resources’ cumulative effects analysis areas. This area is approximately delineated by Deep Creek on the east, East Fork Owyhee River on the south, main fork Owyhee River on the west, and the ridge defining the North Fork Owyhee watershed on the north. The analysis area was chosen because it was expected that any activities outside this area would not have any additive effects to those activities proposed in this document. This area is approximately 411,331 acres. Figures in the following table (table CUM 1) of past, present, and reasonably foreseeable future actions within that general area relevant to cumulative effects discussions for this EA are calculated from BLM GIS data. Figures are approximate.

14. WWP states: *“We Protest the Failure to identify all past treatments, and how they impacted ecological conditions and wildlife habitats and populations in a grazed landscape. This is necessary to set a baseline for understanding the likely impacts of any continued grazing use.”*

BLM Response:

Please see BLM response #5; also, regarding the identification of past treatments and their impacts to the affected environment, see Section 4.0 of the EA.

15. WWP claims: *“We Protest the Failure to Identify the Adverse Direct, Indirect and Cumulative Adverse Effects of All Past Livestock Facilities in the affected watersheds.*

BLM Response:

Direct, indirect, and cumulative impacts to these projects are identified for each resource and each alternative in the EA (Sections 3.0 and 4.0). Existing projects were not specifically listed, but were considered as a whole in discussions of specific resources. As per the CEQ’s 2005 Memorandum *Consideration of Past Actions in Cumulative Effects Analysis* “Agencies are not required to list or analyze the effects of individual past actions unless such information is necessary to describe the cumulative effect of all past actions combined. Agencies retain substantial discretion as to the extent of such inquiry and the appropriate level of explanation. *Marsh v. Oregon Natural Resources Council*, 490 U.S. 360, 376-77 (1989). Generally, agencies can conduct an adequate cumulative effects analysis by focusing on the current aggregate effects of past actions without delving into the historical details of individual past actions.” A discussion regarding the scope of cumulative effects analysis for each resource is presented in the EA (Section 4.0).

16. *WWP Protest the Lack of a Comprehensive Baseline Exotic Species Inventory and Risk Assessment.*

BLM Response:

This level of inventory, assessment and risk assessment is outside the scope of a grazing and juniper treatment EA.

BLM is aware that weeds and exotic species exist in localized disturbed areas on the allotment.

Under the Need for and Purpose of Action, BLM’s Management Objectives, and Idaho Standards and Guides for Livestock Grazing Management, it is the goal of the EA and proposed decision to improve the health and viability of native vegetation species. As such goals are achieved, these lands will be less susceptible to invasive weed infestations. See also section 4.1 for a discussion of the potential spread of invasive weed species in the absence of grazing.

Please also see BLM’s response to Protest Point #2.

17. *“WWP Protest the Failure to Conduct Current Capability, Carrying Capacity and Grazing Suitability Analyses Where All Values of Public Lands Are Fairly Examined and Weighed.”*

BLM Response:

The EA, in Section 2.3, the BLM did complete a carrying capacity analysis.

Estimated carrying capacity was calculated to be 1,917 AUMs on the Pole Creek Allotment. Using utilization and actual use data from 1988-2011, the following formula was used to calculate the estimated carrying capacity:

$$\frac{\text{Actual Use}}{\text{Actual Utilization}} = \frac{\text{Estimated Carrying Capacity}}{\text{Objective/Desired Utilization}}$$

Desired or objective utilization levels for the allotment were calculated using 50% for herbaceous species due to livestock use during the summer (see Section 2.2.2). The actual use used in this formula was determined from the start of the grazing season through the date utilization was read from 1988-2011. All data were used for all years that both actual use and utilization data were available in the initial calculations (Appendix A). When utilization levels were recorded for more than one species, the highest use level was used (Idaho fescue and Bluebunch wheatgrass). This method uses the concept of “limiting factor” which recognizes that the species used the most will determine the level of grazing use that will best manage for maintenance of the key forage species.

This alternative was not analyzed in detail because it is a 31% increase (1,917 AUMs) over the current Active AUMs of 1,468.

Additionally, the BLM conducted a production and stocking rate summary based on the ecological site descriptions found in the Pole Creek Allotment to calculate expected utilization levels based on each alternative analyzed in the EA. The following process was used to make the summary; the total production for each Ecological Site Description (ESD) was taken from the NRCS Draft descriptions. The number of acres for each ESD within the Pole Creek Allotment was calculated through the Soil Data Viewer on GIS. The percentage of each ESD was calculated within the allotment. This amount is also considered the percentage per acre. The percentage per acre was multiplied by the pounds per acre (grasses and grass-likes) for each ESD and summarized by low, representative value, or high annual production. The amount of forage required was then divided by the production (grasses and grass-likes) per acre and multiplied by 100 to get the estimated utilization levels. These estimated utilization levels assume uniform use throughout the use area, so actual utilization levels will be higher, depending on livestock distribution. Distribution is expected to be much better during the spring use periods than hot season. Therefore, the difference between the estimated utilization levels and actual utilization levels would be less during spring use.

18. *“WWP Protest that BLM Fails to Examine The Role of Reduced Livestock Grazing on Watersheds - and The Role This Has Had in "Improving" Condition, As Well As The Lack of Intensive Grazing In Steeper or Rocky Areas. How Will This All Change As Livestock Are Funneled into New Areas Due to Barbed Wire Fencing Schemes, Deforestation, and Other Parts of this Grazing Scheme?(sic)”*

BLM Response:

The EA BLM prepared analyzed six alternatives in detail. Four of the six alternatives analyzed were reductions in AUMS from the previously permitted 1,468 active AUMS. In addition to the four reduced AUM alternatives, BLM analyzed an additional alternative for the Pole Creek Allotment that identified rest for a ten year period with no livestock use (0 AUMS) proposed for the entire Pole Creek Allotment.

All projects identified in the March 2, 2012 proposed decision were designed to improve the resources on the Pole Creek Allotment. Gap fences and spring exclosures will improve riparian areas and benefit wildlife. The Horse Flat Pasture Division Fence project would create an additional pasture allowing for further pasture rotations, thus reducing time cattle are in any particular pasture. The projects allow for the implementation of a rest rotation system and deferred grazing system that will improve resource conditions in the Pole Creek Allotment.

The 2012 Determination states “Although higher elevation, loamy sites are grazed in part during the growing season, the relatively light utilization is not likely to be a significant factor in affecting Standard 4. Current grazing management (assuming use from approximately July 1 to July 26 in Pasture 1A and July 27 to August 31 in Pasture 1B for about 892 total active AUMs) is not significantly affecting native upland plant communities. This is because upland utilization is light, the grazing period is relatively short, and much of the use occurs after the critical growing season, at least for low elevation low sagebrush sites.” This statement accurately summarizes BLMs interpretation of the monitoring data on the Pole Creek Allotment, and concurs with WWP that “no evidence for its claim that critical growing season use is the problem”. WWP is correct in saying that many areas were not grazed during the critical growing season, but incorrect by saying that these areas were overstocked. As per Appendix A of the EA, a detailed summary of the actual use AUMs, season of use, and overall utilization is summarized by pasture and year, as commented by WWP. This appendix shows that overall utilization is $\leq 27\%$ since 2008. The monitoring data requested by WWP is available in the Affected Environment sections for each resource in the EA. Such as, Section 3.1.1 outlines the utilization and trend data, among several other monitoring discussions. The EA analyzed several alternatives with various stocking rates. As stated in BLM’s response to Protest Point #18 above, two different carrying capacity studies were completed to determine the accuracy of the proposed stocking rates in the alternatives that take into account different ecological sites and their production, as well as utilization at actual use levels.

19. WWP claims in their protest: *“the lower elevations of the allotment and the low sagebrush flats, and at higher elevations the bench/table tops with occasional intrusions of big sagebrush n (sic) deeper soil sites are critical for sage-grouse nesting.”*

BLM Response:

BLM has developed the alternatives for the Pole Creek EA taking into account the importance of sage grouse nesting habitat. As stated in Section 3.5.1 of the EA,

Based on an interim, updated (2011) version of the Idaho Sage-grouse Habitat Planning Map, approximately 24% (5,559 acres) of the allotment is considered potential sage-grouse habitat (Map 6). However, approximately 90% (5,043 acres) of the potential sage-grouse habitat in the allotment is unsuitable due to the extensive juniper expansion in the area. Currently, only 2% (516 acres) of the allotment can be considered key sage-grouse habitat (Map 6). . . .

Two leks (i.e., 2O227 and 2O632) are located within five miles of the Pole Creek Allotment (Map 6), although neither occurs within the allotment boundary. Because few systematic counts have been conducted at these leks over the last 15 years, trends in lek attendance are difficult to extrapolate. The two leks, 2O227 and 2O632, were surveyed in 2010 and 2011. Strutting males were observed only at 2O227 in 2010. In 2011, no displaying males were observed at either lek. Currently, only 2O227 is considered occupied based on the presence of males observed during surveys in the last five years.

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) (Map 6) where sagebrush habitat is still available and junipers are absent or in the early seral stages.

Information regarding all known sage-grouse lek locations and count records can be obtained by contacting Idaho Fish and Game and Oregon Department of Fish and Wildlife and are outside the scope of this EA. The affected local and regional sage-grouse populations, population trend, cumulative impacts to those populations, and the extent of available sagebrush habitat are discussed in Section 4.3 of the EA. Past, present, and future actions affecting the general cumulative effects area, including wildfire, juniper treatments, and noxious weed treatments, are discussed in Section 4.0 of the same EA.

As stated in Section 3.5.2 of the EA,

Although grazing under Alternative C1 would occur during the critical growing season and utilization is estimated to be >30% but < 50% every other year, upland vegetation would have the opportunity to have the opportunity to recover and an increase in vigor would be expected due to rest five out of ten years. Grazing management in sage-grouse habitat should include 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 (Cagney et al. 2010). General

grazing management recommendations for nesting/early brood-rearing habitat includes maintaining the sagebrush/bunchgrass plant community wherever currently present, managing for high vigor in all plant communities, avoiding repeated use of cool-season bunchgrasses during the critical growing season, and limiting utilization to moderate levels to assure that the previous year's standing crop is available for hiding cover (Cagney et al. 2010). Light or moderate use levels during use years may be appropriate for providing an adequate standing crop during the subsequent nesting/early brood-rearing season depending on the frequency of use and the opportunity to regrow delivered by the grazing strategy (Cagney et al. 2010). Rest five out of ten years with moderate (~50% utilization) levels of use during use years is expected to maintain and/or improve vigor, healthy root systems, and provide adequate cover for sage-grouse in the long-term.

20. *"[WWP] Protests the failure to examine the role that perpetuating grazing here has had in coloring BLM's wholesale abandonment of forestry principles in managing the JUNIPER MOUNTAIN landscape. Junipers occupy Juniper Mountain. Instead of treating them like weeds, BLM must provide a detailed forest analysis and preserve all mature or old growth trees. Old growth must be any trees over 150 years of age. Please provide detailed information on stands and stand history. Are there charred stumps and roots, cut stumps, etc. on sites? If so, where? What do these show about past fire or BLM "treatments"? What is the density and age class structure of stands? What trees have annual grass "haloes" in understories? Understories of moss? What is the potential vs. current microbiotic crust composition of western juniper on these sites?"*

BLM Response:

Please see BLM response #5.

21. *"We Protest the failure to conduct adequate FRH Assessment and Determination documents that fully examined the conditions of watersheds, aquatic species habitats, and wildlife habitats."*

BLM Response:

BLM interprets FRH Assessment to be an abbreviation of Fundamentals of Rangeland Health and equates that abbreviation to Rangeland Health Assessment (RHA). In 2001 BLM conducted and distributed to the public, including WWP, RHA and determinations for the Pole Creek Allotment. Subsequently, BLM has conducted a field visits, utilization monitoring, trend monitoring, and riparian monitoring (WWP participated in riparian monitoring). In 2011, BLM completed a new evaluation and determination of the Pole Creek Allotment, which incorporated data collected since the 2001 assessment.

WWP has not, in this comment, identified the “inadequacy” of the FRH Assessment and Determination such that BLM can further address this issue.

22. *“We Protest BLM failure to consider a reasonable range of alternatives, and to fairly analyze the impacts of no Grazing, as well as significantly reduced gazing.”*

BLM Response:

The EA analyzed in detail six alternatives. An additional seven alternatives were considered but not analyzed in detail. BLM believes this is an adequate and reasonable range of alternatives. Section 3.5.2.6 of the EA give a detailed analysis of the no grazing alternative and BLM considered this alternative along with all other alternatives fairly. In the Alternative BLM selected (preferred alternative C1), BLM even selected a further reduction in active AUMS from amount identified in the preferred Alternative C1.

Also see discussion of alternatives in responses to Protest Points #5, #9 and #20.

23. *“WWP protest BLM allowing grazing disturbance to occur on top of nesting sage-grouse. WWP Protest BLM failing to examine the sustainability and viability of the sage-grouse populations (local and regional). We Protest BLM's failure to define the population, and failure to examine all direct, indirect, and cumulative adverse impacts and foreseeable threats to sage-grouse habitats and populations. These actions will cause undue degradation to an inter-state population of sage- grouse.”*

BLM Response:

The affected local and regional sage-grouse populations, population trend, and the cumulative impacts to those populations are discussed in Section 4.3 of the EA. Past, present, and future actions affecting the general cumulative effects area, including livestock grazing, wildfire, juniper treatments, and noxious weed treatments, are discussed in Section 4.0 of the same EA.

In addition, see BLM’s response to Protest Point #21.

24. *“WWP Protest stocking these lands at 892 AUMs without a valid carrying capacity, ESI, productivity/production study, capability study, use pattern mapping, suitability analysis, and risk assessment. All of this is essential to understand the suitability of the allotment to withstand grazing disturbance. We Protest the imposition of 350 cattle on top of nesting sage-grouse, during periods when soils are very muddy, and during the active and critical growing period for native grasses. We Protest BLM not sufficiently analyzing how grazing will occur during the plague of treatments where BLM proposes to deforest, de-stabilize and disturb wildlife habitats here - including burning sagebrush.”*

BLM Response:

As outlined in the EA, the BLM did conduct a valid carrying capacity study and considered the current ecological sites, recent utilization, and actual use data. Please refer to BLM Response 5 and 17 above. Additionally, the BLM intends to implement Interim Livestock Grazing Management following the completion of juniper treatments consistent with those outlined in the EA. The BLM anticipates issuing proposed and final decisions for these interim livestock grazing management changes upon completion of the current/ongoing litigation for the Final Juniper Treatment Decision on the Pole Creek Allotment. The BLM thoroughly analyzed grazing during the interim period, as outlined in each resource for each alternative, both in the effects from livestock grazing and effects from juniper treatment sections.

See protest response 7 for a discussion on range readiness criteria in relation to early season grazing comments. Protest responses 21 and 26 above also address sage grouse habitat within the Pole Creek allotment.

As stated in Sections 3.1.2.3 and 3.1.2.4, the BLM acknowledges that spring grazing during the critical growing season reduces native bunchgrass vigor and the plants' ability to reproduce (Smith 1998, Brewer et al. 2007). However, implementing five out of ten years rest is expected to mitigate these effects and overall increase the vigor and reproducing capability. Plants will not be grazed five out of ten years on approximately 96% of the allotment, a significant amount of rest for vegetation, particularly considering the utilization levels that are expected as per the Final Decision (40% or less).

25. *"We Protest BLM allowing sage-grouse and migratory bird, spotted frog, redband trout spawning and other habitats to be swamped with large numbers of livestock under the very high stocking rates, and even increased more under "flexibility"."*

BLM Response:

Please see BLM's response to Protest Point #7 for range readiness. Allowing up to 500 head of cattle does not result in an increase in acres per AUM. A shortened season of grazing will result in a greater number of livestock (up to 500 head) within the allotment, but actual AUMs authorized to graze would not exceed 892 as analyzed in the EA. If livestock turnout is delayed, the permittee is responsible for determining where to put them and any "impacts" that occur on that (non-BLM) land are the responsibility of that landowner/agency. Livestock will not be authorized on the Pole Creek Allotment until range readiness criteria are met. Based on the date livestock will turn out, at range readiness, the BLM will recalculate the remaining number of days left during the grazing season (up to June 30), and determine the number of livestock that may be grazed (up to 500 pairs). For example, if range readiness does not occur until May 1, the approximate number of livestock that may be grazed through June 30 (61 days) is 458 cattle (pairs) at 97% public land for 892 AUMs. Use will be verified within 15 days of the off-date through submittal of an actual use form by the permittee.

26. *"WWP Protest BLM allowing open-ended "changes to the livestock grazing schedule".
Line 6. We Protest the lack of mandatory required measurable standards of use as Terms*

and Conditions of the grazing permit. We Protest BLM failing to protect significant land areas from livestock grazing disturbance.”

BLM Response:

See BLM’s response to Protest Point #28. In addition, 43 CFR 4130.4 allows for approval of changes in the grazing use within the terms and conditions of the permit. 43 CFR 4130.4 (b) states in part “Changes in grazing use within the terms and conditions of the permit or lease may be granted by the authorized officer.” Any proposed changes must be made within the sideboards of the mandatory terms and conditions which include the allotment, livestock kind and number, season of use, and AUMS and the other terms and conditions listed on the permit.

Any changes outside the mandatory terms and conditions and the other terms and conditions of the permit would be made in accordance with 43 CFR 4130.3-3 which requires BLM to consult, cooperate, and coordinate with the affected lessees or permittees, the State having lands or responsible for managing resources within the area, and the interested public.

BLM has included a Term and Condition which states “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.” (See Proposed Decision Other Terms and Conditions, number 10)

A no-grazing alternative (Alternative D) was analyzed in the EA.

27. *“We Protest BLM failing to detail specifically what is meant by "Objectives being met", "trending in the right direction" and other loose, uncertain subjective wording.”*

BLM Response:

As stated in the Terms and Conditions for the proposed alternative (Section 2.2.4), “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.” For example if the 40% objective for upland utilization on key species is exceeded for two consecutive years or two consecutive rotation cycles, BLM would reduce AUMs based on the extent use levels exceeded the objective. As stated in the EA (Section 2.2.1), “Monitoring studies would be conducted during the term of the permit in accordance with the Idaho Minimum Monitoring Standards (USDI-BLM 1984) and IM ID-2008-022 (Monitoring Strategies

for Rangelands) (USDI- BLM 2008a). Monitoring studies (1-6 years) would 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.”

28. “*We Protest the failure of BLM to provide adequate Mitigation...*”

BLM Response:

See the FONSI for the Pole Creek EA for support of the adequacy of the mitigation identified therein.

29. “*We Protest BLM's willy-nilly destruction of proposed ACEC values without any adequate analysis or mitigation. . . .There is no detailed analysis of leks, lek status, bird numbers at all leks over time, etc.*”

BLM Response:

The protest points that challenge the BLM’s juniper treatment plan are outside the scope of this grazing decision. The BLM issued a separate decision addressing juniper treatments in this allotment pursuant to 43 CFR 4.410. Challenges to the rationale and conclusions reached in the juniper treatment decision need to be made in the context of an appeal of that decision.

Please refer to Sections 3.0 and 4.0 for analysis.

As stated in Section 3.5.1 of the EA, two leks (i.e., 2O227 and 2O632) are located within five miles of the Pole Creek Allotment (Map 6), although neither occurs within the allotment boundary. Because few systematic counts have been conducted at these leks over the last 15 years, trends in lek attendance are difficult to extrapolate. The two leks, 2O227 and 2O632, were surveyed in 2010 and 2011. Strutting males were observed only at 2O227 in 2010. In 2011, no displaying males were observed at either lek. Currently, only 2O227 is considered occupied based on the presence of males observed during surveys in the last five years.

Information regarding all known sage-grouse lek locations and count records can be obtained by contacting Idaho Fish and Game and Oregon Department of Fish and Wildlife and are outside the scope of this EA. The affected local and regional sage-grouse populations, population trend, cumulative impacts to those populations, and the extent of available sagebrush habitat are discussed in Section 4.3 of the EA. Past, present, and future actions affecting the general cumulative effects area, including wildfire, juniper treatments, and noxious weed treatments, are discussed in Section 4.0 of the same EA.

30. *“We Protest the State line fence-- this will have serious adverse impacts for sage-grouse, antelope wintering mule deer and elk, and migratory birds, raptors and owls that may fly into it. We Protest the Horse Flat Pasture division fence.”*

BLM Response:

Based on this comment and other comments received, the BLM will monitor the drift of livestock for three years on the Pole Creek Allotment in the location of the State Line Fence. Because of the change in season of use on the Pole Creek Allotment, the permittee will use the Oregon State Lands during the summer (previously in the spring). This change in season of use is expected to result in drift of livestock from the Oregon State Lands, where it is lower elevation and drier, to the Pole Creek Allotment, where it is higher elevation and additional water. Due to the comments received, the BLM will delay the construction of this fence and monitor the drift of livestock. If drift occurs that will affect the resources and the Standards, the fence will be constructed following the third year. If no noticeable livestock drift occurs, the fence will not be constructed.

With respect to the Horse Flat Pasture division fence, we have analyzed the concerns identified in this comment and believe they are outweighed by the benefits accrued. As stated in Section 3.5.2.3 of the EA,

Direct effects from the construction of fences could include removal and damage of habitat along and adjacent to fence lines, injury or mortality of wildlife species due to fence collisions, and impediments to daily or seasonal travel. In particular, the construction of the allotment/division and gap fences would pose some degree of interference to big game movements. However, improved habitat and reduced competition between cattle and big game would be realized from better distribution of livestock grazing within the allotment. Additionally, the proposed fences and cattle guard would aid in the exclusion of unauthorized livestock drifting into the allotment from adjacent lands and prevent displacement of deer and elk during periods outside of the authorized season of use. The reduction of livestock access to streams due to gap fences would allow riparian areas to recover and improve habitat for species using those areas. ...Short-term risk of sage-grouse fence collisions would be negligible because new fence construction would not occur within currently suitable habitat.

31. *“We Protest the middle Fork Owyhee enclosure.”*

BLM Response:

Refer to Sections 3.1.2.3, 3.2.2.3, 3.3.2.3, 3.4.2.3 and 3.5.2.3 for discussions of effects relating to range improvements.

Construction of this enclosure would eliminate the water gap on the Middle Fork Owyhee River and would allow for improvement of the riparian area. As discussed in Section

2.2.3 of the EA, this would allow livestock to water in approximately 0.25 miles of the river while excluding approximately 4.7 miles from livestock. Protecting the riparian areas from livestock use would allow for significant progress to be made toward meeting Standards 2 and 3.

32. *“We protest the Middle Fork Owyhee River gap fences.”*

BLM Response:

Refer to Sections 3.1.2.3, 3.2.2.3, 3.3.2.3, 3.4.2.3 and 3.5.2.3 for discussions of effects relating to range improvements.

Two 50 foot gap fences would be constructed in the Middle Fork Owyhee River Canyon. Because this is a steep isolated area, once livestock go to the river to water, they usually do not come out of the canyon until all livestock are removed from the pasture. These gap fences are necessary to restrict livestock access to the lower portion of the Middle Fork Owyhee River which would improve riparian conditions and allow for significant progress to be made in Standards 2 and 3.

33. *“We Protest the Scott spring gap fence.”*

BLM Response:

Refer to Sections 3.1.2.3, 3.2.2.3, 3.3.2.3, 3.4.2.3 and 3.5.2.3 for discussions of effects relating to range improvements.

This small stretch of fence would prevent cattle from accessing the Scott Spring Creek stream corridor which further reduces access to the Middle Fork Owyhee River, allowing for significant progress to be made in Standards 2 and 3.

34. *“We Protest the little Willow Springs Gap Fence.”*

BLM Response:

Refer to Sections 3.1.2.3, 3.2.2.3, 3.3.2.3, 3.4.2.3 and 3.5.2.3 for discussions of effects relating to range improvements.

This project restricts access to the riparian area/meadow, allowing for significant progress toward meeting Standards 2 and 3.

35. *“We Protest that Little Willow Spring Exclosure Expansion.”*

BLM Response:

Refer to Sections 3.1.2.3, 3.2.2.3, 3.3.2.3, 3.4.2.3 and 3.5.2.3 for discussions of effects relating to range improvements.

This proposed project would expand the existing exclosure to include the entire wetland and to protect thinleaf goldenhead, a special status plant. This project would protect almost the entire riparian area/meadow which would allow for significant progress to be made towards meeting Standards 2 and 3.

36. *“We Protest the Big Willow spring exclosure expansion and rehab. We Protest the CCC Spring exclosure.”*

BLM Response:

Refer to Sections 3.1.2.3, 3.2.2.3, 3.3.2.3, 3.4.2.3 and 3.5.2.3 for discussions of effects relating to range improvements.

These projects would include and protect almost the entire riparian area/meadow which would allow for significant progress to be made towards meeting Standards 2 and 3.

37. *“We Protest the Manada Fat pipeline reconstruction.”*

BLM Response:

Refer to Sections 3.1.2.3, 3.2.2.3, 3.3.2.3, 3.4.2.3 and 3.5.2.3 for discussions of effects relating to range improvements.

This pipeline is minimally functional in its current condition, which reduces the availability of water. This may lead to poor livestock distribution across the pasture. Livestock must then use other watering sources which may be undeveloped riparian areas or other unprotected sensitive areas where impacts may occur. Reconstruction of this pipeline would improve water availability and increase livestock distribution potential.

38. *“We Protest the Pole creek/Trout Springs Cattle guard.”*

BLM Response:

Refer to Sections 3.1.2.3, 3.2.2.3, 3.3.2.3, 3.4.2.3 and 3.5.2.3 for discussions of effects relating to range improvements.

Installing a cattle guard would alleviate past problems with the gate being left open between the Trout Springs and Pole Creek allotments. The cattle guard will effectively keep cattle on the appropriate side of the allotment boundary. The cattle guard was determined through the EA (individual analysis by resources in Section 3.0), to have only a localized adverse impact which would affect only a fraction of the resources allotment wide. The project would have an overall benefit by preventing unauthorized livestock access.

39. *“We Protest the Horsehead Spring Rehab.”*

BLM Response:

Refer to Sections 3.1.2.3, 3.2.2.3, 3.3.2.3, 3.4.2.3 and 3.5.2.3 for discussions of effects relating to range improvements.

This project would restore the spring and hydric vegetation that has been altered and destroyed by past actions (not authorized by the BLM) to a more natural state.

40. WWP claims in their protest: *“All of the above projects have not been adequately analyzed with site-specific information on everything from water flows to the extent of wet meadows, to how fence configuration will funnel and concentrate livestock use on sensitive areas. We Protest this.”*

Site specific clearances for the projects have been conducted for botany, wildlife and cultural resources. Potential impacts of the proposed alternatives are located in Section 3.0 of the EA. Riparian exclosures are developed to reduce the livestock impact to sensitive areas. For example, several exclosures or expansions of existing exclosures are proposed in an effort to encompass a larger area of the wet meadow complex or spring area in order to further protect riparian resources; sage-grouse protection markers will be installed on all new fencing. Additional gap fences are proposed to restrict access to riparian areas.

41. *We Protest the BLM consulting with the permittee about an alternative, but not WWP - where BLM has maintained a locked door mindset.”*

BLM Response:

See BLM’s response to Protest Point numbers 1 and 9.

WWP was offered numerous opportunities to participate in the NEPA process. BLM solicited input from interested publics through the scoping process which outlined a timeframe for feedback which BLM extended at WWP request. Within the scoping document, BLM stated that “ The BLM will not reject public feedback outside the established public involvement timeframes; however, these comments may be considered secondary to comments received in a timely manner and may only be assessed to determine if they identify concerns that would substantially alter the assumptions, proposal, design, or analysis presented in the EA.”

WWP has submitted two proposals. Please refer to BLM’s response to Protest Point numbers 1 and 9. BLM strives to maintain communication with all interested public; one such example is a field tour organized for WWP in November of 2009.

In response to the remainder of the paragraph, the vegetative treatments are separate from the grazing final decision. Alternatives were not developed or analyzed with the expectation of increasing livestock use in the Pole Creek Allotment. In fact, the proposed decision reduces active AUMs from the previous permit. The protest points that challenge the BLM's juniper treatment plan are outside the scope of this grazing decision. The BLM issued a separate decision addressing juniper treatments in this allotment pursuant to 43 CFR 4.410. Challenges to the rationale and conclusions reached in the juniper treatment decision need to be made in the context of an appeal of that decision.

42. *"We Protest BLM's claim that this complex decision and BLM's elaborate, expensive and extraordinarily damaging grazing and forage production-through-deforestation scheme can slide by with a mere FONSI."*

BLM Response:

The Need and Purpose of Action are clearly defined in the EA (Section 1.2). The livestock grazing decision was coordinated with the livestock grazing permittee who completely understands not only the grazing rotations, but also the terms and conditions of the permit in which the permittee must abide. WWP's claim of damaging grazing and forage production through deforestation scheme is unfounded. The EA does not contain any analysis of damaging grazing and forage production through deforestation scheme to increase forage for livestock grazing. The EA actually analyzes different alternatives in order for the authorized office to select the alternative that will allow the allotment to make significant progress on standards it is not meeting due to livestock grazing management. The Owyhee Field Office Manager has also reviewed the Council on Environmental Quality Regulations (CEQ) for significance (40 CFR 1508.27) and has determined the actions analyzed in the EA (incorporated by reference into this document) for the issuance of a grazing permit for the Pole Creek Allotment, Owyhee County, Idaho, would not constitute a major federal action that would significantly affect the quality of the human environment; therefore an Environmental Impact Statement is not required.

43. *"We Protest the failure to conduct a current WSA/roadless lands inventory."*

BLM Response:

The BLM Owyhee Field Office (OFO) did in fact complete a wilderness characteristics inventory of the lands within the Pole Creek Allotment. As directed by Section 201 of FLPMA, BLM originally inventoried the public lands in the Pole Creek Allotment in the 1970s to determine whether they possessed Wilderness Characteristics. The OFO is currently completing an update of the 1970's wilderness inventory. As part of this process, OFO staff reviewed units within the Pole Creek Allotment and determined that approximately 98% of the Allotment contains Lands with Wilderness Characteristics. Those findings are discussed in the Pole Creek Environmental Assessment.

44. *“We strongly Protest the claim that "native plant communities are not being met due to juniper". How can BLM ignore the vast areas of bulbous bluegrass, the lack of Idaho fescue over many areas, and make such an arbitrary bogus claim? This is dishonest and false to ignore the severe damage caused by livestock to native plant communities. The higher elevation sites are juniper sites - based on precip, elevation, winter snow, etc. They are NOT sagebrush sites. Sagebrush is present only as a result of disturbance - and it is a seral species.”*

BLM Response:

As stated in section 3.1.1 of the EA, “the significant causal factors for not meeting the Standard are juniper encroachment (covering 45% of the allotment compared to 8% expected under a natural disturbance regime) and (pre-2008 grazing management (moderate or higher intensity, season of use during the critical growing season for loamy sites, and no rest). (In 2008 the BLM and WWP entered into a settlement which contained a “monitor and move” stipulation.) Invasive grasses, such as bulbous bluegrass and annual bromes, affect native plant communities in localized areas within the allotment, but are not driving ecological processes at the landscape scale because of their patchy distribution and/or relatively low density, so are not considered significant factors. Although higher elevation, loamy sites are grazed in part during the growing season, current grazing management (2008-2011) results in slight to light upland grass utilization and a shorter grazing period, so it does not have a substantial effect on the native plant communities. Therefore, current grazing conforms with Idaho Guidelines for Livestock Grazing Management applicable to Standard 4.”

The same section of the EA describes the community types expected for the major ecological sites mapped. As found in Section 3.1.1:

Ecological sites are a description of the expected vegetation based on soils, climate (precipitation and temperature), and a natural disturbance regime. The Pole Creek Allotment is composed of four major ecological sites (Table UV1 and Map 5). They include a loamy 13-16” precipitation mountain big sagebrush/bluebunch wheatgrass and Idaho fescue site, a very shallow stony loam low sagebrush site, a shallow claypan low sagebrush site, and steep rocky canyons. See USDANRCS 2005 for a more detailed description of the dominant ecological sites.”

The EA continues with an explanation of the ecological sites that are mapped within the Pole Creek Allotment:

The ecological sites indicate that under a natural disturbance regime the Pole Creek Allotment should be dominated by sagebrush/bunchgrass communities. Other vegetation types, such as mahogany, juniper, aspen, and riparian areas, are expected to occur as unmapped inclusions within the larger ecological sites.”

45. *“We Protest a rest-rotation scheme. Without much more significant cuts in livestock, it will also be impossible for BLM to conduct its massive treatment disturbance scheme without more significant reductions in livestock.”*

BLM Response:

Rest-rotation grazing schemes have been extensively researched and are noted to have advantages and disadvantages, as with all grazing systems. Technical Reference (TR) 1737-20 states “Hormay (1976) emphasized that each rest-rotation system should be designed to meet the resource needs of the area. The amount of rest, stocking rate, and season of use should be determined based on the growth requirements of all the vegetation present. Rest-rotation does not dictate heavy grazing under any treatment.” The BLM designed the alternatives to meet the needs of the resources on this specific allotment. The plants won’t be grazed five out of ten years on approximately 96% of the allotment, a significant amount of rest for vegetation, particularly considering the utilization levels that are expected as per the Proposed Decision (40% or less). Although the AUMs are the same under this rest-rotation system compared to the average actual use from 2008-2011, two different carrying capacity calculations were completed to confirm the stocking rate and expected utilization levels. See BLM’s response to Protest Point #18 for further explanation and rationale. As explained and thoroughly analyzed in Section 3.1.2.4, the increased residual vegetation from five out of ten years rest will provide additional forage, reducing the utilization.

46. *“We Protest BLM blaming "past" grazing management and junipers for the understory depletion- WHAT time period is past? Yesterday? This too is completely arbitrary. It is grazing that alters the understory - NOT trees. HOW did BLM account for the importance of microbiotic crusts here?”*

BLM Response:

BLM considers past grazing management as the time period previous to the current existing ten year grazing permit. The “current livestock” grazing management is the existing ten year permit that is up for renewal and/or any modifications made to the existing permit during the existing permits effective dates. While improper grazing can alter understory, proper grazing management does not inevitably alter the understory in a negative manner. Juniper encroachment has and continues to play a significant role in altering the Pole Creek understory vegetation. This is discussed in detail in throughout the EA.

Microbiotic crusts are discussed and analyzed in sections 3.1.1 and 3.1.2 of the EA.

47. *“We Protest the excessive AUMs and utilization levels that are being applied here. These levels will not provide for sage-grouse, migratory bird, and other rare and imperiled species required habitat components.”*

BLM Response:

The March 12, 2012 proposed grazing decision reduced the 1,468 active AUMS available on the former permit down to 892 active AUMs, a further reduction. The proposed decision under the rationale (pg. 7), states that the reduction to 892 Active AUMs will provide for a lighter utilization (approximately 40% or less) throughout the allotment. The light stocking rate, rest and/or deferment every other year, and expected light utilization levels will improve plant vigor, recruitment, and soil cover. Therefore, significant progress towards Standard 4 will be made in the short and long term. Map 6 of the EA identifies that there are very limited key sage-grouse habitats within the Pole Creek Allotment. The potential to restore sage-grouse is also not allotment-wide currently; however, with juniper treatments, additional greater sage-grouse habitat can return to the allotment (see Map 6).

48. *“We Protest BLM’s confusing, twisted, elaborate justifications in the entire PD rationale, 6-10. There would be intensified damage under the elaborate pasture fencing and other schemes.”*

BLM Response:

The proposed action was thoroughly analyzed in the EA and the rationale is accurate and reflects the expected outcomes following implementation of the proposed decision. Pastures will be rested 5 years out of a ten year period. The reduction to 892 active AUMS from the previously permitted 1468 active AUMS will provide for a lighter utilization (approximately 40% or less) throughout the allotment. Pasture rest and deferment will improve upland and riparian vegetation communities.

The range improvements planned for the allotment will benefit both riparian and upland pastures. These improvements have also been designed to improve sage-grouse habitat. Gap fences will protect riparian areas which will benefit wildlife species. Springs enclosures would protect the integrity of the current riparian vegetation community while allowing the community to expand and grow. Renewal of riparian areas would benefit sage grouse and other wildlife species. The Horse Flat division fence would create an additional pasture allowing for further pasture rotations, thus reducing the time cattle are on a particular pasture. WWP has provided no evidence that these proposed projects would cause intensified damage in the allotment.

49. *We Protest BLM not including all the Interested Public in its mailing list.*

BLM Response:

BLM has included all identified interested publics on record in the Pole Creek Proposed Grazing Decision and the Juniper Treatment Final Decision. In fact, BLM has consulted and provided WWP with substantial comment opportunities throughout the development of the Pole Creek EA starting with the scoping package, followed by an extensive phone conversation between the Owyhee Field Manager and Jon Marvel in order to better understand WWP’s concerns, and a WWP requested tour of Pole Creek Allotment with

the ID team and FM. Substantial changes from the scoping package to the EA were made in large part due to WWPs comments. These included the incorporation of two alternatives considered but not analyzed in detail, and incorporating a wider range of alternatives analyzed in the EA. BLM does not plan to retract the Proposed Decision and the Final Juniper Treatment Decision: we do, however, welcome names and addresses of other interested publics interested in our decisions.

50. *We Protest BLM failing to adequately examine what impacts will be to lands where grazing will be intensified due to the extensive new barbed wire. BLM has greatly failed to examine alternatives that provide for application of more conservative use standards as triggers for removal -rather than an expanded barbed wire maze. There is a severe lack of information on flow rates, changes inflow over seasons, soil stratigraphy, spring types, etc. in all the springs that are targeted for development.*

BLM Response:

The EA analyzed in detail a total of six alternatives, with range improvements, including new fencing, analyzed in all applicable alternatives. The fencing identified in the proposed decision is minimal in length (see section 2.2.3 and will facilitate the allotment's movement towards meeting standards by creating additional pasture, preventing cattle access to riparian areas and expanding enclosures. In response to comments, the BLM is deferring construction of the state line fence, pending further study and demonstrated need. Section 3.5.2.6 of the EA gives a detailed analysis of the no grazing alternative and BLM considered this alternative along with all other alternatives. In the Alternative BLM selected (preferred alternative C1), BLM even selected a further reduction in active AUMS from the amount identified in the preferred Alternative C1. There are no new spring developments identified in the EA.

BLM agrees that there is no analysis of spring flow rates in the EA. It is not BLM's normal procedure to obtain or analyze such information in environmental analyses for grazing decisions, as the information provided would be unlikely to affect the analysis driving the decision.

51. *We Protest BLM's failure to apply firm science-based understanding of the baseline of habitat quality, quantity and threats is essential in developing a reasonable range of alternatives. A sound environmental baseline is essential. This must detail habitat quality and quantity, and existing degradation and stresses. Moreover, it does not seem reasonable to use the habitat sacrificing aggressive killing of trees is reasonable action. BLM tailored a bias determination and assessment to indict trees -growing in their natural habitat. A range of precautionary alternatives that conserve, enhance, and restore habitats and sensitive and candidate species populations must be developed.*

BLM Response:

The baseline for determining the appropriate alternatives to meet the purpose and need of the actions and the resource issues driving the alternatives identified in this EA are

presented throughout section 3 of the EA itself. At the time of scoping, commenters were welcome to propose alternatives for BLM analysis; WWP itself proposed two alternatives at that time, which were analyzed in this EA.

The protest points that challenge the BLM's juniper treatment plan are outside the scope of this grazing decision. The BLM issued a separate decision addressing juniper treatments in this allotment pursuant to 43 CFR 4.410. Challenges to the rationale and conclusions reached in the juniper treatment decision need to be made in the context of an appeal of that decision.

52. *The No Grazing Alternative must be honestly examined, as well as a range of alternatives that remove grazing from vast areas of ACECs and occupied habitats and selected restoration areas.*

BLM Response:

The EA is intended to address Standards and Guidelines requirements and renewal of the Pole Creek Allotment Livestock Grazing Permit through grazing management modifications and associated projects, including juniper treatments, to meet Standards. Alternative D in the EA addressed the No Grazing alternative and BLM did honestly examine not only this alternative but all alternatives identified in the EA document.

53. *Socioeconomic impacts: This must include analysis of resources being lost and alternative uses foregone by allowing damaging activities to continue. It must include an honest analysis of the cost to taxpayers of continuing chronic disturbance activities like livestock grazing. Typically, it costs 5-6 times the amount returned in grazing fees just to administer permits and deal with a little of the damage caused (Moskowitz and Romaniello 2002). The Moskowitz and Romaniello analysis does not include the value of spring water flows wasted, polluted, reduced, or lost forever due to erosion and degradation of chronic grazing disturbance and spring "developments". It does not examine the costs of the loss of sage-grouse brood habitat, or the costs of herbicides applied to futilely try to stop weeds spread by grazing from choking understories vital for sage-grouse nesting, and innumerable harmful grazing "mitigation" actions from fences to re-seedings. It must also examine the fire rehab values destroyed as grazing resumes within two years or less of rehab and sufficient recovery of species has not occurred, and the must estimate the costs of seeding and fire recovery efforts lost to cheatgrass in grazed landscapes. How much will the battery of treatments, herbicides, fences, and just monitoring the grazing impacts actually cost? What will these costs be?*

BLM Response:

The socio-economic section of the EA includes extensive analysis and concludes, "Farm and agricultural services are the dominant sector of employment in Owyhee County. This is very unusual, even among other agricultural counties in southern Idaho. As of

2000, over 36% of Owyhee County's employment and services were derived from farming and agriculture (Gardner and Zelus 2009)...Recreation, including both casual use and commercial-guided, is increasing on public lands in the area. Common recreation activities include: hunting, fishing, camping, sightseeing, birding, and OHV riding. Hunting and Byway traveling are the largest recreation uses. The recent Wilderness and Wild and Scenic River designations are anticipated to slightly increase recreation use in this area. Socio-economic effects from recreation in all alternatives are expected to be minimal" (Section 3.7.1). As per 43 CFR 1500.1, "Most important, NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail." As a result, a complete breakdown of the grazing administration budget, including "not examin[ing] the costs of the loss of sage-grouse brood habitat, or the costs of herbicides applied to futilely try to stop weeds spread by grazing from choking understories vital for sage-grouse nesting, and innumerable harmful grazing 'mitigation' actions from fences to re-seedings" was not necessary to make a reasoned choice between alternatives. The CEQ Regulations, 40 CFR 1502.23 Cost-Benefit Analysis, states in part; "For purposes of complying with the Act, the weighing of the merits and drawbacks of the various alternatives need not be displayed in a monetary cost-benefit analysis and should not be when there are important qualitative considerations."

Although BLM did propose range improvements in the Proposed Decision, nothing in NEPA requires the BLM to disclose the actual costs (in dollar amounts) of its implementation actions, especially in this EA. In any case, all BLM actions require an expenditure of funds, including the response to this protest point, and those funds are appropriated to BLM by Congress so BLM can do business. However, nothing in NEPA requires a NEPA compliant document to be the place where BLM discloses those business expenditures. NEPA is not about ensuring disclosure of agency expenditures; it is about ensuring disclosure of environmental impacts. Knowledge or disclosure of expenses has no relation to environmental impacts, and thus disclosure of such costs is not required by NEPA. The BLM agrees and identifies environmental impacts that include the socio-economic impacts of BLM decisions on the affected community (in other words, how the socio-economic community is affected by the BLM decision). In addition, NEPA requires disclosure of the environmental impacts of the proposed projects themselves. However, neither of those NEPA requirements include or require disclosure of BLM's actual expenses.

54. *What will all of the herbicide, degradates, contaminant and their impacts be as they wash into very small streams critical to aquatic species), or downstream into the Oregon Wild and Scenic River waters? BLM will have to use very large amounts of herbicide with its aggressive use of fire, livestock facility soil disturbance, and continued intensive grazing. What will the impacts be as these chemicals prevent forb recovery for sage-grouse, or impact wildlife in many ways?*

BLM Response:

Herbicides use is not proposed for extensive juniper treatment/control. Herbicide use would be limited to spot treatments of noxious weeds. All treatments would be in conformance with the Noxious and Invasive Weed Treatment Boise District and Jarbidge Field Office EA and Biological Assessment.

55. *We Protest BLM's failure to consider the following Alternative, and its failure to work with WWP in developing this alternative.*

BLM Response:

Although the BLM appreciates the work and effort WWP put forth developing the Ecological Recovery Alternative, this alternative should have been provided during the scoping period, which the BLM extended at WWP's request. Additionally, the BLM made very clear within the scoping document that "The BLM will not reject public feedback outside established public involvement timeframes; however, these comments may be considered secondary to comments received in a timely manner and may only be assessed to determine if they identify concerns that would substantially alter the assumptions, proposal, design, or analysis presented in the EA." This made the inclusion of any reasonable feedback/alternative from the interested public feasible during the three year construction of this EA, which WWP was highly involved with, including a field tour with WWP in November of 2009. The 2008 Stipulated Settlement Agreement (SSA), which WWP was party to, also includes significant coordination and monitoring with WWP, which is required until issuance of a new grazing permit as per the SSA. Through this coordination, WWP has had knowledge of the NEPA process and extensive opportunity to provide any and all feedback to the BLM for addition or inclusion of an additional alternative. The BLM considered multiple alternatives from WWP, and would have likely considered this alternative also if they would have provided this information in a more timely manner, prior to completion of the NEPA document, as actually occurred in this situation.

Comments received from Tommy and Barbara Moore, Current Permittees

Mr. Moore, permittee on the Pole Creek Allotment, supports the juniper treatment program for the Pole Creek Allotment and believes this will help the area from sage grouse to the cattleman, the hunter, and anyone spending time on the mountain. He believes that with juniper treatment, most of all of the wildlife and plants that used to be there should be brought back to the way it previously was.

Mr. Moore commented that the Oregon-Idaho State Line fence could be a lower priority and the fence is not necessary to make the grazing management plan work for the Pole Creek Allotment. Mr. Moore stated that that the existing fences need to be fixed to 100% working order. Mr. Moore agrees that the fence on the Middle Fork needs to be completed as there is no reason for cattle to be there on a spring use system.

Mr. Moore's other concern is that the spring use will work not only for the management of the allotment, but also the management of the ranch. While most of the other neighboring allotments are summer use, Mr. Moore agrees and is open minded enough to realize that something has to be done (spring use) to meet Rangeland Health.