



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

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In Reply Refer To:
4160 ID130

March 29, 2013

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Petan Company of Nevada, Inc.
c/o John Jackson
HC 32 P.O. Box 450
Tuscarora, NV 89834

Notice of Field Manager's Final Decision

Dear Mr. Jackson:

The BLM remains dedicated to processing your November 21, 2011, grazing permit application for the Garat allotment (00584). I signed a Proposed Decision to renew that grazing permit on January 28, 2013. The Proposed Decision included terms and conditions that would make significant progress toward meeting the Idaho Standards for Rangeland Health, the Guidelines for Livestock Grazing Management (Idaho S&Gs), as well as the objectives of the Owyhee Resource Management Plan (ORMP). You received that Proposed Decision on February 16, 2013. BLM received your two letters protesting that Proposed Decision on February 13 and March 1, 2013. We also met with you and your range consultants to discuss your protest letters on March 13, 2013.

In addition to your protests, BLM received other protests regarding the Proposed Decision from the Owyhee Cattlemen's Association, the Owyhee County Board of Commissioners, the Governor's Office of the State of Idaho, Western Watersheds Project, and a combined submission from the Idaho Cattle Association, the Public Lands Council, and the National Cattlemen's Beef Association.

Attached to your first protest letter was a revised grazing permit application. My staff reviewed this new application and determined that it was similar to your earlier application that BLM analyzed in Alternative 2 of EA number DOI-BLM-ID-B030-2012-0012-EA. One difference between the two applications is the timing of increases in livestock numbers from the existing permit.

Protest points raised within the submissions received and my responses are provided in the attached document titled "Group 1 Protest Responses - Garat Allotment (#584)". Protest points that are specific to the cumulative impacts analysis for socioeconomics have also informed changes to the EA at Section

3.3.1.6. Those changes do not appear in the EA dated January 2013, but are instead attached as an appendix to the EA and effectively create new EA Section 3.3.1.6.1, which refers the reader to Appendix O: Social and Economic Values Additional Information. This Final Decision has been revised from the Proposed Decision, as noted in protest responses provided. Additionally, the Final Decision has been revised to clarify details of the terms and conditions of the permit that will be offered.

Background

As you know, the BLM evaluated current grazing practices and current conditions in the Garat allotment in 2011 and 2012. As part of that process, BLM completed a Rangeland Health Assessment/Evaluation Report and a Determination. As we have discussed, the Determination found that current livestock management practices on the Garat allotment were significant causal factors in the allotment's not meeting (or making significant progress toward meeting) the Idaho S&Gs. This Final Decision incorporates by reference the analysis contained in those documents.

While completing the Rangeland Health Assessment, Evaluation Report, and Determination, BLM engaged in public scoping and met with members of the public interested in grazing issues in the Garat allotment. A scoping package was sent to permittees and other known individuals, groups, and organizations recognized as the interested public for the Garat, Castlehead-Lambert, Swisher Springs, and Swisher FFR allotments (also known as the Owyhee Group or Group 1 allotments). The scoping package solicited comments to better identify issues associated with renewing livestock grazing permits on these allotments.

After hearing from the interested public and evaluating conditions on the ground, it was clear that the Garat allotment contained resource issues that require improvement. It was also clear that some of those issues could be addressed by adjusting livestock grazing management practices. Your application for renewal of the grazing permit was received November 21, 2011, following meetings between you and the BLM to discuss some of these issues.

With an eye toward addressing livestock grazing impacts to public land resources, my office prepared and issued an environmental assessment¹ (EA) for the Group 1 allotments in which we considered a number of options and approaches to improving resource conditions. Specifically, the BLM considered and analyzed in detail your application for grazing permit renewal and four additional alternatives. We also considered other alternatives not analyzed in detail. Our overarching goal in developing alternatives was to consider options that were important to you as the permittee, and to consider options that, if selected, would ensure that the Garat allotment's natural resources conform to the goals and objectives of the ORMP and the Idaho S&Gs. This decision incorporates by reference the analysis contained in the EA.

Following public availability of the BLM's January 28, 2013, Proposed Decision, review of protest points, and subsequent discussions with you, I am prepared to issue a Final Decision to renew your permit. Upon implementation of this decision, your permit to graze livestock in the Garat allotment will be fully processed for the first time since the revisions to the grazing regulations² in 1995, adoption of the Idaho S&Gs in 1997, and implementation of the ORMP in 1999.

¹ EA number DOI-BLM-ID-B030-2012-0012-EA analyzed 5 alternatives for livestock grazing management practices to fully process permits within the Owyhee Group allotments (Group 1), including the Garat allotment. A preliminary EA was made available for public review for 45 days ending October 23, 2012. A number of comment submissions were received and used to revise the EA, including comments from Petan Company of Nevada.

² 43 CFR Subpart 4100 (in effect on July 11, 2006) contains the federal regulations that govern public land grazing administration.

This final decision:

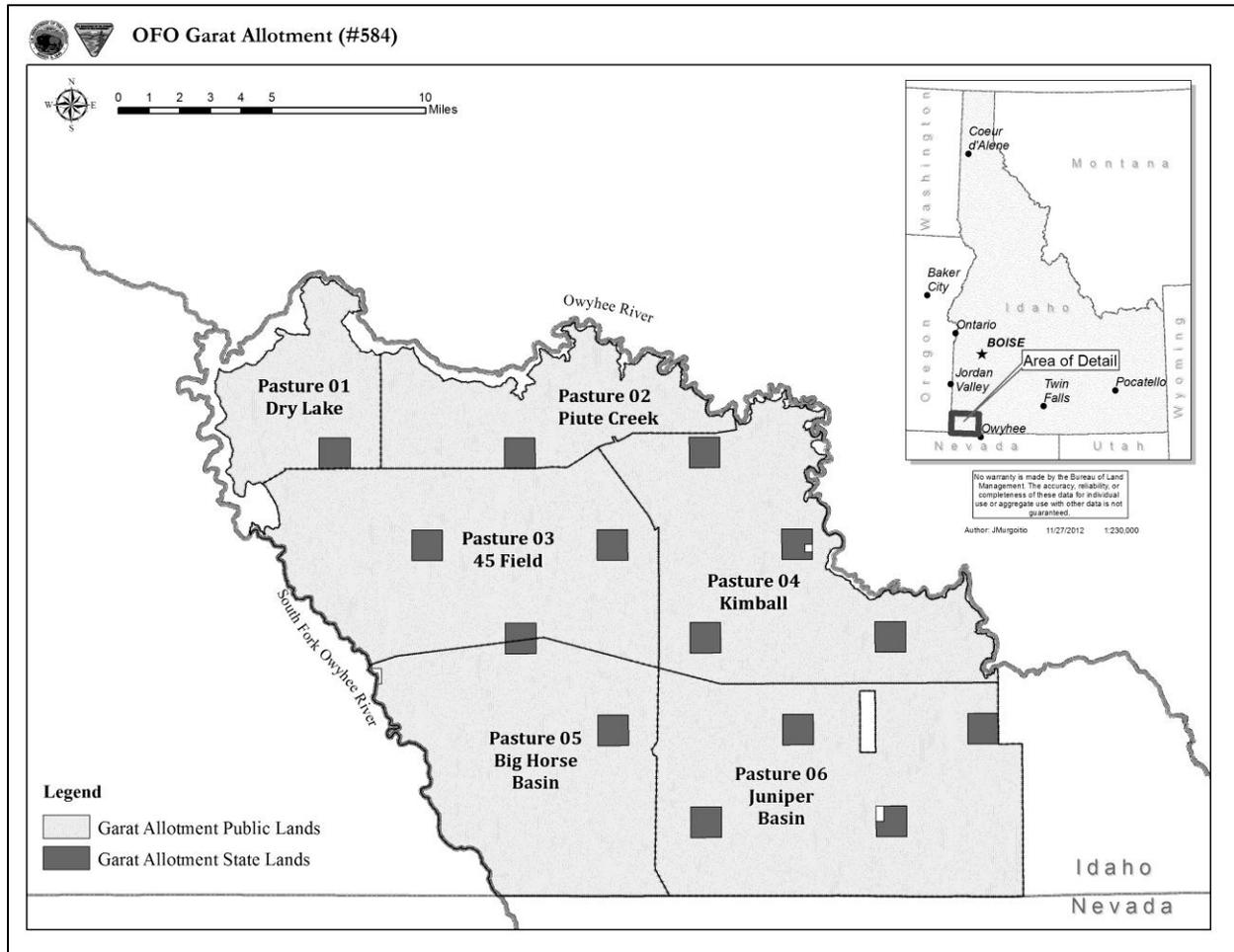
- Describes current conditions and issues on the allotment;
- Briefly discusses the alternative grazing management schemes that the BLM considered in the EA;
- Responds to your application for grazing permit renewal for use in the Garat allotment;
- Considers protest points received following issuance of the January 28, 2013, proposed decision;
- Outlines my final decision to select Alternative 4 with the riparian performance terms and conditions of Alternative 3 (Alternative 4, as supplemented); and
- States the reasons why I made this final decision.

Allotment Setting

The Garat allotment is located in Owyhee County, Idaho, and is bordered by the East Fork of the Owyhee River on the north, the South Fork of the Owyhee River on the west, the Nevada state line on the south, and the Duck Valley Indian Reservation on the east. The Garat allotment includes 202,618 acres of public land, 8,836 acres of state land, and 207 acres of private land in six pastures (see map).

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Figure 1: Garat allotment map



The allotment is situated within the Owyhee Uplands, a sagebrush steppe semi-arid landscape of shrubs and widely spaced bunchgrasses where native vegetation communities are variable. Limited precipitation with cold winters and dry summers constrain plants and animals. Where deeper soils exist (approximately 65 percent of the allotment), the native vegetation is primarily Wyoming big sagebrush with an understory of native perennial bunchgrasses. In areas of shallow soils (approximately 33 percent of the allotment) there exists mostly low sagebrush with the same native perennial bunchgrass understory. Inclusions of other vegetation types consistent with reference site conditions are potentially present within these sagebrush steppe vegetation types, including salt desert shrub, riparian areas, and localized juniper stands. The effective average annual precipitation for these sagebrush steppe vegetation communities is 8 inches for the drier sites and 13 inches for the more moist sites. Precipitation occurs primarily during the winter and spring.³

³ For more detailed discussion of the allotment setting, please refer to the affected environment sections of EA number DOI-BLM-ID-B030-2012-0012-EA.

Current Grazing Authorization

You currently graze livestock on public land within the Garat allotment pursuant to a grazing permit issued by the BLM. The terms and conditions of that grazing permit are as follows:

Table 1: Garat allotment terms and conditions

Allotment	Livestock		Grazing Period		% PL	Type Use	AUMs
	Number	Kind	Begin	End			
00584 Garat	3,150	Cattle	03/15	09/30	94	Active	19,470
	250	Cattle	10/1	10/15	94	Active	116
	15	Horse	03/15	09/30	100	Active	99

Other terms and conditions:

1. Turnout is subject to Boise District range readiness criteria.
2. Your completed actual use report is due within 15 days of completing your authorized annual grazing use.
3. Salt and/or supplements shall not be placed within one quarter (1/4) mile of springs, streams, meadows, aspen stands, playas, or water developments.
4. Changes to the scheduled use require prior approval.
5. Trailing activities must be coordinated with the BLM prior to initiation. A trailing permit or similar authorization may be required prior to crossing public lands.
6. Livestock enclosures located within your grazing allotment are closed to all domestic grazing use.
7. Range improvements must be maintained in accordance with the cooperative agreement and range improvement permits in which you are a signature of assignee. All maintenance of range improvements within a wilderness study area requires prior consultation with the authorized officer.
8. All appropriate documentation regarding base property leases, lands offered for exchange-of-use, and livestock control agreements must be approved prior to turn out. Leases of land and/or livestock must be notarized prior to submission and be in compliance with Boise District Policy.
9. Failure to pay the grazing bill within 15 days of the due date specified shall result in a late fee assessment of \$25.00 or 10 percent of the grazing bill, whichever is greater, not to exceed \$250.00. Payment made later than 15 days after the due date shall include the appropriate late fee assessment. Failure to make payment within 30 days may be a violation of 43 CFR 4140.1(b)(1) and shall result in action by the authorized officer under 43 CFR 4150.1 and 4160.1.
10. Livestock grazing will be in accordance with your allotment grazing schematic(s). Changes in scheduled pasture use dates will require prior authorization.
11. Utilization may not exceed 50 percent of the current year's growth.

As part of a settlement agreement, the following additional terms and conditions were added to the permit in March of 2000:

- Key herbaceous riparian vegetation, where stream bank stability is dependent upon it, will have a minimum stubble height of 4 inches on the stream bank, along the greenline, after the growing season;
- Key riparian browse vegetation will not be used more than 50 percent of the current annual twig growth that is within reach of the animals;
- Key herbaceous riparian vegetation on riparian areas, other than the stream banks, will not be grazed more than 50 percent during the growing season, or 60 percent during the dormant season; and
- Stream bank damage attributable to grazing livestock will be less than 10 percent on a stream segment.

As you know, the current permit authorizes annual use of 19,500 animal unit months (AUMs⁴) of forage and a season of use between March 15 and October 15. However, based on actual use reports submitted over the 10-year period between 2002 and 2011, it is clear that in most years you have used fewer AUMs than authorized. Specifically, over the 10-year period identified above, your actual use has averaged 14,763 AUMs per year, with a high of 18,870 AUMs and a low of 10,719 AUMs⁵. Actual use reports show that grazing over the past 10 years consistently remained within the scheduled season of use for the allotment.

Actual use is important when considering the renewal of a grazing permit because it was actual use and not authorized levels of use that resulted in current conditions on the allotment. In other words, the current condition of the allotment is not the result of 19,500 AUMs being removed every year (as authorized under the current permit), but rather is the result of the removal of a varied number of AUMs that averaged approximately 14,763 AUMs per year over the past 10 years. BLM recognizes that you sometimes voluntarily reduced AUMs used due to lack of water or drought. BLM appreciates that kind of stewardship.

Resource Conditions

The BLM completed a Rangeland Health Assessment, Evaluation Report, and Determination for the Garat allotment in 2012. Those documents concluded that some of the resources on the Garat allotment were not meeting the Idaho S&Gs. Specifically, the BLM determined that the allotment did not meet Standards 1 (Watersheds), 4 (Native Plant Communities), and 8 (Threatened and Endangered Plants and Animals). In addition, the BLM's evaluation concluded that current resource conditions were not conforming to the upland and riparian vegetation and special status species (plants and wildlife) objectives set out in the ORMP. Finally, the Determination for the Garat allotment concluded that current livestock management practices were significant causal factors in not meeting Standards 4 and 8, and were inconsistent with the BLM's Guidelines for Grazing Management.⁶

Please note that BLM's finding that the allotment was not meeting Standards as a whole does not mean that every portion of the allotment individually was not meeting Standards. However, it does mean that BLM must consider changes in grazing management at the allotment level to ensure significant progress in meeting Standards in the allotment as a whole. As you know, that often requires or counsels in favor of management changes in some areas that individually might be making progress or meeting the Standards already.

Vegetation - Uplands

The BLM's 2012 Rangeland Health Assessment and Evaluation for the Garat allotment showed that the allotment is not meeting the ORMP management objective to improve unsatisfactory and maintain satisfactory vegetation health/condition on all areas. The allotment is not meeting the ORMP vegetation management objective because plant communities in many areas have shifted from co-dominance of desirable deep-rooted perennial bunchgrasses (e.g., bluebunch wheatgrass, Idaho fescue, Thurber's needlegrass) and sagebrush, to greater dominance of sagebrush species and less desirable shallow-rooted bunchgrasses (e.g., Sandberg bluegrass and squirreltail). This shift is evident when comparing the reference site conditions in state-and-transition models in applicable ecological site descriptions to current vegetation composition on the allotment. The shift in vegetation composition is particularly evident in pastures 3, 4 and 5, although this shift has occurred to some degree in all pastures. BLM has determined that passive restoration through changes in livestock management will reverse and/or improve changes in vegetation

⁴ Animal unit month (AUM) means the amount of forage necessary for the sustenance of one cow or its equivalent for a period of one month.

⁵ Actual use reported in 2012 totaled 8,749 AUMs due to limited livestock water available in the allotment.

⁶ For more detailed discussion of the land health determination for the Garat allotment, please refer to EA number DOI-BLM-ID-B030-2012-0012-EA Appendix J.

composition over time. Portions of pastures 5 and 6 also exhibit an increase in exotic annual grasses (such as cheatgrass).

Rangeland Health Standard 4 (Native Plant Communities) is not being met within pastures 3, 4, 5, and 6 due to departure of biotic integrity indicators from site potential. In addition, portions of pastures 5 and 6 are dominated by annual species and are not meeting Standard 4 for that reason as well. Healthy, productive, and diverse populations of native plants are maintained at an adequate level within pastures 1 and 2 such that taken individually, those pastures would be considered meeting Standard 4, even with existing departures from reference site conditions. Failure to meet Standard 4 in pastures 3, 5, and 6 is attributed to historic grazing management practices and fire history, while failure to meet the Standard in pasture 4 is attributed to current livestock grazing management practices, in addition to historic grazing management practices and fire history.⁷

Watersheds

The BLM's 2012 analysis of the Garat allotment concluded that Standard 1 (Watersheds) is not being met in pastures 1, 3, and 6, as well as in other localized areas of the allotment. Disturbance from altered natural fire regimes and historic grazing management were identified as the primary causes for not meeting Standard 1 and have resulted in departures from expected conditions in the plant community. As a result, the Garat allotment has experienced a change in vegetative cover that has led to unfavorable changes in infiltration and caused increased runoff and erosion. These departures adversely affect upland soil and hydrologic function and influence proper nutrient cycling, hydrologic cycling, and energy flow at various levels.⁸

Water Resources and Riparian/Wetland Areas

The BLM's 2012 Rangeland Health Assessment and Evaluation for the Garat allotment concluded that Standards 2 (Riparian Areas and Wetlands) and 3 (Stream Channel/Floodplain) are being met. Nevertheless, the few riparian areas that are found in the allotment are subject to the ORMP's objective to maintain or improve these areas to attain proper functioning condition. Riparian areas in need of improved management to reach these objectives include sections of Piute Creek in pastures 2, 3, and 4, and springs located in pasture 4. In other words, despite meeting the Standard as a whole, there are areas on Piute Creek that BLM believes would benefit from improved conditions, as is the objective in the ORMP.⁹

The Garat allotment has numerous ephemeral channels that flow only in direct response to precipitation during normal water years, and for this reason, these areas often do not support riparian plant communities. Although important, these areas are not assessed for riparian proper functioning condition. However, the watershed section of the EA and Standard 1 evaluates and assesses the soils and hydrologic function of these areas.

Special Status Plants

The BLM's 2012 Rangeland Health Assessment and Evaluation for the Garat allotment concluded that the allotment is not meeting Standard 8 for Davis' peppergrass, a special status plant species found in playas in pasture 5, due to current livestock management. Threats to Davis' peppergrass are associated with livestock

⁷ For more detailed discussion of rangeland conditions in the Garat allotment, including the Idaho S&G standard 4, please refer to EA number DOI-BLM-ID-B030-2012-0012-EA Section 3.5.1.1

⁸ For more detailed discussion of the condition of soils in the Garat allotment, including the Idaho S&G standard 1, please refer to EA number DOI-BLM-ID-B030-2012-0012-EA Section 3.5.2.1

⁹ For more detailed discussion of the condition of water resources and riparian/wetland conditions in the Garat allotment, including the Idaho S&G standards 2, 3, and 7, please refer to EA number DOI-BLM-ID-B030-2012-0012-EA Section 3.5.4.1

concentration, trampling, and soil disturbance. The playa habitat is easily damaged due to the types of soils—specifically, hard clay bottoms on volcanic plains that become inundated with water and are vulnerable to degradation during spring seasons.¹⁰

Wildlife/Wildlife Habitats and Special Status Animals

The BLM's 2012 Rangeland Health Assessment and Evaluation for the Garat allotment concluded that the allotment is not meeting Standard 8 for special status wildlife species. The allotment is not meeting Standard 8 because upland habitats and riparian habitats (where present) are not providing the composition, structure, and function necessary for many obligate, dependent, and associated migratory birds and special status wildlife species.

Suitability of upland and riparian wildlife habitat is closely related to the health and vigor of vegetation community conditions discussed in Standard 4 (Native Plant Communities) and Standard 2 (Riparian Areas and Wetlands). Shrub steppe habitats dominated by several species of sagebrush and perennial bunchgrasses expected to occur across the vast majority of the allotment, based on ecological site descriptions, have the potential to provide vital nesting and foraging habitat for many special status wildlife species. Currently, however, upland habitats throughout the allotment are generally characterized by relatively tall, dense stands of sagebrush composed of columnar individuals with many broken, dead, or dying branches. In addition, healthy, productive, and diverse populations of native perennial grasses (especially tall-statured, deep-rooted bunchgrasses) and forbs are not being maintained within these decadent big sagebrush stands. These conditions are particularly evident in pastures 3, 4, 5, and 6, although these issues exist to some degree in all pastures. The absence of shrub structure at various heights affects nesting habitat by reducing nesting substrate and increasing the likelihood of predation. In addition, the absence of tall native grasses and forbs affects species that are adapted to foraging on seeds and insects in native habitats. Of primary concern is the ability of these sagebrush communities to provide effective habitat structure (diverse and intersecting overstory/understory interface) and function (nesting, security, and foraging cover) for sagebrush-obligate and shrub-dependent species such as greater sage-grouse, pygmy rabbits, Brewer's sparrows, loggerhead shrikes, sage sparrows, and Wyoming ground squirrels.

Although riparian and wetland habitats are minimal in the Garat allotment, some stream courses have the potential to support limited woody and herbaceous hydric species. Piute Creek in pastures 3 and 4 was assessed as functional-at-risk, and several springs in pasture 4 were assessed as non-functional; the riparian and wetland habitats that would be expected at these sites are nearly absent, as is the diversity of expected riparian-associated wildlife species. The reduced amount of woody and herbaceous hydric vegetation is limiting the amount of nesting structure and cover and foraging habitat that many obligate, dependent, and associated wildlife species require.

Overall, the proper composition, structure, and function of native upland and riparian vegetation communities needed to meet the habitat requirements for special status wildlife species are generally lacking to varying degrees within the allotment. The results of historic grazing and wildfire (in pastures 3, 5, and 6 in particular), and current livestock management (in pasture 4) in upland habitats are a shrub canopy layer with undesirable structural and functional characteristics. These features contribute to inhibited herbaceous vigor and reduced annual production of larger bunchgrasses in the understory and thereby favor an increased occurrence of smaller bunchgrasses and annuals. In addition, current livestock grazing within the small amount of riparian and wetland area limits the necessary habitat components critical to the welfare of many wildlife species in the allotment. In summary, Standard 8 is not being met because the current habitat conditions in pasture 3, 4, 5, and 6 in particular are inadequate to meet the minimum requirements for

¹⁰ For more detailed discussion of the condition of special status plant habitats, including the Idaho S&G standard 8 for plants, please refer to EA number DOI-BLM-ID-B030-2012-0012-EA Section 3.5.3.1

many special status wildlife species within the allotment. The Determination found that current livestock management was a causal factor of not meeting Standard 8. In addition, ORMP wildlife habitat objectives, including those for special status species, are not met in all portions of the allotment¹¹

Guidelines for Livestock Grazing Management

In addition to a discussion of rangeland health standards, the BLM's 2012 Determination for the Garat allotment identified grazing management practices that did not conform to the BLM's Guidelines for Livestock Grazing Management for Idaho. Specifically, the Determination concluded that grazing management did not conform to the following Guidelines:

Guideline 4: Implement grazing management practices that provide periodic rest or deferment during critical growth stages to allow sufficient regrowth to achieve and maintain healthy, properly functioning conditions, including good plant vigor and adequate cover appropriate to site potential.

Guideline 8: Apply grazing management practices that maintain or promote the interaction of the hydrologic cycle, nutrient cycle, and energy flow that will support the appropriate types and amounts of soil organisms, plants, and animals appropriate to soil type, climate, and landform.

Guideline 9: Apply grazing management practices to maintain adequate plant vigor for seed production, seed dispersal, and seedling survival of desired species relative to soil type, climate, and landform.

Guideline 12: Apply grazing management practices and/or facilities that maintain or promote the physical and biological conditions necessary to sustain native plant populations and wildlife habitats in native plant communities.

Guideline 20: Design management fences to minimize adverse impacts, such as habitat fragmentation, to maintain habitat integrity and connectivity for native plants and animals.

Since the Garat allotment is not meeting one or more of the Idaho S&Gs because of current livestock management practices, the BLM used these Guidelines as a starting point for developing grazing schemes to bring the authorized actions within the allotment into compliance with resource objectives.

Issues

Based on the BLM's evaluation of the current grazing scheme, the current conditions on the Garat allotment, public response to scoping, and the BLM's obligations to meet the Idaho S&Gs and move toward meeting the ORMP management objectives, the BLM identified the following resource issues applicable to the grazing permit renewal for the Garat allotment:

Issue 1: Improve upland vegetation plant communities, and in particular, reverse the shift from desirable to undesirable native plant communities.

Issue 2: Improve riparian vegetation and stream-bank stability in the limited areas where riparian areas exist.

Issue 3: Protect special status plants and improve the habitats supporting special status plants;

¹¹ For more detailed discussion of the condition of special status animal habitats in the Garat allotment, including the Idaho S&G Standard 8 for animals, please refer to EA number DOI-BLM-ID-B030-2012-0012-EA Section 3.5.5.1

Issue 4: Improve wildlife habitats, and habitats necessary to meet objectives for sagebrush steppe and riparian dependent species, including sage-grouse.

Issue 5: Prevent further introduction and spread of noxious and invasive annual species (e.g., cheatgrass), particularly in pastures 5 and 6.

Analysis of Alternative Actions

Based on the current condition of the Garat allotment and the issues identified above, the BLM considered a number of alternative livestock management schemes in the EA to ensure that any renewed grazing permit would result in improved conditions on the allotment. Specifically, the BLM analyzed five alternatives in detail, identified a number of actions common to all alternatives, and considered but did not analyze in detail a number of other possible actions.¹² The BLM considered the following alternatives in detail:

- **Alternative 1 – Current Situation:** Alternative 1 considered continuation of current livestock management practices as they occurred over the past 10 years. The BLM defined the Current Situation alternative for the purposes of analysis in the EA as that grazing which occurred under the current permit and which led to current conditions on the allotment. In this way Alternative 1 is linked to the BLM’s description of current conditions on the allotment as outlined in the Affected Environment sections of the EA.
- **Alternative 2 – Permittee’s Application for Permit Renewal:** Alternative 2 analyzed the application for permit renewal received from you on November 21, 2011, and includes the permit terms and conditions requested in that application. This alternative includes a 3-year rest-rotation grazing system for four of the six pastures, flexibility for periodic deferment or rest in the other two pastures, and 22,750 authorized AUMs (an increase of 3,250 AUMs from the current permit, and an increase of 3,880 AUMs when compared to Alternative 1). This alternative captured your belief that there are additional AUMs available for use on the allotment. Additionally, consistent with the application received, Alternative 2 included starting the grazing season 2 days earlier to allow time to cross pastures within the Garat allotment and arrive at turn-out pastures on the traditional turn-out date, a change in the billing process to allow payment based on actual-use after completing the grazing season, and authorization to graze horses used for livestock management in the allotment at three camp locations. Although you requested that two wells be re-drilled and modification be made to one fence, those actions were considered but not analyzed in detail within the EA.
- **Alternative 3 – Performance-Based Alternative:** Alternative 3 starts with the current grazing permit and adds new terms and conditions that constrain the intensity of grazing use in specific ways to improve specific resource conditions. The new terms and conditions are implemented to improve and maintain the health and vigor of upland perennial herbaceous species, maintain hydrologic function and soil/site stability, meet riparian management objectives, and provide suitable habitats for special status wildlife species, including sage-grouse. Alternative 3 does not change livestock numbers, scheduled beginning and end dates for use of the allotments, pasture rotations, pasture seasons of use, active use AUMs, or other terms and conditions from those in the current permit. Instead, the alternative allows the permittee to work within the established dates and livestock numbers that currently exist as terms and conditions of the permit, as long as the permittee can ensure that specific targets are met.

¹² For more detailed discussion of alternatives considered and analyzed, please refer to EA number DOI-BLM-ID-B030-2012-0012-EA sections 2.

- **Alternative 4 –Season-Based Alternative:** Alternative 4 seeks to address resource issues on the allotment by first changing when livestock can graze within each pasture of the allotment. Specifically, Alternative 4 establishes seasons of grazing use that limit adverse impacts from livestock grazing on specific identified resources present within each pasture. The seasons of use developed by the BLM attempt to do the following: 1) provide more frequent year-long rest or deferment of livestock grazing use to a period outside the active growing season for native perennial bunchgrass species, and 2) limit the frequency of disruption and livestock use within sage-grouse breeding habitats. BLM developed the seasons of use so that the allotment would make progress toward meeting the Idaho S&Gs and the ORMP objectives. Application of appropriate seasons of grazing use, resource-specific to each pasture, limits the timing and duration of available grazing in all pastures and results in the overall reduction in the level of authorized grazing use by 47 percent as compared to the current permit (and a reduction of 29 percent when compared to the average actual use made between 2002 and 2011).
- **Alternative 5 - No Grazing:** Alternative 5 removes livestock grazing from the Garat allotment for 10 years, equivalent to the term of a grazing permit. This alternative would allow resources to recover by removing livestock grazing use on the allotment.

The preliminary EA detailing the above alternatives was made available for public review and comment for a 45-day period ending October 23, 2012. In addition to timely comments received from you, a number of government entities and agencies, interest groups, and members of the public also provided comments. Comments received identified and clarified issues that are addressed in the completed EA, including issues 1 through 5 above. The following additional issues were raised in greater detail:

Issue 6: Consider whether grazing on the Garat allotment can be used to limit wildfire.

Issue 7: Consider impacts to regional socioeconomic activity generated by livestock production.

Timely comments that were received regarding the preliminary EA are summarized and responses provided as an appendix to the completed EA available on the web at:

http://www.blm.gov/id/st/en/prog/nepa_register/owyhee_grazing_group/grazing_permit_renewal.html

Final Decision

After considering the current grazing practices, the conditions of the natural resources, the alternatives and analysis in the EA, protests, as well as other information available to me, it is my final decision to renew your grazing permit for 10 years with modified terms and conditions consistent with Alternative 4 (Season-Based alternative) in the EA. The riparian performance terms and conditions from Alternative 3 will also be implemented. Implementation of Alternative 4, as supplemented, over the next 10 years will allow the Garat allotment to make significant progress toward meeting the Idaho S&Gs while also moving toward achieving the resource objectives outlined in the ORMP. The terms and conditions of the renewed grazing permit are shown in table 2.

Table 2: Garat allotment renewed grazing permit terms and conditions

Allotment	Line #	Livestock		Grazing Period		% PL	Type Use	AUMs
		Number	Kind	Begin	End			
00584 Garat	1	1,604	Cattle	03/15	09/30	96	Active	10,126
	2	250	Cattle	10/1	10/15	96	Active	118
	3	25	Horse	03/15	10/15	100	Active	177

1. Grazing use will be in accordance with the grazing schedule identified in the final decision of the Owyhee Field Office Manager dated March 29, 2013. Flexibility is provided to allow seven days to complete moves between pastures, so long as scheduled deferment is implemented to avoid grazing use prior to July 1 in two of each three year cycle in pastures 3, 4, 5, and 6. Changes to the scheduled use outside the flexibility provided in the final decision require prior approval.
2. Line 2 of the schedule above provides management flexibility for strays at the close of the grazing season; not to exceed 250 head from 10/1 to 10/15.
3. Line 3 of the schedule above provides management flexibility for an average of 25 head of horses through the grazing season within the horse fields located near Stateline Camp and Four Corners Camp. Approximately 15 saddle horses may be kept at one or both of these locations season-long, but not to exceed 75 horses during periods when cattle are being moved between pastures or during branding; not to exceed 177 AUMs.
4. Turnout is subject to Boise District range readiness criteria.
5. Your completed actual use report is due within 15 days of completing your authorized annual grazing use.
6. Salt and/or supplements shall not be placed within one quarter (1/4) mile of springs, streams, meadows, aspen stands, playas, or water developments.
7. Trailing activities outside the Garat allotment are not expressly authorized by this permit and must be coordinated with the BLM prior to initiation. A crossing permit or similar authorization may be required prior to crossing public lands.
8. Livestock exclosures located within the Garat allotment are closed to all domestic grazing use.
9. Range improvements must be maintained in accordance with the cooperative agreement and range improvement permits in which you are a signatory or assignee.
10. All maintenance of range improvements and vehicular access within designated Wilderness requires prior approval from the authorized officer and is subject to terms and conditions listed in the Omnibus Public Land Management Act (OPLMA) of 2009, the House Report No. 101-405, the Owyhee Canyonlands Wilderness and Wild & Scenic Rivers Management Plan, and cooperative agreements for construction/maintenance of projects.
11. All appropriate documentation regarding base property leases, lands offered for exchange-of-use, and livestock control agreements must be approved prior to turn out. Leases of land and/or livestock must be notarized prior to submission and be in compliance with Boise District Policy.
12. Failure to pay the grazing bill within 15 days of the due date specified shall result in a late fee assessment of \$25.00 or 10 percent of the grazing bill, whichever is greater, not to exceed \$250.00. Payment made later than 15 days after the due date shall include the appropriate late fee assessment. Failure to make payment within 30 days may be a violation of 43 CFR § 4140.1(b)(1) and shall result in action by the authorized officer under 43 CFR § 4150.1 and § 4160.1.
13. Pursuant to 43 CFR § 10.4(b), you must notify the BLM Field Manager, 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), you must immediately stop any ongoing activities connected with such discovery and make a reasonable effort to protect the discovered remains or objects.
14. Utilization may not exceed 50 percent of the current year's growth in any pasture.
15. Performance-based terms and conditions require the permittee to implement livestock management practices to limit impacts to resource attributes. These terms and conditions are included in this permit to meet riparian attributes of the Idaho Standards for Rangeland Health and

Guidelines for Livestock Grazing Management and ORMP objectives. Upon failure to meet any 1 performance-based term and condition in the allotment in 2 years of any consecutive 5-year period, the livestock grazing permit will be modified and reoffered to further limit riparian grazing impacts.

- Riparian stubble height of hydric species may not be equal to or less than 6 inches within lotic and lentic riparian areas at the end of the grazing season.
- Woody browse utilization within the reach of livestock may not be greater than 30 percent within lotic and lentic riparian areas at the end of the grazing season.
- Stream bank alteration within lotic riparian areas may not be greater than 10 percent at the end of scheduled livestock grazing.
- Edge shear within lentic riparian areas may not be greater than 20 percent at the end of scheduled livestock grazing.

As noted in term and condition number 1 above, the following grazing schedule for the Garat allotment (identified in table 3) must be implemented. The field office, in coordination with the permittee, will determine appropriate entry into this schedule upon implementation of this decision.

Table 3: Garat allotment renewed permit grazing schedule

Pasture	Pasture Name	Year 1	Year 2	Year 3
1	*Dry Lake	**3/15-4/15	3/15-4/15	3/15-4/15
2	*Piute Creek			
3	Forty-Five	***7/1 to 10/15	***7/1 to 10/15	***4/16 to 10/15
4	Kimball	***7/1 to 10/15	***4/16 to 10/15	***7/1 to 10/15
5	****Big Horse	***4/16 to 10/15	***7/1 to 10/15	***7/1 to 10/15
6	Juniper Basin	***4/16 to 10/15	***7/1 to 10/15	***7/1 to 10/15

* Dry Lake and Piute Creek will be managed as one unit as a result of a lack of a barrier to livestock movement between the pastures.

** The permittee may choose to graze Pasture 6 beginning on 3/15 in year 1 of the schedule (and rest Pastures 1 and 2 for the full year) to avoid the long distance of movement of cattle with young calves from Pastures 1 and 2 to Pastures 5 and 6 on 4/16. If the permittee chooses to use this flexibility, pasture 5 must be grazed concurrent with pasture 6 between 4/16 and 7/1 in that year, and as a result, there would be no opportunity to use pasture 5 in combination with either pastures 3 or 4 throughout the remainder of three-year grazing schedule.

*** Although dates of use after 7/1 overlap between a number of pastures, the intent of the grazing schedule is to provide flexibility while maintaining orderly administration of grazing use within each pasture. When multiple pastures are available for grazing use, each will be maintained as a separate livestock management unit (without open gates allowing drift between pastures). Flexibility is provided to adjust the livestock move dates between pastures based on factors including climatic conditions, water availability, and livestock management needs, as long as scheduled dates of deferment to provide sage-grouse breeding habitat and upland vegetation growing season deferment as identified above are provided. No more than 1,604 head of cattle are authorized to graze within the Garat allotment from 3/15 to 9/30, while no more than 250 head of cattle are authorized to graze in the allotment between 10/1 and 10/15.

**** The grazing schedule for Pasture 5 recognizes the limited water available to support livestock use, especially as the grazing season progresses, and does not define a period when Pasture 5 is the only pasture available for use. In years when livestock water is available, flexibility for grazing use is provided. Although Pasture 5 is identified in the grazing schedule with use between April 16 and July 1 in year 1 consistent with use of Pasture 6, flexibility is provided for concurrent use with either Pastures 3 or 4, so long as the scheduled deferment as required and so long as the permittee does not exercise the above flexibility to turn livestock out in year-1 of the schedule in Pastures 6.

My final decision is to offer you a grazing permit for a term of 10 years with 10,421 active AUMs and 10,896 suspended AUMs, for a total of 21,317 permitted AUMs as listed in the table below. Adoption of Alternative 4, as supplemented, will result in a reduction in AUMs from your current permit; however, the affected 9,157 active use AUMs and 3,250 voluntary nonuse AUMs will not be converted to suspension, in conformance with regulatory direction at 43 CFR § 4110.3-2.

Permitted use within the Garat allotment will be as follows in table 4.

Table 4: Garat allotment renewed permit permitted use

Active Use	Suspension	Permitted Use
10,421 AUMs	10,896	21,317 AUMs

Notes on the Grazing Schedule

The grazing schedule, with flexibility, ensures that those portions of the allotment and pastures that contain sage-grouse preliminary priority habitat will not be grazed more than once every 3 years during the sage-grouse breeding season (April 15 through June 15). Each of the six pastures of the Garat allotment contain breeding habitat. Further, the grazing schedule ensures that no pastures will be grazed during the active growing seasons for native perennial bunchgrasses (May 1 to June 30) more than once in any 3-year period, a constraint that is concurrent and in combination with sage-grouse breeding season habitat protection in the grazing schedule. The above schedule implements these two constraints in pastures 3, 4, 5, and 6 with a 3-year rotation. I determined that these constraints would allow the allotment to meet or make significant progress toward meeting Idaho S&Gs and ORPM objectives.

In addition, the grazing schedule for pastures 1 and 2 allows early season grazing use annually while requiring that livestock be removed from the pastures prior to April 16, a grazing treatment that provides a period of annual grazing use prior to the sage-grouse breeding season and the active growing season for upland herbaceous species.

Notes on the Terms and Conditions

Flexibility is provided within the schedule above for grazing use of pastures 3, 4, 5, and 6 after July 1, outside the active growing season for native perennial herbaceous species, and outside the lekking, nesting, and early brood-rearing season for sage-grouse. Additional flexibility is provided to allow 7 days to complete moves between pastures, as long as scheduled deferment of grazing use outside the lekking, nesting, and early brood-rearing season for sage-grouse (April 15 to June 15) is implemented in 2 of each 3-year period and scheduled deferment of grazing use outside the upland vegetation active growing season (May 1 to June 30) is implemented in 2 of each 3-year cycle.

Other Notes on the Final Decision

In response to your request in the November 21, 2011, application for grazing permit renewal, it is my final decision to authorize an increase in the number of saddle horses authorized on public land within the Garat allotment for cattle management purposes, as defined in line 3 of the terms and conditions of the renewed grazing permit above and other term and condition number 3.

My final decision is to deny the application to annually begin the grazing season on March 13, an authorization that would allow 2 days to cross other pastures of the Garat allotment so as to arrive at pastures 1 and 2 on March 15, the traditional date that grazing use in the Garat allotment has begun. In addition, my final decision is to deny your request for after-the-grazing-season billing based on reported actual use.

It is also my decision to not authorize additional projects. Specifically, this decision does not authorize the modification of the cross-fence layout in the Piute Creek/Piute Basin area or re-drilling the well of either Middle Windmill or 45 Windmill identified in the application. Nor does this Final Decision authorize the construction of gravity fed pipelines to lower elevation portions of Big Horse or other spring use pastures. The existing coordinated process to identify, analyze, and authorize as appropriate the restoration, improvement, or development of livestock water sources and other projects is retained for project-specific consideration outside the permit renewal process. In other words, we will still consider such projects, just not as part of this decision. Project maintenance obligations identified in current range improvement permits and cooperative agreements for range improvements are unchanged by this Final Decision. Implementation of this decision is contingent upon maintenance of projects in a functioning condition (i.e., boundary and internal fences are in such good and functioning condition as to assure their ability to accomplish the purposes for which they were constructed).

Finally, it is my decision to include term and condition number 10 identifying constraints to livestock management practices, including maintenance of projects and vehicular access, within designated Wilderness consistent with the Omnibus Public Land Management Act (OPLMA) of 2009 and the House Report No. 101-405, the Owyhee Canyonlands Wilderness and Wild & Scenic Rivers Management Plan, and cooperative agreements for construction/maintenance of projects.¹³

Rationale

Record of Performance

Pursuant to 43 CFR § 4110.1(b)(1), a grazing permit may not be renewed if the permittee seeking renewal has an unsatisfactory record of performance with respect to its last grazing permit. Accordingly, I have reviewed your record as a grazing permit holder for the Garat allotment, and have determined that you have a satisfactory record of performance relative to compliance with terms and conditions of your current permit and are a qualified applicant for the purposes of a permit renewal.

Justification for the Decision

Based on my review of EA number DOI-BLM-ID-B030-2012-0012-EA, the Rangeland Health Assessment/Evaluation Report, Determination, and other documents in the grazing files, it is my decision to select Alternative 4, as supplemented by the riparian performance-based terms and conditions from Alternative 3, as my final decision. I have made this selection for a variety of reasons, but most importantly because of my understanding that implementation of this decision will best fulfill the BLM's obligation to manage the public lands under the Federal Land Policy and Management Act (FLPMA) multiple use and sustained yield mandate, and will result in the Garat allotment's making significant progress towards meeting the resource objectives of the ORMP and the Idaho S&Gs.

¹³ A map of designated Wilderness within the Owyhee Group Allotments is provided in EA number DOI-BLM-ID-B030-2012-0012-EA, Map ACEC-1, or within the Owyhee Canyonlands Wilderness and Wild & Scenic River Management Plan.

Issues Addressed

Earlier in this decision I outlined the major issues that focused the analysis and decision-making process for the Garat allotment. I want you to know that I considered the issues through the lens of each alternative before I made my decision. Ultimately, my decision to select Alternative 4, as supplemented, was in large part because of my understanding that this selection best addressed those issues, given the BLM's legal and land management obligations, as well as budgetary and administrative constraints.

Issue 1: Improve upland vegetation plant communities, and in particular reverse the shift from desirable to undesirable native plant communities.

As mentioned above and explained in detail in the EA, the Garat allotment has upland vegetation issues, including a loss of plant vigor, shift in plant composition, and an increase in annual grasses. Alternative 4 will address these issues in a number of ways. The vegetation issues on the Garat allotment are due less to utilization levels, which have been generally light to moderate in recent years, and more to the near-total absence of rest and continued active-growing-season use experienced by the upland plant communities. Based on information provided by my staff, implementing appropriate recovery periods following growing season grazing was an important step I felt needed to be taken in order to ensure that the allotment makes significant progress toward meeting Standard 4 (Native Plant Communities) and moves toward meeting ORMP objectives.

Alternative 4 implements more frequent deferment of grazing use to periods outside the active growing season than would occur under Alternatives 1 through 3. This reduced frequency of growing-season use allows native perennial species to complete the annual growth cycle in the absence of grazing impacts more often and will allow recovery of plant health and vigor, primarily the dominant deep-rooted perennial bunchgrasses. With conservative or no grazing occurring during the critical growing season, Alternative 4 allows for proper nutrient cycling, hydrologic cycling, and energy flow. The Alternative 4 grazing treatment provides the opportunity for enhanced ecological function and progress toward ecological site potential and vegetation reference site communities dominated by deep-rooted perennial bunchgrass species.

Alternative 4 decreases active grazing use by 29 percent compared to average actual use over the 10 year period between 2002 and 2011, and by 47 percent when compared to active use authorized in the current permit.¹⁴ By imposing pasture-specific changes to the season of use and reducing the number of cattle authorized to graze within the allotment, implementation of Alternative 4 will improve rangeland health and plant composition, ensure significant progress is made toward meeting Standard 4 of the Idaho S&Gs, and move the native plant communities in the Garat allotment toward the long-term objectives laid out in the ORMP.

Alternative 4 is also expected to positively affect soil stability, productivity, and hydrologic function over the short and long term. These improvements are the collateral effect of the BLM's decision to use Alternative 4 to reverse the change in plant composition and improve native plant communities. Alternative 4 implements livestock management practices that maintain or improve upland vegetation and watershed conditions consistent with Idaho Rangeland Health Guidelines 4, 8, 9, and 12.¹⁵

¹⁴ Petan's actual use has varied with an annual actual use report through the ten-year period between 2002 and 2011 ranging from 10,719 to 18,870 AUMs. Reported actual use in 2012 was 8,749 AUMs, which, when factored into a 10-year average, results in the decision implementing a 25 percent reduction in use as compared to the recent average actual use of 13,815 AUMs between 2003 and 2012.

¹⁵ For more detailed discussion of the consequence of implementing Alternative 4 on rangeland vegetation and soil resources, including Idaho S&G standards 1 and 4, please refer to EA number DOI-BLM-ID-B030-2012-0012-EA Sections 3.5.1.2 and 3.5.2.2.

I want you to know that I have reviewed in detail the data collected by Western Range Service that you submitted, and your protest points regarding those same data. Although collected using different techniques, those data largely tracked the data that the BLM collected, which show a mostly static trend of native plant communities on the allotment. That is, while informative, the data you submitted did not paint a meaningfully different picture of the allotment's condition. In your comments to the EA and in your protests, you stated that the data show that the native plant communities in the Garat allotment are in good condition and are meeting or making significant progress toward meeting Standards and the Owyhee RMP objectives. My staff considered your conclusions, but ultimately we disagreed with the conclusion that native plant communities are in good condition and meeting objectives in the allotment. To be sure, there are some areas that are in good or decent condition. However, overall the allotment's native plant communities are not meeting Standards or the vegetation objectives of the Owyhee RMP.

Because some of the negative impacts to native plant communities are being caused by and/or additionally impacted by livestock grazing, I am convinced that additional and sometimes substantial improvement to the native plant communities can be made by instituting changes to grazing management. In other words, even if I believed (as you do) that some minimum degree of progress was currently being made on the allotment, that would not change the fact that progress at a faster rate is achievable and more desirable given the long-term potential benefits to native plant communities. These benefits to native plant communities will also benefit other resource values and uses, including providing habitats for wildlife such as sage-grouse. While you may disagree, it is within my discretion and responsibility to strive for such improvement based on FLPMA, the objectives described in the Owyhee RMP, and the BLM's 2010 National Sage-grouse Policy with its attendant goal to maintain and enhance sage-grouse populations in the western United States.

Note on the Stocking Rate

We acknowledge your protest questioning the effective stocking rates on certain pastures of the Garat allotment. Specifically, you challenge the fact that most pastures have stocking rates that are more conservative than 10 acres per AUM, and you suggest that such stocking rates are grossly conservative and unnecessary.

It should be noted that BLM did not calculate a stocking rate for each pasture and impose it upon the grazing permit. Rather, BLM initially set seasons of use necessary to protect resources, and then designed a workable grazing scheme around those seasons. As you know, Alternative 4 includes growing-season deferment in 2 of each 3-year period in pastures 3, 4, 5, and 6. Based on the fact that only one of those four pastures can be used from 4/16 to 6/30 in any given year, BLM recognized that this key mid-season period would limit the number of livestock that could be grazed on those pastures, given the extended periods of use. Under Alternative 4, BLM set the stocking rate on the most limiting pasture (pasture 4) at 10 acre/per AUM¹⁶, and then calculated acceptable numbers. BLM determined that 1,604 livestock could graze on pasture 4 given the season of use and the condition of that pasture. The 10-acre-per-AUM stocking rate that BLM set allows a greater intensity of use than the 12.9-acre-per-AUM figure that effectively was in place under the old permit.

Once BLM set the livestock numbers on pasture 4, BLM in its discretion decided to maintain that number of livestock on the other pastures. The result is stocking rates on pastures other than pasture 4 that are greater than 10 acres per AUM. While these lower stocking rates are certainly more conservative than 10 acres per AUM, they will assist BLM in meeting Idaho S&Gs and ORMP objectives in multiple resource

¹⁶ The rationale supporting the 10 acre/AUM stocking rate can be found in the EA at Section 2.8.2.4, page 51, footnote # 19, and at Section 3.5.1.1, page 211.

areas. They also provide a resistance and resilience in case of poor grazing conditions and allow me to find with a greater degree of certainty that this scheme will achieve objectives.¹⁷

Issue 2: Improve riparian vegetation and stream-bank stability in the limited areas where riparian areas exist.

Riparian areas on the Garat allotment are limited to 2.5 miles associated with Piute Creek in pastures 2, 3, and 4, many reaches of which have interrupted or intermittent flow. Riparian areas are also present and associated with a few springs. Many of these riparian areas have been impacted by past authorizations to construct reservoirs and other water developments, and their capacity for recovery may be reduced. It is not clear that the riparian areas (primarily along Piute Creek) have potential to support woody vegetation or a full complement of hydric species. Additionally, a number of reaches of Piute Creek may never have potential for perennial flow. Given that, the BLM determined that the allotment was meeting the riparian related Idaho S&Gs, even the areas don't necessarily appear that healthy. Essentially, the BLM determined that many of the interrupted and intermittent reaches of Piute Creek did not have high potential to support riparian vegetation. Nevertheless, it remains within the agency's discretion in managing these lands to put in place terms and conditions that provide a conservative approach to riparian protection in these areas (e.g., along Piute Creek) over the next 10 years. This approach will provide information about the riparian potential of the allotment for future years as the BLM continues to make management decisions.

The grazing schedule of Alternative 4 prohibits grazing in pasture 2 every year during mid-summer, the riparian area growing season. In so doing, Alternative 4 reduces the impacts on the riparian and water resources associated with Piute Creek in pasture 2, which will lead to improvement.

In addition to changing the season of use to benefit riparian areas in pasture 2, my decision supplements Alternative 4 by implementing the riparian-related performance-based terms and conditions from Alternative 3, specifically:

- Riparian stubble height of hydric species may not be equal to or less than 6 inches within lotic and lentic riparian areas at the end of the grazing season;
- Woody browse utilization within the reach of livestock may not be greater than 30 percent within lotic and lentic riparian areas at the end of the grazing season;
- Stream bank alternation within lotic riparian areas may not be greater than 10 percent at the end of scheduled livestock grazing;
- Edge shear within lentic riparian areas may not be greater than 20 percent at the end of scheduled livestock grazing.

Meeting these measures for riparian areas associated with Piute Creek and springs/seeps (incorporated as terms and conditions on the renewed permit) on a yearly basis will ensure that riparian areas improve to the extent practicable. Upon failure to meet any one performance-based term and condition in 2 years of any consecutive 5-year period, the livestock grazing permit would be modified and a new permit offered with appropriate terms and conditions so that the allotment will make significant progress toward meeting the ORMP riparian objectives and would continue to meet the Idaho S&Gs. Riparian resources have

¹⁷ Theoretically, I could have adjusted livestock numbers on each pasture so that, as you suggested in your protests, BLM maintained a constant 10-acres-per-AUM stocking rate. However, such variation of numbers by pasture during the season would have created significant management concerns for you as the permittee and for BLM, and it would certainly have required BLM to increase monitoring and compliance checks at a time of declining budgets. In addition, the increased intensities of use that would have resulted from the higher stocking rates would have reduced the certainty that this decision would be effective in meeting short and long term objectives. Accordingly, I decided against this approach.

resilience¹⁸ to recover following infrequent disturbance, including disturbance related to intensity of grazing use and stream-bank alteration in excess of riparian performance-based terms and conditions. That resilience does not extend to recovery from repeated disturbance. Objectively, in the absence of frequent compliance with the riparian performance-based terms and conditions, BLM will never learn the potential of the riparian areas and will have limited to no opportunity to move toward ORMP riparian objectives and/or maintaining Idaho S&G riparian standards.

Implementation of Alternative 4, as supplemented, will allow the Garat allotment to continue meeting Standards 2, 3, and 7 and the ORMP objective to maintain or improve riparian areas to attain proper functioning and satisfactory conditions into the future.¹⁹

Issue 3: Protect special status plants and improve the habitats supporting special status plants.

Alternative 4 allows a grazing frequency in pasture 5 of 1 in 3 years during the spring period, when saturated soils in playas and Davis' peppergrass are vulnerable to impacts associated with livestock concentration; the reduced number of cattle grazing, combined with the 2 years of spring rest, will lessen the potential impacts. Implementation of Alternative 4 will reduce livestock trampling impacts to soils in these playas and allow progress to be made toward meeting Standard 8 for Davis' peppergrass, a special status plant species.

Issue 4: Improve wildlife habitats, and habitats necessary to meet objectives for sagebrush steppe and riparian-dependent species, including sage-grouse.

Wildlife habitat in upland and riparian areas would improve throughout the allotment under Alternative 4 as supplemented, due to this alternative's focus on improving the health and vigor of plant communities. In other words, by ensuring that BLM meets or makes progress toward meeting Standard 4 (Native Plant Communities), BLM will improve wildlife habitat for all species, including sage-grouse. Improvement will be accomplished primarily by limiting the frequency of livestock grazing use during the active growing season for upland native perennial species, decreasing the stocking rate for the allotment as whole, and reducing authorized AUMs.²⁰ Further reductions in already light to moderate utilization levels will result in greater forage and cover for wildlife in the short term, and healthier plant communities in the long term.

Sage-grouse habitat in upland and riparian areas in all pastures will improve. As stated in the EA, "A native vegetation community of healthy, productive, and diverse populations of native plants typically provides proper habitat composition, structure, and function for effective sage-grouse habitat conditions. As an indicator species for the sagebrush ecosystem, the conditions that specify healthy habitat for sage-grouse are

¹⁸ Resistance is the capacity of ecological processes to continue to function with minimal change following a disturbance. Resilience is the capacity of these processes to recover following a disturbance. (Technical Reference 1734-6, Version 4-2005)

¹⁹ For more detailed discussion of the consequences of implementing Alternative 4 on water resources and riparian/wetland areas, including Idaho S&G Standards 2, 3, and 7, please refer to EA number DOI-BLM-ID-B030-2012-0012-EA Section 3.5.4.3.4

²⁰ Such improvement is consistent with the BLM's Interim Management Policy to "maintain and/or improve GSG and its habitat" by incorporating management practices that provide for adequate residual plant cover and diversity in the understories of sagebrush plant communities and "promote the growth and persistence of native shrubs, grasses and forbs" and balance grazing between riparian and upland habitat to promote the production and availability of beneficial forbs to GSG in 'meadows, mesic habitats, and riparian pastures while maintaining upland conditions and functions". IM 2012-043.

indicative of the health of the system in general. Effective sage-grouse habitat is closely related to vegetation community conditions discussed in Standard 4 (Native Plant Communities).²¹

Alternative 4 limits the frequency of growing season use in all pastures, and thus this alternative will result in fewer disturbances to sage-grouse breeding activities in uplands and riparian areas in comparison to Alternatives 1, 2, and 3. Deferment of grazing use until after the active growing season in 2 of each 3-year period in pastures 3, 4, 5, and 6, and early spring use prior to the active growing season in pastures 1 and 2, will lead to improvements in the condition of shrub steppe vegetation community composition, structure, and overall health. The subsequent increase in cover and forage for wildlife in upland and riparian areas is expected to occur over the short term (3 to 5 years), because of the reduction in the frequency of grazing use during the active growing season. Even greater increase in cover and forage will occur over the long term as consistent progress is made toward attainment of reference site shrub steppe vegetation.

Potential conflicts between livestock grazing and sage-grouse nesting activities have been reduced in Alternative 4 by the deferred season of use and/or early spring grazing. In 2 of every 3 years, grazing would not occur in pastures 3, 4, 5, and 6 during the lekking and nesting season, eliminating potential direct effects of livestock to sage-grouse nests and eggs such as displacement from leks, trampling of eggs and nests, and the possibility of nest desertion. Spring grazing is allowed on an annual basis in pastures 1 and 2, but is scheduled to occur prior to the active growing season and the sage-grouse breeding season, thus providing ample opportunity for understory grass growth during the middle and late parts of the nesting and early-brood rearing periods. Some have questioned the science behind limiting grazing during the spring period for the benefit of the sage-grouse, but I have determined that scientific research exists to support the conclusion that a reduction in nesting and early brood-rearing season disturbance has the potential to benefit sage-grouse.

I am implementing these seasonal grazing restrictions in part as a precaution that recognizes the extent of PPH preliminary priority habitat (87 percent of the acreage) and PGH preliminary general habitat (13 percent of the acreage) in the allotment. While it is not altogether certain that direct impacts from grazing on nesting sage-grouse present a major problem on the allotment, I do expect that the potential for such conflicts will be reduced under my decision. Wildlife habitats are expected to recover and improve and significant progress toward meeting Standard 8 (Threatened and Endangered Plants and Animals) and ORMP objectives will occur as a result of the Final Decision. Implementation of Alternative 4, with its focus on improving native plant communities, will improve sage-grouse habitat, and is consistent with objectives of the BLM special status species policy and the BLM's Interim Management IM (see IM-2010-043).

As noted above, my decision to include the riparian-related performance-based terms and conditions from Alternative 3 as part of the new permit will provide the limited riparian areas on the allotment an opportunity to improve, and will allow BLM to gauge the potential of those areas over the next 10 years. Because sage-grouse use riparian areas during the brood-rearing period, the riparian improvement is expected to further benefit sage-grouse on the allotment.

Although Alternative 5 would have further reduced the potential impacts to special status species habitats with removal of livestock grazing from the allotment, proper livestock management practices that implement appropriate seasons, intensities, and duration of use have been identified as consistent with providing habitats for sagebrush-obligate and shrub-dependent special status species. Alternative 4, as supplemented, implements proper livestock management by establishing seasons and the duration of grazing use in

²¹ For more detailed discussion on the relationship between the Idaho S&G Standards 4 and 8 relative to providing habitats for special status species, please refer to EA number DOI-BLM-ID-B030-2012-0012-EA Section 3.5.5.1

pastures that provide seasonal habitats for sage-grouse and limits the intensity of impacts to upland and riparian resources.

Finally, my selection of Alternative 4, as supplemented, implements livestock management practices that will maintain or improve wildlife habitats consistent with the BLM Idaho's Guidelines for Livestock Management 4, 8, 9, and 12.²²

Issue 5: Prevent further introduction and spread of noxious and invasive annual species (e.g., cheatgrass).

Although any grazing has the potential to introduce and spread invasive weeds and non-native annual grasses, the reduction in livestock numbers and active use inherent in Alternative 4 will result in proportionally less soil surface disturbance and fewer animals that could carry seed to and from the allotment in fur, on hooves, and in their digestive system. As compared to Alternatives 1 through 3, the risk of invasive species spreading is lower under Alternative 4, as native perennial species health and vigor is improved and progress is made toward the ORMP vegetation management objective. Available sites for invasive species establishment will be reduced through competition with healthy native perennial species.

Although Alternative 5 would eliminate the potential for livestock to introduce and spread invasive and non-native annual species as compared to all alternatives that would continue to authorize grazing within the Garat allotment, livestock remain only one of a number of vectors for seed dispersal and soil surface disturbance. BLM's coordinated and ongoing weed control program would still be required in the absence of livestock grazing in the allotment.²³

Issue 6: Consider whether grazing on the Garat allotment can be used to limit wildfire.

During the NEPA process, some asked the BLM to consider using grazing on the Garat allotment to limit the potential for wildfire ignition and spread. The BLM has considered the issue and determined that it would be theoretically possible to use targeted grazing to create fuel breaks on the Garat allotment with the hope that those fuel breaks would help control the spread of large wildfires in the area. However, the resource costs associated with this strategy are such that I have decided against it. Ultimately, implementation of Alternative 4 will not materially alter the BLM's ability to fight wildfire in the area.

Putting aside fuel breaks, a number of sources identify the potential to use grazing to reduce fine fuels on a landscape scale to also reduce the spread and ignition of wildfire; however, after reviewing that literature, the identified benefits of that approach are less than the targeted fuel break approach discussed above. In addition, landscape-scale fuels reduction with livestock grazing has its greatest application in grass-dominated vegetation types, and specifically within seedings of grazing-tolerant introduced grasses and annual grasses. Such conditions do not exist on the Garat allotment at a pasture-wide scale. Finally, the levels of livestock grazing and the season of yearly use necessary to reduce fine fuels prior to the fire season are not conducive to sustaining or improving native perennial herbaceous species. This is one of the main reasons a targeted grazing system to control fire is not viable on the Garat allotment at this time and with existing infrastructure. The BLM's current permit renewal is focused on improving native plant communities on the Garat allotment, and targeted grazing to create fuel breaks or to reduce fine fuels to control fire would not support that improvement.

²² For more detailed discussion of the consequences of implementing Alternative 4 on wildlife habitats, including the Idaho S&G Standard 8 for animals, please refer to EA number DOI-BLM-ID-B030-2012-0012-EA Section 3.5.5.2.

²³ For more detailed discussion of the consequences of implementing Alternative 4 on the introduction and spread of weeds in the Garat allotment, please refer to EA number DOI-BLM-ID-B030-2012-0012-EA Section 3.5.1.2.

Alternative 4 retains a level of grazing use that somewhat reduces the accumulation of fine fuels, and thus will lessen the spread of large wildfires when fire weather conditions are less extreme. More importantly, it is designed to benefit and promote the health and vigor of native perennial species on the allotment, thereby limiting the dominance of annual species and so limiting the accumulation of continuous fine fuels and accompanying extreme fire behavior, reducing the ignition and spread of wildfire, and enhancing post-fire recovery.²⁴

Issue 7: Limit impacts to regional socioeconomic activity generated by livestock production.

During the NEPA and public comment process, some raised the concern that selection of certain alternatives considered in the EA could impact regional socioeconomic activity. I share this concern, and have taken these concerns into consideration in making my decision. However, my primary obligation is to ensure that the new grazing permit protects resources in a manner consistent with the BLM's obligations under the Taylor Grazing Act (TGA), FLPMA, Idaho S&Gs and the ORMP. As noted above, I have selected Alternative 4, as supplemented, in large part because that selection accomplishes those latter goals. We acknowledge that wherever BLM reduces AUMs, there are likely to be impacts to specific ranching operations and, sometimes, surrounding communities. However, should such risks preclude BLM from acting to protect healthy, sustainable landscapes, then BLM lands that need improvement would never improve and BLM would fail to meet its legal obligations to sustain healthy lands for the future.

Consideration of Alternatives 1 and 2 disclosed that neither of those alternatives would allow the allotment to meet Idaho S&Gs or the ORMP resource objectives, and therefore I could not select them, despite the lesser economic impacts that they may have. While Alternative 3 was developed to improve resource conditions toward meeting objectives and did not reduce livestock numbers or AUMs initially, that alternative would have required a level of livestock management for you as the permittee, and grazing administration for the BLM (including intensive monitoring requirements), that would have been expensive and time-consuming. In addition, implementation of Alternative 3 could have introduced an unnecessary element of uncertainty into your efforts to coordinate with BLM and to your livestock management operations. That uncertainty includes the coordinated understanding of the degree of flexibility available to modify livestock management practices, while remaining within terms and conditions of the grazing permit. An additional consideration of livestock management under Alternative 3 is the potential need for you to reduce livestock numbers and AUMs used to meet performance-based terms and conditions. Such unknown impacts could include an overall reduction in the number of cattle that graze within the Garat allotment and the economic impacts to the region similar to or greater than those of Alternative 4.

Based on the information you provided in your protest letter of February 12, 2013, we have extended our socioeconomic analysis to the ranch level, conducting a partial-budgeting analysis of the impact of this decision on that part of your operation affected by this decision; please refer to Appendix O attached to this Final Decision for that discussion.

I acknowledge and regret the impact this decision will have on your operation; it is unfortunate that decisions such as this, made in fulfillment of BLM's management responsibilities to protect resources, have such effects.

As we know, the Taylor Grazing Act and the FLPMA direct the BLM management of public lands. The Taylor Grazing Act was enacted to stop injury to the public grazing lands by preventing overgrazing and soil deterioration; to provide for their orderly use, improvement, and development; to stabilize the livestock

²⁴ For more detailed discussion on the relationship between fuels reduction resulting from livestock grazing and wildfire behavior, please refer to EA number DOI-BLM-ID-B030-2012-0012-EA Section 2.6.

industry dependent upon the public range, and for other purposes. The FLMPA declared policy that the BLM manage public lands on the basis of multiple use and sustained yield. In addition, FLPMA declared the policy that the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use.

Development of successful livestock grazing management schemes in the sagebrush steppe of the intermountain west consistent with these directives presents unique challenges. Developing grazing management practices within these sagebrush-steppe vegetation communities that acknowledge the limited precipitation and water regime, the friability and essential role of microbiotic soil crusts, and the vulnerability of bunchgrass communities to livestock grazing use is challenging. This is the challenge that BLM met when defining the terms and conditions of your grazing permit.

Hoping to ameliorate any abrupt economic impacts from implementation of Alternative 4, as supplemented, to you as a permittee, I attempted to develop a way to implement Alternative 4 that would have a less severe initial impact. However, given the BLM's regulatory requirement to make significant progress under a new permit following a determination that an allotment is not meeting Standards due to current livestock use, I determined that any mediated approach would have only minimal benefit and increased uncertainty for the permittee.

Additional Rationale

Consideration of other factors contributed to my decision to make Alternative 4 the foundation of future grazing. Alternatives 1 and 2 would not have led the allotment toward meeting or making progress towards meeting the Idaho S&Gs. In deciding between Alternatives 3 and 4, one consideration was the intensity of grazing management practices required from the permittee under each alternative and the time and expense required for the BLM to administer grazing under each alternative. In fact, this was a major consideration in my evaluation of Alternatives 3 and 4.

While Alternative 4 retains appropriate flexibility to adjust livestock use through the grazing season in response to weather conditions and livestock water availability in an arid environment, it does not require the intensity of livestock management that would be necessary to manage livestock impacts to vegetation and other resource values under full implementation of Alternative 3. Indeed, under Alternative 3, both the BLM and the permittee would have to intensively monitor riparian, upland, and other resources based on use patterns, and react in response to unacceptable intensities of livestock use accordingly.

While implementation of Alternative 3 is theoretically possible, the intensity of monitoring and livestock management required is extremely difficult and expensive on an allotment as remote as the Garat allotment. The intensive monitoring and accompanying strict compliance requirements led me to reject Alternative 3 as too labor-intensive and lacking in long-range certainty for the operator. For these reasons, I determined that it was not in the best interests of the BLM or the permittee to select that alternative in full.

Alternative 4 achieves similar resource ends as Alternative 3, but does so by modifying seasons of use and numbers of livestock rather than requiring yearly intensive management and adjustment. I am implementing only the riparian performance terms and conditions from Alternative 3, which will require less management and monitoring from the BLM and you as the permittee when imposed in conjunction with Alternative 4. Flexibility provided under Alternative 4 retains seasons, intensities, and duration of grazing use within parameters that will allow maintenance and improvement of native perennial vegetation health and vigor, riparian, and other resource values.

I did consider selecting Alternative 5 (No Grazing) for the Garat allotment; however, based on all the information used in developing my decision, I believe that the BLM can meet resource objectives and still allow grazing on the allotment. In selecting Alternative 4 rather than Alternative 5, I especially considered (1) BLM's ability to meet resource objectives using Alternative 4, (2) the impact of implementation of Alternative 5 on your operation and on regional economic activity, and (3) your past performance under the current permit. The allotment's resource issues are primarily related to the improper seasons and site-specific intensities of grazing use. By implementing Alternative 4, as supplemented, the resource issues identified will be addressed. The suspension of grazing for a 10-year period is not the management decision most appropriate at this time in light of these factors.

Climate change is another factor I considered in building my decision around Alternative 4. Climate change is a stressor that can reduce the long-term competitive advantage of native perennial plant species. Since livestock management practices can also stress sensitive perennial species in arid sagebrush steppe environments, I considered the issues together, albeit based on the limited information available on how they relate in actual range conditions. Although the factors that contribute to climate change are complex, long-term, and not fully understood, the opportunity to provide resistance and resilience²⁵ within native perennial vegetation communities from livestock grazing induced impacts is within the scope of this decision. Alternative 4's combined seasons, intensities, and durations of livestock use promote long-term plant health and vigor. Assuming that climate change affects the arid landscapes in the long-term, the native plant communities on the Garat allotment will be better armed to survive such changes under Alternative 4 as compared with Alternatives 1 through 3. The native plant health and vigor protected under Alternative 4 will provide resistance and resilience to additional stressors, including climate change.²⁶

My decision to allow the increase in the number of saddle horses from 15 to an average of 25 (but not to exceed 75) authorized to be kept on public land within two horse pastures in the Garat allotment for cattle management purposes will provide riders increased tools for the intensity of livestock management necessary to meet the Idaho S&Gs and ORMP resource management objectives. The decision to not authorize horse use in the Piute Creek enclosure of pasture 4 is because riparian resources adjacent to Piute Creek in this vicinity were assessed as functioning-at-risk and concentration of horse use in this area would not be conducive toward recovery to functioning condition and a condition that provides for resource values associated with riparian areas.

I decided to deny your request to extend the season of use by 2 days at the beginning of the season because authorization to actively cross pastures within the Garat allotment between March 15 and October 15, although at times other than when those pastures are scheduled for grazing use, is part of the permit that will be offered by this Final Decision. Authorization of your request would have allowed turnout of cattle on March 13, an action desired so that you could cross the allotment and arrive at the first pasture scheduled for use on March 15 (the traditional beginning date for grazing use in the Garat allotment). Authorization of an additional 2 days outside the traditional annual period of grazing use for the Garat allotment as a whole is unnecessary and would only provide authorization for a portion of your crossing needs within the Garat allotment. The need to cross pastures to move cattle in accordance with the grazing schedule is present throughout the permitted grazing season, including movement of more than one group of cattle to arrive at the first pasture scheduled for use through a period of time following the beginning date of the grazing

²⁵ Resistance is the capacity of ecological processes to continue to function with minimal change following a disturbance. Resilience is the capacity of these processes to recover following a disturbance. (Technical Reference 1734-6, Version 4-2005)

²⁶ For more detailed discussion of the benefits of providing the inherent resilience of healthy and vigorous native perennial vegetation communities to stressors such as climate change, please refer to EA number DOI-BLM-ID-B030-2012-0012-EA Section 3.5.1.2

season in the allotment. Active crossing of pastures in the Garat allotment to complete scheduled moves is authorized by the permit that will be offered.

I decided to deny your request for after-the-grazing-season billing because this opportunity is only provided in the grazing regulations [43 CFR § 4130-8-1(e)] when provided for in an allotment management plan.²⁷ This Final Decision does not fit the definition of an allotment management plan. In addition, after-the-grazing-season billing is a discretionary act (even where possible), and I prefer to manage billing at the beginning of the grazing season.

I decided to not authorize the modification of the cross-fence layout in the Piute Creek/Piute Basin area, the re-drilling of wells at Middle Windmill and 45 Windmill, or the construction of gravity-fed pipelines to lower elevation portions of Big Horse or other spring use pastures in this Final Decision because the renewal of your grazing permit with terms and conditions of the permit, as identified above, is not dependent on these projects. There remains an existing coordinated process to identify, analyze, and authorize as appropriate the restoration, improvement, or development of additional livestock water sources and other range projects outside the grazing permit renewal process provides for the appropriate analysis, authorization, and implementation of projects while not encumbering the expedited permit renewal process.

Finding of No Significant Impact (FONSI)

A finding of no significant impact (FONSI) was signed on January 28, 2013, and concluded that the decision to implement Alternative 4, as supplemented, is not a major federal action that will have a significant effect on the quality of the human environment, individually or cumulatively with other actions in the general area. That finding was based on the context and intensity of impacts organized around the 10 significance criteria described at 40 CFR § 1508.27. Therefore, an environmental impact statement is not required. A copy of the FONSI for EA No. DOI-BLM-ID-B030-2012-0012-EA is available on the web at: http://www.blm.gov/id/st/en/prog/nepa_register/owyhee_grazing_group/grazing_permit_renewal.html

Conclusion

In conclusion, it is my decision to select Alternative 4, as supplemented, over other alternatives because livestock management practices under this selection best meet the ORMP objectives allotment-wide and the Idaho S&Gs in locations where Standards were not met due to current livestock management practices. Alternatives 1 and 2 fail to implement livestock management practices that would meet the objectives and Standards. Specifically, both alternatives fail to implement actions that would meet Standard 4 (Native Plant Communities) and Standard 8 (Threatened and Endangered Plants and Animals) for Davis' peppergrass and for sage-grouse. Full implementation of Alternative 3 would likely require intensive livestock management to ensure compliance with performance-based terms and conditions and additional administrative burden to complete monitoring and compliance inspections. The potential benefits under Alternative 3 are equally achieved under Alternative 4, as supplemented. Alternative 5 removes the economic activity of one large livestock operation from Owyhee County and southwest Idaho, a region where livestock production and agriculture is a large portion of the economy. That, in conjunction with current resource conditions and the improvement anticipated by implementation of Alternative 4, as supplemented, lead me to believe elimination of livestock grazing from the Garat allotment is unnecessary at this point.

²⁷ An allotment management plan is a documented program developed as an activity plan consistent with the definition at 43 U.S.C. 1702(k), that focuses on and contains the necessary instructions for the management of livestock grazing on specified public lands to meet resource conditions, sustained yield, multiple use, economic and other objectives.

This decision is based on the information and analysis provided in the EA, in addition to information received through public and permittee comments and protests, and informed by current conditions on the allotment as revealed in the Garat allotment's Rangeland Health Assessments and Determination. I have a high degree of certainty that this decision will enable the Garat allotment to meet or make progress toward meeting all applicable Idaho S&Gs and management objectives of the Owyhee Resource Management Plan.

Authority

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

- 4100.0-8 Land use plans; the ORMP designates the Garat allotment available for livestock grazing;
- 4110.3 Changes in permitted use;
- 4130.2 Grazing permits or leases. Grazing permits may be issued to qualified applicants on lands designated as available for livestock grazing. Grazing permits shall be issued for a term of 10 years unless the authorized officer determines that a lesser term is in the best interest of sound management;
- 4130.3 Terms and conditions. Grazing permits must specify the term and conditions that are needed to achieve desired resource conditions, including both mandatory and other terms and conditions; and
- 4180 Fundamentals of Rangeland Health and Standards and Guidelines for Grazing Administration. This final decision will result in taking appropriate action to modifying existing grazing management in order to make significant progress toward achieving rangeland health.

Right of Appeal

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

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

In accordance with 43 CFR § 4.401, the BLM does not accept fax or email filing of a notice of appeal and petition for stay. Any notice of appeal and/or petition for stay must be sent or delivered to the office of the authorized officer by mail or personal delivery.

Within 15 days of filing the appeal or the appeal and petition for stay with the BLM officer named above, the appellant must also serve copies on other persons named in the copies sent to section of this decision in accordance with 43 CFR 4.421 and on the Office of the Regional Solicitor located at the address below in accordance with 43 CFR § 4.470(a) and 4.471(b).

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

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

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

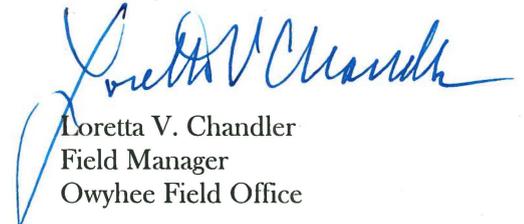
- (1) The relative harm to the parties if the stay is granted or denied.
- (2) The likelihood of the appellant's success on the merits.
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

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

Any person named in the Decision that receives a copy of a petition for a stay and/or an appeal is directed to 43 CFR § 4.472(b) for procedures to follow in order to respond.

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

Sincerely,



Loretta V. Chandler
Field Manager
Owyhee Field Office

Copies sent to:
See Certified Mailing List

Attachments:
Appendix O
Group 1 Protest Responses - Garat Allotment (#584)

Certified Mail List	Cert #
06 Livestock, Dennis Stanford, PO Box 167, Jordan Valley, OR 97910	7008 1140 0004 6331 8990
Audubon Society Golden Eagle, PO Box 8261, Boise, ID 83707	7008 1140 0004 6331 9003
Barringer, John, 6016 Pierce Park, Boise, ID 83703	7008 1140 0004 6331 9010
Boise District Grazing Board, Stan Boyd, PO Box 2596, Boise, ID 83701	7008 1140 0004 6331 9027
Bruneau Cattle Co., Eric Davis, 3900 E Idaho St., Bruneau, ID 83604	7008 1140 0004 6331 9034
BLM, Elko Field Office, 3900 E Idaho St., Elko, NV, 89801	7008 1140 0004 6331 9041
Idaho Foundation for North American Wild Sheep, Jim Jeffries - Director, PO Box 8224 Boise, Idaho 82707	7008 1140 0004 6331 9058
Gibson, Chad, 16770 Agate Ln., Wilder, ID 83676	7008 1140 0004 6331 9065
Goller, Brian., 2722 E. Starcrest, Boise, ID 83712	7008 1140 0004 6331 9072
ID Cattlemans Association, Karen Williams, 2120 Airport Way, Box 15397, Boise, ID 83715	7012 3050 0001 0572 6201
Heughins, Russ, 10370 W Landmark Ct., Boise, ID 83704	7008 1140 0004 6331 9089
ID Conservation League, John Robison, PO Box 844, Boise, ID 83701	7008 1140 0004 6331 9096
ID Dept. of Agriculture, John Biar, PO Box 790, Boise, ID 83707	7008 1140 0004 6331 9102
ID Dept. of Parks & Recreation, Director, PO Box 83720, Boise, ID 83720	7008 1140 0004 6331 9119
ID Fish & Game, 3101 S Powerline Rd., Nampa, ID 83686	7012 3050 0001 0572 5853
ID Native Plant Society, President, PO Box 9451, Boise, ID 83707	7012 3050 0001 0572 5860
ID Outfitters & Guides Assoc., Grant Simonds, PO Box 95, Boise, ID 83701	7012 3050 0001 0572 5884
ID Rivers United, PO Box 633, Boise, ID 83701	7012 3050 0001 0572 5891
ID Sporting Congress, Ron Mitchell, PO Box 1136, Boise, ID 83701	7012 3050 0001 0572 5877
ID Wildlife Federation, PO Box 6426, Boise, ID 83707	7012 3050 0001 0572 5907
ID Dept. of Lands, PO Box 83720, Boise, ID 83720	7012 3050 0001 0572 5914
ID Dept. Environmental Quality, 1445 N Orchard, Boise, ID 83706	7012 3050 0001 0572 5921
Jaca, Elias, 21275 Upper Reynolds Creek Rd., Murphy, ID 83650	7012 3050 0001 0572 5938
Juniper Mtn. Grazing Assoc., Michael Stanford, 3581 Cliffs Rd., Jordan Valley, OR 97910	7012 3050 0001 0572 5945
Kershner, Vernon, PO Box 38, Jordan Valley, OR 97910	7012 3050 0001 0572

Certified Mail List	Cert #
	5952
LU Ranching, Tim Lowry, PO Box 132, Jordan Valley, OR 97910	7012 3050 0001 0572 5969
Lyons, Charles, 11408 Hwy 20, Mountain Home, ID 83647	7012 3050 0001 0572 5976
Maestrejuan, Teo & Sara, 26613 Pleasant Valley Rd., Jordan Valley, OR 97910	7012 3050 0001 0572 5983
Moore Smith Buxton & Turcke, Paul Turcke, 950 W. Bannock, Ste 520. Boise, ID 83702	7012 3050 0001 0572 5990
National Wildlife Federation, Rich Day, 240 N Higgins #2, Missoula, MT 59802	7012 3050 0001 0572 6003
Nelson, Brett, 9127 W Preece St., Boise, ID 83704	7012 3050 0001 0572 6010
Office of Species Conservation, Cally Younger, 304 N. 8th St. STE 149, Boise, ID 83702	7012 3050 0001 0572 6195
OR Natural Desert Assoc., Brent Fenty, 50 SW Bond St #4, Bend OR 99702	7012 3050 0001 0572 6027
Oregon Natural Resources Council, 5825 N Greeley, Portland, OR 97217	7012 3050 0001 0572 6034
Owyhee Cattlemen's Assoc. PO Box 400, Marsing, ID 83639	7012 3050 0001 0572 6041
Owyhee County Commissioners, PO Box 128, Murphy, ID 83650	7012 3050 0001 0572 6058
Owyhee County Natural Resources Committee, Jim Desmond, PO Box 38, Murphy, ID 83650	7012 3050 0001 0572 6065
Pascoe, Ramona, PO Box 126, Jordan Valley, OR 97910	7012 3050 0001 0572 6072
Brenda Richards, 8935 Whiskey Mountain Rd., Murphy, ID 83650	7012 3050 0001 0572 8935
Petan Co. of Nevada - YP Ranch, John Jackson, HC 32 Box 450, Tuscarora, NV 89834	7012 3050 0001 0572 6089
Resource Advisory Council, Gene Gray, 2393 Watts Lane, Payette, ID 83661	7012 3050 0001 0572 6096
Rocky Mountain Elk Foundation, Dave Torell, 6199 N Bellecreek Ave, Boise, ID 83713	7012 3050 0001 0572 6102
Shoshone-Bannock Tribes, Nathan Small, PO Box 306, Ft. Hall, ID 83203	7012 3050 0001 0572 6119
Sierra Club, PO Box 552, Boise, ID 83701	7012 3050 0001 0572 6126
The Wilderness Society, 950 W Bannock St., Ste 605, Boise, ID 83702	7012 3050 0001 0572 6133
Vonderheide, Richard, 6036 W Outlook Ave, Boise, ID 83703	7012 3050 0001 0572 6140
Western Range Services, PO Box 1330, Elko, NV 89801	7012 3050 0001 0572 6157
Western Watershed Projects, PO Box 1770, Hailey, ID 83333	7012 3050 0001 0572 6164
Western Watershed Projects- Fite, Katie, PO Box 2863, Boise, ID 83701	7012 3050 0001 0572 6171

Appendix O: Social and Economic Values Additional Information

This appendix hereby incorporates the below language in its entirety into the Owyhee River Group Final EA (DOI-BLM-ID-B030-2012-0012-EA). This new section shall hereby be designated as Section 3.3.1.6.1 Group 1 Social and Economic Values Additional Information.

Additional Impacts Analysis

The analysis completed in the Owyhee River Group Final EA (DOI-BLM-ID-B030-2012-0012-EA) considers the impacts of the alternatives based on a market value of the AUMs and the value of the AUMs to the local economy, as proposed in each alternative. During the protest process, the BLM received some information that provides additional insight regarding the potential impacts from each alternative. This detailed analysis incorporates a sample partial enterprise budget showing the potential impact of each alternative on that part of the enterprise affected, based on information provided by a local ranch operator that was reviewed by a BLM rangeland manager (see Explanation of Model below). As noted in Section 3.3.1.6 of the EA, any analysis of impacts to ranchers includes some assumptions about management decisions and the financial aspects of the ranch operation; thus, the results of this analysis are intended to represent the impacts of the alternatives on representative small, medium, and very large ranch operations and are not specific to any individual ranch.²⁸ For the purposes of this analysis, a small ranch is one with fewer than 100 cattle plus 10 horses; a medium ranch is one with 100 to 500 cattle plus 10 horses, and a very large ranch is one with more than 2,500 cattle plus 10 horses. These results show the differences in net annual revenue when comparing the changes in AUMs in Alternatives 2 through 5 with the baseline AUMs in Alternative 1, and have been averaged and rounded.

1. Alternative 1

There would be no change in AUMs or management and thus no change in annual or 10-year net revenue.

2. Alternative 2

Table 1: Annual change in net revenue for Alternative 2

Small ranch operation	Medium ranch operation	Very large ranch operation
\$1,200	\$43,000	\$202,000

3. Alternative 3

Table 2: Annual change in net revenue for Alternative 3

Small ranch operation	Medium ranch operation	Very large ranch operation
\$1,200	\$7,600	\$33,000*

*This value assumes the ability to fully utilize all authorized AUMs

²⁸ A complete analysis using this model has been conducted for each of the Owyhee River allotments to inform the development of the sample small, medium, and very large ranches. This analysis is available from the Idaho BLM State Office project record upon request.

4. Alternative 4

Table 3: Annual change in net revenue for Alternative 4

Small ranch operation	Medium ranch operation	Very large ranch operation
-\$5,800	-\$31,000	-\$507,000

5. Alternative 5

Table 4: Annual change in net revenue for Alternative 5

Small ranch operation	Medium ranch operation	Very large ranch operation
-\$18,000	-\$102,000	-\$980,000

6. Cumulative Effects

6.1. Past present and foreseeable actions

As stated in the background section of this EA (1.3) the BLM Owyhee Field Office prioritized and grouped allotments to fully process and renew grazing permits in accordance with the Order Approving Stipulated Settlement Agreement (United States District Court for the District of Idaho Case 1:97-CV-00519-BLW) dated June 26, 2008. The agreement defined a schedule for completing the environmental analyses and final decisions for grazing permits in a number of allotments.

For any allotments in Groups 2 through 5 that meet all Standards and Guidelines, reductions in AUMs may not occur; however, because reductions in AUMs have been proposed on allotments in the Owyhee River Group that have not met Standards or Guidelines, it is reasonable to assume that future reductions may occur on any allotments in Groups 2 through 5 that are not meeting Standards or Guidelines as well. Those potential reductions, combined with any impacts that may result from proposed changes in management of the Owyhee Group allotments, could have substantial impacts on local economic activity. Social and economic effects experienced locally from reductions on each permit would be compounded on a county-wide or regional basis.

Allotments in the analysis area are in various stages of the 10-year permit cycle, and as expiration dates approach, each allotment is evaluated for rangeland health and progress toward meeting the Fundamentals of Rangeland Standards prior to the authorization of a new permit. Following these evaluations, the BLM will prepare NEPA documents, either in the form of Environmental Assessments or Environmental Impact Statements. As noted in Section 1.2 of the EA, livestock grazing permits for all of the Owyhee 68 allotments must be renewed by December 31, 2013; a draft Environmental Impact Statement is currently being prepared for the Chipmunk Group (Group 2) priority allotment group and draft Environmental Assessments are currently being prepared for the Toy Mountain, South Mountain, and Morgan priority allotment groups (Groups 3, 4, and 5). These documents will analyze the social and economic impacts of implementing multiple alternatives, just as this Group 1 EA does, and will be followed by Proposed and Final Decisions regarding renewal of each of the grazing permits. While it is not possible to analyze those impacts in this EA because future possible changes in the management of the Chipmunk, Toy Mountain, South Mountain, and Morgan allotment groups have not been developed or analyzed, estimates of impacts based on a range of AUMs are presented below. As noted above, renewing permits for all of the allotments in Groups 2 through 5 at currently permitted levels would maintain active permitted use at 36,549 AUMs. Renewing the permits at 75 percent of current levels would total 27,412 AUMs; 50 percent renewal would total 18,275 AUMs; 25 percent renewal would total 9,137 AUMs. If the no-grazing alternative were chosen for all of these allotments, 0 active use AUMs would be authorized and grazing would not occur on any of the Groups 2 through 5 allotments for 10 years.

It would be speculative at this time for this EA to include the cumulative impacts from those future actions not yet defined, and for which decisions have not been issued. Future NEPA analysis in all

Owyhee planning area grazing permit renewal efforts will include the cumulative effects of past, present, and foreseeable actions at that point in time. That analysis will include the cumulative effects to the social and economic environment that result from implementing the selected alternative in this EA.

There have been decisions recently issued by the BLM Owyhee Field Office that, when implemented, will contribute cumulative effects to the social and economic environment in the analysis area (See section – for a description of the grazing permit renewal summary). The Pole Creek Allotment Final EA (EA # ID130-2009-EA-3783) analyzed, and the proposed decision selected, a 576-AUM reduction. In the context of cumulative effects analysis, these reductions are considered foreseeable actions rather than speculative because the NEPA analysis is completed and the proposed decisions have been issued.

A number of permit renewals have been completed and implemented in since implementation of the ORMP in 1999 that may be having residual effects to the social and economic environment today. Fifteen of the 134 allotments in the Owyhee Field Office considered in this cumulative effects analysis have had AUM reductions and include Cliffs, Elephant Butte, Hardtrigger, Rockville, Rabbit Creek/Peters Gulch, Strodes Basin, Trout Springs, Bull Basin, Nickel Creek, Gusman, Silver City (which was combined with Diamond Creek after ORMP publication), Louse Creek, Burghardt FFR, '45', and Tent Creek. The effects of issuing these permits resulted in AUM reductions totaling 10,466 within the planning area (ORMP table LVST-1, RAS data (available from the Idaho BLM State Office project record upon request)).

The cumulative effects to the social and economic environment analyzed in this EA are within the context of the following three analysis assumptions:

- When it was completed in 1999, the Owyhee Resource Management Plan (ORMP) identified 135,116 active use AUMs in the planning area (Proposed RMP at 23). The Final EIS projected that meeting the rangeland health objectives through the implementation of Alternative E (the selected RMP) would cause substantial adjustments to be made in livestock grazing throughout the planning area (EIS at IV-269). The EIS concludes in the effects to livestock management section (IV-271) that active use AUMs would decrease 22 percent, or about 30,000 AUMs over the estimated 20-year life of the plan. The level of AUM reductions analyzed in the grazing alternatives in this EA, added to all AUM reductions implemented or proposed in other permit renewal actions within the planning area, would result in 115,320 active use AUMs permitted, and would be within the AUM reduction levels analyzed in the Final ORMP/EIS (105,899 AUMs by 2019)²⁹.
- In pursuit of meeting the resource objectives in the ORMP as well as the Standards for Rangeland health, the above AUM numbers are approximate estimates and future authorized levels of livestock use may change. If future AUM reductions within the Owyhee Field Office are greater than those analyzed in the ORMP/EIS, they will be subject to further NEPA analysis.
- The CEQ regulations state that the *"Human environment" shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment. (See the definition of "effects" (Sec. 1508.8).) This means that economic or social effects are not intended by themselves to require preparation of an environmental impact statement. When an environmental impact statement is prepared and economic or social and natural or physical environmental effects are interrelated, then the environmental impact*

²⁹ This document tiers to the ORMP Final Decision and incorporates the Final ORMP EIS by reference.

statement will discuss all of these effects on the human environment (40 CFR 1508.14). The effects analysis in this EA discusses the social, economic, natural, and physical environment in this context.

Explanation of Model

The model used in calculating the ranch-level economic effects of changes in permitted range AUMs implements a partial-budgeting, marginal analysis approach to economic analysis of an agricultural enterprise. The model is based on a series of assumptions related to both market conditions and how the affected ranches might respond to changes in AUMs given those conditions, as outlined below.

The AUMs used as the baseline for comparison in the model are taken from current active AUMs listed in the descriptions of the alternatives. AUMs and months of use for each alternative were plugged into the model to evaluate the economic effects of the increase or decrease in AUMs that would occur if a specific alternative were implemented. Transfers of livestock from one allotment to another by the same owner were treated as internal sales of animals and were evaluated as separate enterprises.

In the analysis, it is assumed that the maximum AUMs permitted in any given month on the allotment serve as the limiting factor in determining the maximum size of the herd from which annual production can be obtained. The total supported number of animal units (AUs) is set by the number of range AUMs divided by the number of months on the allotment. In other words, an allotment with 180 permitted AUMs spread over 6 months would be able to support no more than 30 animal units, and the size of the herd is assumed to be constant throughout the year, regardless of how many months the herd grazes on the allotment being evaluated. Each animal unit is assumed to be equal to one cow-calf pair.

Under each alternative, if the total number of AUs decreases it is assumed that the rancher will sell the excess cattle (either internally within the overall ranch operation, or externally at auction) at a sale weight of 900 pounds and a sale price of \$1.10 per pound. It is also assumed that the rancher will invest or save the proceeds from the sale at a rate of return or interest rate of 1 percent. Although under current financial market conditions a rancher might be able to realize a much higher rate of return, 1 percent is a reasonable rate to use under the assumption that ranchers would prefer to put revenue into relatively safe, conservative investments. In the model, the proceeds from selling excess cattle are annualized as a stream of revenue over ten years. This revenue stream is added to the overall net revenue associated with the allotment. The mathematical model includes a provision for evaluating cases in which rather than selling excess animals, a rancher chooses to retain them and feed them elsewhere. Because of limited information and complexities regarding assumptions about the actual business decisions that ranchers might make, this type of case was not included in the completed analyses.

If the total number of AUs increases under an alternative, it is assumed that the rancher will purchase additional cattle under the same conditions as outlined above for excessed cattle. The cost of additional cattle is annualized over ten years as a stream of costs, added to overall operating costs for the allotment.

In the model, it is assumed that ranchers will realize a 92 percent success rate in taking calves to market. In other words, 92 percent of cow-calf pairs will result in a calf being sold at the end of the summer season. Sold animals are equal to total AUs x 0.92. This calculation assumes that bulls are not included in the total number of AUs on range. The model assumes an average calf sale weight of 500 lbs. The market price for calves is an estimate based on recent published Chicago Mercantile Exchange prices for feeder cattle.³⁰ Since early 2011, prices have ranged from \$0.95 per pound up to one short-lived spike at approximately \$1.60 per pound with prices mostly remaining below \$1.50 per pound but fluctuating between \$1.40 and \$1.55 since early 2012. Higher short-term price spikes in excess of \$1.70 per pound

³⁰ Source: www.theFinancials.com, accessed on February 21, 2013.

have been observed in regional markets but have not persisted at the national level. To reflect these market conditions, a price of \$1.45 per pound was used in the model.

The annual herd maintenance costs used in the model are derived from standard national cost figures for grazing on public land³¹ and include veterinary bills, anticipated mortality losses, vaccination supplies, etc. On public land, the standard cost of herd maintenance is estimated at \$18.54 per AUM.

The annual cost of moving the herd is also derived from the standard national cost figures for grazing on public land and includes the cost of trailing and/or trucking animals between pastures, allotments, and/or ranch headquarters as well as herding costs. It also includes the value of the rancher's time plus all herding-related wages and expenses. Current typical costs for trucking range from \$2.50 to \$3.00 per mile per truck, regardless of the number of animals in the load. On public land, the standard cost of herd moving is estimated at \$14.69 per AUM.

The grazing permit cost used in the model is \$1.35 per AUM. Expected annual revenue includes proceeds from calf sales and any revenue stream derived from the sale of excess cattle. Expected annual costs include herd maintenance costs, herd moving costs, "off-allotment" feeding costs, grazing permit costs, and any stream of costs resulting from the purchase of additional cattle. The model does not include ranch operations' fixed costs, costs or returns on land investments, or depreciation. The mathematical model provides the ability to include investments in fixed infrastructure on range allotments as part of the overall economic analysis. In order to make the analysis comparable across allotments, however, infrastructure costs were not included in the completed economic analysis. Total expected annual net revenue in the model equals expected annual revenue minus expected annual costs. Ten-year net revenue equals expected annual net revenue multiplied by 10.

³¹ Source: Grazing Costs: What's the Current Situation? Neil Rimbey and L. Allen Torell, University of Idaho, 2011. <http://web.cals.uidaho.edu/idahoagbiz/files/2013/01/GrazingCost2011.pdf>

Group 1 Protest Responses

Garat Allotment (#0584)

Protests of the Owyhee Field Manager's Proposed Decisions dated January 28, 2013, were received from the following:

BRS: Barker Rosholt & Simpson LLP, for the Idaho Cattle Association (ICA), Public Lands Council (PLC), and the National Cattlemen's Beef Association (NCBA)

GBO: Idaho Governor C.L. "Butch" Otter

OCA: Owyhee Cattlemen's Association

OCC: Owyhee County Board of Commissioners

Petan: Petan Co. of Nevada

WWP: Katie Fite for Western Watersheds Project

Protests Relevant to All Allotments

Barker Rosholt & Simpson LLP submitted one protest on March 1, 2013, on behalf of the Idaho Cattle Association (ICA), Public Lands Council (PLC), and the National Cattlemen's Beef Association (NCBA).

BRS1: As discussed below, the Decisions by the BLM violate the National Environmental Policy Act ("NEPA"), 42 U.S.C. § 4231 et seq., the Federal Land Policy and Management Act ("FLPMA"), 43 O.S.C. §§ 1701 et seq., the regulations governing the Fundamentals of Rangeland Health ("FRH"), 43 C.P.R. §§ 4180.1, et seq., the regulations governing the reduction in permitted use, 43 C.P.R. §§ 4110.3-2 & 4110.3-3, and the Information Quality Act, 44 U.S.C. § 3516. In addition, the decisions constitute a taking of private property without compensation, in violation of Federal and State law.

BLM Response: See the following BLM responses to BRS2-BRS22, which address the above stated claims that BLM is accused of violating NEPA, FLPMA, FRH, 43 CFR 4100, IQA, and other Federal and State laws.

BRS2: NEPA's "hard look" requirement includes the obligation to consider the economic impacts of a proposed action. The NEPA process must be conducted "in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans."

BLM: This protest point is quoting Section 101 (a) from the National Environmental Policy Act. Section 101 (b) goes on to explain how federal agencies should carry out the policy set forth in the Act. Agencies are "to use all practicable means...to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may—

1. fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
2. assure for all Americans safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
3. attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

4. preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity, and variety of individual choice;
5. achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
6. enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

The BLM believes that NEPA's hard look requirement has been fulfilled in this EA because of the inclusion of all of the Act's considerations regarding social and economic values and especially the requirements of present and future generations by addressing where improvements need to be made to meet Rangeland Health Standards and Resource Management Plan Objectives for the health of multiple resources and their uses.

BRS3: Under the Administrative Procedures Act ("APA"), agency decisions will be set aside if they are "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law." 5 U.S.C. § 706(2)(a). "A decision is arbitrary and capricious if the agency relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Native Ecosystems Council v. Weldon*, 697 F.3d 1043, 1050-51 (9th Cir. 2012). Since the BLM failed to consider important aspects of the proposed Decisions, its actions are arbitrary and capricious.

BLM: Without more details of the "important aspects" that this point claims have not been considered in the decision, BLM cannot respond to the protest point.

BRS4: The BLM's Decisions failed to take a "hard look" at the impacts of renewing grazing permits with the drastic limitations proposed by the BLM. Rather than consider the onsite impacts of the Decisions - including the reduction in AUMs - the Decisions appears to be based on broad generalized conclusions. No site-specific findings are included in the Decisions to justify the drastic limitations being proposed. The BLM cannot turn a blind eye to specific impacts on specific allotments. Such an action violates NEPA and the APA.

The BLM Failed to Consider Range Improvements Proposed by the Permittees: Several Permittees proposed range improvements, including adjustments to livestock distribution, fencing projects to protect burned areas and riparian areas and wells and pipelines. All improvements are intended to improve livestock distribution and protect riparian and previously burned areas. Yet, the BLM refused to consider these projects, claiming that Court deadlines prevented an adequate analysis:

The active restoration activities suggested are considered range improvements, which are not being included primarily because in order for BLM to comply with the December 2013 court ordered deadline to complete NEPA and issue final decisions, inadequate time exists to complete the pre-NEPA layout and design and applicable resource surveys and clearances.

BLM: EA No. DOI-BLM-ID-B030-2012-0012-EA includes analysis through a reasonable range of alternatives supported with 2012 Rangeland Health Assessments, Evaluations, and Determinations for each of the Group 1 allotments associated with these grazing permit renewals. Furthermore, BLM has met its requirements in accordance with NEPA, APA, FLPMA, and BLM policy. Specifically in regards to taking a hard look, in accordance with the BLM NEPA Handbook H-1790-1, which defines a hard look as "a reasoned analysis containing quantitative or detailed qualitative information", the Group 1 EA analysis includes qualitative and quantitative information to support an adequate NEPA analysis for renewing grazing permits in the Garat, Castlehead-Lambert, Swisher Springs, and Swisher FFR

allotments. Additionally, the EA includes a hard look analysis in compliance with other BLM Policy including Instruction Memorandums WO-IM-99-039, WO-IM-99-149, WO-IM-2000-022 Change 1, WO-IM-2001-062, and ID-IM-2011-045.

Regarding consideration for additional range projects, from the outset of this process with the first permittee meetings in November 2011, beginning with the Garat allotment permittees, BLM has clearly communicated that new range projects would not be included in these grazing permit renewals. In these meetings, BLM communicated that it would not be possible to use range projects to achieve Rangeland Health Standards and LUP objectives because inadequate time existed to complete the pre-NEPA project layout and design, and to complete the required pre-surveys and clearances, that are necessary to allow for an adequate NEPA analysis of site-specific impacts associated with new range projects. Although it was clearly communicated to the applicants that range projects would not be conducive to completing adequate NEPA analysis within the Court-ordered timelines, both the Garat and Castlehead-Lambert allotment permittees originally made application for permit renewal that included new projects. During these meetings, and after BLM reiterated that new projects could not be adequately addressed in a NEPA analysis, permittees modified their applications indicating that projects would be nice to have but that they were not necessary to implement the proposed grazing management modifications found in their applications. Because projects were proposed, BLM did address in the EA the fact that projects were proposed. Under EA Section 2.7 Management Actions Common to All Alternatives (page 25), BLM states that:

The application for permit renewal for the Castlehead-Lambert allotment identified construction of new fencing to define the boundary between the Castlehead-Lambert allotment and the Bull Basin allotment as a desire for livestock management, but implementation of the permittees' proposed actions are not dependent on any additional project construction or reconstruction. Additionally, the application for permit renewal in the Garat allotment identified project construction and reconstruction of two wells, but implementation of Petan's application proposed action is not dependent on any additional project construction or reconstruction... None of the alternatives considered in this NEPA document for grazing permit renewal is dependent on new project construction. No new project construction or reconstruction is considered within any alternative of this NEPA document. Analysis of consequences of any new project construction, reconstruction, and maintenance will be addressed through separate NEPA analysis specific to the proposed project(s) and will not be included in this NEPA document.

Also, as discussed in the proposed decisions (see the 06 Livestock Company – Castlehead-Lambert Allotment Proposed Decision dated February 14, 2013) at *Additional Rationale*, BLM did consider and discuss the range projects in the Rationale section of the proposed decisions. As stated in this proposed decision on page 21, and similarly within the other proposed decisions dated January 28, 2013, at *Additional Rationale*:

My decision to not authorize additional projects at this time, specifically the reconstruction of fence destroyed by past fires and the construction of approximately 0.72 miles of fence-line along the ridge to the east of the West Fork Red Canyon in pasture 6, is because the renewal of your grazing permit with terms and conditions of the permit as identified above is not dependent on these projects. Retention of the existing coordinated process to identify, analyze, and authorize as appropriate the restoration, improvement, or development of additional range projects outside the grazing permit renewal process provides for the appropriate analysis, authorization, and implementation of projects, while not encumbering the expedited permit renewal process.

In addition, the reality of completing the Owyhee 68 grazing permit renewals in accordance with the May 2008 Stipulated Settlement Agreement by the Court-ordered deadline (December 31, 2013), and to avoid a potential injunction of grazing on the remaining Owyhee 68 permits, the time required to complete an adequate NEPA analysis of additional range projects was not conducive to meet these deadlines.

BRS5: BLM admits that it failed to consider the specific projects proposed by the Permittees: None of the alternatives considered in this NEPA document for grazing permit renewal is dependent on new project construction. No new project construction or reconstruction is considered within any alternative of this NEPA document.

BLM: See BLM response for BRS4.

BRS6: NEPA requires a "full and fair discussion of significant environmental impacts." Supra. Failure to consider the impacts of range improvements, including those proposed by the Permittees, has resulted in decisions that are arbitrary and capricious.

BLM: Please see response to BRS4 above. Additionally, the statement from the Protester quotes CEQ's NEPA regulations pertaining to an Environmental Impact Statement (EIS), not an Environmental Assessment (EA). **40 CFR, Section 1502.1 Purpose** states, in part: *The primary purpose of an environmental impact statement is to serve as an action-forcing device to insure that the policies and goals defined in the Act are infused into the ongoing programs and actions of the Federal Government. It shall provide full and fair discussion of significant environmental impacts (underline added) and shall inform decisionmakers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment.* Since the NEPA document is an EA, and there is a finding that no significant impacts will occur by implementing Alternative 4, there is no full and fair discussion of significant environmental impacts because there are none. The BLM stands behind its rationale articulated in the FONSI document. This rationale is based upon those criteria established by CEQ which requires an agency to consider both the context and intensity when establishing whether or not effects from the proposed action are significant (40 CFR 1508.27).

BRS7: The BLM Failed to Adequately Consider the Devastating Economic Impacts of the Proposed Decisions. The Decisions propose to drastically reduce the AUMs permitted for each allotment. Such a decision will have dramatic economic impacts on the Permittees and the local economy. Although the Notices allege to "share the concern" of the Permittees as it relates to the devastating economic impacts of the Decisions, Castlehead-Lambert (Maestrejuan) Notice at 19. the actual analysis is not adequate. Disrupting grazing operations, and forcing the Permittees to seek alternate means of feed and forage, will have far reaching and devastating economic impacts. Yet, the Decisions turn a blind eye to these impacts, claiming that the "primary obligation is to ensure that the new grazing permit protects resources in a manner consistent with the BLM's obligations under the Idaho S&Gs and the ORMP." Swisher Notice at 17. This conclusion is wrong. NEPA mandates that the BLM thoroughly consider all interrelated impacts of a proposed action-including the economic impacts. 40 C.F.R. § 1508.14. Such economic impacts should not be dismissed lightly.

BLM: The last sentence of this protest point is correct, that NEPA requires the BLM to consider all interrelated impacts, and the BLM did consider interrelated impacts, including the impacts to the local economy. These impacts were not dismissed in any sense, and so the BLM stands behind the social and economic analysis in this NEPA document. As a clarification for the social economics section of the EA, we have added Appendix O (see attached Appendix O) showing the AUM reduction of representative small, medium, and very large permitted livestock allocations. We have also added information to the Cumulative Effects section (see attached Appendix O) to clarify the limitations in determining the effects

of future grazing permit actions not yet analyzed. While the EA provides a dollar value figure to AUMs and calculates the decrease in dollars flowing in to the local economy as the result of AUM reductions, it is beyond the BLM's ability to conclude how such reductions translate to a ranch income, budget, or management strategy. Finally, we stand behind our obligation to ensure that grazing permits are issued in a manner that protects resources in ways consistent with both the Idaho Standards and Guidelines for Rangeland Health and the Owyhee Resource Management Plan (ORMP).

BRS8: The Decisions casually conclude that the Permittees can simply acquire replacement feed and forage to make up for the lost AUMs. EA at 88. Yet, the decisions do not consider the operational impacts of replacing the feed and forage. The cost of alternative feed is identified at approximately \$58/month per cow/calf pair. EA at 88. This new cost is significant to the Permittees' operations and there is no discussion of the overall impact of this new cost on the Permittees. The cost of alternative forage could range from \$5.48 to \$14.80 per AUM. Id. This is also a new cost to the Permittees that was not adequately considered in the Decisions. Furthermore, since the "federal government manages 78 percent of the total land in Owyhee County," EA at 80, it is unclear whether or not there would even be sufficient land to make up for the loss of grazing on the federal allotments. The Decisions do not consider the availability of alternate forage in their analysis. If operators cannot locate another source of forage or feed, or if they cannot afford these new costs, operation levels would be reduced, leading to a "substantial loss of community cohesion." EA at 88.

BLM: The proposed decisions spoke to social/economics at pages 19-21, in addition to the EA at page 88, which is contrary to the protester's claim. In response to the claims associated with the decisions not considering social/economic impacts (as thoroughly disclosed in EA No. B030-2012-0012-EA), the proposed decisions (see the 06 Livestock Company – Castlehead-Lambert Allotment Proposed Decision dated February 14, 2013) at *Issue 7: Limit impacts to regional socioeconomics activity generated by livestock production* and *Additional Rationale*, BLM did consider and discuss the social/economics impacts in the Rationale section of the proposed decisions. As stated in this proposed decision on pages 19-21, and the other proposed decisions dated January 28, 2013, at *Issue 7* and *Additional Rationale*:

Hoping to ameliorate any abrupt economic impacts from implementation of Alternative 4 to you as a permittee, I attempted to develop a way to implement Alternative 4 that would have a less-severe initial impact. However, given the BLM's regulatory requirement to make significant progress under a new permit following a determination that an allotment is not meeting Standards due to current livestock use, I determined that any mediated approach would have only minimal benefit and increased uncertainty for the permittee.

In selecting Alternative 4 rather than Alternative 5, I especially considered BLM's ability to meet resource objectives using Alternative 4 and the impact of implementation of Alternative 5 on permittees and on regional economic activity.

BRS9: The Decisions also assume that, since the Permittees' average AUMs have fluctuated over the years, any economic impacts will be diminished. See, e.g., Swisher Notice at 18. They conclude that Alternative 4 retains "flexibility to adjust livestock use through the grazing season." Id. This conclusion is refuted, however, by the fact that the Permittees have historically used far more AUMs than are permitted under the proposed Decisions. Compare id. at 18 (recognizing that AUMs on the Swisher Allotment have ranged from 276 to 309), with id. at 12 (proposing to authorizing only 210 active use AUMs).¹ There is no "flexibility" for a Permittee who is required to reduce AUMs by as much as 47% - to a level lower than utilized in prior seasons. Garat Notice at 15; Swisher Notice at 14 (reduction of 39%); Castlehead-Lambert (Maestresjuan) Notice at 15 (reduction of 35%); Castlehead-Lambert (06) Notice at 15 (reduction of 35%). Such reductions threaten the demise of the Permittee's operations.

BLM: Actual use associated with all of the permits being renewed indicates that AUMs over the last 10-year period have fluctuated significantly, and that the permittees have operated annually at various levels of flexibility (See EA # DOI-BLM-ID-B030-2012-0012-EA, Appendix B). For example, on the Swisher Springs allotment, between 1988 and 2010, actual use AUMs ranged from 167 (2008) to 319 (2006); on the Castlehead-Lambert allotment, between 1986 and 2011, actual use AUMs ranged from 863 (2008, associated with rest due to wildfire) to 3,162 (1999); and on the Garat allotment, between 1986 and 2011, actual use AUMs ranged from 6,856 (2012, as per the 2012 Proposed Decision) to 18,876 (1999). BLM has shown that permittees have operated within a great range of actual use (significant flexibility) for more than 20 years. In addition, as stated in the proposed decisions (i.e., 06 Livestock, Swisher Springs and Swisher FFR allotments at pages 17-18) BLM recognizes that economic impacts are possible and BLM identifies the thought process for trying to mitigate these possible impacts. BLM recognizes that any reduction in livestock numbers and AUMs are expected to be realized financially. At page 17 BLM states,

Consideration of Alternatives 1 and 2 disclosed that neither of those alternatives would allow the allotment to meet Idaho S&Gs or the ORMP resource objectives, and therefore I could not select them despite the lesser economic impacts that they may have had. While Alternative 3 was developed to improve resource conditions toward meeting objectives and did not reduce livestock numbers or AUMs initially, that alternative would have required a level of livestock management for you as the permittee and grazing administration for the BLM with monitoring requirements which would have been expensive and time-consuming. In addition, implementation of Alternative 3 could have introduced an unnecessary element of uncertainty into your livestock management operations...An additional aspect of livestock management under Alternative 3 is the potential need for you to reduce livestock numbers and AUMs used to meet performance-based terms and conditions. Such unknown impacts could include an overall reduction in the number of cattle that graze within the Swisher Springs allotment and the economic impacts to the region similar to or greater than those of Alternative 4.

Additionally, at page 18, BLM provides a rationale for why any reductions to be phased in are not possible at this time for the Group 1 grazing permits:

Hoping to ameliorate any abrupt economic impacts from implementation of Alternative 4 to you as a permittee, I attempted to develop a way to implement Alternative 4 that would have a less severe initial impact. However, given the BLM's regulatory requirement to make significant progress under a new permit following a determination that an allotment is not meeting standards due to current livestock use, I determined that any mediated approach would have only minimal benefit and increased uncertainty for the permittee...

BRS10: The "flexibility" discussion in the Decisions overlooks the fact that the fluctuations in AUMs was a result of the Permittees taking proactive management measures due to fire, drought and other climatic conditions, range readiness considerations and water availability. Now, the Permittees are essentially being punished for their proactive actions to protect the resource. Cutting AUMs to a level far below any prior AUM level will not foster continued flexibility or proactive management decisions by the Permittees. The BLM's decisions do not adequately analyze these dramatic impacts on the Permittees and local economy. Although the Decisions provide broad, generalized conclusions, any meaningful discussion of these impacts is brushed aside.

BLM: The decision to implement appropriate seasons, intensities, duration, and frequency of grazing use to allow recovery of resource values in a manner that will meet the Idaho Standards and Guidelines

(S&Gs) and the ORMP objective is in no way intended to punish permittees. In fact, the past coordinated implementation of actions to limit impacts to resource values, while maintaining livestock management practices within the terms and conditions of permits, has prevented greater departure from meeting the Idaho S&Gs and ORMP objectives than documented in the 2012 evaluation reports. Grazing permit terms and conditions of the final decisions will provide for flexibility of livestock management at a level of use that can be sustained over the long term while meeting the Idaho S&Gs and ORMP objectives. Appropriate livestock management practices of the decision will lead to sustainability and multiple-use as mandated by the Federal Land Policy and Management Act.

BRS11: The BLM Failed to Take a Hard Look at the Impacts of Grazing on Sage Grouse in these Allotments. It should be noted that grazing has occurred on these allotments for several decades. Over that time, cattle and sage grouse have co-existed, such that the areas within these allotments include some of the highest concentrations of sage grouse. This is a core sage grouse area~ -Notwithstanding this history, the BLM has now determined that a reduction in grazing is necessary in order to protect the Sage Grouse. The analysis leading to this conclusion, however, is lacking. In particular, while the BLM reviewed and adopted general sage grouse information, it failed to consider whether or not that information was even applicable to the specific allotments at issue here. Indeed, just because AUM modifications may be beneficial for sage grouse in one area does not mean that those same modifications would be necessary, or even beneficial, on these allotments. In fact, history refutes such a conclusion on these allotments, where sage grouse numbers are so strong. Here, the BLM did not do any onsite analysis to determine whether or not there was even a real need for reductions in AUMs. It did not analyze whether or not the conditions imposed under Alternative 4 were necessary to attain the desired results. In short, the BLM did not do the kind of detailed analysis required under the NEP A decision making process. Until the BLM has done this type of analysis, it cannot adequately analyze the impacts of Alternative 4 and it cannot properly determine that an AUM reduction is necessary. The BLM's failure to do onsite analysis is further compounded by the fact that the BLM refused to adequately consider the Idaho Sage-Grouse Task Force's recommendations for sage grouse management. That recommendation, which was detailed in the comments provided by the Idaho Office of Species Conservation ("OSC"), dated October 23,2012, provide sound, scientific management mechanisms that are directed at improving sage grouse habitat. As OSC discussed in their comment letter, these recommendations would improve sage grouse habitat and populations, without reducing AUMs.

BLM: The BLM took a hard look and considered site-specific sage-grouse information applicable to the allotments, as mandated by NEPA (see sage-grouse sections in the allotment-specific RHA/ER/Determinations: Castlehead-Lambert – pp.61-63, 65, 67-71, 73-76, 78-79, 82; Garat – pp. 62-81, 86-88; Swisher Springs/Swisher FFR – pp. 37-44; and EA: sections 2.3 and Table ALT-1, 2.4, 2.8.1.3 and Table ALT-12 and ALT-13, 2.8.1.4 and Table ALT-14, 2.8.2.3 and Table ALT-26, 2.8.2.4 and Table ALT-27, 2.8.3.3 and Table ALT-39, 2.8.3.4 and Table ALT-40, 3.3.1.5, 3.4.5.1, 3.4.5.2.1, 3.4.5.2.2, 3.4.5.2.3, 3.4.5.2.4, 3.4.5.2.5, 3.4.5.3, 3.4.5.3.1, 3.4.5.3.2, 3.4.5.3.3, 3.4.5.3.4, 3.4.5.3.5, 3.5.5.1, 3.5.5.1.1, 3.5.5.1.2, 3.5.5.1.3, 3.5.5.1.4, 3.5.5.1.5, 3.5.5.2, 3.5.5.2.1, 3.5.5.2.2, 3.5.5.2.3, 3.6.5.1, 3.6.5.2.3, 3.6.5.2.4, 3.6.5.2.5, 3.6.5.3, 3.6.5.3.1, 3.6.5.3.2.). Reduction in AUMs is the outcome of implementing resource-specific season of grazing limitations, which was driven primarily by the need to meet or make significant progress on RHS 2 and RHS 4 and meet ORMP objectives where applicable. Nowhere is it stated nor implied that sage-grouse require a reduction in AUMs. First, the Idaho sage-grouse task force alternative (Governor's Alternative) was not available at the time the current process was initiated, and was only finalized after the Owyhee River Group EA was under review and near completion. Second, the Idaho sage-grouse alternative is intended as an alternative in the RMP amendment process and not suitable for project-level analysis, as its context scale is far more coarse and broad over areas orders of magnitude larger than the allotments in question. The scale issue alone would neglect the type of site-specific analysis the protest purports to address.

BRS12: The BLM Failed to Take a Hard Look at the Impact of Reduced Grazing on Wildfire Management. Wildfires are the number 1 threat to sage grouse. Grazing is "an effective tool to reduce fuel loading" that will minimize wildfires. EA at 23. However, "Livestock grazing has been identified as an underutilized tool in assisting managers to achieve fuels and vegetation management objectives." EA at 22. This is especially the case in relation to the Decisions here, where the BLM has simply determined that wildfire management, through grazing, is not a priority. Castlehead-Lambert (06) Notice at 18-19. The Decisions discuss grazing as a fire management tool E.g., EA at 22-24; Castlehead-Lambert (06) Notice at 18-19. In doing so, the Decisions make broad, sweeping generalizations about grazing and wildfires and, in the end, conclude that the "BLM's current permit renewal is focused on improving native plant communities on the Castlehead-Lambert allotment, and targeted grazing to create fuel breaks would not support that improvement," *id.* at 19. By focusing on "fuel breaks," the BLM has minimized the value of grazing as a fire prevention and mitigation tool.

BLM: As noted in the EA (Section 2.6; pages 22-25), livestock grazing can be used as a tool to reduce fuels and limit fire behavior. Fuel reduction resulting from livestock grazing is most effective in grass-dominated vegetation types and when weather and fuel moisture do not contribute to extreme fire behavior. Also as identified in the EA in this section, the grazing prescriptions to implement fuel reduction on a landscape scale are not conducive to the implementation of appropriate seasons and intensity of grazing that lead to meeting the Idaho S&G and the ORMP management objectives. Although targeted grazing to provide fuel breaks is also an effective tool to limit the spread of fire, actions to create fuel breaks through grazing or other techniques are outside the scope of this decision to renew livestock grazing permits.

BRS13: The BLM's contradicts itself through these Decisions regarding the use of livestock to limit the threat of wildfire. In a presentation to the Idaho Sage-Grouse Task Force, Mike Pellant, BLM's Great Basin Restoration Initiative Coordinator discussed the increasing trend of catastrophic wildfires. See <http://fishmldgame.idaho.gov/public/wildlife/SGtaskForce/May3a.pdf> (viewed Mar. 1, 2013). Mr. Pellant presented information about the successful use of livestock grazing as a fuel load reduction tool. His presentation stated that the BLM should "Consider the utility of using livestock to manage fine fuels in fuel management projects" as a conservation measure for fuels management. *Id.* Noticeably absent from the BLM's analysis, however, is any discussion of the impacts of reduced grazing on the allotments at issue here. As with the sage grouse, the Decisions are wholly devoid of any site specific analysis or justification.

BLM: In addition to the response to protest point BRS 12 above, Section 2.6 pages 22-25 cite references that Mr. Pellant has co-authored concerning the role of livestock grazing and other tools available for managing vegetation resources to avoid adverse impacts of wildfire. The narrative in the EA concludes that targeted fuels management is best addressed in a fire management plan that can integrate all wildland fire management guidance, direction, and activities to implement national fire policy and fire management direction from resource management planning.

BRS14: Finally, the Decisions admit that the BLM failed to adequately consider the impacts of grazing on wildfire at this time. According to the EA: Using livestock grazing as a tool for managing vegetation and fuel loads will be addressed in the Idaho/Southwest Montana Environmental Impact Statement for sage-grouse, a planning effort that will amend relevant BLM resource management plans, including the Owyhee Resource Management Plan. Once the RMPs are amended, renewal of permits for grazing within the Owyhee Field Office will incorporate resource objectives and actions according to direction in the amended ORMP. EA at 24 (emphasis added). Reducing grazing will increase fuels, which will increase the risk and intensity of wildfires in the remote areas of these allotments. It also increases the risk of

cheatgrass invasions following a wildfire event. Such a decision flies in the face of the BLM's purported objection of "improving native plant communities." Supra. By failing to consider the onsite impacts of reduced grazing and the increased risk of wildfires, the Decisions violate NEPA and are arbitrary and capricious.

BLM: In addition to the response to protest points BRS 12 and 13, Section 2.6 pages 22-25 (a portion of which is quoted in this protest point) identifies the role that prescriptive livestock grazing can fulfill in fuels management. The section also identifies the adverse impacts to meeting the Idaho S&Gs and ORMP objectives that landscape-scale grazing to reduce fuels or to create fuel breaks can contribute toward in the absence of the identification and implementation of those grazing prescriptions. As stated in the response to protest point BRS 13, targeted fuels management is best addressed in a fire management plan that can integrate all wildland fire management guidance, direction, and activities to implement national fire policy and fire management direction from resource management planning.

BRS15: 5. The BLM Failed to Consider Monitoring Information Provided by the Permittees. Several of the Permittees provided the BLM with monitoring information demonstrating the actual conditions on the range. Much of this information was submitted after the FRH determinations in 2012. This information, however, was not considered by the BLM in its Decisions. See, for example, Petan Company of Nevada Protest Letter, at 4 (Feb. 12, 2013) (challenging decision based on monitoring data submitted to BLM). This Allotment-specific information counteracts the broad generalizations contained in the Decisions and should be considered. NEP A's "hard look" requirement demands as much. (BLM has a responsibility to cooperatively conduct monitoring efforts with the Permittee and to adequately review the data collected by the Permittees or their agents. According to BLM MOU W0220-2004-0 I, the BLM will work with Permittees who have expressed an interest in monitoring and will involve Permittees in the data collection and evaluation processes.)

BLM: The protester claims that BLM did not consider the volumes of monitoring data submitted by Western Range Services (WRS) on behalf of Petan Company of Nevada for the Garat allotment. The claim is entirely false and unwarranted. As stated in the *January 2012 Rangeland Health Assessment and Evaluation Report - Garat Allotment* (2012 Garat Allotment RHA/ER), it is clear that BLM considered and included discussion about the information submitted by WRS. For example, as is discussed on pages 8-9 of the 2012 Garat Allotment RHA/ER:

In December 2007, Petan Company of Nevada (Petan) provided the BLM with comments regarding the final Garat allotment Rangeland Health Assessment/Evaluations (USDI-BLM 2006) and Determination (USDI-BLM 2006) for the Garat permit renewal process (Petan 2007). The document includes additional information collected by Western Range Service (WRS)...Western Range Service evaluated the 63 RHFAs that were conducted by the BLM in 2003/2004 and provided a detailed revised suite of data, additional quantitative studies, corrected ratings, in-depth methodology, and alternative interpretations of findings and observations for the Garat allotment...WRS revisited 19 sites on which the BLM rated one or more of the attributes of rangeland health as moderate or greater departure. The BLM did not disclose what served as a reference state for any of the RHFAs, so WRS established reference conditions for their re-assessment by first visiting five RHFA sites that the BLM found to exhibit minimal departure. The consultants also conducted additional quantitative measurements including the Line-Point Intercept, Basal Gap Intercept, Soil Stability Kit, and Belt Transect methods (as outlined in Herrick et al. 2009) to supplement the qualitative decisions of the RHFA (Petan 2007)...The BLM 2011 Interdisciplinary team concurred with the data and collection methods, but did not agree with overall conclusions of WRS. See the 2011 update below for details...Ecological status and total production data collection methods used the Dry Weight Rank Method described in the

1996 Interagency Technical Reference. Scores were determined using the method described in Section 305 of the 1976 Soil Conservation Service National Range Handbook (NRH). The ecological status classes used were: Early Seral=0-25 percent of potential species composition based on the historic climax plant community; Mid Seral= 26-50 percent of potential; Late Seral= 51-75 percent of potential; and PNC = 76-100 percent of potential.

2011 Update

Rangeland Health Field Assessment (RHFAs) data collected between May of 2003 and 2004, and 2006; WRS data submitted to BLM on behalf of Petan Company of Nevada; and additional BLM monitoring data (current and historical) pertaining to the Garat Allotment (Appendix I-Maps 2-6), has been considered by the BLM NPR (NEPA Permit Renewal) interdisciplinary team (BLM IDT) to reassess and provide a 2011 Rangeland Health Standards and Guidelines update. With this said, one of the 63 RHFAs was missing and was dropped, providing for a total of 62 RHFAs. An updated Version 4 Indicators remained the same from Version 3, so the assessment process is still relevant, even where prior evaluations were made in 2001...The 2011 Interdisciplinary team reviewed the RHFA data and some conclusions varied from both the Petan data and the 2003-2004 BLM data as described in detail by pasture in this report...The 2011 Interdisciplinary team reviewed the 1997, 2003 and 2009 WRS trend data and agreed with some of the data provided; however, it did not agree with the overall conclusions of meeting Standards 1 and 4 in every pasture of the Garat allotment. Decreased bunchgrasses and higher than-expected shrub cover and shrub decadence including poor vegetation re-establishment in burned, unseeded areas as compared to the desired condition is apparent across the allotment. Soil degradation is a concern in areas where invasive annuals are increasing, such as in Juniper Basin. In addition, many sites that burned in the mid-1980s have not recovered. The Wyoming sagebrush /bluebunch wheatgrass ecological sites in the Garat allotment have moved away from the historic climax plant community to a more Wyoming sagebrush/Sandberg bluegrass dominated site as described in detail by pasture in this report.

As noted above in this response, the information provided by WRS for Petan Co. was thoroughly considered by BLM during the allotment review of the Garat allotment and for this grazing permit renewal process. The 2012 Garat Allotment RHA/ER informed the EA and the proposed decision.

BRS16: B. The BLM Failed to Consider an adequate Range of Alternatives. The "heart" of the BLM's NEPA analysis is the consideration of reasonable alternatives. In the EA, the BLM considered 5 alternatives, choosing Alternative 4 as the preferred alternative. However, the BLM failed to consider alternatives that (1) considered range improvement projects; (2) implemented recommendations from the Idaho Sage-Grouse Task Force; or (3) increase utilization as greater protection against wildfire. First, the BLM did not consider an alternative that would have maintained grazing subject to the implementation of range improvement projects and monitoring prescriptions. Second, the BLM failed to consider any alternative that would have authorized grazing management consistent with the Idaho Sage-Grouse Task Force's recommendations for sage grouse management. As discussed above, OSC provided the BLM with a comprehensive discussion of how the Task Force's recommendations would improve sage grouse habitat and populations, without imposing the drastic limitations required under Alternative 4. Third, following several wildfires, several areas within the allotments have an abundance of fine grasses. The Decisions did not discuss the viability of increased grazing in certain Allotments and/or pastures in order to reduce the risk and intensity of wildfires. The BLM's failure to adequately consider alternatives that would allow maintained grazing levels is fatal to its analysis. (Alternative 3 did allow current grazing levels subject to certain conditions addressing the intensity of grazing. E.g. Swisher Notice at 8. It did not, however, address whether or not improvement projects, such a fences, water troughs, and other projects,

would improve the health of the range. See EA at 13 ("Alternative 3 only differs from current permits with the addition of performance-based terms and conditions").)

BLM: Please see response to protest point BRS 4 for BLM's response to proposed range improvement projects. Also, see response to protest point BRS 11 and BRS 18 for the response to implementation of recommendations from the Idaho Sage-grouse Task Force. As for the proposal to increase utilization as a greater protection against wildfire, the BLM considered this option and determined that 1) proposed levels of increase were substantially the same as the proposed increase in Alternative 2, the application from the permittees, and 2) that grazing as a tool for "landscape-scale fuels treatment through livestock grazing has limited application within the sagebrush/bunchgrass vegetation types in the Owyhee River Group allotments, a landscape with few large or connected areas dominated by annual species or grazing tolerant introduced perennial grasses" (EA at 24).

BRS17: The BLM Failed to Ensure the Integrity of the Information Relied Upon In Making the Decisions. NEPA requires that the BLM "shall insure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements."

Here, the BLM relied heavily on the broad, generalized information about the impacts of grazing on sage grouse. In doing so, it overlooked other valuable information from Ms. Launchbaugh, monitoring information from the permittees' recommendations from the Idaho Sage-Grouse Task Force and studies and information from the Western Association of Fish and Wildlife Agencies and the Fish & Wildlife Service discussing grazing and its impacts on sage grouse. See supra. Any final decision must be based on information that meets with the quality assurance requirements of the Information Quality Act and guidelines.

BLM: More than 30 recent peer-reviewed articles regarding sage-grouse resource selection were referenced in the EA and several additional references can be found in the RHA/ERs (see Works Cited section of EA and RHA/E/Ds) including the general review documents cited in the protest (i.e., WAFWA: Connelly et al. 2004, Stiver et al. 2006; USFWS 2010; as well as several local working group documents: ISAC 2006, ISAC 2008). No fewer than 25 additional peer-review articles were cited (see Works Cited section of EA and RHA/E/Ds) discussing grazing effects to other wildlife that reveal consistent habitat impacts and (in many articles) population responses to the action of foliage removal via herbivory. To paraphrase a member of the Owyhee Initiative Owyhee Science Review Panel regarding the scientific method and the iterative process of building upon the large body of scientific literature: "the similar responses of wildlife to grazing across a variety of taxa is a prime example of how general principles emerge when the same pattern is seen in many different studies and across many different states. Science is the method of improving our knowledge of the natural world and refining our ability to make predictions about it" (Salo 2010).

Although Launchbaugh (USDI USGS 2008) was not cited specifically in regards to sage-grouse, the information in the report was reviewed and cited elsewhere.

Permittee monitoring information was reviewed and used in the analysis of sage-grouse habitat conditions (see 2012 Garat RHA/ER/Determination pp. 65, 67, 69-79, 87).

BRS18: The Decision Violates FLPMA. FLPMA "established a policy in favor of retaining public lands for multiple use management." *Lujan v. Nat. Wildlife Fed.*, 497 U.S. 871, 877 (1990). As such, the BLM is mandated to manage the lands it administers to retain uses including "but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values." 43 U.S.C. § 1702(c). Rather than manage for multiple uses -including range and wildlife-the Decisions

regulate the range based on perceived impacts to sage grouse. The Decisions rely on broad generalizations and overlook any site-specific analysis to determine whether the imposed limitations will actually lead to the desired results. The decision to reduce AUMs and shift the season of use appears to be based solely on generalized analysis of impacts to sage grouse. This single-minded determination is in direct conflict with the FLPMA mandate to manage the range for multiple uses. It is especially concerning given the fact that the BLM failed to even consider an alternative that would have maintained grazing practices through the Idaho Task Force's recommendations.

BLM: BLM has not violated FLPMA with the issuance of these proposed decisions. BLM has issued four proposed decisions that would renew livestock grazing permits to continue to authorize livestock grazing on public lands within four grazing allotments. These proposed decisions address management actions associated with livestock grazing specifically, where livestock grazing is one of many multiple uses on public lands within the Garat, Castlehead-Lambert, Swisher Springs and Swisher FFR allotments. Regarding the other false allegations in this protest point, the decisions were based on the need to meet or make significant progress toward Idaho Rangeland Health Standards and achieve ORMP Objectives. The BLM took a hard look and considered site-specific information applicable to the allotments as mandated by NEPA (see BLM response to BRS11 above).

BRS19: The Decisions Violate the Fundamentals of Rangeland Health Regulations.

The applicable regulations require that, when a standard is not being met, the agency must "implement the appropriate action" to cure the violation "as soon as practicable, but not later than the start of the next grazing year." 43 C.F.R. § 4180.2(c)(2). An "appropriate action" is one that "will result in significant progress toward fulfillment of the Standards and significant progress toward conformance with the Guidelines." *Id.* at § 4180.2(c)3. The Decisions are contrary to this mandate. First, it is not clear that the BLM complied with its own monitoring guidelines in performing its FRH analysis and determinations. The FRH determinations appear to overstate impacts-which are a result of failing to follow the agency's guidelines for the collection of monitoring data. Furthermore, the Decisions are based upon old point-in-time information that was gathered in a faulty and inconsistent manner, which, in many cases, included monitoring that did not correctly follow the appropriate methodology. Furthermore, the BLM's wholesale reductions in AUMs are not supported by the FRH determinations. Importantly, however, the Decisions also confirm that livestock grazing is only a factor in not meeting these standards in limited portions of the Garat allotment-it is not a factor in all areas where the standards are not being met. That notwithstanding, the BLM has drastically reduced grazing on all six of the pastures within the Garat Allotment. The FRH authorizes the BLM to take "appropriate action" in an effort to correct concerns with the FRH determinations. Such "appropriate action" must "result in significant progress toward fulfillment of the Standards." The FRH regulations do not authorize the BLM to make wholesale reductions in grazing authorizations where grazing is not a factor in the standards not being met. Where standards are not being met, and grazing is not a factor, cuts to grazing are not warranted under the FRH regulations. It is arbitrary and capricious, on its face, for the BLM to cut grazing in such situations. Furthermore, the BLM fails to provide any analysis or justification for its decision to reduce grazing on pastures in order to improve conditions that are not even impacted by grazing.

BLM: As protested above, citations to 43 CFR 4180.2(c)(2) and 4180.2(c)(3) are incorrect and are taken from the 2006-present Code of Federal Regulations in the Grazing Administration – Exclusive of Alaska section which was enjoined on June 8, 2007 in *WWP v. Kraayenbrink* (4:05-cv-00297-blw, Document 143) (2006 WL 2348080). In accordance with the 2005 version (applicable regulations) of 43 CFR 4180.2(c), “*The authorized officer shall take appropriate action as soon as practicable, but not later than the start of the next grazing year upon determining that existing grazing use on public lands are significant factors in failing to achieve the standards and conform with the guidelines that are made effective under this section. Appropriate action means implementing actions pursuant to subparts 4110,*

4120, 4130, and 4160 of this part that will result in significant progress toward fulfillment of the standards and significant progress toward conformance with the guidelines. Practices and activities subject to standards and guidelines include the development of grazing related portions of activity plans, establishment of terms and conditions of permits, leases and other grazing authorizations, and range improvement activities such as vegetation manipulation, fence construction and development of water.”

As ruled on by the Ninth Circuit on August 20, 1999 in *WWP v. Hahn*, the Circuit stated that 4180.2(c) requires the BLM to not merely begin the procedures set forth in 43 CFR 4110, 4120, 4130, and 4160, but rather to complete them and issue its Final Decision by the start of the next grazing year. Although we did not issue the Final Decision by turnout of March 15, 2013, on the Garat allotment, the BLM and permittee have agreed to substantial livestock reductions until the Final Decision is issued. These on-the-ground changes will reduce effects from livestock management. We made every attempt possible to issue a Final Decision prior to turn-out to be consistent with the Court’s interpretation of “appropriate action,” but extensive protests led to a longer delay than expected to issue a Final Decision, thus we were a few weeks late.

We have complied with all monitoring guidelines while performing our Rangeland Health Assessments, Evaluations, and Determinations. The interdisciplinary team used a multitude of data (see Affected Environment sections for each resource in EA # DOI-BLM-ID-B030-2012-0012-EA), all of which are in conformance with normal protocol and widely accepted and acknowledged methods. The BLM does not know which monitoring you refer to when you state “included monitoring that did not correctly follow the appropriate methodology,” therefore, we cannot respond more specifically to this part of your protest point. The BLM strongly disagrees that “wholesale reductions in AUMs are not supported by the FRH determinations.” As outlined in the 2012 Group 1 Rangeland Health Assessments, Evaluations, and Determinations, a substantial amount of data exists to support these documents.

It is correct to state that current livestock grazing may only be one of several causal factors for not meeting or making significant progress toward meeting the Standards, but the BLM is required to take “appropriate action” even if it is only one of several causal factors. As per 43 CFR 4130.3-3, the BLM has the authority to modify the terms and conditions of the permit “...when the active use or related management practices are not meeting the land use plan, allotment management plan or other activity plan, or management objectives, or is not in conformance with the provisions of subpart 4180 of this part....” The ID team found Standards were not being met, and current livestock management was not in conformance with the Owyhee Resource Management Plan (ORMP). The Rangeland Health Assessment/Evaluation Reports identified ORMP objectives that pertain to each allotment, several of which were not being conformed to. Therefore, although some pastures may have met or made significant progress toward meeting the Standards for Rangeland Health, RMP objectives may not have been met, which also requires modification to the terms and conditions of the permits. The affected environment section for each resource identifies conformance/nonconformance with ORMP objectives. Therefore, it is not arbitrary and capricious “for the BLM to cut grazing in such situations,” it is required by law, as stated in 4130.3-3.

BRS20: The BLM's Failure to Consult with the Permittees about the Proposed Reduction in AUMs Violates the Agency's Regulations. There is no information in the Decisions that the BLM ever conducted the required consultation or made any "reasonable attempt" to consult with the affected parties. Such actions violate these regulations. Furthermore, 43 C.F.R. § 4110.3-2, which was relied upon by the BLM to support its reduction in AUMs, Castlehead-Lambert (Maestresjuan) Notice at 14, requires that "monitoring or field observations" must support the proposed reductions in permitted use. Here, as discussed above, the Decisions are based upon old point-in-time information that was gathered in a faulty and inconsistent manner, which, in many cases, included monitoring that did not correctly follow the

appropriate methodology. Furthermore, monitoring information was provided by Permittees that was not adequately considered by in the Decisions. As such, there is no basis for reducing grazing. The Taylor Grazing Act requires "grazing privileges recognized and acknowledged shall be adequately safeguarded." 43 U.S.C. § 315b. Reducing permitted uses without conforming to the regulatory requirements violates this mandate. Since the BLM did not follow those procedures here, the reduction in AUMs cannot be authorized.

BLM: The BLM strongly disagrees. As per 4130.3-3, "*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 use or related management practices are not meeting the land use plan, allotment management plan or other activity plan, or management objectives, or is not in conformance with the provisions of subpart 4180 of this part. 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.*"

We have completed extensive consultation, cooperation, and coordination with all parties involved. As outlined in Chapter 4 of EA # DOI-BLM-ID-B030-2012-0012-EA, several meetings were held and multiple opportunities to review documents occurred. At least 11 meetings were held with permittees, state/local agencies, or interested public. Additionally, draft documents (including a preliminary EA) on several occasions were reviewed and commented by all parties, and several comments were received and responded to. In addition to what is identified in Chapter 4, the BLM met with permittees after the issuance of the proposed decisions and before the Final Decisions to coordinate, cooperate, and consult with the permittees to discuss management of their allotments and submission of additional applications. For further response to this protest point, please see the January 2012 Rangeland Health Assessment and Evaluation Report - Garat Allotment (2012 Garat Allotment RHA/ER); and BLM response to protest point BRS15.

BRS21: The Reduction in AUMs Results in a Taking. Reducing Grazing Preference is a Taking Under Idaho Law. Under Idaho Law, "a grazing preference right shall be considered an appurtenance of the base property through which the grazing preference is maintained." I. C. § 25-901. Furthermore, a "person, his heirs, executors, administrators, successors or assigns, shall not thereafter, without his consent, be deprived [of the grazing preference] without just compensation." *Id.* at § 25-902 (emphasis added). Here, the BLM has unilaterally reduced the AUMs on the allotments-some by as much as 47%. *Supra.* Under Idaho Law, this constitutes a taking and "just compensation" must be paid.

BLM: Grazing preference is defined by the grazing regulations as "a superior or priority position against others for the purpose of receiving a grazing permit or lease." When BLM reduces AUMs to protect the environment (as was done in this case), BLM does not cancel or impact a permittee's right to first priority in the receipt of a grazing permit. Accordingly, there is no taking of the preference under State or Federal law.

In any case, a permittee does not have a cognizable property interest in either a grazing permit, or to a specific number of AUMs on a grazing permit, under federal law takings law. To the extent that the protest argues that a State can create a cognizable property interest in a federal grazing permit through State statute and then charge BLM when that permit is modified, BLM can find no support for that

argument. Though the Idaho Code may refer to a "grazing preference right," it is important to remember that a federal grazing permit is really just a revocable privilege to graze on federal lands.

BRS22: Limiting Grazing interferes with the Permittees' Rights to use their Water Rights and Constitutes a Taking. The Permittees have acquired water rights under State law for the watering of their cattle that graze on the allotments. In Idaho, a water right is a property right. I. C. § 55-101. As such, the right to use ones water cannot be taken without just compensation. Here, the reduction in AUMs constitutes a regulatory taking, because it limits the Permittees' ability to use their property rights. Under the Fifth Amendment, property cannot be taken for "public use, without just compensation." The reduction in AUMs proposed in the Decisions will significantly interfere with the Permittees water rights and, thus, constitute a taking.

BLM: BLM's decision to reduce AUMs on three of the four allotments at issue does not preclude all grazing use on the allotments. Accordingly, the permittees can still maximize use of their water rights (to the extent that they exist) and there is no taking under federal or state law. That being said, the protest does not identify any specific water right at issue and does not explain how or why BLM's grazing management on federal lands renders the water right completely unusable or worthless. Keep in mind that reasonable regulation of a property right (assuming one exists in this case) does not amount to a taking.

Idaho Governor C.L. "Butch" Otter submitted a protest on Feb. 27, 2013.

GBO1: The Bureau chose to disregard the Governor's Sage Grouse Alternative, and this letter serves as the State's formal protest of the Bureau's decision to implement the season-based alternative.

BLM: BLM did not disregard the Governor's Sage Grouse Alternative. To provide clarification, the Governor's alternative was intended for the BLM Idaho RMP Amendments process, and BLM understood that this alternative would not be applicable at the project level until the RMP Amendments process has been completed; and furthermore, only if the selected alternative in the Record of Decision (ROD) happens to include the Governor's sage grouse alternative. However, BLM Alternative 4 (selected for the Group 1 grazing permit renewals proposed decisions being protested) includes elements for sage grouse habitat management that are common to the Governor's sage grouse alternative. As was discussed in EA # DOI-BLM-ID-B030-2012-0012-EA, Section 7.14 Appendix N – *Responses to Comments*, in response to comments received from the Office of Species Conservation (dated October 23, 2012) to the preliminary EA issued September 7, 2012, BLM responded to a similar comment as follows:

Although preparation of the EA and alternative development were well under way and nearly complete by the time the Governor's alternative was released, many aspects were already incorporated including incorporation of habitat characteristics, conduct habitat assessments, priority area assessment, determination of achievement of habitat objectives, achievement of objectives 2 of 5 years (Governor's alternative differs by proposing 3 of 5 years), and monitoring to determine effectiveness (compare with figure 3 in Governor's alternative for process flowchart).

GBO2: It appears the Bureau did not engage in appropriate coordination with Group 1 permittees on this issue.

BLM: See BLM response to BRS20.

GBO3: As stated in our comments, the Governor's Alternative represents the best available science for sage-grouse habitat and provides a practical approach for grazing management on public lands (See The

Governor's Office of Species Conservation's Letter to the Bureau dated October 23, 2012.) However, the Bureau dismissed our comments and refused to adopt or incorporate any part of our plan in its alternative.

BLM: See BLM response to BRS11 and GBO1.

The Owyhee Cattlemen's Association submitted a protest on Feb. 25, 2013.

OCA1: The agency failed to comply with or accomplish their responsibility to engage in meaningful cooperation, coordination, and consultation with the permittees and local government in development the alternatives and in making their decisions.

BLM: See BLM response to BRS20.

OCA2: BLM is failing to recognize and consider the true reality of socio-economic hardship attached to their decisions.

BLM: While the document provides a dollar value figure to AUMs and calculates the decrease in dollars flowing in to the local economy as the result of AUM reductions, it is beyond the BLM's ability to conclude how such reductions translate to a ranch income, budget, or management strategy. BLM stands behind the analysis of effects, not only to the socio-economic aspects of the selected alternative, but also to the broader Human Environment as defined by CEQ and as required for analysis in our NEPA documents. Sec 1508.14 Human environment: *"Human environment" shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment. (See the definition of "effects" (Sec. 1508.8).) This means that economic or social effects are not intended by themselves to require preparation of an environmental impact statement. When an environmental impact statement is prepared and economic or social and natural or physical environmental effects are interrelated, then the environmental impact statement will discuss all of these effects on the human environment.*

OCA3: Fire has been documented to be the greatest risk factor for Sage Grouse and Sage Grouse habitat by the USFWS, yet in the Owyhee Field Office Group 1 documents, substantial decrease in grazing will increase fuel loads which in turn will lead to an increased threat of catastrophic wildfires. If the severe cuts in grazing use prevent the allotments from even being used, fire risk and danger will be enormous.

BLM: The role of livestock grazing to reduce fuels contributing to wildfire behavior are addressed in the EA, Section 2.6 pages 22-25, and also in the response to protest points BRS 12, 13, and 14. Additional effects to sage-grouse due to wildfire were discussed in Section 3.4.5.1 under the greater sage-grouse subheading pg. 161 and Section 3.5.5.1 under the greater sage-grouse subheading pg. 268.

OCA4: Claims within the BLM decision that grazing increases the introduction and spread of invasive species and non-native grasses has no scientific evidence to validate the claim relative to Owyhee Field Office Group 1 allotments.

BLM: Although the basic conclusions identifying possible vectors for the spread of weeds are not cited from literature in the EA (Sections 3.4.1, 3.5.1, 3.6.1), to deny that livestock have the potential to be a contributing factor is not rational.

OCA5: Old point-in-time assessment methods are used in the EA, the alternatives, and the proposed decisions. Further, these point-in-time methods were not done in accordance with protocols nor were they consistent in their interpretation. Further, more recent assessment data collected by the BLM was not

always used for the decisions. Assumptions should not be used by the BLM to make their decisions, yet throughout these decisions that is precisely what the BLM has done. An example contained within the document states, "While it is not altogether certain that direct impacts from grazing on nesting sage grouse is a major problem on the allotment, I do expect that the potential from such conflicts will be largely avoided under my decision." The facts is there is evidence that grazing has had no direct impact on sage grouse as indicated by population data. In the Garat decision portions have been taken from Alternative 3 though within their own comments the BLM states this Alternative would be too costly and too labor intensive for the BLM to manage, yet in implementing parts of this Alternative it would put the BLM in a position to using the rigid and time consuming assessment requirements within this alternative, setting them up to fail.

BLM: All monitoring data and assessments were completed using approved methods and in accordance with normal protocol. Without specific examples of what protocols and inconsistent interpretations this point refers to, BLM cannot clarify any misunderstandings. All available data was used to consider current conditions, analysis of effects, and the selection of the alternative(s) in the decisions. In the example above, it is appropriate for BLM to state if the current impacts are not certain and cite the most current science and research supports that a management change similar to the decision will benefit or reduce the likelihood of future impacts. It is the responsibility of the BLM to disclose that information to the public. For example, studies (Coates et al. 2008) show that livestock may trample eggs and nests if livestock graze during the nesting season. However, if livestock have previously grazed in nesting habitat every spring but livestock are now not authorized to graze every spring, it is logical and appropriate to disclose the potential for reduced impacts to eggs and nests.

Full implementation of Alternative 3 may have been "too labor intensive" as noted above, but a small amount on the Garat allotment, as identified in the protest point, would be feasible to accomplish.

OCA6: Perhaps one of the most troubling aspects with this decision is that the determination states there will be no significant impact to the human economic environment. This could not be further from the truth and should not be dealt with as lightly as it has been in the decisions. All of the decisions will have significant impact on the human economic environment.

BLM: For clarification, rather than the "determination", which is a separate document that states the causal factor for Rangeland Health Standards not being met, BLM believes the protest point is referencing the Finding of No Significant Impact (FONSI) document, which is attached to the analysis in the Environmental Assessment. When the authorizing official evaluates the intensity or the severity of the impacts to the Human Environment, he/she is required by the CEQ regulation to consider this in the context of 10 elements found in 40 CFR 1508.14, and as detailed in the FONSI. The BLM stands behind the FONSI and the rationale to the level of intensity of the impacts to the Human Environment as the CEQ defines this. The CEQ regulation is again included here. Sec 1508.14 Human environment: *"Human environment" shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment. (See the definition of "effects" (Sec. 1508.8).) This means that economic or social effects are not intended by themselves to require preparation of an environmental impact statement. When an environmental impact statement is prepared and economic or social and natural or physical environmental effects are interrelated, then the environmental impact statement will discuss all of these effects on the human environment.*

Finally, the proposed decision does recognize "the most considerable economic consequence would be felt by livestock operators who graze in the Owyhee Group 1 allotments and, to a lesser extent, the local communities in which they trade their goods and services."

OCA7: The BLM has failed to recognize available scientific information regarding sage grouse and their habitat at the local level. In particular, the BLM fails to recognize the local involvement and support of the Owyhee County Sage-grouse LWG and the state's effort in developing measures for sage grouse on federal lands.

BLM: The Owyhee County Sage-Grouse Local Work Group (OCSGLWG) management plan was not specifically cited within the EA; however, the Idaho State Plan (Idaho Sage-grouse Advisory Committee 2006), which covers the same basic information in similar detail, was thoroughly reviewed and cited. In addition, the wildlife biologist contributor to the EA has attended OCSGLWG meetings and held additional discussions with members of the LWG over the course of the last several years. The threats identified by the OCSGLWG (i.e., wildfire, juniper encroachment, invasive species, habitat fragmentation, etc.) were analyzed and/or discussed in the EA. In addition, the analysis performed in the EA is consistent with the OCSGLWG grazing management plan, in particular, “*Sage grouse habitat conditions on lands managed by the Bureau of Land Management will be assessed through the Idaho Standards for Rangeland Health and Guidelines for Livestock Grazing Management.*” Although preparation of the EA and alternative development were well under way and nearly complete by the time the Governor’s alternative was released, many aspects of the alternative were already contained within the EA, including incorporation of habitat characteristics guidelines, completion of habitat assessments, completion of priority area assessment, determination of achievement of habitat objectives, inclusion of achievement of objectives 2 of 5 years (Governor’s alternative differs by proposing 3 of 5 years), and monitoring to determine effectiveness (compare these actions with figure 3 in the Governor’s alternative for process flowchart).

OCA8: The BLM refused to analyze the permittee's proposal regarding improvements that would address some of the alleged concerns. (fences, pipelines, wells, etc.)

BLM: See BLM response to protest point BRS4.

The Owyhee County Board of Commissioners submitted a protest on Feb. 27, 2013.

OCC1: Owyhee County incorporates by reference as points of protest all of their previous comment dated October 22, 2012 relative to the Draft Owyhee River Group 1 Allotments Livestock Grazing Permit Renewal Environmental Assessment (Draft EA).

BLM: The comments submitted following the 45-day review period of the preliminary EA that ended on October 23, 2012, including those comments provided by the Owyhee Board of Commissioners, were considered and responses were provided in the completed EA dated January 28, 2013. Comments received were used to revise the EA between the preliminary document that was made available to the public on September 7, 2012 and the completed document.

OCC2: Owyhee County protests the OFO/BLM failure to meet their obligation for coordination with Owyhee County and to engage in meaningful CCC with the affected ranch operators during monitoring and assessment, ISRH determinations and development of viable management alternatives for in the OFO Group I Proposed Decisions.

BLM: See BLM response to BRS20.

OCC3: Owyhee County protests the OFO/BLM failure to rely on the best available science to produce a rational determination as to compliance of the OFO Group I Proposed Decisions with the Idaho Standards for Rangeland Health (ISRH). The OFO erred by its failing to obtain data in accordance with established

protocol, failing to rationally interpret the available data and failing to accurately and rationally evaluate management alternatives.

BLM: References Cited sections listing credible scientific citations are provided in each of the documents (i.e., the evaluation reports, determinations, and the EA), which were available to the public through the process of reaching decisions for grazing permit renewal for the Group 1 allotments. Narrative within each of those documents used those citations, along with data gathered according to protocols provided in BLM technical references and handbooks, to rationally reach conclusions and decisions.

OCC4: Owyhee County protests the OFO failure to conduct a meaningful and complete analysis of the social and economic effects of the alternatives in the EA and thereby failure to consider the true and full social and economic impact of the OFO Group I Proposed Decisions (See Owyhee County Draft EA comment dated Oct 22, 2012).

BLM: The BLM stands behind the analysis of the social and economic effects in the EA. The EA and the Proposed Decisions acknowledge that there could be substantial economic impacts to the individual ranches as a result of the reductions in AUMs outlined in Alternative 4. To add clarity to the cumulative effects section regarding future permit renewals and past renewal activities, BLM has added additional information (see attached Appendix O) to this section of the EA. This addition can be found in Appendix O (attached). However, it is not possible for the BLM to accurately estimate the exact economic impacts to any individual ranch because the BLM is not privy to the specific costs and returns associated with each ranch's operation. Each ranch operator can make changes in operations that could mitigate any potential impacts from grazing management changes, and the BLM cannot analyze every possible scenario to determine exactly what impacts will occur.

OCC5: Owyhee County protests the OFO failure to conduct a meaningful cumulative impact analysis of the potential social and economic effects of similar future grazing decisions on the remaining 64 Owyhee grazing permits to be addressed during this effort. (See Owyhee County Draft EA comment dated Oct 22, 2012).

BLM: See BLM response to OCC4.

OCC6: Owyhee County protests the OFO failure to correct errors in the Draft EA relative to the manipulation of numbers and data to justify claims of negative effects of grazing in the permittees proposed alternatives (2).

BLM: BLM is not aware of any manipulation of numbers and data that is alleged in the protest point, manipulation that would lead to incorrect effects analysis upon implementation of the permittees grazing permit renewal application. The applications as received are provided in Appendices E, F, and G and are summarized to include only the actions proposed in the application in the EA Sections 2.8.1, 2.8.2, and 2.8.3.

OCC7: Owyhee County protests the failure of the OFO/BLM to take action to resolve substantial controversial discrepancies identified through Owyhee County and permittee comments to the EA prior to issuance of the OFO Group I Proposed Decisions.

BLM: See BLM response to OCC1.

OCC8: Owyhee County protests all elements of the OFO Group I Proposed Decisions and associated EA to the extent they are inconsistent with and/or are unresponsive to the County comment to the Draft EA as well as the affected permittees comment to the Draft EA. (See Owyhee County Draft EA comment dated Oct 22, 2012).

BLM: See BLM response to OCC1.

Western Watersheds Project submitted a protest on March 6, 2013, regarding all of the Proposed Grazing Decisions individually, as well as concerns relating to all of the Proposed Grazing Decisions.

WWP1: PD at 2 shows BLM collected very little systematic current information for its evaluation and Determination. BLM must carefully lay out all info collected, when where, how, and how representative it is. BLM ignored full consideration of the spectrum of public lands values that are being adversely impacted by livestock grazing disturbance. BLM completely failed to develop a sound environmental baseline for sensitive species occurrence and habitats, and many other values, as well. BLM's bias towards permittee interests is seen in PD at 2 discussion of alternatives development "we also considered other alternatives that we did not analyze in detail. Our overarching goal in developing alternatives was to consider options that were important to you as a permittee... and to consider...

BLM: WWP's protest point in reference to "PD at 2" and similarly in other protest points is very confusing and unclear. It is impossible to understand which of the four proposed decisions WWP is referring to. Therefore, BLM's response will speak to the protest points in general. WWP makes an unclear claim in this protest point that is not specific to any particular proposed decision, permit, or allotment, about BLM's layout of information to support the decision(s). WWP has been involved in the Group 1 grazing permit renewal process since the Initial Scoping Letter for Group 1 was issued on October 17, 2011. In addition, BLM has shared all associated findings and analysis documents with WWP that orderly compiled, provided interpretation, and analysis of current information. These documents include:

- January 27, 2012, Group 1 Scoping Package (which included the 2012 RHA/ER documents)
- September 7, 2012, Group 1 Preliminary EA for 30-day review
- February 12 & 14, 2013, Group 1 proposed decisions

In EA # DOI-BLM-ID-B030-2012-0012-EA at Chapters 3.0-3.2 (pages 62-63), BLM outlines and discusses the resources considered and excluded from analysis.

Regarding sensitive species occurrence and habitat, please see the following EA # DOI-BLM-ID-B030-2012-0012-EA chapters and pages for baseline discussion: *plants* – 3.31.3 page 66, 3.4.31 pages 126-130, 3.5.3.1 pages 242-245, and 3.6.3.1 page 333; and *wildlife* – 3.3.1.5 pages 70-78, 3.4.5.1 pages 158-166, 3.5.5.1 pages 265-273, and 3.6.5.1 pages 344-346.

In response to the following,

BLM's bias towards permittee interests is seen in PD at 2 discussion of alternatives development "we also considered other alternatives that we did not analyze in detail. Our overarching goal in developing alternatives was to consider options that were important to you as a permittee....,

BLM's mandate is to manage for multiple uses on public lands, and livestock grazing is one of many uses. Grazing permittees are customers and for this process they are the applicants in which BLM is required to consider and respond to their applications. The Group 1 proposed decisions serve as BLM's response to grazing permit renewal applications submitted separately by the following applicants: 06

Livestock (Castlehead-Lambert), 06 Livestock (Swisher Springs & Swisher FFR), Maestrestrejuan (Castlehead-Lambert), and Petan Company of Nevada (Garat).

WWP2: BLM went on to refuse to even consider WWP’s alternative while at the same time analyzing the permittee alternatives that were known to be “non-starters” and developed a limited range of grazing alternatives each with internally harmful poison pill components.

BLM: The purpose and need of the EA is to respond to applications BLM received for grazing permit renewal. To not include analysis of an alternative that addresses the applications received would not be consistent with the purpose and need. Section 2.6 pages 20-21 provide rationale for not considering in detail the alternatives submitted by WWP.

WWP3: At its core, the EA analysis is largely programmatic, and lacks the necessary current site-specific hard look required to address the significant grazing degradation in the allotments. BLM cannot ensure significant progress towards land health, or compliance with RMP and other requirements until it establishes a firm baseline, and understands the site-specific problems in all pastures in both upland and riparian communities, including whether complete rest is needed, and if lands can withstand any additional grazing use. We protest this.

BLM: The BLM disagrees with the premise that the EA is largely programmatic. There is one trait that this EA has that resembles a programmatic analysis, and that is how it is addressing one program of activities – those related to livestock grazing. However, the EA in many ways is site-specific to the four allotments to such a degree that it resembles three EAs in one (three, not four, since the Swisher Springs and Swisher FFR allotments are effectively dealt with as one allotment). A project-level NEPA document, which this is, gives emphasis to the project area and immediate surroundings; in this case this is the allotment allocated for grazing. Programmatic documents are more regional in scope, often crossing political boundaries and covering numerous ecosystems. Also, this project-level proposal has a well-defined known location (i.e., the named allotments). The range of alternatives includes different ways to meet Rangeland Health Standards and RMP management objectives. A programmatic NEPA analysis typically addresses a set of possible future uses, the specifics of which are not yet known. The range of alternatives may include future land use scenarios, often with differing objectives. This EA is specific to a defined use of public land (livestock grazing), and it has a defined set of alternatives that meet a specific purpose and need. Lastly, it is specific to the effects on each allotment, sometimes down to a specific pasture and the effects felt by specific resources. These characteristics are much different than a programmatic NEPA analysis. EA # DOI-BLM-ID-B030-2012-0012-EA includes site-specific Affected Environment, and Direct/Indirect Effects analysis in Sections 3.3-3.6 (pages 63-365). Additionally, the NEPA document is supported by the 2012 Group 1 Rangeland Health Assessments and Evaluation Reports which support the Determinations (EA Appendices I-K). The EA and RHAs/ERs discuss site-specific resource conditions for key use areas, ecological sites, specific springs and streams, within each pasture of each of the four allotments. Furthermore, EA # DOI-BLM-ID-B030-2012-0012-EA includes a No Grazing alternative which fully analyzes impacts under a scenario of no grazing/complete rest for a 10-year period. Also see BLM response under WWP4 for further discussion.

WWP4: The CHL/Garat/Swisher EA on page 9 states that the supporting background information was not included in the EA but is available on request. We are very concerned that this was done to obscure how little current site-specific information exists to properly understand the severe degradation caused by livestock across the upland and riparian habitats of the allotments. BLM’s near-programmatic boilerplate analysis must be corrected to fully integrate the site-specific information and determine data gaps and voids, as well. We protest the failure to do this.

BLM: Please see the EA # DOI-BLM-ID-B030-2012-0012-EA and specifically Appendices A-N (beginning on page 385) for additional site-specific information pertaining to the Group 1 allotments. In addition, reference to the Group 1 Rangeland Health Assessments and Evaluation Reports (included in the Scoping Package issued on January 27, 2012) is necessary to understand site-specific resource conditions primarily associated with Idaho Standards and Guidelines, and to a lesser degree, review of ORMP objectives. Other supporting background information is part of the Group 1 project record. The EA was completed using information that is part of the project record, much of the project record being raw data and associated interpretation and analysis of these data. The supporting background information WWP is referring to has already been provided in numerous FOIA requests between September 2011 and present. Not every piece of supporting data was incorporated into the EA primarily to reduce the size of the NEPA document. Instead, the remainder of the supporting data can be found in the associated project record.

WWP5: Despite the degraded conditions of the burned areas and seeding wastelands, BLM refuses to even consider sagebrush restoration actions to reconnect and recover fragmented sagebrush habitats. There are several aspects to the problem:

- Seedings that remain dominated by crested wheatgrass and that are largely biological dead zones. But BLM never evaluated these conditions, and treated the lands as seedings – apparently to avoid restoring them, and also so that it could mix in exotic seeding grass with non-seeding grass to bolster outcomes of its flawed evaluations. Not only has BLM refused to evaluate these conditions, it has refused to even consider inter-seeding sagebrush to reconnect and fragmented habitats. Why? No answer has been provided for ignoring common sense actions to improve ecological conditions for sage-grouse. Owyhee BLM refuses to even analyze or restore the destructive crested wheatgrass seedings.

BLM: Regarding consideration for additional range projects (seedings and sagebrush restoration are considered range projects), from the outset of this process with the first permittee meetings in November 2011, and during a meeting with WWP on March 28, 2012, BLM has clearly communicated that new range projects would not be included in these grazing permit renewals. BLM clearly indicated that using range projects to achieve rangeland health standards and LUP objectives was not going to be possible because inadequate time existed to complete the pre-NEPA project layout and design, and to complete the required pre-surveys and clearances, that are necessary to allow for an adequate NEPA analysis of site-specific impacts associated with new range projects.

In addition, the reality of completing the Owyhee 68 grazing permit renewals in accordance with the May 2008 Stipulated Settlement Agreement by the Court-ordered deadline (December 31, 2013), and to avoid a potential injunction of grazing on the remaining Owyhee 68 permits, the time required to complete an adequate NEPA analysis of additional range projects (seedings and sagebrush restoration projects) was not conducive to meeting these deadlines.

WWP6: This process must be re-scoped. Now that BLM has determined that there are some FRH violations, the Proposed Action can remain as Interim Measures, while BLM conducts a full and fair process Determination process and collects necessary sufficient site-specific baseline information to conserve, enhance, and restore sagebrush habitats under a suitable range of alternatives to control grazing damage.

BLM: Nothing needs to be re-scoped. Scoping is not intended to determine whether or not FRH violations have occurred. Scoping is intended to reach out to the public and acquire additional information for BLM to consider for the NEPA process and to assist at informing the decision to be made. For the Group 1 grazing permit renewals, Scoping was initiated on October 17, 2011, and was followed

by BLM issuing a Scoping Package on January 27, 2012. Appropriate scoping has already taken place for this process.

WWP7: BLM should stock lands based on sustainable use during drought. BLM must also not allow turnout during drought conditions. What number of livestock is this – taking not just forage, but water, and stresses on native biota in depleted landscapes, into account? Current desertification plus climate change impacts must also be examined in assessing this.

BLM: BLM did stock lands based on sustainable use during drought. For example, page 51, Footnote 19 in EA # DOI-BLM-ID-B030-2012-0012-EA explains that in a normal year under ideal conditions, approximately 4.8 acres would be required to support one AUM in the Garat allotment with forage production from all ecological sites at potential, equal livestock distribution throughout the allotment, and utilization at 50 percent of grass and grass-like species. Therefore, based on the rationale from the EA and the fact that at least 10 acres per AUM is provided within each pasture of the Garat, Castlehead-Lambert, and Swisher Springs allotments (more than double the acreage per AUM is provided in the decisions), the Decision takes in to account the effects of drought, including reduced forage, water, and other stresses on biota across the landscapes to improve resource conditions. See Appendix D of the EA for all stocking rates in each pasture.

The BLM stands behind its climate change discussion in the EA at page 65,

“With consideration for anticipated stressors induced by climate change, appropriate livestock management practices that improve and maintain healthy and functioning vegetation communities which provide for proper nutrient cycling, hydrologic cycling, and energy flow remains the primary adaptation against changing precipitation and temperature regimes.”

As more data become available that makes site-specific analysis of the changes to specific resources as the result of changes in the global atmosphere possible, BLM will incorporate such analysis into our NEPA analysis.

WWP8: Trampling damage to microbiotic crusts continues to be downplayed. BLM PD at 3 provides a simplistic description of vegetation communities, ignoring the vital role of microbiotic crusts that are greatly damaged by cattle trampling. BLM has ignored applying measurable standards of trampling use to uplands to protect crusts, which are a first line of defense against cheatgrass and other invasive species. The EA greatly fails to examine the adverse impacts of livestock trampling on the sagebrush ecosystem, and drainage networks as well. We protest this.

BLM: Biological soil crust condition and spatial extent are indicators of the ecological health of the plant community; thus, disturbance that results in even small losses of microbiotic crusts can dramatically reduce site fertility and soil productivity, soil moisture retention, and further reduce soil surface stability and soil organic matter. The soils analysis in the EA (Sections 3.4.2, 3.5.2, and 3.6.2) adequately addressed biological soils crusts in the Existing Conditions section for each of the allotments (p. 114, 228, 229, 320). These are an extension of the RHA/ERs in which the status of biological soil crusts are recognized and discussed in the monitoring summaries for Standard 1 on pp. 7-16 for Castlehead-Lambert, pp. 10-25 for Garat, and pp. 6-12 for Swisher Springs. Appendix M in the EA also provides an extended discussion on impacts to soils in Section 7.13.2, with a special focus on “Soil Microbiotic Crusts” on p. 135 and seasonal effects on p. 136.

Impacts on the sagebrush ecosystem with regard to trampling and resulting compaction was discussed under Soils in the EA (Sections 3.4.2, 3.5.2, and 3.6.2) in the Affected Environment sections (p. 112-115 for Castlehead-Lambert; p. 226-230 for Garat; and p. 319-322 for Swisher Springs) and in the monitoring

summaries for Standard 1 within the RHA/ER on pp. 7-16 for Castlehead-Lambert, pp. 10-25 for Garat, and pp. 6-12 for Swisher Springs. Trampling and compaction are also addressed in the alternative effects analysis, specifically related to range readiness criteria and wetter spring and early summer grazing (p. 115-120 for Castlehead-Lambert; p. 230-235 for Garat; and p. 322-326 for Swisher Springs). In the Cumulative Effects section, Tables SOIL-5 pp. 124-125, Table SOIL-10 pp. 239-240, and Table SOIL-14 pp. 330-331 provide a summary that tie these physical impacts and effects to specific activities. Appendix M in the EA, Section 7.13.2, discusses trampling and compaction with a special focus on “Vegetative Cover” on p. 132 and “Physical Soil Impacts” on p. 133, including season-specific effects on p. 136.

Land health assessments were completed for the Castlehead-Lambert, Garat, Swisher Springs and Swisher FFR allotments, as discussed in the 2012 Evaluation Reports for those allotments. As a part of the Evaluation Reports, site potential and current condition of rangeland vegetation was reported. Presence of invasive species, including cheatgrass, and their contribution to not meeting Standards based on nutrient cycling, hydrologic cycling, and energy flow was identified.

WWP9: BLM must critically examine the sustainability of any continued grazing in lands receiving less than twelve inches precipitation. Nearly all the allotment receives less than 12 inches precipitation. BLM states that most precipitation occurs during the winter. However, May is the highest precipitation month in the Owyhee Uplands. Considerable precipitation occurs during April and May. The result is that even if the minimal range readiness criteria are met, once cows are turned out soils will become very moist and be readily damaged and displaced, creating vast trampled disturbed sites where cheatgrass and other weeds thrive.

BLM: The Affected Environment sections for all resources and analysis throughout the EA considered climatic conditions for the resources discussed. In addition, the BLM acknowledges the potential impacts that come with increased precipitation events after cattle have been turned out. In the Soils analysis in the EA (Sections 3.4.2, 3.5.2, and 3.6.2), every alternative for each of the allotments contains some form of the following verbiage stating “although range readiness criteria is applied, physical soil impacts, such as compaction and mechanical hoof shearing during the wetter spring and early summer, would increase/decrease...” (p. 115-120 for Castlehead-Lambert; p. 230-235 for Garat; and p. 322-326 for Swisher Springs). Appendix M in the EA, Section 7.13.2, also addresses grazing impacts under wet conditions with a special focus on “Physical Soil Impacts” on p. 133, including season-specific effects on p. 136.

WWP10: BLM failed to assess the amount of soil erosion, manure, urine, and other livestock waste that enters the WSR system from the severely degraded watershed networks of the allotments. BLM failed to address the degree and severity of watershed, stream channel, and mesic habitat impairment from the huge number of stock ponds that have been gouged into drainages, mesic areas, playas, and spring areas.

BLM: The Soils analysis in the EA (Sections 3.4.2, 3.5.2, and 3.6.2) provides a summary that displays the timeframe, degree, extent, magnitude of effect, and type of effect to water developments, such as stock ponds, for each allotment (cumulative effects section, Tables SOIL-5 pp. 124-125, Table SOIL-10 pp. 239-240, and Table SOIL-14 pp. 330-331). Through erosional and depositional processes, upland soils provide for the sediment sources that enter into riparian areas and are transported within stream systems throughout the watershed and beyond. To the extent that soil movement in stream channels affects resources outside of the allotment, the direct/indirect effects and cumulative effects are considered in detail in the Water Resources Sections 3.4.4, 3.5.4, and 3.6.4 of the EA. The best available information was utilized for the impacts analysis (see EA pages 144-157, 254-265, and 336-343). Also, Idaho Dept. of Environmental Quality integrated reports and TMDLs were used: <http://www.deq.idaho.gov/water-quality/surface-water/tmdls/table-of-sbas-tmdls.aspx>

WWP11: BLM failed to carefully map and identify lands where cheatgrass is already present. It failed to identify lands “at risk” to cheatgrass expansion under continued grazing disturbance.

BLM: Land health assessments were completed for the Castlehead-Lambert, Garat, Swisher Springs and Swisher FFR allotments, as discussed in the 2012 Evaluation Reports for those allotments. As a part of the Evaluation Reports, site potential and current condition of rangeland vegetation was reported. Presence of invasive species, including cheatgrass, and their contribution to not meeting standards based on nutrient cycling, hydrologic cycling, and energy flow was identified.

Rangeland Health Standards and Ecological Site Descriptions were reviewed and discussed regarding cheatgrass occurrence and expansion. Discussions on Ecological Site Descriptions and vegetation conditions are located in Chapter 3 of the EA (3.1, 3.3.1, 3.4.1-Tables VEGE-2, VEGE-4 p. 93-95; 3.5, 3.5.1.3-Tables VEGE-7, VEGE-8, VEGE-9, p. 208-210, 212; 3.6- Tables VEGE-12, VEGE-13, VEGE-14, p. 304-306). The best available information was utilized for the impacts analysis including trend data and RHA documentation (Appendixes A, B, M: 7.1, p. 2-6, 7.13, p. 43-52, 7.13.2, p. 53-63).

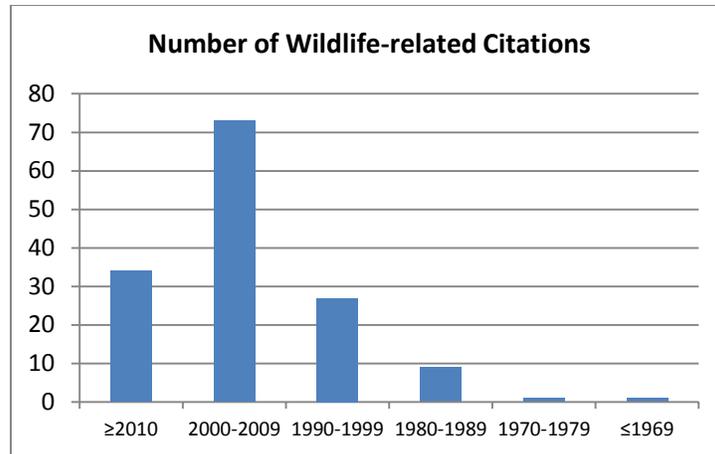
WWP12: BLM ignores assessment and protection of playas altogether. Very important playas areas provide sage-grouse habitats in this parched, grazing-desertified landscape. BLM must prohibit all use of playas by livestock during periods when they are moist (March-June). BLM never even bothered to evaluate playas at all.

BLM: The literature does not have examples of the importance of playa habitats to sage-grouse. Playas in the Garat allotment are used as lekking grounds, however. Nevertheless, the primary component that sage-grouse are likely selecting for is the openness and lack of vegetation, which is neither enhanced nor diminished due to livestock grazing.

Playa ecosystem discussions, including degradation to playas, and livestock use during periods of moist soils are discussed at various levels throughout the special status plants Chapter 3 Affected Environment and Environmental Consequences of the EA (Sections 3.1, 3.3, 3.3.1.2 & 3.3.1.3). Section 3.5.3 Garat allotment discusses playa ecosystem. Table SSPS-5 p. 244 also provides a summary of impacts with season of use. Cumulative impacts regarding playa ecosystems can be reviewed in section 3.5.3.3 p.248-249 of the EA where an in-depth discussion in the Focal Special Status Plant Species section-Davis’ peppergrass is located.

WWP13: We protest the failure to use best available science, and to consider the basic needs of wildlife, and blind reliance on range info biased towards livestock forage.

BLM: A cursory review of the citations pertinent to the wildlife sections in the RHA/E/Ds and the EA reveals that over 70 percent of the referenced material was published on or after 2000. In fact, approximately 23 percent of the referenced material was published in the past 3 years (i.e., 2010-2012). The majority of articles cited, relevant to all resources and uses including range-animal relations, were from original research published in professional peer-reviewed journals.



WWP14: BLM’s Garat/CHL/Swisher analysis greatly ignores the presence of cheatgrass, and the risk of increased cheatgrass, and the lack of almost any native biota of any kind associated with the crested wheatgrass areas that BLM is trying to avoid dealing with. It is these threats to native sagebrush biota cheatgrass, understory and microbiotic crust degradation, that BLM must deal with – and not the drivel about “decadent” sage. We protest this.

BLM: Invasive annuals, degradation of native biota, loss of microbiotic crusts, and their effects to upland watershed health are discussed at various levels throughout the soils chapters in the EA (Sections 3.4.2, 3.5.2, and 3.6.2), in the monitoring summaries for Standard 1 within the RHA/ER on pp. 7-16 for Castlehead-Lambert, pp. 10-25 for Garat, and pp. 6-12 for Swisher Springs, and the determinations (Appendix I – pp. 61-62, 80-82, and 97-98). In addition, Appendix M of the EA, Section 7.13.2, specifically discusses these issues with a special focus on “Vegetative Cover” on p. 132, Soil Microbiotic Crusts” on p. 135, and “Biological Invasions” on pp. 134-135, including season-specific effects on p. 136.

WWP15: We protest the failure in all of the allotments to adequately examine, assess, and conserve riparian areas and associated resources.

BLM: The best available information was utilized for the impacts analysis (see EA pages 144-157, 254-265, and 336-343) that analyzed the grazing alternatives, and comparisons among them regarding meeting or not meeting Standards and RMP objectives were made.

WWP16: The grazing regulations require that once a BLM Field Manager makes a Rangeland Health Determination and finds grazing is causing violations of the Rangeland Health Standards, BLM must change grazing practices before the start of the next grazing year to address the violations. We protest that BLM has not provided interim measures to protect public lands as part of this grazing decision.

BLM: See BLM response to BRS19.

WWP17: BLM also provides no basis for stocking rates. An honest capability and suitability analysis must be conducted. BLM must determine what watersheds or areas of allotments may not be able to sustain continued livestock grazing. For all pastures and use periods, BLM must detail the conflicts with the wealth of multiple uses – for sage-grouse brood rearing to wilderness recreation. We protest the failure to conduct such analysis, as WWP proposed in its Alternative and Scoping comments.

BLM: The Affected Environment sections and analysis for all resources meet the criteria to constitute a “hard look”. Stocking rates were established within the actions of Alternative 4, the alternative selected for all four Proposed Decisions, by first establishing a grazing schedule that incorporates appropriate seasons of grazing use consistent with resources present within each pasture. Upon drafting that grazing schedule for each of the allotments, BLM then proceeded to identify a stocking rate consistent with vegetation site and their condition, topography, and water availability as outlined in footnotes in Section 2.8.1 page 38 for the Castlehead-Lambert allotment, in Section 2.8.2 page 51 for the Garat allotment, and in Section 2.8.3 page 59-60 for the Swisher Springs allotment.

WWP18: We protest all breeding and nesting period use in all allotments.

BLM: Although not a complete prohibition of grazing during the sage-grouse breeding and nesting periods across all the allotments, the BLM believes the resource-based constraints contained in the proposed decision (i.e., upland vegetation and soils, riparian, and sage-grouse breeding habitat) will offer the necessary measures to provide suitable breeding habitat conditions in most years and over the term of the permit.

WWP19: We are also alarmed that BLM does not provide caps in livestock numbers by pasture, or use period. The CHL/Swisher Decisions at 13 obfuscate and obscure how many cattle will be grazed in any one area, and it is very likely that severe overstocking will occur. Are there similar straggled movements of cattle in Garat? We protest this.

BLM: Livestock numbers that graze through the authorized seasons of use are provided for each allotment and for each alternative within the terms and conditions defined for each allotment as a whole in the EA. Similarly, those numbers were provided in the terms and conditions of the proposed decision for each of the four permits. As noted in the response to protest WWP17, livestock numbers were defined by the most limiting pasture, providing a stocking rate with a greater number of acres per AUM for all other pastures in the grazing schedule.

WWP20: The full footprint, and inter-connections and links between 06, Maestrestrejuan or other parties and Nickel Creek and other grazing allotments, must be fully provided. The same with the various Petan operations. How will livestock be moved back and forth and in between, including the Nickel Creek FFRs? Or moved from or to Nevada or elsewhere in Garat?

BLM: The cumulative effects of livestock movements outside the allotments in Group 1 are only important to each livestock operator as to how the decision will affect their operation. Although livestock numbers authorized throughout the grazing season differ between alternatives and the proposed decision will change that number in three of the four allotments in the Group 1 allotments, the beginning and end date for use has not been changed.

WWP21: We are greatly concerned that BLM is piece mealing and segmenting NEPA analyses. BLM refers to fencing and potentially other projects that it appears to be hinting will be rebuilt later. Is this piecemeal and purposeful segmentation of NEPA? Instead of alluding to more fencing or rebuilding fencing, BLM should use this process to identify significant lengths and areas of fence for removal. It should do the same for the many damaging water projects. We protest the failure of BLM to address these concerns and honestly admit if the agency may be intending to segment facilities until later.

BLM: There are no other projects proposed that BLM is hinting will be rebuilt later. As is discussed under BLM responses to BRS4, and WWP5, range projects have not been included in NEPA and grazing permit renewal process. Please see this response for the rationale as to why the proposals for projects will

not be considered. If range projects are to be considered and addressed in the future, additional NEPA analysis would be completed, and that analysis would analyze cumulative effects including those effects initiated by these permit renewals.

WWP22: These Decisions don't provide an integrated plan for addressing the significant grazing harms. They are internally inconsistent. BLM has not analyzed the benefits of the common sense alternative actions in WWP's alternative and its components. The PDs do not take the necessary hard look at site-specific problems, and deal in an integrated manner with livestock conflicts with the wildlife, watershed, native vegetation, aquatic biota, recreational/wilderness – and other values of the public lands.

BLM: See BLM responses to BRS2, BRS4, BRS11, and BRS12. Please refer to WWP 34 response addressing WWP's alternative and its components.

WWP23: The PDs do not comply with current sage-grouse science for sage-grouse habitat quality needs, especially since the lands and populations of sage-grouse are so depleted and altered by harmful spring use, high use levels, overstocking, grazing of non-capable lands, and also by the habitat loss from “managed” Crutcher wildfire. They ignore careful site-specific analysis of all the facility harms and the severe damage that is present due to upland and riparian systems, and how very low and depleted populations currently are – example, Garat sage-grouse, Juniper Mountain redband trout, pygmy rabbit.

BLM: The Proposed Decisions contain a variety of conservation measures that will benefit sage-grouse habitat via resource-based constraints in upland and riparian habitats. In addition, species-specific constraints are also contained within the Proposed Decision (see Section 2.8.1.4 and Table ALT-14 pp. 37-38, Section 2.8.2.4 and Table ALT-27 pp. 50-51, and Section 2.8.3.4 and Table ALT-40 pp. 59-60). The collection of species population data or lack thereof is the responsibility of the IDFG. The information concerning sage-grouse, redband trout, and pygmy rabbit that the IDFG does have does not provide any trends in population numbers to support the protestors' suggestion that populations are “very low and depleted”.

WWP24: BLM must provide a chart of grass and forb heights for all species when grazed to with this level of use, and full and detailed analysis of what this sky high 50% utilization level will mean for sage-grouse, and the nesting cover that remains. Where in the pasture will this extremely high utilization level provide for 9 inches residual nesting cover for sage-grouse? Where will it provide for 7 inches? On what species? We protest the failure to analyze these adverse impacts in a scientific and systematic manner.

BLM: The BLM believes that the resource-based constraints contained in the Proposed Decision will, on average, over the term of the permit, provide suitable sage-grouse nesting habitat (i.e., 7 inches during the nesting season for nest concealment) within areas of Preliminary Priority Habitat-sagebrush, as well as other Preliminary Priority and General Habitat categories across the allotments.

WWP25: BLM must apply much more conservative use levels (10% or less) to all native bunchgrasses and the depleted forbs, and this must be measured in areas that receive significant amounts of livestock use. Many areas will require rest to jump start understory recovery and healing of microbiotic crusts. BLM failed to carefully conduct detailed site-specific analysis to determine these needs.

BLM: : Protest point WWP25 suggests a use level with no source or rationale to suggest why its use as a term and condition of grazing permits that will be offered would be more appropriate that the application of appropriate seasons of grazing use by pasture and limitations to stocking rates that are in the proposed decisions.

WWP26: The decisions as they are proposed greatly fail to address the rangeland health violations that BLM admits are present – let alone promote recovery and healing. This includes soil stability productivity, hydrologic function.

BLM: The BLM disagrees with the opinion in this protest point. As described in the entire EA (DOI-BLM-ID-B030-2012-0012-EA), current resource conditions were outlined and specific effects analysis was provided for each resource and standard. The Proposed Decision went into great detail about current resource conditions, the measures proposed to reduce/eliminate effects from livestock grazing, and the rationale about how those effects would occur and meet or make significant progress toward meeting the Standards. If the allotment was not meeting or making significant progress, meaningful changes to livestock grazing were proposed and will “promote recovery and healing” and make significant progress towards meeting the Standards. These changes include reductions in livestock numbers, AUMs, changes in season of use, and use restrictions.

WWP27: We protest the failure to adequately examine current scientific information necessary to understand the full battery of harms from livestock grazing and adverse effects of use under proposed under the BLM decisions.

BLM: See BLM responses to BRS2, BRS4, BRS11, and BRS12.

WWP28: BLM must also carefully review and consider conditions of linked drainage network and watershed areas and status of habitats and populations on surrounding grazed lands to conduct an adequate cumulative impacts assessment. For example, streams like Little Smith Creek and Red Canyon Creek have very degraded headwaters and tributaries in other allotments, and portions of the protective juniper forests have burned, reducing soil stabilization and shade to cool waters and slow rapid erosive runoff. We protest the failure to do so.

BLM: The Soils cumulative effects area defines the cumulative impacts analysis area for upland soils and watersheds (p.120, 121, 235, 236, 327, 328). Through erosional and depositional processes, upland soils provide for the sediment sources that enter into riparian areas and are transported within stream systems throughout the watershed and beyond. To the extent that soil movement in stream channels affects resources outside of the allotment, the direct/indirect effects and cumulative effects are considered in detail in the Water Resources Sections 3.4.4, 3.5.4, and 3.6.4 of the EA.

BLM’s standard for stream and spring stewardship is the USGS NHD (IM 2009-212), which was used to assess the total number of streams and springs that exist on the landscape (see EA pages 134-144).

WWP29: BLM has woefully failed to examine the current degree and severity of habitat loss and degradation so that it can assess the urgent need for much greater habitat protections – such as complete rest for the term of the permit across Juniper Mountain streams and springs, and mandatory 6” stubble height, less than 10% bank shearing at all times in any lands that continue to receive grazing use.

BLM: EA pages 134-144, 250-254, and 333-335 disclose available information on the condition of the riparian and water resources, and Alternatives 3 and 4 specifically incorporate constraints on grazing where riparian and water quality issues exist. Alternative 3 (EA pages 66-70, 144-147, 149-152) analyzes the impacts with the performance measures in place. The BLM believes that the resource-based constraints contained in the Proposed Decision will allow riparian areas to recover and provide the necessary structural diversity and forage riparian-obligate wildlife species require.

WWP30: Regrettably, BLM has failed to adequately assess the combined impacts of livestock waste, sediment, removal of shading vegetation in impairing water quality, recreational experiences including for the public hiking, camping, backpacking, seeking to photograph wildlife and engaged in many other activities in the Owyhee Canyonlands, including in Wilderness areas and LWC.

BLM: BLMs standard for water quality is to meet or exceed the criteria as set by the IDEQ (<http://www.deq.idaho.gov/water-quality.aspx>). The impacts to water quality for each alternative are analyzed in the EA on pages 66-71, 144-157, 254-265, and 336-344.

Recreational activities such as hunting, hiking, camping, backpacking, wildlife photography, as well as numerous other activities, are abundant throughout the Group 1 allotments, and would remain available to the public under any of the alternatives that were discussed in the EA. The EA acknowledges these activities and discusses the most likely activity to be impacted during grazing seasons, identifying hunting as the most likely to be impacted in many of the alternatives. Even with hunting as the most likely to be impacted during periods of grazing, these impacts were considered negligible.

Impacts to recreationists are subjective: while some may be bothered by the presence of livestock, most recreationists utilizing BLM- and Forest Service-managed lands recognize that the BLM is a multiple-use agency working to provide a balance of health and utility to public lands. Livestock grazing is part of the BLM's multiple-use mandate and is a valid existing use within the designated wilderness areas of the Owyhee Field Office. If the thought of an interaction with livestock or a close encounter with livestock waste on public lands is troublesome to a recreationist, there are other options available, such as our State and National Park Systems, which offer similar scenic recreational experiences without the livestock.

WWP31: BLM greatly fails to fully and fairly consider alternatives that provide rest for damaged watersheds in portions of the allotments for the term of the permit. BLM fails to adequately and fully assess the benefits of the no grazing alternative.

BLM: The Soils chapters (Sections 3.4.2, 3.5.2, and 3.6.2), along with every other resource chapter in the EA, adequately analyses Alternative 5 – No Grazing with the continuous message that extended rest from livestock grazing for 10 years would make significant progress toward desired conditions because soil impacts would decline. Absence of grazing would provide for the most unimpeded and rapid improvement of upland soils and watersheds (Environmental Consequences and Cumulative Effects Sections - pp. 119-120, 125-126 for Castlehead-Lambert, pp. 234-235, 241-242 for Garat, and p. 326, 332, and 333 for Swisher Springs).

WWP32: Table VEGE-1 of the ORMP recognized 80,983 acres of woodland in the ORA. (“shallow breaks – 14-18”). Yet, BLM's NRCS Ecosites show zero acres. The flawed NRCS Ecosites and models are clearly inconsistent with even the anti-juniper biased RMP.

BLM: Protest point WWP32 is believed to refer to table VEGE-1 in the Proposed Owyhee Resource Management Plan and Final Environmental Impact Statement. Within that table, various woodland vegetation communities that were present on 80,983 acres of the 1.3-million-acre resource area and included four major range sites (aka ecological sites), identified western juniper as common species in climax condition in the Shallow Breaks 14-18”. Other sites identified in the woodland vegetation communities listed in Table VEGE-1 included Aspen Thicket 16-18”, Douglas Fir 22”+, and Mahogany Savannah 16-22”. The Shallow Breaks 14-18” site is only present as limited acreage of the Badlands ACEC within the Castlehead-Lambert allotment.

WWP33: WWP protests the lack of current systematic site-specific monitoring of sage-grouse habitat conditions and the composition, function, and structure of sage-grouse nesting, early brood rearing, late brood rearing, and wintering habitats across the allotments. BLM's only sage-grouse assessments are old, outdated, contain no brood rearing habitats, are focused on the trend sites and other areas distant from water, etc. We protest this.

BLM: The BLM used the most current (2003, 2009, 2011, 2012) and best available data to base its assessment of sage-grouse habitat availability and quality within the allotments.

WWP34: BLM is supposed to be following ICBEMP science. ICBEMP science time after time stresses the importance of minimizing disturbance to prevent weed invasions – such as cheatgrass. We protest the failure to consider very reasonable measures in the WWP alternative.

BLM: The BLM incorporates data in its analysis from multiple science sources, including the Interior Columbia Basin Ecosystem Management Project (ICBEMP). The EA cites three sources that were pulled from ICBEMP science, 1) *Livestock Grazing in Riparian areas in the interior Columbia Basin and portions of the Klamath and Great Basin*, 2) *Juniper encroachment: potential impacts to soil erosion and morphology*, and 3) *Cheatgrass: The Invader that Won the West*. As for the alternative proposed by WWP, this included designation of a new ACEC. BLM stands behind the rationale in the EA (Section 2.6) which states: WWP's April 13, 2012, request to designate new ACECs has been considered, but will not be analyzed in detail per Section 202(c) of FLPMA (43 U.S.C.1712), which requires that in developing land use plans (or amending existing plans), the BLM must give priority to designating and protecting areas of critical environmental concern (ACECs). Other portions of the WWP alternative involved passive and/or active range restoration projects, which involved range improvement projects. BLM considers the analysis of these proposals to be adequately addressed in the EA, Section 2.6.

WWP35: The EA fails to address these very important issues and findings, including in the context of sage-grouse habitat needs in an allotment where many areas that may not currently be providing appropriate habitat could be considerably improved through removal of grazing disturbance (as shown by exclosures and exclosure studies).

BLM: The EA concluded that sage-grouse habitat could be enhanced within the allotments. In addition, the BLM considered and analyzed in detail a No Grazing alternative for each allotment.

WWP36: In many areas, BLM is allowing extensive livestock disturbance impacts that are expanding cheatgrass/exotic bromes, destroying the banks of drainage networks, steep slope and streambank. The violates the RMP and Wilderness Act, and its requirements for non-impairment and non-degradation, and many other provisions of the RMP including ensuring protections for rare and important species, protection of native vegetation communities, protections of Wilderness-worthy values, and BLM policies.

BLM: The best available information was utilized for the impacts analysis (see EA pages 144-157, 254-265, and 336-343) that analyzed the grazing alternatives, and comparisons among them regarding meeting or not meeting Standards and RMP objectives were made.

The EA acknowledges that certain areas/pastures within wilderness are not meeting Standards, whether in regards to native plant communities or riparian areas and wetlands, and discloses their impact upon wilderness. For example, Section 3.5.9.2.1 states:

“There are, however, certain areas throughout the allotment which are not meeting the rangeland health standard for native plant communities (pasture 4) or ORMP vegetation management

objectives, and would conceivably continue to not meet these standards and objectives under the proposed grazing schedule. Understanding that grazing is an allowable grandfathered use within the Owyhee River Wilderness, BLM must manage public lands to meet standards as well as to protect and enhance wilderness characteristics. If upland and riparian vegetation conditions are not maintained or improved within wilderness from the time of designation (2009), the area's naturalness and visual qualities would be impacted. These impacts may only affect a small portion of the wilderness, as only roughly 9,000 acres lie within pasture 4 and thus would not impair wilderness character as a whole. However, these impacts, if they do occur, would not be in conformance with the Wilderness Act, which states to preserve and protect these features within wilderness.”

The BLM recognizes that certain alternatives would not be in conformance of the Wilderness Act and identifies those alternatives throughout the document. It has been determined however that the selected alternative would be in conformance with the Wilderness Act.

WWP37: BLM in failing to assess site-specific impacts of facilities, ignores that the Holechek range text (2001) and numerous range articles describe how cattle impacts and depletion radiate outward from water sources, and that cattle will travel one to two miles from water and the impacts extend outward over a considerable distance. These effects on sage-grouse and all other sensitive species habitats are greatly ignored.

BLM: The effects of livestock grazing on sage-grouse and all other sensitive species habitats were analyzed in four separate action alternatives in the EA.

WWP38: BLM fails to identify important seasonal habitats and adequately assess their quality, extent, and degree of fragmentation.

BLM: The extent and quality of sage-grouse habitat, including important seasonal habitats, were identified and assessed in all allotments (specifically see pp. 161-162, pp. 268-271, and pp. 345-346).

WWP39: BLM provides no basis for understanding a sustainable stocking rate and carrying capacity. Water consumption of a cow-calf pair and the figure may be up to 60 gallons per day per cow-calf or animal unit (“AU”), depending on the air temperature and solar radiation.

BLM: The EA identification of the process to arrive at stocking rates is provided in the response to protest point WWP17.

WWP40: We protest the tremendous lack of site-specific information on livestock degradation and destruction of cultural sites and resources. BLM must scrutinize all spring developments, stock ponds and other areas of livestock concentration and areas of harmful livestock facilities/developments to determine the degree to which intensive livestock use may be destroying sites, altering site stratigraphy through trampling and displacement, destroying scientific values of sites, etc. Even if there were surveys at the time of the various projects, intensive use is very likely to have stripped off protective vegetation over large surrounding areas, and promoted extensive soil erosion – exposing artifacts and more extensive sited to damage. We protest these cultural analyses and resource protection deficiencies.

BLM: All known cultural sites within the four allotments of Group 1 were identified and all of the site reports were reviewed for indications of effects due to livestock grazing. Potential areas of congregation (troughs, reservoirs, catchments, salting areas, wallows, etc.) were located using high-definition aerial photography and any site within a 100-meter radius was noted. Two sites, 100E491 and 100E9429 -

prehistoric lithic scatters - met this criterion. Monitoring visits and intensive inventories were conducted on May 30 and June 12, 2012. It was determined that the 10OE491 location is not a cultural site but is a natural occurrence of crypto-crystalline silicates and does not include any human-produced artifacts. 10OE9429 is experiencing minor trampling effects by livestock.

No known cultural sites have been identified as needing protection or special management measures as a result of grazing related effects.

Eleven intensive inventories have been completed in Castlehead-Lambert totaling 1,005 acres; Garat has had 16 intensive inventories for 224 acres; Swisher FFR received no intensive inventories; and Swisher Springs received two intensive inventories for 10 acres. (Maps of survey areas are available upon request).

The following are initial field determinations of recorded sites and are not official final determinations. Castlehead-Lambert: 28 sites, one eligible; Garat: 39 sites, 17 eligible; Swisher FFR one site, not eligible; Swisher Springs: no sites.

WWP41: ... fences across the allotments are not adequately maintained. BLM also allows much too early turnout in some areas where fence maintenance may not be achievable – with fences potentially still weighted down by snow in some years. We protest BLM’s failure to analyze these risks and uncertainty.

BLM: The permits to be renewed include the following terms and conditions that pertain to the concerns raised by WWP in this protest point. The terms and conditions (as found in the 06 Livestock Castlehead-Lambert Proposed Decision on page 12, and similarly in the other Group 1 proposed decisions) in reference include: (3) *Turn-out is subject to the Boise District range readiness criteria*, and (8) *Range improvements must be maintained in accordance with the cooperative agreement and range improvement permit in which you are a signatory or assignee. All maintenance of range improvements within designated Wilderness requires prior consultation with the authorized officer.* Adherence to these terms and conditions allow assurances that livestock turnout should not occur until range readiness is achieved (which would consider snow loading), and all management fences have been maintained.

WWP42: BLM fails to explain why the reduced stocking rate action is accompanied by 50% utilization. BLM greatly forsakes providing adequate residual nesting cover for greater sage-grouse across the allotments by applying an outrageously high 50 % utilization and heaping spring and early summer use on all allotments while forsaking rest. The utilization is also used in part to justify the bizarre all lands are 10 acres per AUM stocking claims, and the underlying assumption (see Pole Creek FD response to protests) that somehow livestock are uniformly distributed across the pastures – even though the pastures have very different terrain, topography, water sources, vegetation communities, etc. How does the flawed stocking rate and carrying capacity scheme play into each alternative? This is really unclear. BLM is certain to exceed capacity in the greatly damaged lands and riparian areas.

BLM: The EA identification of the process to arrive at stocking rates is provided in the response to protest point WWP17. The maximum allowable utilization level is a management action tiered to the ORMP.

WWP43: We protest BLM not separating out the very small amount of cattle that are actually related to public lands grazing. BLM fails to provide the Owyhee RMP study that found only 5 or so jobs total – would be affected by cutting AUMs.

BLM: If this protest point concerns the total number of livestock in the entire United States that graze on public lands, it is true that this is a small number. However, as discussed in Section 3.3.1.6 of the EA, ranching plays a large role in the local economies of southwestern Idaho, southeastern Oregon, and northern Nevada. Reductions in cattle numbers or AUMs could have a substantial impact on the local economy. Impacts to any economic sector that could be considered minimal on a national scale could be detrimental on a state, county or local scale. Regarding the second protest point, it is unclear which study WWP is referring to. If these 5 or so jobs are only on one ranch, this may or may not have a larger impact on the local economy. However, AUM reductions for multiple permittees could result in a combination of many jobs lost on more than one ranch. In addition, a loss of business at farming and ranching supply stores as a result of less ranching activity could impact employment at those stores as well.

WWP44: We protest the mis-characterization of the Murphy Fire report. There is no convincing evidence that grazing stopped seedings from burning.

BLM: The citations provided in the EA support the narrative in Section 2.6 pages 22-25 of the EA.

WWP45: The EA claims that there is no need for trailing analysis. However, herding analysis and movement – say from Nickel Creek through other lands or FFRs or from Nevada (Petan) – must be fully examined, as must be the movement patterns and use periods in the allotments. We protest the lack of analysis and controls.

BLM: The EA does not claim “that there is no need for trailing analysis.” It does, however, state that these permits “identified no need for trailing/crossing authorizations on adjacent public land to access public land within the Owyhee River Group allotments” and “All alternatives of this NEPA document include authorization to move cattle through pastures within the permitted allotment, but outside dates identified in the grazing schedule in order to complete livestock moves as scheduled. Authorization to move livestock through pastures outside their scheduled use dates is limited to 1 day unless otherwise noted in the schedule.” Therefore, the movement between pastures that may require crossing through a pasture outside of the use date is authorized for one day, which was fully analyzed and disclosed in the EA and Proposed Decisions. Move dates between pastures are identified in the EA and decisions, which was documented in the appropriate analysis, decision, and project record.

WWP46: What is the reason for not canceling the suspended AUMs? We protest this.

BLM: As per 4110.3-2(b), “*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, any reductions in active use is not carried forward as additional suspended AUMs, which results in a reduction of permitted use (active AUMs + suspended AUMs = permitted AUMs). Any suspended AUMs that have been historically included on grazing permits are carried forward on current and future permits until guidance is changed in the future. Current BLM direction is to maintain the suspended AUMs that are currently identified on grazing permits, but BLM does not add any suspended AUMs as identified in 4110.3-2(b). Existing suspended use shall be retained on grazing permits/leases (4110.2-2(a)) as it states that “*Permitted use shall encompass all authorized use including livestock use, any suspended use*”). In addition, § 4110.3-1(b) talks to apportioning additional forage in satisfaction of suspended use, thereby recognizing existing suspended permitted use. Regardless of how many suspended AUMs are identified on a grazing permit, the same process is required to activate those AUMs.

A NEPA document and a subsequent decision in accordance with 4110.3-1, 4130.3-3, and 4160 is required to implement any modification of the grazing permit, including an increase in active AUMs.

WWP47: BLM is now sacrificing sage-grouse priority habitat. In areas where lands have burned, and islands of sage remain, BLM is treating the entire pasture as being not important to sage-grouse. See discussion of table Alt-12, for example. BLM claims only pastures 2 and 4 contain sage-grouse habitat in CHL. That is simply not the case. EA page 35 footnote 4 admits that March 15 on is a period of concern for sage-grouse breeding/nesting in CHL. Yet mysteriously such concern evaporates in Garat when BLM goes to great lengths to bend/distort the necessary avoidance period for the rancher's benefit in relation to pastures 1 and 2 that suffer relentless lek/nesting season cattle disturbance. It is inexplicable how BLM could acknowledge (as in EA at 35 Alt. 3) that utilization on native bunchgrasses needs to be capped at 20% with spring use – yet issue proposed decisions that allow a whopping and severely damaging archaic 50% utilization – all measured at trend sites far away from any areas of more intensive livestock use.

BLM: Through implementation of specific measures to improve the health of upland native vegetation communities, riparian areas, and sage-grouse habitat, the BLM believes that the resource-based constraints contained in the Proposed Decision will on average over the term of the permit, provide suitable sage-grouse nesting, brood-rearing, and winter habitats not only within areas of Preliminary Priority Habitat-sagebrush but also other Preliminary Priority and General Habitat categories across the allotments.

WWP48: BLM refused to analyze the need for ACECs, and arbitrarily ignores FLMPA's provisions that allow BLM to consider and designate ACECs at any time where it is necessary to protect from irreversible harm. We protest the failure to fully consider all ACEC alternatives, and take necessary actions to prevent irreparable harm.

BLM: BLM addresses this topic in detail in the EA (EA #DOI-BLM-ID-B030-2012-0012-EA) at Section 2.6 Alternatives Considered but Not Analyzed in Detail, page 20. Here BLM provides the following rationale for why ACEC designations are considered but not analyzed in the associated EA:

“Designation of a new ACEC is a land use planning-level decision that would require an amendment to the existing Owyhee RMP. The BLM is not in the position to include an ACEC RMP amendment in this permit renewal process. Grazing authorization renewal is an implementation-level decision that does not involve changes to an RMP.”

WWP49: The EA fails to adequately address and analyze climate change impacts – hotter, drier summers, etc.

BLM: The EA states in Section 2.6: “The BLM's 2008 NEPA Handbook, H-1790-1, explains that a topic must have a cause-and-effect relationship with the proposed action or alternatives to be considered an issue (H-1790-1, p. 40). Climate change does not have a clear cause-and effect-relationship with the proposed action or alternatives. It is currently beyond the scope of existing science to identify a specific source of greenhouse gas emissions or sequestration and designate it as the cause of specific climate or resource impacts at a specific location.” BLM believes this statement to be accurate. The generalization of “hotter, drier summers, etc.” fits some conclusions applying to arid western regions, but does not address any trend with site-specificity applicable to a single allotment. Also, “The proposed action and alternatives, when implemented, would not have a clear, measurable cause-and-effect relationship to climate change because the available science cannot identify a specific source of greenhouse gas emissions such as those from livestock grazing and tie it to a specific amount or type of changes in climate.”

Protests Relevant to the Garat Allotment

Petan Co. of Nevada submitted a protest on Feb. 13, 2013, regarding the Jan. 28, 2013, Garat Allotment Proposed Grazing Decision.

Petan1: We protest that you have failed to consider the "current grazing practices" and "current conditions", particularly all of the monitoring, comments, and applications submitted by Petan.

BLM: Current grazing management practices, as defined by the existing permit and as documented in annual actual use reported by the permittee, in BLM compliance inspections, and monitoring data, were considered throughout the process of grazing permit renewal. Data provided by the permittee were reviewed and incorporated in the process as appropriate. The application for grazing permit renewal dated June 29 and as revised November 18, 2011, by Petan Company of Nevada was used to define the actions analyzed in Alternative 2 of the EA. Possible revisions to the submitted application were received in the permittee's response to the scoping package and were considered as identified in Section 2.6 page 21 of the EA.

Petan2: We don't protest lines 1-3 of the Table, except that we protest: the apparent reference to a footnote "1" in the %PL and AUMs column to which it is unclear as to the reference. (Petan requests a meeting with you to at least discuss the percent public land figure. Petan's Grazing Permit dated January 25, 2007, and Petan's 2013 Grazing Billing dated January 31, 2013, authorizes 94% public land use, not 96% public land use. Petan would like to better understand why the change from 94% to 96%. After this discussion, if the BLM made a mistake, then Petan applies/requests that it be authorized at 94% public land use, not at 96% public land use.)

BLM: An action of the ORMP was to remove lands below the rim of the Owyhee River Canyon from the Garat allotment. The calculation of percent public land was modified because non-public land controlled by Petan Company included lands within the canyon. The modified calculation was coordinated between BLM and John Jackson following meetings that lead to the submission of the revised grazing permit application, November 18, 2011.

Petan3: We protest term & condition 4, since the range readiness criteria should be specific to the Garat Allotment, as stated in the 1989 Agreement, not generally as to the entire "Boise District". See Petan's Application for Permit Renewal dated February 12, 2013, III.4.

BLM: Although the 1989 agreement identified range readiness criteria that were established at that time, the 1997 grazing permit (the existing permit for grazing use in the Garat allotment) included the Boise District range readiness criteria as a term and condition. The Boise District range readiness criteria established consistent criteria district-wide, incorporated as a term and condition of grazing permits. The Boise District range readiness criteria are carried forward from the existing permit to achieve management objectives and assist in the orderly administration of the public rangeland by maintaining consistent criteria between allotments in accordance with 43 CFR 4130.3-2

Petan4: We protest term & condition 7, since trailing should be authorized from Petan's private land to the Garat Allotment subject to approval from BLM so as to avoid the need for the BLM to process any Crossing Permits. See Petan's Application for Permit Renewal dated February 12, 2013, III.7. Moreover, such trailing authorization in the Grazing Permit itself will avoid the administrative burden for the BLM to process such type of trailing authorizations.

BLM: Crossing authorizations from private land to the Garat allotment are administered by the Elko BLM District because that trailing would be within Nevada. Upon entering Idaho and the Boise District, livestock are within the Garat allotment and authorization for grazing and trailing within the allotment is covered by the renewed permit.

Petan5: We protest in part term & condition 11. We protest the lack of after-the-fact billing. Petan's Application for Permit Renewal dated February 12, 2013, is the "functional equivalent" to an Allotment Management Plan so after-the-fact billing should be authorized. 43 C.F.R. 4130.8-1(e); 43 C.F.R. 4120.2(a). Moreover, after-the-fact billing avoids the administrative burden for the BLM to process refunds. 43 C.F.R. 4130.8-2. See Petan's Application for Permit Renewal dated February 12, 2013, III.14.

BLM: Please see the Final Decision at page 16.

Petan6: We don't protest term & condition 13 *per se*, except that we protest and reject that utilization should in-and-of-itself be a term & condition, unless such term is predicated upon a "decision-tree" as prescribed by USDI-BLM-Idaho Instruction Memorandum No. ID-2005-074 dated June 2, 2005. See also USDI-BLM-Idaho Information Bulletin No. ID-2005-018 dated November 22, 2004. See Petan's Application for Permit Renewal dated February 12, 2013, III.13.

BLM: Alternative 4 is a season-based alternative, and the use of a utilization requirement on the grazing permit being renewed is as a term and condition, and not an annual indicator for an adaptive management plan. IM-ID-2005-074 pertains to implementing adaptive management and the use of *Annual Indicators*. The associated *Decision Tree* (Attachment 1 to IM-ID-2005-074) is for "*Implementation of Annual Grazing Adaptive Management*." Therefore, the use of the *Decision Tree* under Alternative 4, which was selected as the proposed action in the Group 1 proposed decisions, is not applicable.

Petan7: We protest the "Notes on the Terms & Conditions" which speaks to generally three points: (a) we protest the decrease in Active Use; (b) we protest the grazing system, particularly when the "criteria" (even assuming it is rational) drives many different grazing systems and does not otherwise require conformance to just that grazing system prescribed in the Proposed Decision; (c) we protest the grazing system as irrationally removing reasonable flexibility that is necessary due to growing, water, and weather conditions; and (d) we protest the cancellation of a portion of the Permitted Use of 33,646 AUMs, particularly when the Proposed Decision found that Petan has a "satisfactory record of performance".

BLM: The finding that Petan Company of Nevada has a satisfactory record of performance in its compliance with terms and conditions of its existing permit is unrelated to conclusions from the Evaluation Report and Determination that current livestock management practices were contributing to not meeting the Idaho S&Gs or ORMP management objectives. The changes to livestock management practices identified in the permit terms and conditions of the Final Decision will be implemented to meet those management objectives, consistent with the rationale provided in the final decision and the analysis in the EA.

Petan8: We protest, in part, the "Other Notes on the Proposed Decision", as follows:

- We protest the *second paragraph, first and third sentences*, related to the general decision statement that "it is my proposed decision to not authorize additional projects" and to defer to some unknown time in the future the consideration of range improvement developments.

- We protest the *second paragraph, second sentence*, related to the wholesale denial of specific applications to modify, change, and construct certain range improvements. See Petan's Application for Permit Renewal dated February 12, 2013, IV.
- We protest the lack of scheduling the Active Use which was in the voluntary non-use category per the 1989 Agreement. See Petan's Application for Permit Renewal dated February 12, 2013, II, Line 4, and Line 5.

BLM: The rationale for not considering construction of new range projects during this grazing permit renewal process is provided in Section 2.7 page 25 of the EA. Failure to meet Idaho S&Gs and ORMP management objectives due to current livestock management practices does not provide opportunity for restoration of voluntary non-use AUMs and in fact lead to analysis of the selected Alternative 4, as supplemented by the riparian performance-based terms and conditions from Alternative 3 and a reduction in active AUMs.

Petan9: We protest the FONSI, to the extent protested herein. Significant impacts exist as to warrant the preparation of an Environmental Impact Statement. See all of our monitoring data and comments submitted during the evaluation process, which are incorporated herein.

We protest the related lack of consideration of the significant economic impact the "Proposed Decision", i.e. imposing Alternative #4 and a portion of Alternative #3, will have on Petan itself, and the broader community. In general terms, the "Proposed Decision" reduces Petan from 3,150 head of livestock to 1,604 head of livestock; at 20 cows per bull and a 92% calf crop, this reduction equates to 1,354 head of livestock that Petan will be unable to annually produce (from 1,472 cows and 74 bulls); at an average 500 pound weaning weight and at merely \$1.60 per pound, the gross revenue effect by the "Proposed Decision" is conservatively \$1,083,200 per year on just Petan. Applying a conservative multiplier of 1.79 to the \$1,083,200 direct annual impact on Petan increases the total indirect and induced impact to \$1,938,928 per year. One recent Economic Report states "for every \$1 of livestock production output there is another \$0.79 in output and income generated throughout the economy in indirect and induced effects." See *Regional Economic Impact Model of Owyhee County, Idaho, and the Four County Area Including Ada, Canyon, Elmore, and Owyhee Counties*, at page 10, by Darden, Rimbey, Wulfhorst, dated June 2003, Agricultural Economic Extension Series No. 03-06.

BLM: See BLM response to OCC4.

Petan Co. of Nevada also submitted a Supplemental Protest on Feb. 28, 2013, in response to the Garat Allotment Proposed Decision.

Petan10: Petan will hold you, the BLM, the USDI, the USA, and any related third parties, responsible for any and all adverse consequences which could result from your delay in both the service of the 2013 Proposed Garat Decision and the issuance of any "final decision", should you not elect to withdraw/rescind your "determination" document dated August 28, 2012, so as to provide you with some additional decision space to consider the protest(s) filed by Petan (and perhaps others).

BLM: Understood. BLM apologizes for any confusion. To provide clarification, BLM made a decision to not officially issue the Group 1 Proposed Decisions until February 12 and 14, 2013, although the decisions were signed and posted on the BLM webpage on January 28, 2013. During BLM's rollout briefings, it was communicated that the official protest periods (in accordance with 43 CFR 4160) would not begin until permittees and interested publics received such proposed decisions via Certified Mail (hardcopies). Furthermore, on January 28, 2013, the Owyhee Field called each of the Group 1 permittees (including John Jackson) to provide notification of this fact. Any delays associated with issuance of the

Final Decisions will be at the authorized officer's discretion and only after consideration of protests received of the proposed decisions.

Petan11: In fact, to that end, Petan, through a congressional representative, contacted the Idaho State BLM Director on or about February 5, 2013, to advise him of BLM's need not to delay service of the 2013 Proposed Garat Decision (and similar proposed decisions), though it is apparent that the Idaho State BLM Director ignored/refused to act upon such advice, since the 2013 Proposed Garat Decision was not sent out for service until February 13, 2013.

BLM: Although, this is more of a comment versus a protest point, a short response is being prepared. Advising the BLM Idaho State Director to delay issuance of the Group 1 Proposed Decisions was not justified nor warranted per the mentioned request on or about February 5, 2013. However, the State Director considered the request and consulted with the appropriate BLM managers and staff. Thereafter, this request was considered in the decision to delay issuance of the Group 1 Proposed Decisions via Certified Mail until February 12 and 14, 2013.

Petan12: While Petan does not welcome a hastened, irrational, and/or unlawful "final decision", it is apparent that BLM has negligently, willfully, and/or intentionally delayed the process as to the timely issuance of a "final decision". This is tragic, but clearly the blame lies directly with the BLM and any conspiring third-parties.

BLM: See BLM Response to Petan10.

Petan13: Petan has submitted numerous verbal and written comments since 1997, reporting to BLM the improved resource conditions upon the public lands within the Garat Allotment.

BLM: See BLM Response to BRS15.

Petan14: A decision to withdraw/rescind the August 28, 2012 "determination" document is particularly reasonable in light of the fact that the prior August 2007 "determination" document for the Garat Allotment concluded: I] current livestock grazing management practices were NOT significant factors in any failure to meet Standards 1, 4, 7, and 8; II] Standards 2 and 3 were met; III] Standards 5 and 6 were not applicable; IV] the cause for not meeting Standard 7 was not determined; and, V]livestock grazing management conforms with Guidelines for Standards 1, 2, 3, 4, and 8.

BLM: BLM disagrees. The 2012 Group 1 Rangeland Health Assessments, Evaluation Reports, and Determinations were completed by a BLM interdisciplinary team consisting of a full range of technical experts, including: rangeland management specialists, botanists, wildlife biologists, a fisheries biologist, and a soils scientist. All current and available information pertaining to the Group 1 allotments was considered in completing the Rangeland Health Assessments, Evaluation Reports, and Determinations. BLM followed applicable BLM policy associated with completing allotment reviews deriving at the 2012 Determinations.

Petan15: Given these significant comments by Petan (as well as others) since 1997, BLM should reconsider its 2013 Proposed Garat Decision [43 C.F.R. 4160.3(b)], and issue a "final decision" which implements Petan's superseding Application to renew its grazing permit submitted to the BLM in Petan's February 12th Protest. Implementation of such application will continue to meet applicable objectives and standards, as well as maintain the economic viability of Petan.

BLM: All protests received during the protest period have been considered to inform Final Decisions. It is important to point out that submittal of an additional revised grazing permit renewal application during the protest period does not require BLM to replace previous application versions. For the record, BLM met with Petan Company of Nevada on two separate occasions (November 2011 and February 2012) early in the process and prior to alternative development for NEPA to cooperatively work with the permittee in modifying grazing permit applications to be considered for permit renewal. In review of the new grazing permit application submitted with Petan Company of Nevada's protest of the January 28, 2013 Proposed Decision, the new application is similar and varies very little from the permittee application that was fully analyzed under Alternative 2 in EA # DOI-BLM-ID-B030-2012-0012-EA. Regardless, after consideration of this new grazing permit renewal application, additional NEPA analysis would be required to determine whether or not this application would achieve the purpose and need of EA # DOI-BLM-ID-B030-2012-0012-EA.

Petan16: Petan rejects the decrease in Active Use (and the related cancellation of Permitted Use), as explicitly discussed in the protest, as well as some related rationale within such protest. In fact, BLM speaks to the fact that the public lands within the Garat Allotment are capable of supporting at least 1 AUM for each 10 acres of public lands; this supports at least the current Active Use within the Garat Allotment, not a 50% reduction.

BLM: The response to protest point Petan16 is provided in the responses to both protest points Petan8 and WWP17. The rationale for the stocking rate is clarified and provided in the Final Decision.

Petan17: Petan rejects the grazing schedule, as explicitly discussed in the protest. The grazing schedule is irrational at various levels: it is not supported by the monitoring; it is not supported by science; it is impossible and/or not viable; it is not supported by BLM's own purported sideboards, which could drive a variety of grazing schedules other than the single schedule stated in the 2013 Proposed Garat Decision.

BLM: The rationale for the establishment of criteria for constraining the seasons of grazing use based on resources present within each pasture in Alternative 4 and the consistency of the grazing schedule with those criteria is provided in Section 2.8.2.4 pages 50-52 of the EA. Although variations from the Alternative 4 grazing schedule or another schedule may also be consistent with criteria, in the absence of presentation of a proposed revision or alternate grazing schedule, no comparison can be completed. The grazing schedule included in the application attached to Petan's partial protest is not consistent with the criteria. Additional terms of flexibility in the grazing schedule, while remaining consistent with those criteria, were coordinated with the permittee verbally following receipt of his protest and are included in the final decision.

Petan18: Petan rejects BLM's wholesale rejection of any range improvements, and this constitutes a violation of 43 C.F.R. 4180.2(c), as well as NEPA. To make a wholesale rejection of a grazing management action/tool prescribed by the grazing rules to assist in meeting applicable objectives/standards (even assuming a failure to meet any one of them), must be considered the most unlawful and capricious action.

BLM: See BLM Response to BRS4.

Western Watersheds Project submitted a protest on March 6, 2013, regarding all of the Proposed Grazing Decisions individually, as well as concerns relating to all of the Proposed Grazing Decisions.

WWP58: There are only two known leks with not many grouse remaining in Garat. WWP believes this reflects the spring late winter and spring cattle grazing and trailing being inflicted here, and the great

depletion of understories in Wyoming sagebrush communities, as well as the degraded habitat in the fires and seedings that BLM is refusing to do anything about in this process. We protest the failure of the EA to take a hard look at sage-grouse needs and actions to conserve, enhance, and restore sage-grouse across these allotments and surrounding lands. We protest the failure to fully examine how grave the situation facing the sage-grouse and other sensitive species populations is.

BLM: The BLM took a hard look as mandated by NEPA and considered site-specific sage-grouse information and actions to conserve, enhance, and restore sage-grouse habitats within the allotments (see sage-grouse sections in the allotment-specific RHA/ER/Determinations: Castlehead-Lambert – pp.61-63, 65, 67-71, 73-76, 78-79, 82; Garat – pp. 62-81, 86-88; Swisher Springs/Swisher FFR – pp. 37-44; and EA: sections 2.3 and Table ALT-1, 2.4, 2.8.1.3 and Table ALT-12 and ALT-13, 2.8.1.4 and Table ALT-14, 2.8.2.3 and Table ALT-26, 2.8.2.4 and Table ALT-27, 2.8.3.3 and Table ALT-39, 2.8.3.4 and Table ALT-40, 3.3.1.5, 3.4.5.1, 3.4.5.2.1, 3.4.5.2.2, 3.4.5.2.3, 3.4.5.2.4, 3.4.5.2.5, 3.4.5.3, 3.4.5.3.1, 3.4.5.3.2, 3.4.5.3.3, 3.4.5.3.4, 3.4.5.3.5, 3.5.5.1, 3.5.5.1.1, 3.5.5.1.2, 3.5.5.1.3, 3.5.5.1.4, 3.5.5.1.5, 3.5.5.2, 3.5.5.2.1, 3.5.5.2.2, 3.5.5.2.3, 3.6.5.1, 3.6.5.2.3, 3.6.5.2.4, 3.6.5.2.5, 3.6.5.3, 3.6.5.3.1, 3.6.5.3.2.). In addition, the Proposed Decision implements resource-based constraints within the allotments (one specific to sage-grouse breeding habitat) that alone and in combination serve to conserve, enhance, and restore sage-grouse habitat within as well as outside of PPH. A discussion regarding deficiencies in knowledge of current leks within the Garat allotment is found in Section 3.5.5.1 (see pg. 272 in particular).

WWP59: In Garat, BLM's PD at 4 lists a required 4 inch stubble height required where bank stability is dependent on it. It is important to examine BLM's past efforts at monitoring and protecting the Garat lands in light of how it has lived up to required monitoring under the 2000 Settlement Agreement. BLM failed abysmally. Then, in reaching its Determination, BLM never even bothered to go out and look at the current condition of Piute Creek. BLM did not ensure that standards would be met, just like the current PD's fail to do, as well. We protest this.

BLM: The PD for the Garat allotment, as it applies to riparian areas, is a combination of Alternatives 3 and 4 which combines riparian area protection through season of use changes, as well as performance measures (i.e., the 4" SH) (see EA pages 144-157, 254-265, and 336-343 for information on the impacts). It is difficult to speak for past BLM management and rationalize previous administrative decisions, but with the riparian area terms and condition(s) being included and identified as being necessary to ensure improving resource conditions in riparian areas, BLM has a responsibility to ensure terms and conditions are achieved as outlined in the final decision for the Garat allotment.

WWP60: We protest the BLM failure to adequately address the following:

- Garat PD at 5 refers to Actual Use – but does not include the 2012 actual use of around 6900 AUMs. This must be included.

BLM: Analysis of alternatives in the EA was initiated prior to BLM's receipt of 2012 actual use data. Although 2012 data were not part of the completed analysis, those data were considered in the Proposed and Final Decisions as noted.

WWP61: BLM failed to assess risk of further irreversible losses of Piute Creek, springs, and the drainage networks across the allotment, to support mesic vegetation required by sage-grouse broods, as well as provide for aquatic biota. This pervades all of the allotment analyses.

BLM: The PD for the Garat allotment, as it applies to riparian areas, is a combination of Alternatives 3 and 4, which combines riparian area protection through season of use changes, as well as performance measures (see EA pages 144-157, 254-265, and 336-343 for information on the impacts).

WWP62: Garat PD at 5, similarly to CHL and Swisher, uses the flawed Ecosites to claim there is too much sagebrush, it is “decadent” and all the rest of the old-outdated range “science” myths. BLM blindly relies on the false and flawed NRCS Ecosites to imply that the sagebrush is somehow adversely impacting understories.

BLM: This protest point contradicts WWP’s comment under WWP58. As stated in the wildlife Section 3.5.5.1 on p. 267

“...upland habitats throughout the allotment are generally characterized by relatively tall, dense stands of sagebrush composed of columnar individuals with many broken, dead, and dying branches. In addition, healthy, productive, and diverse populations of native perennial grasses (especially tall-statured, deep-rooted bunchgrasses) and forbs are not being maintained within these decadent big sagebrush stands (i.e., dense, monotypic, late seral or climax stands with limited species richness, diversity, and herbaceous cover in an ecologically stable state with a reference from state (Perryman, Olson, Petersburg, & Naumann, 2002))”.

The BLM recognizes that these “decadent” sagebrush stands are adversely impacting understories.

WWP63: Garat at 7 admits springs are nonfunctional in pasture 4. Where are all of these springs? BLM must provide detailed mapping and current assessments for all of the several springs, and determine how these areas will be sustained and recovered.

BLM: BLM’s standard for stream and spring stewardship is the USGS NHD (IM 2009-212), which was used to assess the total number of streams and springs that exist on the landscape (see EA pages 134-144). Subsequently, EA pages 134-144, 250-254, and 333-335 disclose available information on the condition of the riparian and water resources.

WWP64: Owyhee DRMP Map RIPN-1 shows the National Wetlands Inventory mapping. In Garat, this shows the vast drainage network of Piute Creek, nearly all almost completely destroyed by livestock grazing. However, since water is present – at least ephemerally here – it is critical that it be assessed and a valid strategy for recovery of sage-grouse brood rearing mesic and upland habitats be put in place. We protest ignoring these critical areas.

BLM: BLM’s standard for stream and spring stewardship is the USGS NHD (IM 2009-212) which was used to assess the total number of streams and springs that exist on the landscape (see EA pages 134-144). Subsequently, EA pages 134-144, 250-254, and 333-335 disclose available information on the condition of the riparian and water resources. The PD for the Garat allotment, as it applies to riparian areas, is a combination of Alternatives 3 and 4, which combines riparian area protection through season of use changes as well as performance measures (see EA pages 144-157, 254-265, and 336-343 for information on the impacts).

WWP65: March 1-June 20 a critical season for sage-grouse breeding and nesting needs identified by Judge Winmill in the Jarbidge litigation, January 2012 order. Yet BLM tries to conceal its egregious grazing of sage-grouse habitats during lek and nesting periods in pastures 1 and 2, and herding through other areas, as well as in the Garat Proposed Decision by claiming that “*the grazing schedule ensures that those portions of the allotment that contain sage-grouse preliminary priority habitat will not be grazed more than once every three years*”. This is part of the basis of the false EA and FONSI that BLM signed.

BLM: Based on site-specific considerations of sage-grouse habitat in the Garat allotment, the key period of sage-grouse breeding season was determined to be April 15-June 15. Grazing in pastures 1 and 2 will occur before this period. The March 15-April 15 grazing that will occur in pastures 1 and 2 will allow bunchgrasses over 2 months of growth and re-growth after the early-season grazing. This grazing schedule and subsequent grass re-growth should allow understory herbaceous vegetation to provide sufficient concealment cover for nesting. In addition, the health of native vegetation upland communities should improve because grazing will be completed before the critical boot stage of bunchgrass seed development, a critical period in the reproductive cycle of these grasses as well as for the maintenance of adequate vigor and production in these communities.

WWP66: BLM fails to analyze the movement patterns of the livestock and to control staggering and straggling of herds to the degree where grazing disturbance could be occurring in supposedly “ungrazed” pastures for protracted periods of time.

BLM: The grazing schedule is adequately defined in permit terms and conditions of the Proposed and Final Decisions to administer the authorization in a manner that meets management objectives including the Idaho S&Gs. Livestock movement patterns suggested in protest WWP66 are unclear to the BLM.

WWP67: Further, BLM claims that pastures won’t be grazed more than one year in three in active growing season – but the fact is that in the areas where plant growth has progressed enough to turn out cows on March 15, or earlier, it is indeed already the active growing period for native grasses and forbs the cows will be dining on. Thus, this part of the BLM grazing schedule analysis is also false and flawed in the sage-grouse lek sacrifice zone area of Dry Lake and Piute Creek. We protest this.

BLM: The active growing season is defined within the EA (as one example, pg. 106) to be May 1 to July 1. The grazing schedule and analysis is consistent with these dates.

WWP68: Garat has long been known for its horrible 5 strand poorly spaced wires that are in places overhead height. BLM proposes to essentially merge Piute and Dry Lake pastures. So why in the world isn’t BLM removing the harmful fence that is not being maintained anyway? Why is BLM allowing fencing to remain slicing through the playas? Why is BLM retaining the very harmful fence slicing east-west across the Juniper Mountain pastures of CHL in whole or in part – including the nightmare that exits at Wonder Spring. BLM has failed to even deign to identify areas of site-specific problems caused by its livestock facilities – such as the sacrifice zone caused by fencing patterns on Red Canyon Creek tributaries, the sacrifice zones that exist outside exclosures, etc.

BLM: All current range projects which exist within the Group 1 allotments are required to be maintained by the applicable grazing permittees in accordance with existing cooperative agreements and in compliance with pertinent terms and conditions found or to be found on the term grazing permits being offered (i.e., for Petan Company of Nevada Term and Condition 9). BLM has not identified the removal of any existing range projects (i.e., management fences) at this time. This doesn’t preclude BLM from considering future proposals to modify or remove any existing range projects; however, future NEPA analysis to take such actions would be required. At this time, BLM doesn’t believe it is warranted to remove the division fence between pastures 1 and 2 (nor the other management fences here mentioned in this protest point) and no information exists to indicate that this fence has a negative impact on resources and wildlife. The applicable permittee would be required to maintain this fence to the same degree as is required for all other management fences, in compliance with existing cooperative agreements, and until future management requires fence removal.

LITERATURE CITED (*not contained within the RHA/E/Ds or EA*)

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