



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

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In Reply Refer To:
4160 ID130

April 5, 2013

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06 Livestock Company
c/o Dennis Stanford
PO Box 167
Jordan Valley, Oregon 97910

Notice of Field Manager's Final Decision

Dear Mr. Stanford:

The BLM remains dedicated to processing your June 27, 2011 grazing permit application for the Swisher Springs (0450) and Swisher FFR (0637) allotments. 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 14, 2013. BLM received your letter protesting the Proposed Decision on February 21, 2013.

In addition to your protest, BLM received other protests to 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.

Protest points raised within the submissions received and my responses are provided in the attached document titled "Group 1 Protest Responses - Swisher Springs (#0637) and Swisher FFR (#0637) Allotments". Protest points that are specific to the cumulative impacts analysis for

socioeconomics have also informed changes to the Environmental Assessment (EA)¹ 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. 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 Swisher Springs and Swisher FFR allotments 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 Swisher Springs allotment were significant causal factors in the allotment's failure to meet or make 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 Swisher Springs and Swisher FFR allotments. 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 while current management is meeting the ORMP objectives within the Swisher FFR allotment, the Swisher Springs allotment contains resource issues that require improvement. It was also clear that some of those issues could be addressed by adjusting the livestock grazing management practices. Your application for renewal of the grazing permit received June 27, 2011, did not identify changes to terms and conditions of the permit for use in either Swisher Springs or Swisher FFR allotments.

With an eye toward addressing livestock impacts to public land resources, my office prepared and issued the 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 that we did not analyze 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 Swisher Springs and Swisher FFR allotments' 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.

¹ EA number DOI-BLM-ID-B030-2012-0012-EA analyzed five alternatives for livestock grazing management practices to fully process permits within the Owyhee Group allotments (Group 1), including the Swisher Springs and Swisher FFR allotments. A preliminary EA was made available for public review for 45 days that ended October 23, 2012. A number of comment submissions were received and used to revise the EA, including comments from Dennis Stanford representing 06 Livestock.

Following public availability of the January 28, 2013, Proposed Decision and review of protest points, I am prepared to issue a Final Decision to renew your permit.

This Final Decision:

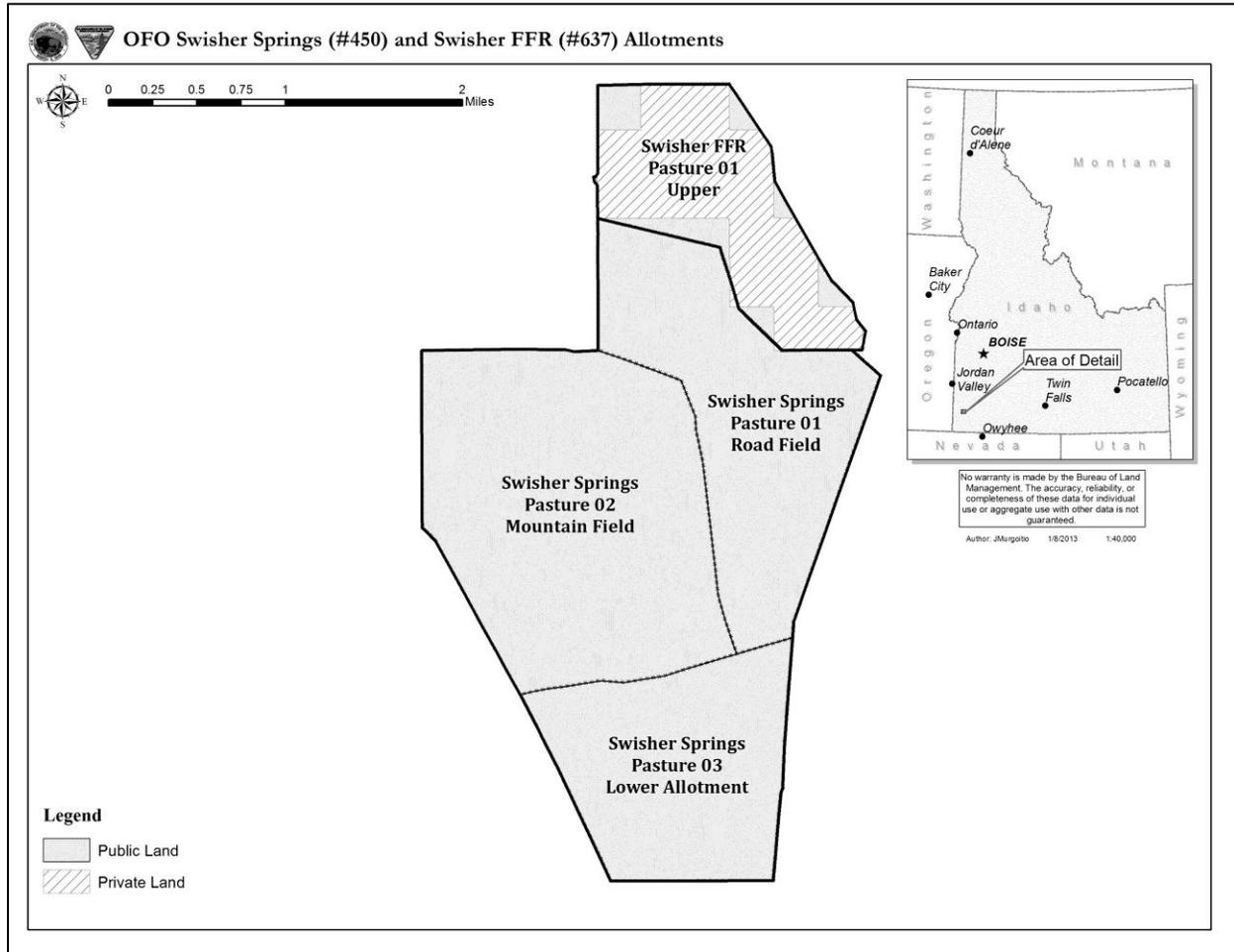
- Describes current conditions and issues on the allotments;
- Briefly discusses the alternative grazing management schemes that the BLM considered in the EA;
- Responds to your application for grazing permit renewal for use in the Swisher Springs and Swisher FFR allotments;
- Considers protest points received following issuance of the January 28, 2013, Proposed Decision;
- Outlines my Final Decision to select Alternative 4; and
- States the reasons why I made this Final Decision.

Allotment Setting

The Swisher Springs and Swisher FFR allotments are located adjacent to each other in Owyhee County, Idaho, approximately 55 miles south of Murphy, Oregon, within the boundary of the Owyhee Field Office, which is in the Boise District. The allotments are on the eastern flank of Juniper Mountain and adjacent to Castle Creek. The Swisher Springs allotment includes 3,847 acres of public land, 4 acres of private land, and no state land in three pastures. The Swisher FFR allotment includes 153 acres of public land, 628 acres of private land, and no state land (see Figure 1: Swisher Springs and Swisher FFR allotment map).

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Figure 1: Swisher Springs and Swisher FFR allotments map



The Swisher Springs and Swisher FFR allotments are 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 in the Swisher Springs allotment (approximately 30 percent), the native vegetation is primarily mountain big sagebrush with an understory of native perennial bunchgrasses. In areas of shallow soils in the Swisher Springs allotment (approximately 70 percent) there exists mostly low sagebrush with the same native perennial bunchgrass understory. All public lands within the Swisher FFR allotment are dominated by the low sagebrush vegetation communities. 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 annual precipitation for vegetation communities in both allotments is between 10 and 16 inches. Precipitation occurs primarily during the winter and spring.²

² 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 within the Swisher Springs and Swisher FFR allotments pursuant to a grazing permit issued by the BLM. The terms and conditions of your existing grazing permit are as replicated in Table 1 and the accompanying terms and conditions.

Table 1: 06 Livestock existing grazing permit terms and conditions

Allotment	Livestock		Grazing Period		% PL	Type Use	AUMs ¹
	Number	Kind	Begin	End			
00450 Swisher Springs	53	Cattle	4/15	10/31	100	Active	348
00637 Swisher FFR	15	Cattle	12/1	12/31	100	Active	15

Terms and Conditions:

1. Livestock numbers and dates may vary annually within your established period of use provided AUMs are not exceeded.
2. Turn-out is subject to the Boise District range readiness criteria.
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 approval.
5. You are required to coordinate trailing activities 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. You are required to maintain rangeland improvements in accordance with the cooperative agreement and range improvement permit in which you are a signature or assignee. All maintenance of range improvements within a wilderness study area requires prior consultation with the authorized officer.
8. You are required to properly complete, sign and date an Actual Grazing Use Report Form (4130-5) for each allotment. The completed form(s) must be submitted to this office within 15 days from the last day of your authorized annual grazing use.
9. Supplemental feeding is limited to salt, mineral, and/or protein in block, granular, or liquid form. If used, these supplements must be placed at least one-quarter (1/4) mile away from any riparian area, spring, stream, meadow, aspen stand, playa, special status plant population, or water development.
10. 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.

As you know, the current permit authorizes annual use of 348 animal unit months (AUMs)³ of forage and a season of use between April 15 and October 31 in the Swisher Springs allotment. At the same time, the permit authorizes annual use of 15 AUMs in the Swisher FFR allotment, with dates of use undefined, provided that authorized AUMs are not exceeded on public land. Based on the Swisher Springs allotment 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, actual use reported in recent years ranged from 285 AUMs to 309 AUMs, excluding reduced actual use in the 2 years following the 2007 Crutcher fire. Burned portions of the allotment were not grazed following the Crutcher fire to allow an opportunity for recovery of vegetation.

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 348 AUMs being removed every year (as authorized under the current permit), but rather is the result of the removal of approximately 300 AUMs per year.

Resource Conditions

The BLM completed a Rangeland Health Assessment/Evaluation Report and a Determination for the Swisher Springs and Swisher FFR allotments in 2012. Those documents concluded that some of the resources on the Swisher Springs allotment were not meeting the Idaho S&Gs. Specifically, the BLM determined that the allotment did not meet Standards 2 (Riparian Areas and Wetlands), 3 (Stream Channel/Floodplain), 7 (Water Quality), and 8 (Threatened and Endangered Plants and Animals). In addition, the BLM's evaluation concluded that current resource conditions were not conforming to all of the objectives set out in the ORMP. Finally, the Determination for the Swisher Springs allotment concluded that current livestock management practices were significant causal factors in not meeting Standards 2, 3, and 8, and were inconsistent with the BLM's Guidelines for Grazing Management.⁴

The 2012 Rangeland Health Assessment concluded that all Idaho S&Gs were either met or not applicable to the Swisher FFR allotment.

Vegetation - uplands

The BLM's 2012 Rangeland Health Assessment/Evaluation Report for the Swisher Springs allotment showed that the allotment is not meeting the ORMP management objective to improve unsatisfactory and maintain satisfactory vegetation health/condition in all three pastures, although the Idaho S&G Standard 4 was met. 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) and sagebrush, to greater dominance of less-desirable shallow-rooted bunchgrasses (e.g., Sandberg

³ 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.

⁴ For more detailed discussion of the rangeland health determinations for the Swisher Springs and Swisher FFR allotments, please refer to EA number DOI-BLM-ID-B030-2012-0012-EA Appendix K.

bluegrass and squirreltail). This shift is evident when comparing the reference site conditions in state-and-transition models to current vegetation composition on the allotment. Downward trend was recorded in all three pastures of the Swisher Springs allotment. Although juniper encroachment and dominance is greater than the limited inclusion in vegetation communities at reference condition, recent fires (the 2000 Meadow fire and the 2007 Crutcher fire) have reduced its dominance in all three pastures.

Although ORMP vegetation management objectives are not met within the Swisher Springs allotment, the Idaho S&G Standard 4 (Native Plant Communities) is met within both the Swisher Springs and Swisher FFR allotments.⁵

Watersheds

The BLM's 2012 analysis of the Swisher Springs and Swisher FFR allotments determined that Standard 1 (Watersheds) is met within both allotments, with overall soil and hydrologic integrity and their associated attributes maintained, although localized soil impacts are identified. Because overall watershed conditions are closely tied to the health of the biotic community, the current imbalance of vegetation composition identified for upland vegetation is a concern where juniper encroachment and dominance has not been reduced by recent fires.⁶

Water Resources and Riparian/Wetland Areas

The BLM's 2012 Rangeland Health Assessment/Evaluation Report for the Swisher Springs allotment concluded that Standards 2 (Riparian Areas and Wetlands), 3 (Stream Channel/Floodplain), and 7 (Water Quality) are not being met. The majority of the riparian-wetland areas are associated with one spring/seep (Swisher Spring) and two streams (Swisher and Moonshine creeks) within pasture 2. In not meeting Standards 2, 3, and 7, these riparian areas also failed to meet ORMP riparian management objectives. Many of the issues identified have been the result of the mid-summer season of livestock use, leading to a Determination that current livestock management practices are a significant causal factor for failure to meet Standards 2 and 3.

Riparian resources are negligible and stream channels are not present on public land in the Swisher FFR allotment. Standards 2, 3, and 7 do not apply to this allotment.⁷

Wildlife/Wildlife Habitats and Special Status Animals

The BLM's 2012 Rangeland Health Assessment/Evaluation Report for the Swisher Springs allotment concluded that the allotment is making significant progress toward meeting Standard 8 for special status sagebrush-obligate and shrub-dependent wildlife species in upland sagebrush-steppe vegetation communities. The allotment is not meeting Standard 8 for riparian-dependent species due to a lack of hydric vegetation and soil instability along stream-banks. Herbaceous

⁵ For more detailed discussion of rangeland vegetation conditions in the Swisher Springs and Swisher FFR allotments, including the Idaho S&G Standard 4, please refer to EA number DOI-BLM-ID-B030-2012-0012-EA Section 3.6.1.1

⁶ For more detailed discussion of soils in the Swisher Springs and Swisher FFR allotments, including the Idaho S&G Standard 1, please refer to EA number DOI-BLM-ID-B030-2012-0012-EA Section 3.6.2.1

⁷ For more detailed discussion of the condition of water resources and riparian/wetland conditions in the Swisher Springs and Swisher FFR allotments, including the Idaho S&G Standards 2, 3, and 7, please refer to EA number DOI-BLM-ID-B030-2012-0012-EA Section 3.6.4.1

riparian vegetation use and stream-bank trampling by livestock have reduced the size of riparian areas, as well as nesting substrate, protective cover, and foraging areas for many riparian-dependent special status species. Overall, riparian areas are not providing adequate nesting structure and cover for dependent species due to a lack of woody species such as willows and aspen.

The Swisher FFR allotment is meeting Standard 8 for wildlife in upland habitats and riparian habitats are negligible on public land in this allotment. Current native plant community composition in upland habitats is providing cover, structure and foraging areas for most sagebrush-obligate and shrub-dependent wildlife species⁸

Guidelines for Livestock Grazing Management

In addition to a discussion of rangeland health standards, the BLM's 2012 Determination for the Swisher Springs allotment identified grazing management practices that did not conform to the BLM's Guidelines for Livestock Grazing Management for Idaho. The Determination concluded that grazing management in the Swisher Springs allotment 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 5: Maintain or promote grazing management practices that provide sufficient residual vegetation to improve, restore, or maintain healthy riparian-wetland functions and structure for energy dissipation, sediment capture, ground water recharge, streambank stability, and wildlife habitat appropriate to site potential.

Guideline 6: The development of springs, seeps, or other projects affecting water and associated resources shall be designed to protect the ecological functions, wildlife habitat, and significant cultural and historical/archaeological/paleontological values associated with the water source.

Guideline 7: Apply grazing management practices to maintain, promote, or progress toward appropriate stream channel and streambank morphology and function. Adverse impacts due to livestock grazing will be addressed.

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.

⁸ For more detailed discussion of special status animal habitats in the Swisher Springs and Swisher FFR allotments, including the Idaho S&G Standard 8 for animals, please refer to EA number DOI-BLM-ID-B030-2012-0012-EA Section 3.6.5.1

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.

Since the Swisher Springs 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 management practices, the current conditions on the Swisher Springs and Swisher FFR allotments, 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 Swisher Springs and Swisher FFR allotments:

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

Issue 2: Prevent introduction and spread of noxious and invasive annual species (e.g., cheatgrass).

Issue 3: Improve riparian vegetation and stream-bank stability associated with streams and springs/seeps.

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

Analysis of Alternative Actions

Based on the current condition of the Swisher Springs and Swisher FFR allotments 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.⁹ The BLM considered the following alternatives in detail:¹⁰

- **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

⁹ For more detailed discussion of alternatives considered and analyzed, please refer to EA number DOI-BLM-ID-B030-2012-0012-EA Section 2.

¹⁰ The Idaho S&Gs and ORMP objectives were met in the Swisher FFR allotment and as a result, actions for permit renewal under Alternatives 1 through 4 did not differ, leading to renewal of the portion of the grazing permit specific to the Swisher FFR allotment with no changes to terms and conditions.

conditions on the allotment, as outlined in the Affected Environment sections of the EA. Grazing that has occurred in the Swisher Springs allotment under the current permit has resulted in fewer AUMs used than the authorized levels. At the same time, grazing use in the Swisher FFR allotment has been at authorized levels and Alternative 1 would renew the portion of the grazing permit with no changes to terms and conditions.

- **Alternative 2 – Permittee’s Application for Permit Renewal:** Alternative 2 analyzed the application for permit renewal received from the permittee authorized to graze livestock in the Swisher Springs and Swisher FFR allotments. The application did not request changes to terms and conditions of the current permit. Under Alternative 2, BLM would renew the grazing permit with no changes to terms and conditions.
- **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 for that portion of the permit authorizing use in the Swisher Springs allotment. 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 long as the permittee can ensure that specific targets are met. Alternative 3 would renew the portion of the grazing permit authorizing grazing use in the Swisher FFR allotment with no changes to terms and conditions.
- **Alternative 4 –Season-Based Alternative:** Alternative 4 seeks to address resource issues on the Swisher Springs allotment by changing when livestock can graze within each pasture of the allotment. Specifically, Alternative 4 establishes new seasons of grazing use that limit adverse impacts from livestock grazing on specific identified resource values 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, 2) limit the frequency of disruption and livestock use within sage-grouse breeding habitats, and 3) limit mid-summer grazing use of riparian areas. 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 levels of authorized grazing use. Alternative 4 would renew the portion of the grazing permit authorizing grazing use in the Swisher FFR allotment with no changes to terms and conditions.
- **Alternative 5 – No Grazing:** Alternative 5 removes livestock grazing from the Swisher Springs and Swisher FFR allotments 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 that ended October 23, 2012. In addition to your comments, additional comments were received from other permittees, a number of government entities and agencies, interest groups, and members of the public. Comments received identified and clarified issues that are addressed in the completed EA, including issues 1 through 4 above. The following additional issues were considered in greater detail:

Issue 5: Consider whether grazing in the Group 1 allotments can be used to limit wildfire.

Issue 6: Consider impacts to regional socioeconomic activity generated by livestock production.

Comments related to the preliminary EA that were received 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 number DOI-BLM-ID-B030-2012-0012-EA, and 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 applicable to the Swisher Springs allotment, consistent with Alternative 4 (Season-Based Alternative) in the EA. It is also my decision to renew the portion of your grazing permit applicable to the Swisher FFR allotment with unchanged terms and conditions, consistent with Alternatives 1 through 4.¹¹ Implementation of Alternative 4 over the next 10 years will allow the Swisher Springs allotment to make significant progress toward meeting the Idaho S&Gs while also moving toward the resource objectives outlined in the ORMP. Similarly, implementation of Alternative 4 (renewal of the portion of the grazing permit specific to the Swisher FFR allotment with no changes to terms and conditions) over the next 10 years will allow the Swisher FFR allotment to continue to meet the Idaho S&Gs and the ORMP objectives. The terms and conditions of the renewed grazing permit will be as presented in table 2.

Table 2: Terms and conditions of the grazing permit that will be offered to 06 Livestock

Allotment	Livestock		Grazing Period ¹		% PL	Type Use	AUMs ¹
	Number	Kind	Begin	End			
00450 Swisher Springs	32	Cattle	4/15	10/31	100	Active	210
00637 Swisher FFR	15	Cattle	12/1	12/31	100	Active	15

Terms and Conditions:

¹¹ The Idaho S&Gs and ORMP objectives were met in the Swisher FFR allotment and as a result, actions for permit renewal under Alternatives 1 through 4 did not differ; renewal of the portion of the grazing permit specific to the Swisher FFR allotment contains no changes to terms and conditions.

1. Grazing use in the Swisher Springs allotment will be in accordance the Final Decision of the Owyhee Field Office Manager dated April 5, 2013. Changes to the scheduled use require approval. Flexibility is provided to allow seven days to complete moves between pastures, as long as cattle grazing in pastures 2 does not occur between July 1 and September 15, and all pastures are deferred from livestock grazing until after June 30 in 2 of every 3 years.
2. Livestock numbers and dates may vary annually within your established period of use for Swisher FFR allotment, provided AUMs are not exceeded.
3. Turn-out is subject to the Boise District range readiness criteria.
4. Trailing activities outside the Swisher Springs and Swisher FFR allotments 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.
5. Livestock exclosures located within your grazing allotment are closed to all domestic grazing use.
6. You are required to maintain rangeland improvements in accordance with the cooperative agreement and range improvement permit in which you are a signatory or assignee.
7. You are required to properly complete, sign and date an Actual Grazing Use Report Form (4130-5) for each allotment. The completed form(s) must be submitted to this office within 15 days from the last day of your authorized annual grazing use.
8. Supplemental feeding is limited to salt, mineral, and/or protein in block, granular, or liquid form. If used, these supplements must be placed at least one-quarter (1/4) mile away from any riparian area, spring, stream, meadow, aspen stand, playa, special status plant population, or water development.
9. 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.

As noted in term and condition number 1 above, the grazing schedule for the Swisher Springs allotment that is presented in Table 3 must be implemented. The field office, in coordination with the permittee, will determine the appropriate entry into this schedule upon implementation of this decision.

Table 3: The Swisher Springs allotment grazing schedule referenced in term and condition number 1 of the permit that will be offered to 06 Livestock

Pasture	Year 1	Year 2	Year 3
Pasture 1	7/14 to 10/31	4/15 to 8/2	7/1 to 10/31
Pasture 2	Rest	Rest	4/15 to 6/30
Pasture 3	4/15 to 7/13	8/3 to 10/31	7/1 to 10/31

My final decision is to offer you a grazing permit for a term of 10 years with 210 active AUMs and 192 suspension AUMs for use in the Swisher Springs allotment. The offered permit will also authorize 15 active use AUMs and 0 suspension AUMs for use in the Swisher FFR allotment. Adoption of Alternative 4 will result in a reduction in AUMs for the Swisher Springs allotment from your current permit; however, the affected 135 active use AUMs will not be transferred to suspension, in conformance with regulatory direction at 43 CFR § 4110.3-2. Your permitted use within the Swisher Springs and Swisher FFR allotments will be as depicted in Table 4.

Table 4: Permitted use of the grazing permit that will be offered to 06 Livestock

Permittee	Allotment	Active Use	Suspension	Permitted Use
06 Livestock Co.	Swisher Springs	210	192	402
06 Livestock Co.	Swisher FFR	15	0	15

Notes on the Grazing Schedule

The grazing schedule ensures that no pasture will be grazed during the active growing seasons for native perennial bunchgrasses (May 1 to June 30) more than once in any 3 consecutive years. Further, the grazing schedule ensures that those portions of the allotment that contain sage-grouse preliminary priority habitat with sagebrush overstory (all pastures) will be grazed not more than once every 3 years during the sage-grouse breeding season (April 15 through June 19), a constraint that is concurrent and in combination with active growing season protection in the grazing schedule. In other words, if you graze a pasture between April 15 and June 30 in one year, you may not graze this pasture again between April 15 and June 30 in the subsequent 2 years. Finally, the grazing schedule allows no grazing use in pasture 2 between July 1 and September 15 to allow recovery of riparian resources associated with streams and springs/seeps.

Flexibility is provided in move-dates between pastures 1 and 3 after June 30, a period outside the active growing season for native perennial herbaceous species and outside the lekking, nesting, and early brood-rearing season for sage-grouse. Additionally, flexibility is provided to allow 7 days to complete moves between pastures, as long as grazing in pastures 2 and its associated riparian areas does not occur after June 30.

Other Notes on the Final Decision

Project maintenance requirements identified in current range improvement permits and cooperative agreements for range improvements are unchanged by this Final Decision. Implementation of this Final 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).

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 Swisher Springs and Swisher FFR allotments, and have determined that you have a satisfactory record of performance relative to compliance with terms and conditions of your existing permit and are a qualified applicant for the purposes of a permit renewal.

Justification for the Final Decision

Based on my review of the EA, the Rangeland Health Assessment/Evaluation Report, Determination, and other documents in the grazing files, it is my decision to select Alternative 4 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’s multiple use and

sustained yield mandate and will result in the Swisher Springs allotment making significant progress towards meeting the resource objectives of the ORMP and the Idaho S&Gs. In addition, renewing the portion of the grazing permit specific to the Swisher FFR allotment with terms and conditions unchanged will result in the continuation of meeting the resource objectives of the ORMP and the Idaho S&Gs.

Issues Addressed

Earlier in this decision I outlined the major issues that drove the analysis and decision making process for the Swisher Springs and Swisher FFR allotments. I want you to know that I considered the issues through the lens of each alternative before I made my decision. Ultimately, my selection of Alternative 4 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 Swisher Springs allotment has upland vegetation issues, including a loss of plant vigor, a shift in plant composition, and downward trend. The ORMP vegetation management objective to improve unsatisfactory vegetation health/condition on all areas is not met. Alternative 4 will address these issues in a number of ways. These issues are due less to recorded utilization levels, which have been generally moderate or less in recent years, and more to the frequency of active growing season use experienced by the upland plant communities.

Alternative 4 implements active growing season (April 1 through June 30) grazing use in the Swisher Springs allotment in no more than 1 of each 3-year period, with either deferment of use until after that period or year-long rest in the remaining 2 years. This frequency in active growing season use is in contrast to the current alternate-year growing season use of pastures 1 and 3. The reduced frequency of growing season use will allow native perennial species to complete the annual growth cycle in the absence of grazing impacts more often, which will allow recovery of plant health and vigor. With conservative grazing occurring during the active growing season, Alternative 4 allows for proper nutrient cycling, hydrologic cycling, and energy flow and provides the opportunity for enhanced ecological function and progress toward ecological site potential and vegetation reference site communities.

Alternative 4 also decreases active grazing use in the Swisher Springs allotment by 39 percent when compared to active use authorized in the current permit, or by 26 percent when compared to average actual use reported over the past 10 years. Alternative 4 achieves its decrease in active use by reducing livestock numbers on the grazing permit. Although Standards 1 and 4 were met within the Swisher Springs allotment, downward trend in all pastures revealed that current grazing practices were not meeting ORMP objectives. Upon defining a grazing schedule consistent with providing appropriate seasons of grazing use, the identified reduction was necessary. By reducing active growing season grazing use and livestock numbers, implementation of Alternative 4 will improve rangeland health and plant composition, ensure that native plant communities in the Swisher Springs allotment progress toward the long-term objectives laid out in the ORMP, and

safeguard against livestock management practices contributing toward continuing downward trend and the possibility of not meeting Standard 4 of the Idaho S&Gs in the future.

Additionally, renewal of the portion of the grazing permit specific to the Swisher FFR allotment with no changes to terms and conditions will ensure that native plant communities in the allotment continue progress toward the long-term objectives laid out in the ORMP, and safeguard against livestock management practices contributing toward not meeting Standard 4 of the Idaho S&Gs in the future.

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 Alternative 4's drive to reverse the change in plant composition and improve native plant communities.¹²

Note on the Stocking Rate

We acknowledge your protest questioning the effective stocking rates on pastures of the Swisher Springs allotment. Specifically, you protested the fact that all pastures have stocking rates that are equal to or more conservative than 10 acres per AUM.

It should be noted that BLM did not calculate a stocking rate for each pasture of the Swisher Springs allotment 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 specific to each pasture. As you know, Alternative 4 includes growing-season deferment in 1 of each 3-year period in all pastures of the Swisher Springs allotment and also deferment of grazing use in all pastures that contain sage-grouse breeding habitat. At the same time, the grazing schedule limits use of pasture 2 with riparian resources to no mid-summer use. These constraints result in a grazing schedule with pasture 2 only available for spring use in 1 of every 3-year period and rested for the entire year of the remaining two years of the three-year rotation. Similarly, the season-based constraints resulted in pastures 1 and 3 scheduled for spring use through mid-July in one year of the three-year rotation and summer/fall use the other two years of the three-year rotation. As a result, the carrying capacity of pastures 1 and 3 in years 1 and 2 defines the cattle number that can be authorized in the permit. Under Alternative 4, BLM set the stocking rate on the most limiting pastures in the allotment at 10 acres per AUM.¹³ BLM determined that 32 cattle could graze on pastures 1 and 3 given the season and duration of use and the condition of those pastures.

Once BLM set the livestock numbers on pastures 1 and 3 during the more restrictive years, BLM in its discretion decided to maintain that number of livestock throughout the grazing rotation.¹⁴ The

¹² 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 3.6.1.2 and 3.4.2.2.

¹³ The rationale supporting the 10 acre per AUM stocking rate can be found in the EA at Section 2.8.3.4, page 59, footnote # 22, and at Section 3.6.1.1, page 307.

¹⁴ Theoretically, I could have adjusted livestock numbers on each pasture so that, as was suggested in protests, BLM maintained a constant 10-acres-per-AUM stocking rate. However, such variation of cattle 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

result is stocking rates greater than 10 acres per AUM in all pastures during some years of the rotation. While these stocking rates are certainly more conservative than 10 acres per AUM, they will assist BLM in meeting the Idaho S&Gs and the ORMP objectives in multiple resource 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.

Issue 2: Prevent 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. Healthy native perennial species will out-compete, and thereby limit available sites for invasive species.

Although Alternative 5 would further reduce 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 Swisher Springs and Swisher FFR allotments, livestock remain only one of a large 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.¹⁵

Issue 3: Improve riparian vegetation and stream-bank stability associated with streams and springs/seeps.

The grazing schedule of Alternative 4, which prohibits mid-summer grazing in pasture 2, will reduce the impacts on the riparian and water resources. Specifically, riparian and water resources associated with Swisher Spring, Swisher Creek, and Moonshine Creek would incur only those impacts associated with spring grazing in 1 of 3 years. Under this alternative, there will be progress toward meeting the Rangeland Health Standards associated with the water and riparian resources (Standards 2 and 3), and in the long term, the standards would be met. Additionally, the ORMP objective to maintain or improve riparian-wetland areas to attain PFC for all lotic and lentic systems would be achieved.¹⁶

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

the certainty that this decision would be effective in meeting short and long term objectives. Accordingly, I decided against this approach.

¹⁵ For more detailed discussion of the consequences of implementing Alternative 4 on the introduction and spread of weeds in the Swisher Springs and Swisher FFR allotments, please refer to EA number DOI-BLM-ID-B030-2012-0012-EA Section 3.6.1.2

¹⁶ For more detailed discussion of the consequences of implementing Alternative 4 on water resources and riparian/wetland areas, including Idaho S&G Standards 2, and 3, please refer to EA number DOI-BLM-ID-B030-2012-0012-EA Section 3.6.4

Wildlife habitat in upland and riparian areas would improve throughout the allotment under Alternative 4, due to this alternative's focus on improving the health and vigor of plant communities. Improvement will be accomplished primarily by limiting the frequency of livestock grazing use during the active growing season for upland native perennial species, eliminating mid-summer grazing of pastures with riparian resources, decreasing the stocking rate for the allotment as a whole, and reducing authorized AUMs.¹⁷ Further reductions in already slight to low 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 would 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 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)."¹⁸

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 in comparison to Alternatives 1, 2, or 3. Deferment of grazing use to a period other than the active growing season in alternate years 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 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 conditions.

Potential conflicts between livestock grazing and sage-grouse nesting activities have been reduced in Alternative 4 by the deferred season of use. In 2 of every 3 years, grazing would not occur in all pastures 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. 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.

Alternative 4 also eliminates mid-summer use of riparian resources. Thus, this alternative will result in fewer disturbances to sage-grouse brood-rearing activities in riparian areas in comparison

¹⁷ 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.

¹⁸ Please refer to EA number DOI-BLM-ID-B030-2012-0012-EA Section 3.5.5.1

to Alternatives 1, 2, or 3. The subsequent increase in cover and forage for wildlife in riparian areas is expected to occur over the short term (3 to 5 years).

I am implementing these seasonal grazing restrictions in part as a precaution that recognizes the extent of PPH preliminary priority habitat (100 percent of the acreage) in the allotment and, while not asserting that these impacts are currently a major problem in the allotment, with the expectation that most potential conflicts will be largely avoided under my decision. Wildlife habitats are expected to recover and improve and significant progress toward meeting Standard 8 (Threatened and Endangered Plants and Animals) will occur under the Final Decision. Implementation of Alternative 4, with its attendant reduction of AUMs and change in season of use, will improve sage-grouse habitat in particular, and is consistent with objectives of the BLM special status species policy and the BLM's Interim Management IM (*see* IM-2010-043).

Although Alternative 5 would have further reduced the potential impacts to special status species habitats by removing all 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 implements proper livestock management by establishing seasons and the duration of grazing use in pastures that provide seasonal habitats for sage-grouse and limits the intensity of impacts to upland and riparian resources.

In addition, my selection of Alternative 4 implements livestock management practices that will maintain or improve wildlife habitats consistent with the BLM's Idaho Rangeland Guidelines for Livestock Management 5, 6, 8, and 12.¹⁹

Issue 5: Consider whether grazing on the Swisher Springs and Swisher FFR allotments can be used to limit wildfire.

During the NEPA process, some asked the BLM to consider using grazing on the Swisher Springs 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 Swisher Springs 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 Swisher

¹⁹ For more detailed discussion on the consequences of implementing Alternative 4 on wildlife habitats and special status animal species in the Swisher Springs and Swisher FFR allotments, please refer to EA number DOI-BLM-ID-B030-2012-0012-EA Section 3.6.5.2.

Springs 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 grazing system focused on reducing fine fuels to control fire is not viable on the Swisher Springs allotment at this time and with existing infrastructure. The BLM's current permit renewal is focused on improving native plant communities on the Swisher Springs allotment, and targeted grazing to create fuel breaks or to reduce fine fuels to control fire would not support that improvement.

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.²⁰

Issue 6: Limit impacts to regional socioeconomic activity generated by livestock production.

During the NEPA and public comment process, as well as within protests, 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), the FLPMA, Idaho S&Gs and the ORMP. As noted above, I have selected Alternative 4 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 Swisher

²⁰ 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.

Springs allotment and the economic impacts to the region similar to or greater than those of Alternative 4.

Based on the information provided in protests to the Proposed Decision received, 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 TGA and the FLPMA direct the BLM management of public lands. The TGA 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 industry dependent upon the public range, and for other purposes (TGA P.L. 73-482). The FLPMA declared policy that the BLM manage public lands on the basis of multiple use and sustained yield. In addition, the 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 (FLPMA P.L. 94-579, § 102).

Development of successful livestock grazing management schemes in the sagebrush- steppe of the intermountain west consistent with these directives presents unique challenges, especially given the limited precipitation and water regime, the friability and essential role of microbotic soil crusts, and the vulnerability of bunchgrass communities to livestock grazing use. 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, 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 choosing between Alternatives 3 and 4, one consideration was the intensity of grazing management practices required from the permittee under each alternative and the workload necessary 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 permittees 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 possible, the intensity of monitoring and livestock management is difficult and expensive. 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.

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. 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 resources, and other resource values.

I did consider selecting Alternative 5 (No Grazing) for the Swisher Springs and Swisher FFR allotments; 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 allotments. 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 Swisher Springs allotment's resource issues are primarily related to the improper seasons and site-specific intensities of grazing use. By implementing Alternative 4, 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 resilience²¹ 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 Swisher Springs 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

²¹ 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)

protected under Alternative 4 will provide resistance and resilience to additional stressors, including climate change.²²

Finding of No Significant Impact (FONSI)

A finding of no significant impact (FONSI) was signed on January 28, 2013, and concluded that the Final Decision to implement Alternative 4 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 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 in the Swisher Springs allotment due to current livestock management practices. My decision to renew the portion of the permit specific to the Swisher FFR allotment with no changes is because the ORMP objectives and Idaho S&Gs are currently being met with the implementation of those terms and conditions. Alternatives 1 and 2 fail to implement livestock management practices in the Swisher Springs allotment that would meet the objectives and standards. Specifically, both alternatives fail to implement actions that would meet Standard 2 (Riparian Areas and Wetlands), and Standard 3 (Stream Channel/Floodplain) in riparian areas associated with Swisher Spring, Swisher Creek, and Moonshine Creek. In addition, both alternatives fail to implement actions that would meet Standard 8 (Threatened and Endangered Plants and Animals) for wildlife species in riparian habitats. Full implementation of Alternative 3 would likely require intensive livestock management to ensure compliance with performance-based terms and conditions and additional workload to complete monitoring and compliance inspections. The potential benefits under Alternative 3 are equally achieved under Alternative 4. Alternative 5 removes the economic activity of one small 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 lead me to believe elimination of livestock grazing from the Swisher Springs and Swisher FFR allotments is unnecessary at this point.

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 Swisher Springs and Swisher FFR allotments' Rangeland Health Assessment/Evaluation Report and Determination. I have a high

²² 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 3.4.1.2

degree of certainty that this decision will enable the Swisher Springs allotment to meet or make progress toward meeting all applicable Idaho S&Gs and management objectives of the Owyhee Resource Management Plan. In addition, I have a high degree of certainty that this decision will allow the Swisher FFR allotment to continue to meet 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 Swisher Springs and Swisher FFR allotments 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 person named in the copies sent to section of this decision in accordance with 43 CFR 4.421 and on the Office of the Regional Solicitor located at the address below in accordance with 43 CFR § 4.470(a) and 4.471(b).

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

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

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

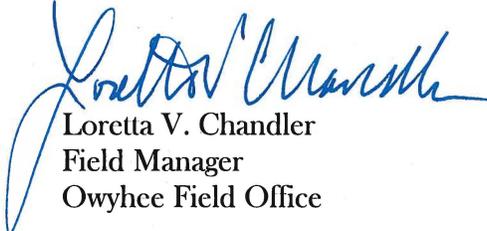
- (1) The relative harm to the parties if the stay is granted or denied.
- (2) The likelihood of the appellant's success on the merits.
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

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

Any person named in the decision that receives a copy of a petition for a stay and/or an appeal, 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 attached mailing list

Attachments:
Appendix O
BLM Responses to Protests

Certified Mail List	Cert #
06 Livestock, Dennis Stanford, PO Box 167, Jordan Valley, OR 97910	7012 3050 0001 0572 6263
Audubon Society Golden Eagle, PO Box 8261, Boise, ID 83707	7012 3050 0001 0572 6270
Barringer, John, 6016 Pierce Park, Boise, ID 83703	7012 3050 0001 0572 6287
Boise District Grazing Board, Stan Boyd, PO Box 2596, Boise, ID 83701	7012 3050 0001 0572 6294
Bruneau Cattle Co., Eric Davis, 3900 E Idaho St., Bruneau, ID 83604	7012 3050 0001 0572 6300
BLM, Elko Field Office, 3900 E Idaho St., Elko, NV, 89801	7012 3050 0001 0572 6317
Idaho Foundation for North American Wild Sheep, Jim Jeffries - Director, PO Box 8224 Boise, Idaho 82707	7012 3050 0001 0572 6324
Gibson, Chad, 16770 Agate Ln., Wilder, ID 83676	7012 3050 0001 0572 6331
Goller, Brian., 2722 E. Starcrest, Boise, ID 83712	7012 3050 0001 0572 6348
ID Cattleman's Association, Karen Williams, 2120 Airport Way, Box 15397, Boise, ID 83715	7012 3050 0001 0572 6744
Heughins, Russ, 10370 W Landmark Ct., Boise, ID 83704	7012 3050 0001 0572 6355
ID Conservation League, John Robison, PO Box 844, Boise, ID 83701	7012 3050 0001 0572 6362
ID Dept. of Agriculture, John Biar, PO Box 790, Boise, ID 83707	7012 3050 0001 0572 6379
ID Dept. of Parks & Recreation, Director, PO Box 83720, Boise, ID 83720	7012 3050 0001 0572 6386
ID Fish & Game, 3101 S Powerline Rd., Nampa, ID 83686	7012 3050 0001 0572 6393
ID Native Plant Society, President, PO Box 9451, Boise, ID 83707	7012 3050 0001 0572 6409
ID Outfitters & Guides Assoc., Grant Simonds, PO Box 95, Boise, ID 83701	7012 3050 0001 0572 6416
ID Rivers United, PO Box 633, Boise, ID 83701	7012 3050 0001 0572 6423
ID Sporting Congress, Ron Mitchell, PO Box 1136, Boise, ID 83701	7012 3050 0001 0572 6430
ID Wildlife Federation, PO Box 6426, Boise, ID 83707	7012 3050 0001 0572 6447
ID Dept. of Lands, PO Box 83720, Boise, ID 83720	7012 3050 0001 0572 6454
ID Dept. Environmental Quality, 1445 N Orchard, Boise, ID 83706	7012 3050 0001 0572 6461
Jaca, Elias, 21275 Upper Reynolds Creek Rd., Murphy, ID 83650	7012 3050 0001 0572 6478
Juniper Mtn. Grazing Assoc., Michael Stanford, 3581 Cliffs Rd., Jordan Valley, OR 97910	7012 3050 0001 0572 6485
Kershner, Vernon, PO Box 38, Jordan Valley, OR 97910	7012 3050 0001 0572 6508
LU Ranching, Tim Lowry, PO Box 132, Jordan Valley, OR 97910	7012 3050 0001 0572 6492
Lyons, Charles, 11408 Hwy 20, Mountain Home, ID 83647	7012 3050 0001 0572 6515
Maestresjuan, Teo & Sara, 26613 Pleasant Valley Rd., Jordan Valley, OR 97910	7012 3050 0001 0572 6522
Moore Smith Buxton & Turcke, Paul Turcke, 950 W. Bannock, Ste 520. Boise, ID 83702	7012 3050 0001 0572 6539
National Wildlife Federation, Rich Day, 240 N Higgins #2, Missoula, MT 59802	7012 3050 0001 0572 6546
Nelson, Brett, 9127 W Preece St., Boise, ID 83704	7012 3050 0001 0572 6553
Office of Species Conservation, Cally Younger, 304 N. 8th St. STE 149, Boise, ID 83702	7012 3050 0001 0572 6737
OR Natural Desert Assoc., Brent Fenty, 50 SW Bond St #4, Bend OR 99702	7012 3050 0001 0572 6560
Oregon Natural Resources Council, 5825 N Greeley, Portland, OR 97217	7012 3050 0001 0572 6577
Owyhee Cattlemen's Assoc. PO Box 400, Marsing, ID 83639	7012 3050 0001 0572 6584
Owyhee County Commissioners, PO Box 128, Murphy, ID 83650	7012 3050 0001 0572 6591

Owyhee County Natural Resources Committee, Jim Desmond, PO Box 38, Murphy, ID 83650	7012 3050 0001 0572 6607
Pascoe, Ramona, PO Box 126, Jordan Valley, OR 97910	7012 3050 0001 0572 6614
Brenda Richards, 8935 Whiskey Mountain Rd., Murphy, ID 83650	7012 3050 0001 0572 6720
Petan Co. of Nevada - YP Ranch, John Jackson, HC 32 Box 450, Tuscarora, NV 89834	7012 3050 0001 0572 6621
Resource Advisory Council, Gene Gray, 2393 Watts Lane, Payette, ID 83661	7012 3050 0001 0572 6638
Rocky Mountain Elk Foundation, Dave Torell, 6199 N Bellecreek Ave, Boise, ID 83713	7012 3050 0001 0572 6645
Shoshone-Bannock Tribes, Nathan Small, PO Box 306, Ft. Hall, ID 83203	7012 3050 0001 0572 6652
Sierra Club, PO Box 552, Boise, ID 83701	7012 3050 0001 0572 6676
The Wilderness Society, 950 W Bannock St., Ste 605, Boise, ID 83702	7012 3050 0001 0572 6669
Vonderheide, Richard, 6036 W Outlook Ave, Boise, ID 83703	7012 3050 0001 0572 6683
Shoshone-Paiute Tribes Duck Valley Indian Reservation, PO Box 219, Owyhee, NV 89832	7012 3050 0001 0572 6751
Western Range Services, PO Box 1330, Elko, NV 89801	7012 3050 0001 0572 6690
Western Watershed Projects, PO Box 1770, Hailey, ID 83333	7012 3050 0001 0572 6706
Western Watershed Projects- Fite, Katie, PO Box 2863, Boise, ID 83701	7012 3050 0001 0572 6713

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.¹ 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

¹ 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)².
- 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*

² This document tiers to the ORMP Final Decision and incorporates the Final ORMP EIS by reference.

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 (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.³ 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

³ 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 land⁴ 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.

⁴ 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

Castlehead-Lambert (#0634), Swisher Springs (#0450) and Swisher FFR (#0637) Allotments

Protests of the Owyhee Field Manager's Proposed Decisions dated January 28 and February 14, 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)

DS: Dennis Stanford, for 06 Livestock Co.

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

OCA: Owyhee Cattlemen's Association

OCC: Owyhee County Board of Commissioners

TSM: Teo and Sarah Maestrejuan

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 decision makers 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 socioeconomic 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 (RHFA) 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 RHFA's was missing and was dropped, providing for a total of 62 RHFA's. 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 as 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 one's 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.

GB01: 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).

GB02: It appears the Bureau did not engage in appropriate coordination with Group 1 permittees on this issue.

BLM: See BLM response to BRS20.

GB03: 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 GB01.

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 rationale.

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 generalities. 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).

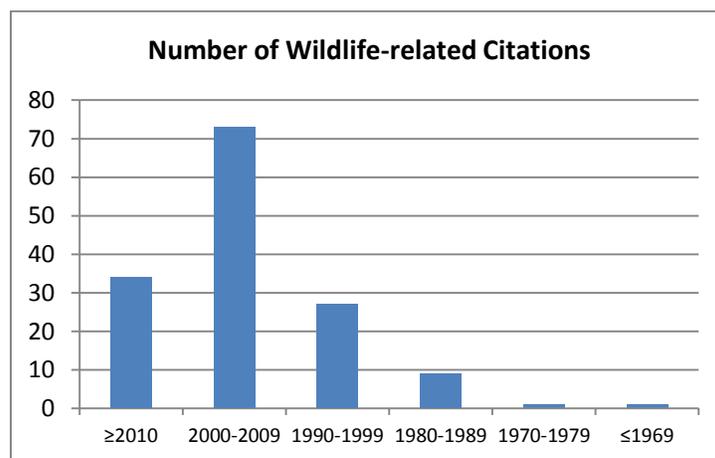
WWP12: BLM ignores assessment and protection of playas altogether. Very important playas areas provide sage-grouse habitats in this parched, grazing-desertified landscape. BLM must prohibit all use of playas by livestock during periods when they are moist (March-June). BLM never even bothered to evaluate 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, Maestresjuan 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 OCBEMP 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 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, 10OE491 and 10OE9429 - 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 Castlehead-Lambert Allotment

Dennis Stanford submitted a protest on behalf of the 06 Livestock Co. on Feb. 25, 2013, regarding the Feb. 14, 2013, Castlehead-Lambert Allotment Proposed Grazing Decision.

DS1: We protest your failure to fully comply with 43 CFR § 4130.2(b) and associated BLM policy by not conducting meaningful CCC with 06 Livestock during the analysis of information and development of the 2013-06 Livestock Proposed Decision.

BLM: See BLM response to BRS20.

DS2: We protests pages 1- 11 to the extent the statements and information reported therein are inconsistent with and/or are unresponsive to our extensive comment on the Draft EA submitted to the OFO October 21, 2012.

BLM: BLM accepted comment from the interested public, including permittees, on the preliminary EA made available for review for 45 days ending October 23, 2012. Responses to comments received, including those from Dennis Stanford, were provided in Appendix N of the completed EA dated January 2013. Comments were considered in making modifications to the EA.

DS3: We protest your failure to analyze the social, economic and environmental effects of our grazing application/management proposal (Alternative 2) (See 06 Livestock comment to Draft EA and attached Clarified Amended Application)

BLM: The impacts of the Permittee’s proposals are analyzed in Sections 3.4.11.2.2 and 3.6.10.2.2. Additional analysis has been conducted using information provided during the protest period. This analysis can be found in the EA clarification document included with this document.

DS4: We protest "Other Terms and Conditions" #5 unless it is clarified to allow placement of salt or supplement within the described distance upon approval of the authorized officer (See attached Clarified Amended Application).

BLM: The term and condition for salt and supplement placement is a common term and condition of grazing permits issued within the Boise District. The need to place salt and/or supplement closer than ¼-mile to springs, streams, meadows, aspen stands, playas, or water developments due to the lack of possible locations that would allow for salt and supplement placement at higher elevations as verbally stated is unfounded.

DS5: We protest "Other Terms and Conditions" #6 unless the ambiguous meaning of "coordinated" and "may be required" are clarified to assure that the necessary and/or emergency movement of livestock will not be hindered. (See attached C-L Clarified Amended Application)

BLM: The term and condition was clarified in the Final Decision to identify that it applied to actions outside the allotment covered by the grazing permit.

DS6: We protest the "Notes on the Terms and Conditions" and specifically:

- a. The arbitrary assignment of the 10 acres per AUM maximum stocking density for any pasture.

BLM: The rationale for limiting the stocking rate to 10 acres per AUM or more is provided in the response to protest point WWP17 and was added to the rationale provided in the final decision.

DS7: We protest the "Other Notes on the Proposed Decision" as to the specific elements.

- a. We protest the decision not to allow any consider of range improvement projects to increase grazing management options and opportunity.
- b. We protest the decision not to allow reconstruction of fences damaged or destroyed by wildfire.
- c. We protest the decision not to modify the allotment boundary by construction of 0.72 miles of fence-line along the ridge to the east of the West Fork Rec Canyon in pasture 6 to exclude stream riparian areas.
- d. We protest the absence of any consideration of maintenance and/or reconstruction of reservoirs.

BLM: See BLM Response to BRS4.

DS8: We protest all elements of the findings and conclusions presented in the "Rationale", "Justification for the Proposed Decision", "Issues Addressed" and "Additional Rationale" section to the extent they are inconsistent with and/or unresponsive to our prior extensive comment on the Draft EA.

BLM: See BLM response to DS2.

DS9: We protest the "Conclusion" that Alternative 2 would not meet standards and objectives because such conclusion is based on false assumptions and interpretation of Alternative 2 and consequently an erroneous assessment of its environmental effects in the Draft EA. ((See 06 Livestock comment to Draft EA and attached Clarified Amended Application)

BLM: An application for grazing permit renewal was received from the permittees on December 13, 2011, and is accurately presented in the EA Alternative 2, with the flexibility requested. Although a request for revision of that application was received on July 21, 2012, along with comments following review of the preliminary EA, an alternative in the EA that was the revised application was not analyzed, as identified in Section 2.6 page 21 of the EA. BLM accepted comment from the interested public, including permittees, on the preliminary EA made available for review for 45 days ending October 23, 2012. Responses to comments received, including those from Dennis Stanford, were provided in Appendix N of the completed EA dated January 2013. Comments were used to revise the EA. A “hard look” was taken and consequences of implementing Alternative 2 are identified in the EA.

DS10: We protest the failure of the conclusions to reveal the significant irreparable economic impact to 06 Livestock that would take place with implementation of Alternative 4.

BLM: See BLM response to OCC4.

Teo and Sarah Maesrejuan submitted a protest on Feb. 22, 2013, regarding the Jan. 28, 2013, Castlehead-Lambert Allotment Proposed Grazing Decision.

TSM1: We protest your failure to fully comply with 43 CFR § 4130.2(b) and associated BLM policy by not conducting meaningful CCC with us during the development of the proposed decision.

BLM: See BLM response to BRS20.

TSM2: We protests pages 1- 11 to the extent the statements and information reported therein are inconsistent with and/or are unresponsive to our extensive Draft EA comment submitted to the OFO October 21, 2012.

BLM: See the response to protest DS2 because the entire protest submission received is a duplicate with the exception of name changes.

TSM3: We protest your failure to analyze the social, economic and environmental effects of our (Alternative 2) grazing application & management proposal (See our comment to Draft EA and attached C-L Clarified Amended Application)

BLM: See the response to protest DS3 because the entire protest submission received is a duplicate with the exception of name changes.

TSM4: We protest "Other Terms and Conditions" #5 unless it is clarified to allow placement of salt or supplement within the prescribed distance upon approval of the authorized officer (See attached C-L Clarified Amended Application)

BLM: See the response to protest DS4 because the entire protest submission received is a duplicate with the exception of name changes.

TSM5: We protest "Other Terms and Conditions" #6 unless the ambiguous meaning of "coordinated" and "may be required" are clarified to assure that the necessary and/or emergency movement of livestock will not be hindered. (See attached C-L Clarified Amended Application)

BLM: See the response to protest DS5 because the entire protest submission received is a duplicate with the exception of name changes.

TSM6: We protest the "Notes on the Terms and Conditions" and specifically:

- a. The arbitrary assignment of the 10 acres per AUM maximum stocking density for any pasture.

BLM: See the response to protest DS6 because the entire protest submission received is a duplicate with the exception of name changes.

TSM7: We protest the "Other Notes on the Proposed Decision" as to the following elements.

- a. We protest the decision not to allow any consider of range improvement projects to enhance grazing management options and opportunity.
- b. We protest the decision not to accommodate reconstruction of fences damaged or destroyed by wildfire.
- c. We protest the decision not to modify the allotment boundary by construction of 0.72 miles of fence-line along the ridge to the east of the West Fork Rec Canyon in pasture 6 to exclude stream riparian areas.
- d. We protest the absence of any consideration or approval of maintenance and/or reconstruction of reservoirs.

BLM: See BLM Response to BRS4.

TSM8: We protest all elements of the findings and conclusions presented in the "Rationale", "Justification for the Proposed Decision", "Issues Addressed" and "Additional Rationale" section to the extent they are inconsistent with and/or unresponsive to our prior extensive comment on the Draft EA.

BLM: See the response to protest DS8 because the entire protest submission received is a duplicate with the exception of name changes.

TSM9: We protest the "Conclusion" that Alternative 2 would not meet standards and objectives because such conclusion is based on a false assumptions representation of Alternative 2 and consequently an erroneous assessment of its environmental effects in the Draft EA. (See our comment on the Draft EA and attached C-L Clarified Amended Application)

BLM: See the response to protest DS9 because the entire protest submission received is a duplicate with the exception of name changes.

TSM10: We protest the failure of the conclusions to reveal the significant irreparable economic harm to Teo & Sarah Maestrejuan that would take place with implementation of Alternative 4.

BLM: See the response to protest DS10 because the entire protest submission received is a duplicate with the exception of name changes.

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.

WWP50: BLM provides no evidence that Red Basin can handle the very number of AUMs to be inflicted on it. It is becoming a weed land due to BLM negligent management and allowing grazing at high levels to resume too soon following the Crutcher and earlier fires. How will this impact sage-grouse brood rearing habitat? We protest the lack of information.

BLM: Information regarding the condition of native plant communities and sage-grouse habitat within pasture 3 (Red Basin) demonstrates favorable and on-going recovery of the burned area (see USDI BLM 2010). Due to the lack of sagebrush remaining after the fire, sage-grouse brood-rearing habitat use within the pasture is unlikely or minimal at best until sagebrush returns to suitable levels.

WWP51: BLM must explain exactly, for each calendar year, where and when grazing will occur in the Horse pasture. Will there be multiple periods of use? The riparian areas here are greatly damaged, with very limited flows, and cannot withstand any continued livestock grazing use. We protest the lack of clarity.

BLM: The scheduled use of pasture 5, both as a pasture used while moving cattle between pastures and as a pasture for horse use, is provided in the grazing schedule footnote of the proposed decision, unchanged in the final decision.

WWP52: The paragraph below the footnotes (PD at 13) contradicts the footnote. One says Lambert Table will be able to be grazed one year – on top of nesting grouse. The footnote says deferment once in a 3 year period. This must be much more clearly defined.

BLM: Grazing can occur in pasture 4 during the sage-grouse nesting season as long as all resource-based constraints are followed. Terms and conditions of the grazing permit will allow grazing use of pasture 4 in one of each consecutive 3-year period during the sage-grouse breeding season (4/15 to 6/15). The footnotes in the final decision were changed to clarify the treatment.

WWP53: The highly uncertain CHL/Swisher Decision... maximizes the potential for trespass and extra AUMs being taken by permittees – as there is no possible way to tally up AUMs that will actually be used in each pasture. Thus, there is no way to ensure that extreme damage to wild lands will not take place. In fact, BLM appears to have provided the permittees with a near-perfect decision for ending up actually grazing as many cattle as are currently authorized, but covering up it up with an on-paper reduction. We protest BLM failing to address all of these concerns.

BLM: The protest point WWP53 does not identify a rationale for why WWP claims the decision maximizes the potential for trespass to occur in either the Castlehead-Lambert or the Swisher Springs allotments as alleged. The terms and conditions of each permit establish mandatory livestock numbers, seasons of use, and location. Additionally, an actual use report submitted by the permittee is required annually to document grazing use.

WWP54: BLM allows widespread movement of cattle back and forth in pastures during periods when they supposedly are not being grazed. There are no defined and limited spatial areas for this use. Is it trailing, or is it extra and free grazing? This is also the dead opposite of a grazing plan to protect secure blocks of sage-grouse habitat in the spring lek, nesting, and early brood rearing season. Loose and undefined movement of cows back and forth in a muddled and unclear manner (all of the asterisked footnotes) maximizes disturbance to pastures that BLM resents the illusion of being free of livestock disturbance. It is absurd that active trailing/herding could take 7 days to transit these small pastures. Is this written this way so that there can never actually be any clear understanding of use in CHL and Nickel Creek, where BLM still has not fixed its legal deficiencies?

BLM: Term and condition number 1 of the offered permit(s) establishes a grazing schedule that must be followed. The requirement to move livestock between pastures as scheduled, an action that may require active movement of animals across pastures at a time when they are not identified in the schedule, is recognized and within the authorization provided by the grazing permit.

WWP55: Owyhee DRMP Map RIPN-1 shows the National Wetlands Inventory mapping. In CHL (and Swisher), it shows a network of streams coming off of Juniper Mountain – but these are sadly unassessed. We protest ignoring these critical areas.

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.

WWP56: For CHL, Table RIPN-1 shows many stream lengths and concerns ignored by BLM with its harmful severe trampling spring grazing and concentrated use fall grazing:

- Castle Creek – 1.5 miles of unsatisfactory riparian habitat (all miles assessed).
- East Fork Red Canyon Creek 6.13 miles of Unsatisfactory fishery habitat
- East Fork Red Canyon T2 1.23 miles
- East Fork Red Canyon Creek T3 0.86 miles
- East Fork Red Canyon Creek T4 0.57 miles
- Little Smith Creek 0.81 mi
- Red Canyon Creek 4.02 mi. U, 1.22 S
- West Fork Red Canyon Creek 8.23 mi

BLM: Table RIPN 1 in the CHL section of the EA is: **Table RIPN-1:** General relationship between grazing scheme, stream system characteristics, and riparian vegetation response (*Adapted from* (Elmore W. , 1994))

The protester is likely referring to ORMP fisheries habitat and riparian condition, which is discussed on page 138 of the EA, followed by the existing condition.

WWP57: The RMP does not really consider elk in CHL. So BLM must fully analyze the elk use here and across Juniper Mountain, and the adverse impacts of imposing cattle grazing disturbance on elk calving and other habitats, as well.

BLM: Big game, including elk, were analyzed in the EA (specifically see Section 3.4.5.1 under the subheading Big Game and other Mammals (including Special Status Species) pp. 165-166, Section 3.4.5.2.1 under the subheading Big Game and other Mammals (including Special Status Species) pg. 171, Section 3.4.5.2.2 under the subheading Big Game and other Mammals (including Special Status Species) pg. 173, Section 3.4.5.2.3 under the subheading Big Game and other Mammals (including Special Status Species) pg. 176, Section 3.4.5.2.4 under the subheading Big Game and other Mammals (including Special Status Species) pg. 179, Section 3.4.5.2.5 under the subheading Big Game and other Mammals (including Special Status Species) pg. 180, and Section 3.4.5.3 pg. 182).

Protests Relevant to the Swisher Springs/Swisher FFR Allotments

Dennis Stanford submitted a protest on behalf of the 06 Livestock Co. on Feb. 21, 2013, regarding the Jan. 28, 2013, Swisher Springs and Swisher FFR Allotments Proposed Grazing Decision.

DS11: We protest your failure to fully comply with 43 CFR § 4130.2(b) and associated BLM policy by failing to conduct meaningful CCC with 06 Livestock during the development of the Draft EA, Final EA and Proposed Decision.

BLM: See BLM response to BRS20.

DS12: We protest your failure to analyze the social, economic and environmental effects of our grazing application (Alternative 2) due to your failure to analyze the alternative as submitted. (See 06 Livestock comment to Draft EA and attached Swisher Clarified Amended Application)

BLM: See the response to protest DS3 because the entire protest submission received is a duplicate with the exception of name changes.

DS13: We protest "Other Terms and Conditions" #5 unless the ambiguous meaning of "coordinated" and "may be required" are clarified to assure that the necessary and/or emergency movement of livestock will not be hindered. (See attached Swisher Clarified Amended Application)

BLM: See the response to protest DS4, because the entire protest submission received from Dennis Stanford for the proposed decision to renew the grazing permit held by 06 Livestock is duplicated, with the exceptions of name changes and some protest points not applicable to the proposed decision to renew the grazing permit for grazing use in the Swisher Springs and Swisher FFR allotments.

DS14: We protest all of the "Notes on the Terms and Conditions" and specifically:
a. The arbitrary assignment of the 10 acres per AUM maximum stocking density.

BLM: See the response to protest DS4, because the entire protest submission received from Dennis Stanford for the proposed decision to renew the grazing permit held by 06 Livestock is duplicated, with the exceptions of name changes and some protest points not applicable to the proposed decision to renew the grazing permit for grazing use in the Swisher Springs and Swisher FFR allotments.

DS15: We protest the "Other Notes on the Proposed Decision" which reveals that you decided not to consider any range improvement projects to enhance grazing management opportunity. This element of your decision is plainly inconsistent with the Owyhee RMP.

BLM: See BLM Response to BRS4. In addition, it is eluded that denying implementation of additional range projects is inconsistent with the Owyhee RMP (ORMP) in some way. In review of the ORMP, it is unclear where inconsistency exists. At *Livestock Grazing Management, Objective LVST1, Management Actions and Allocations, No. 6*, on page 24 of the 1999 ORMP, it states:

“Use a minimal level of rangeland developments (e.g. fences, water facilities) to adjust livestock grazing practices to achieve multiple use resource objectives and meet standards for rangeland health.”

In accordance with this ORMP management objective, BLM struggles to see how a lack of new range projects considered in the Group 1 EA is inconsistent with the ORMP. In addition, nowhere in the ORMP is the authorized officer required to consider range projects to enhance grazing management opportunities.

DS16: We protest all elements of the findings and conclusions presented in the "Justification for the Proposed Decision", "Issues Addressed" and "Additional Rationale", to the extent they are inconsistent with and/or unresponsive to our extensive comment on the Draft EA.

BLM: See the response to protest DS4, because the entire protest submission received from Dennis Stanford for the proposed decision to renew the grazing permit held by 06 Livestock is duplicated, with the exceptions of name changes and some protest points not applicable to the proposed decision to renew the grazing permit for grazing use in the Swisher Springs and Swisher FFR allotments.

DS17: We protest the "Conclusion" that Alternative 2 would not meet standards and objectives because such conclusion does not represent potential grazing management strategies available within the parameters of the permit application. (See attached Swisher Clarified Amended Application)

BLM: See the response to protest DS4, because the entire protest submission received from Dennis Stanford for the proposed decision to renew the grazing permit held by 06 Livestock is duplicated, with the exceptions of name changes and some protest points not applicable to the proposed decision to renew the grazing permit for grazing use in the Swisher Springs and Swisher FFR allotments.

DS18: We protest the failure of the conclusions to disclose the significant irreparable economic consequences to 06 Livestock that would take place with implementation of Alternative 4.

BLM: See the response to protest DS10 because the entire protest submission received is a duplicate with the exception of name changes.

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.

WWP69: We protest that BLM failed to do away with the sacrifice zone FFR – and to reconfigure boundaries so that public lands are part of Swisher Springs and not an FFR. We protest this.

BLM: The Swisher Fenced Federal Range (FFR) allotment was determined as follows: *Standard 1, meeting the standard; Standards 2 & 3, are not applicable; Standard 4, meeting the standard; Standards 5, 6 & 7, are not applicable; and Standard 8, meeting the standard.* In addition to meeting the applicable Idaho Rangeland Health Standards and Guidelines, no ORMP conformance concerns or additional resource management issues were identified during scoping to inform the need for livestock grazing management changes. Therefore, in achieving the Purpose and Need of EA # DOI-BLM-ID-B030-2012-0012-EA, no livestock grazing management modifications are necessary at this time. Therefore, WWP's protest/claims are unwarranted and not applicable to renewing livestock grazing in the Swisher FFR allotment.

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

Salo, C. 2010. Management of growing season grazing in the sagebrush steppe, Minority Report. Unpublished report. Owyhee Science Review Program-Minority Report 2010-1.