

**U.S. Department of the Interior
Bureau of Land Management**

Proposed Decision

DOI-BLM-NV-L030-2011-0022 EA

June 7, 2012

Enterprise Allotment
(#11030)

Lincoln County, Nevada

U.S. Department of the Interior
Bureau of Land Management
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United States Department of the Interior

BUREAU OF LAND MANAGEMENT

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JUN 07 2012

In Reply Refer to:
4110 (NVL0300)

PROPOSED DECISION

on the Enterprise Allotment

Background Information

On June 7, 2012, the Bureau of Land Management (BLM) signed the Finding of No Significant Impact (FONSI) for the term permit renewal on the Enterprise Allotment (#11030). The Environmental Assessment (DOI-BLM-NV-L030-2011-0022 EA), FONSI and Standards Determination Documents are contained herein. This proposed decision is issued in accordance with 43 CFR § 4160.1.

The proposed action, associated with DOI-BLM-NV-L030-2011-0022 EA (EA), is to fully process and issue new term grazing permits on the Enterprise Allotment, which encompasses approximately 21,090 acres.

Fully processing and renewing the term grazing permit to authorize grazing on the Enterprise Allotment, provides for a legitimate multiple use of the public lands. The permit includes terms and conditions for grazing use that conform to Guidelines and will continue to achieve, or make progress toward achieving, the Standards for Nevada's Mojave-Southern Great Basin Area in accordance with all applicable laws, regulations, and policies; and in accordance with Title 43 CFR § 4130.2(a) which states in part, "Grazing permits or leases shall be issued to qualified applicants to authorize use on the public lands and other lands under the administration of the Bureau of Land management that are designated as available for livestock grazing through land use plans". This decision specifically identifies management actions and terms and conditions to be appropriate to achieve management and resource condition objectives. The proposed actions that were developed under this proposed decision execute management actions that will ensure that progress toward achievement or continued achievement of the Standards for Rangeland Health and multiple use objectives occur.

Conclusions of the Standards Determination Document

The BLM monitored and reviewed current data to assess rangeland health during the permit renewal process. As a result, the BLM prepared a Standards Determination document (Appendix II of EA). The results of the findings, regarding the achievement or non-achievement of the Mojave-Southern Great Basin Area Standards for Rangeland Health for the aforementioned allotment are summarized in Table 1, below:

Table 1. Summary of Assessment of the Mojave-Southern Great Basin Area Standards for the Enterprise Allotment.

Standard	Status
1. Soils	Achieved
2. Riparian and Wetland Sites Standard	Upland portion – Achieved Riparian Portion – Not Applicable
3. Habitat and Biota Standard	Achieved

(See Appendix II for Standards Determination Document)

The data indicate that grazing is in conformance with all applicable Guidelines.

Consultation and Coordination

On December 16, 2011, the Ely BLM mailed the annual Consultation, Cooperation, and Coordination (CCC) letter, which notified interested parties of the livestock grazing term permit renewals scheduled for 2012.

On February 14, 2012, a BLM internal meeting was held in coordination between the Caliente Field Office the Ely BLM District Office. The term permit renewal proposal for the Enterprise Allotment was presented and scoped by resource specialists to identify any relevant issues. The resource specialists did not identify any potential issues.

On February 22, 2012, a letter was sent to local Native American tribes requesting comments regarding the permit renewal process for the Enterprise Allotment.

On March 02, 2012, the BLM sent the three permittees a letter informing them of the proposed term permit renewal process scheduled for their allotment during 2012. No comments were received.

The Preliminary EA was posted for a 15 day public review and comment period on the Nevada State Clearinghouse website. No comments were received during the public review comment period.

LIVESTOCK MANAGEMENT DECISION

This decision for the Enterprise Allotment consists of continuing existing management on the allotment.

In accordance with 43 CFR §4130.3, §4130.3-1 and §4130.3-2, the Mandatory Terms and Conditions (Season of Use, Active AUMs, Suspended AUMs and Number and Kind of Livestock) the Enterprise Allotment will remain unchanged and will be issued according to the following:

Table 2. Current Term Grazing Permits for the Enterprise Allotment

Allotment Number Name 11030 Enterprise	Livestock Number/Kind	Grazing Period		% Public Land	Type Use	AUMs
		Begin	End			
Permittee Name						
Farnsworth Farms	70 Cattle	05/1-	10/31	100	Active	423
D. & S. Dannelly	70 Cattle	05/1-	10/31	100	Active	423
H. &M. Covington/ Bob Bowler	70 Cattle	05/1-	10/31	100	Active	423

Table 3. Current Term Grazing Permits AUMs for the Enterprise Allotment

Allotment Number Name 11030 Enterprise	Animal Unit Months (AUMs)		
	Active	Suspended	Preference
Farnsworth Farms	420	289	709
D. & S. Dannelly	420	289	709
H. &M. Covington/ Bob Bowler	421	291	712

Standard Operating Terms and Conditions

The new term permits will include terms and conditions which further assist in achieving/maintaining the Standards and Guidelines for Grazing Administration in addition to other pertinent land use objectives for livestock use.

In accordance with 43 CFR §§ 4130.3, 4130.3-1 and 4130.3-2, the following will also be included as terms and conditions in the term grazing permit for the term permit renewal on the Enterprise Allotment:

1. Livestock numbers identified in the Term Grazing Permit are a function of seasons of use and permitted use. Deviations from those livestock numbers and seasons of use may be authorized on an annual basis where such deviations are consistent with multiple-use objectives. Such deviations will require an application and written authorization from the authorized officer prior to grazing use.
2. The authorized officer is requiring that an actual use report (Form 4130-5) be submitted within 15 days after completing your annual grazing use.

3. Grazing use will be in accordance with the Standards and Guidelines for Grazing Administration. The Standards and Guidelines have been developed by the respective Resource Advisory Council and approved by the Secretary of the Interior on February 12, 1997. Grazing use will also be in accordance with 43 CFR Subpart 4180 - Fundamentals of Rangeland Health and Standards and Guidelines for Grazing Administration.
4. If future monitoring data indicates that Standards and Guidelines for Grazing Administration are not being met, the permit will be reissued subject to revised terms and conditions.
5. The permittee must notify the authorized officer by telephone, with written confirmation, immediately upon discovery of any hazardous or solid wastes as defined in 40 CFR Part 261.
6. The permittee is responsible for all maintenance of assigned range improvements including wildlife escape ramps for both permanent and temporary water troughs.
7. When necessary, control or restrict the timing of livestock movement to minimize the transport of livestock-borne noxious weed seeds, roots, or rhizomes between weed-infested and weed-free areas.
8. The placement of mineral or salt supplements will be a minimum distance of ½ mile from known water sources, riparian areas, winterfat dominated sites, sensitive sites, populations of special status plant species, and cultural resource sites. Mineral and salt supplements will also be one mile from active sage-grouse leks. Placing supplemental feed (i.e. hay, grain, pellets, etc.) on public lands without authorization is prohibited.

Rationale

A Summary of the Assessment of the Mojave-Southern Great Basin Area Standards for the Enterprise Allotment is displayed in Table 1, above (Table 1.2 of the Environmental Assessment).

Standard 1 is being achieved. The upland portion of Standard 2 is being achieved, while the riparian portion of this Standard 2 is not applicable. Standard 3 is being achieved.

It is anticipated and reasonable to expect, then, that Standard 1 and the upland portion of Standard 2 would continue to be achieved, and that Standard 3 would continue to be achieved.

Land Use Plan Conformance

The proposed action is in conformance with the Ely District Record of Decision and Approved Resource Management Plan (RMP) dated August 20, 2008. The proposed action is specifically provided for in the following Management Decisions: "LG-1: Make approximately 11,246,900 acres and 545,267 animal unit months available for livestock grazing on a long-term basis. LG-5: Maintain the current preference, season-of-use, and kind of livestock until the allotments that have not been evaluated for meeting or making progress toward meeting the standards or are in conformance with the policies are evaluated. Depending on the results of the standards assessment, maintain or modify grazing preference, seasons-of-use, kind of livestock, and

grazing management practices to achieve the standards for rangeland health. Changes, such as improved livestock management, new range improvement projects, and changes in the amount and kinds of forage permanently available for livestock use, can lead to changes in preference, authorized season-of-use, or kind of livestock. Ensure changes continue to meet the RMP goals and objectives, including the standards for rangeland health.”

This decision also complies with BLM Nevada Instruction Memorandum (IM) No. NV-2006-034 which provides guidance to facilitate the preparation of grazing permit renewal Environmental Assessments (EAs) as per the requirement set forth in BLM Washington Office IMs WO 2003-071 and WO 2004-126.

AUTHORITY: The authority for this decision is contained in Title 43 of the Code of Federal Regulations (2004), which states in pertinent part(s):

§ 4110.3 Changes in Permitted Use

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

§ 4130.2 Grazing Permits and Leases

(a) States in part: “Grazing permits or leases shall be issued to qualified applicants to authorize use on the public lands and other lands administered by the Bureau of Land Management that are designated as available for livestock grazing through land use plans.”

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

§ 4130.3-1 Mandatory terms and conditions.

- (a) “The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the amount of use, in animal unit months, for every grazing permit or lease. The authorized livestock grazing use shall not exceed the livestock carrying capacity of the allotment.
- (b) All permits and leases shall be made subject to cancellation, suspension, or modification for any violation of these regulations or of any term or condition of the permit or lease.

- (c) Permits and leases shall incorporate terms and conditions that ensure conformance with subpart 4180 of this part.”

§ 4130.3-2 Other Terms and Conditions

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

§ 4160.1 Proposed Decisions

- (a) “Proposed decisions shall be served on any affected applicant, permittee or lessee, and any agent and lien holder of record, who is affected by the proposed actions, terms or conditions, or modifications relating to applications, permits and agreements (including range improvement permits) or leases, by certified mail or personal delivery. Copies of proposed decisions shall also be sent to the interested public.
- (b) Proposed decisions shall state the reasons for the action and shall reference the pertinent terms, conditions and the provisions of applicable regulations. As appropriate, decisions shall state the alleged violations of specific terms and conditions and provisions of these regulations alleged to have been violated, and shall state the amount due under §§ 4130.8 and 4150.3 and the action to be taken under § 4170.1.
- (c) The authorized officer may elect not to issue a proposed decision prior to a final decision where the authorized officer has made a determination in accordance with § 4110.3-3(b) or § 4150.2(d).”

§ 4180.1 Fundamentals of Rangeland Health and Standards and Guidelines for Grazing Administration.

“The authorized officer shall take appropriate action under subparts 4110, 4120, 4130, and 4160 of this part as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management needs to be modified to ensure that the following conditions exist.

- (a) Watersheds are in, or are making significant progress toward, properly functioning physical condition, including their upland, riparian-wetland, and aquatic components; soil and plant conditions support infiltration, soil moisture storage, and the release of water that are in balance with climate and landform and maintain or improve water quality, water quantity, and timing and duration of flow.

- (b) Ecological processes, including the hydrologic cycle, nutrient cycle, and energy flow, are maintained, or there is significant progress toward their attainment, in order to support healthy biotic populations and communities.
- (c) Water quality complies with State water quality standards and achieves, or is making significant progress toward achieving, established BLM management objectives such as meeting wildlife needs.
- (d) Habitats are, or are making significant progress toward being, restored or maintained for Federal threatened and endangered species, Federal Proposed, Category 1 and 2 Federal candidate and other special status species.”

PROTEST AND APPEAL

Protest

In accordance with 43 CFR § 4160.2, any applicant, permittee, lessee or other interested public may protest the proposed decision under § 4160.1 of this title, in person or in writing within 15 days after receipt of such decision to:

Victoria Barr
Field Manager
Caliente Field Office
1400 S. Front Street
P.O. Box 237
Caliente, NV 89008

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

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

In accordance with 43 CFR § 4160.3 (b), should a timely protest be filed with the authorized officer, the authorized officer will reconsider the proposed decision and shall serve the final decision on the protestant and the interested public.

Appeal

In accordance with 43 CFR §§ 4.470 and 4160.4, any person who wishes to appeal or seek a stay of a BLM grazing decision must follow the requirements set forth in 4.470 through 4.480 of this title. The appeal or petition for stay must be filed with the BLM office that issued the decision within 30 days after its receipt or within 30 days after the proposed decision becomes final as provided in § 4160.3 (a).

The appeal and any petition for stay must be filed at the office of the authorized officer:

Victoria Barr
Field Manager
Caliente Field Office
1400 S. Front Street
Caliente, NV 89008

Within 15 days of filing the appeal and any petition for stay, the appellant also must serve a copy of the appeal and any petition for stay on any person named in the decision and listed at the end of the decision, and on the Office of the Solicitor, Regional Solicitor, Pacific Southwest Region,

U.S. Department of the Interior, 2800 Cottage Way, Room E-1712, Sacramento, California 95825-1890.

Pursuant to 43 CFR 4.471(c), a petition for stay, if filed, 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.

43 CFR 4.471(d) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

Any person named in the decision from which an appeal is taken (other than the appellant) who wishes to file a response to the petition for a stay may file with the Hearings Division in Salt Lake City, Utah, a motion to intervene in the appeal, together with the response, within 10 days after receiving the petition. Within 15 days after filing the motion to intervene and response, the person must serve copies on the appellant, the Office of the Solicitor and any other person named in the decision (43 CFR 4.472(b)).

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.422(c)(2)).

Sincerely,



Victoria Barr
Field Manager
Caliente Field Office

Enclosures

cc:

Katie Fite
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N-4 Grazing Board
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Hilton and Mary Covington
Bob Bowler
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Brookside, Utah 84782

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FINDING OF NO SIGNIFICANT IMPACT

Term Grazing Permit renewal on the Enterprise Allotment (#11030)

DOI-BLM-NV-L030-2011-0022 EA.

I have reviewed Environmental Assessment (EA) (DOI-BLM-NV-L030-2011-0022 EA). After consideration of the environmental effects as described in the EA, and incorporated herein, I have determined that the proposed action associated with fully processing the term permit renewal identified in the EA will not significantly affect the quality of the human environment and that an Environmental Impact Statement (EIS) is not required. Environmental Assessment DOI-BLM-NV-L030-2011-0022 EA has been reviewed through the interdisciplinary team process.

Rationale:

I have determined the proposed action is in conformance with the Ely District Record of Decision and Approved Resource Management Plan (RMP/ROD) to manage the public lands administered by the Bureau of Land Management's Ely District Office (August 20, 2008).

This proposed term permit renewal would be effective in improving/maintaining rangeland health and watershed condition on public lands within the Enterprise Allotment. Through the introduction and implementation of the sound livestock management practices associated with the Proposed Action, progression will be made towards maintenance of Standards and conformance to the Guidelines for Grazing Administration.

The finding and conclusion of no significant impact is based on my consideration of the Council on Environmental Quality's (CEQ) criteria for significance (40 CFR 1508.27), both with regard to the context and the intensity of impacts described in the EA.

Context:

The Enterprise allotment is located within the Caliente Field Office in Lincoln County, Nevada. It is located approximately 15 miles southeast of Panaca, in the Clover Mountain Range. The Enterprise allotment consists of about 21,090 acres and contains 1269 Animal Unit Months (AUMS); divided evenly among the three permittees.

Neither the allotment nor any of its portions are located within a Wild Horse Herd Management Area, Wilderness Study Area or within desert tortoise habitat. There are no known riparian areas located within the allotment on BLM managed lands

Lincoln County is sparsely populated, with approximately 5800 people living mostly within five towns. Although the acreage involved is extensive, impacts from livestock grazing are dispersed, and compatible with the rural, agricultural setting throughout most of the County.

Intensity:

1) *Impacts that may be both beneficial and adverse.*

The Environmental Assessment considered both, beneficial and adverse impacts of the proposed action. None of the impacts disclosed in the EA approach the threshold of significance (i.e., exceeding air or drinking water quality standards, contributing a decline in the population of a listed species, etc.). None of the resource impacts are intensely adverse or beneficial.

2) *The degree to which the proposed action affects public health or safety.*

The Proposed Action will not result in potentially substantial or adverse impacts to public health and safety.

3) *Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.*

The Ely RMP EIS has evaluated the impacts of livestock grazing on natural resources and unique geographic characteristics found on public lands throughout the district, and decisions were made to eliminate grazing in areas where the impacts could cause unacceptable degradation to natural resources and unique geographic characteristics. No site specific concerns were identified in the EA.

There are no parks, wetlands, wild and scenic rivers, or Areas of Critical Environmental Concern (ACECs) found within the allotment.

Prime and unique farmland do not exist in the allotment.

Historic and cultural resources identified in the proposed area were reviewed and analyzed. No effects to unique characteristics of the geographic area such as proximity to historic or cultural resources were identified.

4) *The degree to which the effects on the quality of the human environment are likely to be highly controversial.*

Whereas, it may be controversial to continue to permit livestock grazing on public lands in spite of the effects, there is little controversy as to what they are. The Ely RMP EIS analyzed

several alternatives with various effects to conflicting uses of natural resources and disclosed these effects. Decisions were made to continue livestock grazing in areas deemed appropriate.

- 5) ***The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.***

The effects of livestock grazing are well known and documented. Management practices are employed to meet resource objectives and maintain or achieve rangeland health. The Ely RMP EIS analyzed the effects of livestock grazing throughout the district and has eliminated grazing in areas where unique environmental risks could occur.

- 6) ***The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.***

The Proposed Action will not establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration. Renewing the grazing permit does not establish a precedent for other Rangeland Health Assessments and Decisions. Any future actions or projects - within either the proposed action area or surrounding areas - will be analyzed and evaluated as a separate action; and, independently of the current proposed action.

- 7) ***Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.***

No significant cumulative impacts have been identified in the EA. Past, present, and reasonably foreseeable future actions in the cumulative impact assessment area would not result in cumulatively significant impacts. For any actions that may be propose in the future, further environmental analysis, including the assessment of cumulative impacts, will be required.

- 8) ***The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the NRHP or may cause loss or destruction of significant scientific, cultural, or historical resources.***

No districts, sites, highways, structures or objects listed in or eligible for listing in the National Register of Historic Places (NRHP) were identified in the project area. The proposed action will not cause the loss or destruction of significant scientific, cultural or historical resources.

- 9) *The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the ESA of 1973.*

The BLM is required by the Endangered Species Act of 1973, as amended, to ensure that no action on the public lands jeopardizes a threatened, endangered, or proposed species. There are no known Threatened or Endangered Species which are listed, or are proposed for listing, or critical habitat within the project area.

- 10) *Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.*

The proposed action will not violate or threaten to violate any Federal, State, or local law or requirement imposed for the protection of the environment.



Victoria Barr
Field Manager
Caliente Field Office

6/7/12

Date