



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Idaho Falls District
Upper Snake Field Office
1405 Hollipark Drive
Idaho Falls, Idaho 83401-2100

In Reply Refer To:

4100

June 3, 2013

McGarry and Morton
C/O Theron McGarry
6140 W 5000 S
Rexburg, Idaho 83440

NOTICE OF FIELD MANAGER'S PROPOSED DECISION

Dear Mr. McGarry:

Introduction

You were previously notified that we would be initiating an analysis process to determine the environmental impacts of livestock grazing on public lands on the Little Kelly Canyon Allotment. An environmental assessment (EA) pursuant to the National Environmental Policy Act has been completed to determine if reissuance of your grazing lease constitutes a major federal action significantly impacting the human environment. The review of the Council on Environmental Quality (CEQ) Regulations has been completed (see attachment). Your allotment was analyzed in DOI-BLM-ID-I010-2013-0018-EA (copy attached). The EA describes a range of alternative actions, the affected environment, and environmental consequences.

Background

The Little Kelly Canyon Allotment was evaluated in 2012 to assess whether the allotment was meeting the Idaho Standards for Rangeland Health and Guidelines for Livestock Grazing Management (ISRH). An Allotment Assessment was completed in November and an Evaluation Report was completed in December, of 2012. The Evaluation Report identified that Standards 1 (Watersheds), 4 (Native Plant Communities), and 8 (Threatened, Endangered, and Sensitive Species) were being met on the allotment. The report identified that Standard 2 (Riparian Areas and Wetlands) was not being met but was making significant progress toward meeting the standard. Further, Standards 3 (Stream Channel/ Floodplain) and 7 (Water Quality) were not being met. Standards 5 (Seedings) and 6 (Exotic Plant Communities) are not applicable to the

allotment. The Determination (Appendix A of EA) described that livestock grazing was not a significant contributing factor to the failure to meet Standards 3 and 7.

Proposed Decision

I have determined that the lessee currently authorized in the allotment has a satisfactory record of performance and is in substantial compliance with the terms and conditions of their existing Federal grazing lease that is being renewed with this proposed decision.

After careful consideration, it is my Proposed Decision to implement Alternative B of the attached environmental assessment DOI-BLM-ID-I010-2013-0018-EA. A ten-year grazing lease will be issued from July 1, 2013 to June 30, 2023, with terms and conditions for the Little Kelly Canyon Allotment to McGarry and Morton (authorization number 1103150), as shown in Table 1.

While the grazing lease will be renewed for a term of ten years, should information collected subsequent to any renewal indicate that changes in management are needed to ensure the allotment is continuing to meet or make progress toward meeting ISRH, the lease may be modified at any time during the ten-year period.

Authorized Use Changes:

1. Recognize that the 161 acres private property unfenced and contiguous with public lands provides available forage at approximately the same rate as public lands at 6 acres per AUM. Therefore 27 AUMs would be recognized on for 161 acres private property within the allotment and the %PL would be changed from 75% to 81%.
2. Limit livestock use in Little Kelly Creek Use Area (parking area used to access trail) to no more than four days at the beginning the season of use.

Mandatory Terms and Conditions:

Little Kelly Canyon #14039

Livestock number/kind	Season	%PL	Type Use	AUMs
100 Cattle	5/1 – 6/15	81	Active	121

Other Terms and Conditions:

The following Other Terms and Conditions would be followed under the grazing use authorized under Alternative B, in accordance with 43 CFR 4130.3-2, to assist in achieving management objectives for the allotment.

- 1) Average annual livestock utilization will be no more than 40% of the available forage species.
- 2) Livestock use will in the Little Kelly Creek Use Area (trail access parking area) will be limited to no more than four days at the beginning of the season of use.
- 3) Livestock salt and mineral supplements will not be placed in areas composed of herbaceous riparian vegetation or directly adjacent to areas with surface water.
- 4) Range Improvements must be maintained to BLM Standards by the turnout dates for each allotment on this permit. All livestock water troughs must have a functional wildlife escape ramp and be appropriately floated. Installation and maintenance of wildlife escape ramps are the responsibility of the permittee.
- 5) The Allotment(s) listed on this grazing permit is subject to requirements 43 CFR Subpart 4180 – Fundamentals of Rangeland Health and Standards and Guidelines for Grazing Administration. This permit shall be modified, if necessary, to meet these requirements upon completion of a standards and guidelines assessment and determination as scheduled by the authorized officer.

Rationale

This decision is based on the findings of the interdisciplinary team on the allotment assessment, evaluation report, DOI-BLM-ID-I010-2013-0018-EA, and monitoring studies. No change in grazing management are required, based on the findings of the evaluation report and allotment determination. However several changes were identified. In general, when private lands are offered for exchange of use due to their location as unfenced and contiguous with public lands, where both are covered with the same vegetation communities and have similar topography, the forage provided by the private lands is accepted as equal to that produced for public lands. Where vegetation types differ, or when topography or infrastructure promote unequal use of the private lands, the rate of contribution in the form of %PL may be higher or lower. In the case of private lands in the Little Kelly Allotment, no circumstances have been identified that would support a higher or lower contribution of forage compared with public lands.

It was also noted in the allotment assessment that livestock tend to congregate in or near the trailhead parking lot on the lower reach of Little Kelly Canyon Creek. Due to the traffic on the adjacent county road, and increased use of the area by the recreating public, both the lessee and BLM prefer to limited livestock use of the area. The proposed decision would limit use to four days at the beginning of the season. Under Alternative B, the allotment would continue to meet Standards 1, 4 and 8 and would continue to make progress toward meeting Standard 2.

Authority

The authority under which this decision is made is found within the following 43 CFR citations:

- 4110.2-2 - Specifying permitted use
- 4110.3 - Changes in permitted use
- 4130.2 - Grazing permits or leases
- 4130.3 - Terms and conditions
- 4130.3-1 - Mandatory terms and conditions
- 4130.3-2 - Other terms and conditions
- 4130.3-3 - Modification of permits or leases
- 4180 - Fundamentals of Rangeland Health and S&G for Grazing Administration

Appeal Procedures

Any applicant, permittee, lessee or other interested public may protest a proposed decision under Sec. 43 CFR 4160.1 and 4160.2, in person or in writing to me at the address shown above within 15 days after receipt of such decision. The protest, if filed, should clearly and concisely state the reason(s) as to why the proposed decision is in error.

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

In accordance with 43 CFR 4160.3 (b) upon a timely filing of a protest, after a review of protests received and other information pertinent to the case, the authorized officer shall issue a final decision.

Any applicant, permittee, lessee or other person whose interest is adversely affected by the final decision may file an appeal in accordance with 43 CFR 4.470 and 4160.4. The appeal must be filed within 30 days following receipt of the final decision, or within 30 days after the date the proposed decision becomes final. The appeal may be accompanied by a petition for a stay of the decision in accordance with 43 CFR 4.471 pending final determination on appeal. The appeal and petition for a stay must be filed in the office of the authorized officer, as noted above. The person/party must also serve a copy of the appeal on the office of the Solicitor, Boise Field Solicitors Office, University Plaza, 960 Broadway Avenue, Suite 400, Boise, ID 83706 and person(s) named [43 CFR 4.421(h)] in the Copies sent to: section of this decision.

The appeal shall state the reasons, clearly and concisely, why the appellant thinks the final decision is in error 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 serviced in accordance with 43 CFR 4.471. Any person named in the decision that receives a copy of a petition for a stay and/or an appeal see 43 CFR 4.472(b) for procedures to follow if you wish to respond.

If you have any questions, feel free to contact either Bret Herres at 524-7544 or myself at 524-7555.

Sincerely,

/s/ Jeremy Casterson

Jeremy Casterson
Field Manager
Upper Snake Field Office

Enclosure: Environmental Assessment No. DOI-BLM-ID-I010-2013-0018-EA

Copies sent to:

Idaho Department of Agriculture, 2270 Old Penitentiary Road, Boise, ID 83707

Idaho Department of Fish and Game, 427 Commerce Circle, Idaho Falls, ID 83401

Northwest Band of the Shoshoni Nation, 427 North Main Street, Suite 101, Pocatello, ID 83204

Chairman, Land Use, Shoshone-Bannock Tribes, P.O. Box 306, Pocatello, ID 83203

Chairman, Tribal Business, Shoshone-Bannock Tribes, P.O. Box 306, Pocatello, ID 83203

Western Watersheds Project, 126 Main, Suite B2, Hailey, ID 83333