



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Wells Field Office
3900 East Idaho Street
Elko, Nevada 89801

http://www.blm.gov/nv/st/en/fo/elko_field_office.html

In Reply Refer To:
4130 (NVE03000)

GRAZING PERMIT RENEWAL DECISION RUBY #6 ALLOTMENT

J BAR M RANCH
HC 60 BOX 615
RUBY VALLEY NV 89833
Certified Mail NO: 7012 3460 0000 6467 1843 - Return Receipt Requested

JOHN E. NEFF COMPANY, INC.
HC 60 BOX 585
RUBY VALLEY NV 89833
Certified Mail NO: 7012 3460 0000 6467 1850 - Return Receipt Requested

STEVE NEFF COMPANY, INC.
HC 60 BOX 575
RUBY VALLEY NV 89833
Certified Mail NO: 7012 3460 0000 6467 1867 - Return Receipt Requested

Dear Reader,

INTRODUCTION

This Permit Renewal Decision would result in issuing three 10-year grazing permits on the Ruby #6 Allotment that incorporate terms and conditions to ensure authorized grazing use is in compliance with the Standards and Guidelines for Rangeland Health.

BACKGROUND

On 29 October 2013, the Wells Field Office released a Draft Standards and Guidelines for Rangeland Health (S&G) Assessment for the Ruby #6 Allotment. This assessment synthesized all available data on the allotment, developed draft determinations as to the attainment of the Standards and Guidelines for Rangeland Health, and provided basic management recommendations. The S&G Assessment determined that 1) Standard 1 - Upland Sites and Standard 4 - Cultural Resources were being met and management was in conformance with applicable guidelines; 2) Standard 2 - Riparian and Wetland Sites and Standard 3 - Habitat, were not being met and management was not in conformance with applicable guidelines; and 3) Standard 5 – Healthy Wild Horse and Burro Populations did not apply to this Allotment. The

BLM received one comment letter previous to the release of this draft S&G Assessment, but no comments during the specified comment period. The one comment received is addressed in Appendix C of the Ruby #6 Allotment Grazing Permit Renewal Environmental Assessment (EA).

On 05 September 2014, the Wells Field Office released the Ruby #6 Allotment Grazing Permit Renewal EA (EA # DOI-BLM-NV-E030-2014-0013-EA), which analyzed a Proposed Action Alternative, a No Action Alternative, and a No Grazing Alternative. The Proposed Action Alternative included actions that would 1) reduce active preference and livestock grazing during the growing season, 2) modify range improvements, 3) lower utilization objectives to more conservative levels, 4) realign pasture fences to balance acreage, and 5) rehabilitate up to 3,900 acres of saline bottom and sagebrush shrubland communities. The EA remained available for public review through 05 October 2014. One comment was received during the review period. This comment is addressed in Appendix C of the EA. In connection with this comment and further review of the document, the BLM made minor changes to the EA; including the creation of Appendix D, which concisely outlines project procedures associated with the Proposed Action Alternative. These changes did not meaningfully modify the alternatives or their analysis. The BLM received one comment 11 days after the end of the comment period; this comment is also addressed in Appendix C.

On February 09, 2015, subsequent to the completion of the Ruby #6 Allotment Grazing Permit Renewal EA, the BLM Nevada State Office issued Instruction Memorandum (IM) 2015-017. This IM directed BLM to retroactively apply a USGS developed sage-grouse habitat map to all unsigned NEPA Decisions. This updated habitat map changes the acreage of Preliminary Priority Habitat (PPH), Preliminary General Habitat (PGH), Mapped Habitat, and Non-Habitat within the Ruby #6 Allotment, as follows (see also Map 1):

Table 1. Acreages of the various sage-grouse habitat designations on the Ruby #6 Allotment before (Original) and after (Revised) the issuance of Instruction Memorandum 2015-017.

| <i>Sage-grouse Habitat Designation</i> | Preliminary Priority Habitat | Preliminary General Habitat | Mapped Habitat | Non- Habitat |
|--|---|--|---------------------------|-------------------------|
| Original | 9028 | 476 | n/a | 5545 |
| Revised | 13378 | 7 | 1100 | 554 |

The original analysis of sage-grouse habitat in the Ruby #6 Allotment Grazing Permit Renewal EA included extensive ground-truthing and site specific evaluation of habitat metrics. All four of the sage-grouse specific key areas (SG-1-4 in Table 3 of Appendix A in the Draft S&G Assessment for the Ruby #6 Allotment) are located in PPH regardless of which map is used. Therefore, the analysis regarding the potential effects of the Proposed Action Alternative on sage-grouse and its habitat would remain unchanged. In addition, the Proposed Action Alternative is specifically designed to improve the vegetation composition of poor condition sagebrush steppe communities as verified *in situ* by BLM and NDOW specialists; i.e., implementation hinges on ground-truthed data and would occur in a similar manner regardless of which map is used.

The EA and the Final Determinations of the S&G Assessment for the Ruby #6 Allotment are posted for review on the Land Use Planning and NEPA Register website at: https://www.blm.gov/epl-front-office/eplanning/nepa/nepa_register.do.

Through the EA process, the BLM determined there will be no significant impact as a result of implementing the proposed action, as documented in the enclosed Finding of No Significant Impact.

DECISION

1. Livestock Grazing

1.1. Total active preference on the Ruby #6 Allotment will be reduced from 1606 to 736 AUMs¹ (see Tables 2 and 3).

Table 2. Current Ruby #6 Allotment grazing preference by authorization number.

| Authorization Number | Active AUMs | Suspended AUMs | Public Land % |
|----------------------|-------------|----------------|---------------|
| 2701041 | 605 | 355 | 100 |
| 2701100 | 605 | 355 | 100 |
| 2701101 | 352 | 205 | 100 |

Table 3. Updated Ruby #6 Allotment grazing preference by authorization number.

| Authorization Number | Active AUMs | Suspended AUMs | Public Land % |
|----------------------|-------------|----------------|---------------|
| 2701041 | 285 | 675 | 100 |
| 2701100 | 285 | 675 | 100 |
| 2701101 | 166 | 391 | 100 |

1.2. The following grazing permits will be issued for a 10-year period to the three holders of preference for grazing privileges on the Ruby #6 Allotment by authorization number.

1.2.1. 2701041

| Allotment | Number | Kind | Begin Date | End Date | % Public Land | AUMs |
|-----------|--------|--------|------------|----------|---------------|------|
| Ruby #6 | 71 | Cattle | 5/15 | 7/14 | 100 | 142 |
| | 71 | Cattle | 10/1 | 11/30 | 100 | 142 |

¹ Authorization and Allotment AUM calculations do not sum perfectly due to the mathematical realities of calculating AUMs, i.e. fractional quantities do not apply to either livestock numbers or the season of use.

1.2.2. 2701100

| Allotment | Number | Kind | Begin Date | End Date | % Public Land | AUMs |
|-----------|--------|--------|------------|----------|---------------|------|
| Ruby #6 | 71 | Cattle | 5/15 | 7/14 | 100 | 142 |
| | 71 | Cattle | 10/1 | 11/30 | 100 | 142 |

1.2.3. 2701101

| Allotment | Number | Kind | Begin Date | End Date | % Public Land | AUMs |
|-----------|--------|--------|------------|----------|---------------|------|
| Ruby #6 | 42 | Cattle | 5/15 | 7/14 | 100 | 84 |
| | 42 | Cattle | 10/1 | 11/30 | 100 | 84 |

1.3. The grazing system will be changed from a spring-summer, deferred rotation system (see Table 4) to a spring-fall, rest rotation grazing system (see Table 5).

Table 4. Current livestock grazing schedule for the Ruby #6 Allotment.

| Pasture | Year 1 | Year 2 | Year 3 |
|---------|-------------|-------------|--------------|
| A | 5/15 - 6/22 | Rest | Repeat Cycle |
| B | 6/23 - 8/15 | 6/23 - 8/15 | " |
| C | Rest | 5/15 - 6/22 | " |

Table 5. New livestock grazing schedule for the Ruby #6 Allotment. Numbers in parenthesis indicate the total AUMs permitted for all three authorized users per use period.

| Pasture | Year 1 | Year 2 | Year 3 | Year 4 |
|---------|--------------------|--------------------|--------------------|--------------|
| A | 5/15 - 7/14 (368) | Rest | 10/1 - 11/30 (368) | Repeat Cycle |
| B | 10/1 - 11/30 (368) | 5/15 - 7/14 (368) | Rest | " |
| C | Rest | 10/1 - 11/30 (368) | 5/15 - 7/14 (368) | " |

1.4. The following mandatory terms and conditions will appear on specific permits as detailed below by authorization number.

1.4.1. 2701041

- 1.4.1.1. For administrative purposes, cattle numbers are set at 71; however, livestock numbers and the period of use may vary, provided that the calculated carrying capacities for each pasture are not exceeded and the grazing schedule is followed.
- 1.4.1.2. Actual use will not exceed 142 AUMS in each of the two pastures authorized for grazing annually.

1.4.2. 2701100

1.4.2.1. For administrative purposes, cattle numbers are set at 71; however, livestock numbers and the period of use may vary, provided that the calculated carrying capacities for each pasture are not exceeded and the grazing schedule is followed.

1.4.2.2. Actual use will not exceed 142 AUMS in each of the two pastures authorized for grazing annually.

1.4.3. 2701101

1.4.3.1. For administrative purposes, cattle numbers are set at 42; however, livestock numbers and the period of use may vary, provided that the calculated carrying capacities for each pasture are not exceeded and the grazing schedule is followed.

1.4.3.2. Actual use will not exceed 84 AUMS in each of the two pastures authorized for grazing annually.

1.5. The following mandatory terms and conditions are common to the allotment and will appear on all three permits.

1.5.1. Grazing use will be in accordance with the grazing permit renewal decision for the Ruby #6 Allotment dated, (date will be entered upon issuance of permit).

1.5.2. Planned use will be outlined in a grazing application that is submitted to the BLM for final approval prior to turn out. An actual use report will be submitted within 15 days of the last day of livestock use.

1.5.3. Supplemental feeding is limited to salt, mineral and/or protein supplements in block, granular or liquid form. Supplements must be placed at least ¼ mile from live waters (springs, streams, and troughs), and wet or dry meadows.

1.5.4. Utilization of basin wildrye (*Leymus cinereus*), alkali sacaton (*Sporobolus airoides*), and Indian ricegrass (*Achnatherum hymenoides*) will not exceed an average value of 35%; utilization of native slough grass and grass-like species will not exceed an average value of 40%. Utilization will be measured at established key grazing areas or other sites representative of the dominant vegetation and livestock utilization patterns in the allotment.

1.5.5. If utilization objectives are exceeded, one or more of the following actions may be taken:

1.5.5.1. Livestock will be moved to another authorized pasture or removed within five days.

1.5.5.2. Grazing applications in the following year will be modified or denied as warranted based on the degree of overuse, timing of use relative to past use and future plans for grazing use, and the effects of the utilization on rangeland health.

1.5.6. Pursuant to 43 CFR 10.4(G), the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(C) and (D), you must stop

activities in the immediate vicinity of the discovery and protect it from your activities for 30 days or until notified to proceed by the authorized officer.

1.5.7. The terms and conditions of your permit may be modified if additional information indicates that revision is necessary to conform to 43 CFR 4180.

1.6. The BLM may modify pasture use dates and the allowable forage removal specified by the grazing schedule to adapt to variability in resource conditions. Conditions that may require adaptive management and changes to the grazing schedule in any one year may include but are not limited to: variations in seasonal weather patterns, drought, fire, and weed infestations. Changes to the grazing schedule will be considered when modifications would benefit vegetative resources. If modifications are agreed to by the BLM and the permittee, deviations from the grazing schedule will be documented on a grazing application and approved by the BLM. Any approved deviations from the grazing schedule will be within the permit terms and conditions as per 43 CFR 4130.4(b).

2. Range Improvements

2.1. Two interior fences will be realigned: 4.11 miles of new fencing will be constructed and 3.56 miles of existing fence will be removed (see Appendix, Map 2). New fences will be built to BLM standards as outlined in BLM Fencing Handbook H-1741-1. Bird flight diverters will be placed on fences where the need exists. Pickups and four-wheel All-Terrain Vehicles (ATVs) will generally be used in fence construction; travel will be done in a manner that reduces establishment of tracks. With regard to cultural resources, the BLM will complete all Section 106 responsibilities as per the signed Programmatic Agreement between the Bureau of Land Management and the Nevada State Historic Preservation Officer.

2.2. Upright tanks found at the Ruby 6A, Ruby #6, and Big Flat wells will be replaced with high capacity troughs.

RATIONALE

In contrast to the current grazing system, the rest-rotation grazing system outlined in this decision provides for complete growing season rest of native upland and riparian species in two out of three years. Rest during the growing season tends to enhance herbaceous growth and reproduction, allowing these species to compete more effectively, reducing invasibility. Adjustments to active preference when coupled with fenceline realignment will rebalance AUMs across the Allotment and within each pasture. These changes will bring livestock into compliance with the Standards and Guidelines for Rangeland Health. The conservative utilization objectives set in this decision are in line with the best science available and specifically address issues related to hiding cover for sage-grouse and the physiology of basin wildrye (*Leymus cinereus*), a species important to wildlife. Adaptive management flexibility will allow managers to make real-time alterations that would be best for the resource. In short, the grazing system outlined in this decision greatly mitigates all foreseeable potential negative effects of livestock grazing on upland and riparian communities in the Ruby #6 Allotment.

In addition to balancing AUMs between pastures, fenceline readjustment will facilitate the retrofitting of fences to BLM wildlife-friendly specifications, which will include the installation of bird flight diverters. These changes will lessen entanglement hazards and barriers to pronghorn movement and reduce collision risks to sage-grouse. Finally, removing upright water storage tanks will eliminate anthropogenic nest substrates used by common ravens, an effective predator of sage-grouse eggs and chicks, potentially benefitting sage-grouse productivity.

These changes, in concert with the actions proposed in the Ruby #6 Allotment Vegetation Treatment Proposed Decision, will have a significant positive effect on upland and riparian communities within the Allotment and the habitat quality of important wildlife species such as sage-grouse – progress will be made towards meeting Standard 2 – Riparian and Wetland Sites and Standard 3 – Habitat.

AUTHORITY

Authority for the actions contained in this proposed decision is found in 43 CFR §4100.0-8, 4110.2-2, 4110.3, 4120.2, 4120.3-1, 4130.2 (a), (b), (d), and (e), 4130.3, 4130.3-1, 4130.3-2, 4130.3-3, 4130.8-1(e), 4160.1, 4160.2, 4160.3, 4160.4, 4180.1, and 4180.2.

RIGHTS FOR PROTEST AND/OR 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 to the Bureau of Land Management, Melanie Peterson, Wells Field Office Manager (authorized officer), 3900 E. Idaho Street, Elko, Nevada, 89801 within 15 days after receipt of this decision. The protest, if filed, must clearly and concisely state the reason(s) as to why the proposed decision is in error. Emailed protests will not be accepted.

In accordance with 43 CFR §4160.3 (b), should a timely protest be filed with the authorized officer, the authorized officer, at the conclusion to his/her review of the protest shall serve his/her final decision on the protestant and the interested public.

In accordance with 43 CFR §4160.3 (a), at the conclusion of the 15 day protest period and in the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice.

In accordance with 43 CFR §4160.3 (c) & (f), a period of 30 days following receipt of the Final Decision or 30 days after the date the Proposed Decision becomes final is provided for filing an appeal and petition for stay of the decision pending final determination on appeal.

Appeal

In accordance with 43 CFR §4160.4, any person whose interest is adversely affected by a final decision of the authorized officer may appeal the decision for the purpose of a hearing before an administrative law judge and may also petition for a stay of the decision pending final determination on appeal. The appeal and petition for stay must be filed within 30 days following receipt of the final decision or 30 days after the date the proposed decision becomes final. Appeals and petitions for a stay of the decision shall be filed at the office of the authorized officer, see Protest above. Additionally the person appealing must serve a copy of their appeal and petition for stay on any person named in the decision including the name to which the decision is addressed, those listed at the end of this decision, and the Office of the Solicitor, Pacific Southwest Region, U.S. Department of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, CA 95825-1890 within 15 days of filing the appeal and petition for stay. Appellant needs to be able to document service to any other person named in the decision and the Solicitor.

In accordance with 43 CFR §4.470, the appeal shall state the reasons, clearly and concisely, why the appellant thinks the final decision of the authorized officer is in error.

A petition for stay, if filed, must show sufficient justification based on the following standards (43 CFR §4.471(c)):

- (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.

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 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)).

/s/ Melanie A. Peterson

7/21/2015

Melanie A. Peterson
Field Manager, Wells Field Office

Date

cc:

PAUL W SMITH
HC 60 BOX 645
RUBY VALLEY NV 89833
Certified Mail NO: 7012 3460 0000 6467 1874 – Return Receipt Requested

US FISH & WILDLIFE SERVICE
ATTN: EDWARD D KOCH
1340 FINANCIAL BLVD., STE 234
RENO NV 89502
Certified Mail NO: 7012 3460 0000 6467 1881 – Return Receipt Requested

RESOURCE CONCEPTS, INC
ATTN: JOHN L MCLAIN
340 N MINNESOTA ST
CARSON CITY NV 89703
Certified Mail NO: 7012 3460 0000 6467 1898 – Return Receipt Requested

NEVADA DEPARTMENT OF WILDLIFE
ATTN: STEVE FOREE
60 YOUTH CENTER ROAD
ELKO NV 89801
Certified Mail NO: 7012 3460 0000 6467 1904 – Return Receipt Requested

WESTERN WATERSHEDS PROJECT
ATTN: KEN COLE
PO BOX 2863
BOISE ID 83701
Certified Mail NO: 7012 3460 0000 6467 1911 – Return Receipt Requested

NEVADA CATTLEMEN'S ASSOCIATION
PO BOX 310
ELKO NV 89803
Certified Mail NO: 7012 3460 0000 6467 1928 – Return Receipt Requested

ELKO COUNTY
ATTN: BOARD OF COUNTY COMMISSIONERS
540 COURT ST, STE 101
ELKO NV 89801
Certified Mail NO: 7009 1680 0001 0356 2976 – Return Receipt Requested

NATURAL RESOURCES MANAGEMENT ADVISORY COMMISSION
ATTN: MR SCOTT R BROWN
540 COURT ST STE 104
ELKO NV 89801
Certified Mail NO: 7009 1680 0001 0356 2983 – Return Receipt Requested

SUSTAINABLE GRAZING COALITION
ATTN: RICHARD A ORR
PO BOX 145
CALIENTE NV 89008-0145
Certified Mail NO: 7009 1680 0001 0356 4765 – Return Receipt Requested

US SENATOR DEAN HELLER
ATTN: ASHLEY CARRIGAN
400 S VIRGINIA ST, STE 738
RENO NV 89501-2125
Certified Mail NO: 7009 1680 0001 0356 4772 – Return Receipt Requested

CONGRESSMAN MARK AMODEI
ATTN: MEGAN BROWN, RURAL REPRESENTATIVE
905 RAILROAD ST, STE 104 D
ELKO NV 89801
Certified Mail NO: 7009 1680 0001 0356 4789 – Return Receipt Requested

KATHY GREGG
6145 GALENA DR
EL DORADO CA 95623-4540
Certified Mail NO: 7009 1680 0001 0356 4796 – Return Receipt Requested

NEVADA STATE CLEARING HOUSE
ATTN: DEPT OF ADMINISTRATION
901 S STEWART ST STE 5003
CARSON CITY NV 89701
Certified Mail NO: 7009 1680 0001 0356 4802 – Return Receipt Requested

U.S. SENATOR HARRY REID
ATTN: JARED PERKINS/RURAL REPRESENTATIVE
600 WILLIAMS ST, STE 304
CARSON CITY NV 89701
Certified Mail NO: 7012 3460 0000 6467 1737 – Return Receipt Requested

WESTERN AG CREDIT
PO BOX 95850
SOUTH JORDAN UT 84095
Certified Mail NO: 7012 3460 0000 6467 1744 – Return Receipt Requested

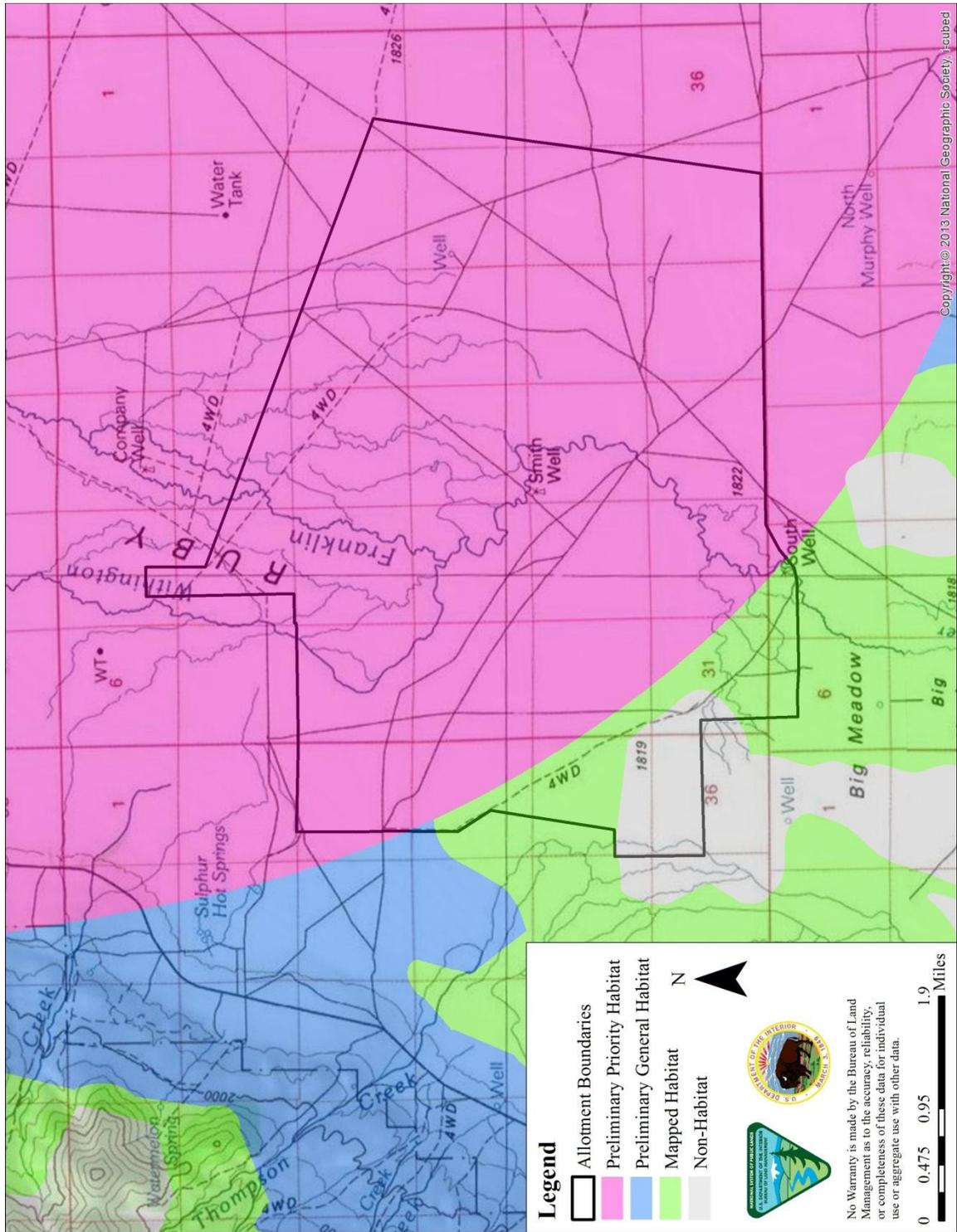
DENIZ BOLBOL
AMERICAN WILDHORSE PRESERVATION CAMPAIGN
PO BOX 5656
REDWOOD CITY CA 94063
Certified Mail NO: 7012 3460 0000 6467 1751 – Return Receipt Requested

WILDLANDS DEFENSE
ATTN: KATIE FITE
PO BOX 125
BOISE ID 83701
Certified Mail NO: 7012 3460 0000 6467 6664 – Return Receipt Requested

NEVADA DEPARTMENT OF AGRICULTURE
ATTN: TINA MUDD, RANGELAND HEALTH PROGRAM MANAGER
405 S 21ST STREET
SPARKS NV 89431
Certified Mail NO: 7012 3460 0000 6467 6657 – Return Receipt Requested

APPENDIX

Map 1. Revised Ruby #6 Allotment sage-grouse habitat map. Sage-grouse habitat categories were developed by the U.S. Geological Survey, as defined in Bureau of Land Management Instructional Memorandum 2015-017.



Map 2. Pasture fenceline realignments within the Ruby #6 Allotment.

