



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Boise District

Bruneau Field Office

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<http://www.blm.gov/id/st/en/fo/bruneau.html>

In Reply Refer To:
4160 (120)

June 10, 2011

Certified Mail No. #
Return Receipt Requested

Sierra Del Rio (#1100227)
% Craig Baker
P.O. Box 127
Murphy, Idaho 83650

Notice of Field Manager's Proposed Decision

Dear Mr. Baker:

Introduction

This Proposed Decision addresses livestock grazing management in the Nahas FFR Allotment #00892. The permit renewal process will result in a 10 year term livestock grazing permit being offered to Sierra Del Rio. The fully processed permit will contain terms and conditions that will continue meeting Idaho's Standards for Rangeland Health and the pertinent land use plan objectives.

Background

The 1983 Bruneau Management Framework Plan (MFP) identified resource conditions and specified resource goals and objectives for management of livestock grazing on public land. The Bruneau MFP is the applicable Land Use Plan for the Bruneau Field Office. Idaho's Standards for Rangeland Health (ISRH) and Guidelines for Livestock Grazing Management (GLGM) were adopted in 1997 and are consistent with Bruneau MFP resource objectives and decisions. The MFP identifies the public lands within the Nahas FFR Allotment as available for livestock grazing.

Title 43 CFR § 4130.2(a) states, "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." Idaho BLM's *Livestock Grazing Permit Renewal Desk Guide* (2009) directs that if an allotment

is meeting Standards or livestock is not a factor for not meeting Standards, “then complete an EA and issue decisions to fully process the permits.”

Initial allotment reviews and a series of rangeland health assessments for the allotment were completed in 2009 and are summarized in the Evaluation Report for Nahas FFR. The finding relevant to permitted grazing under this Proposed Decision was that the allotment meets all applicable Idaho Standards for Rangeland Health including:

- Standard 1 – Watersheds
- Standard 2 – Riparian Areas and Wetlands
- Standard 4 – Native Plant Communities
- Standard 8 – Threatened and Endangered Plants and Animals

Standards 3, 5, 6 and 7 do not apply to this allotment. Upon review of the evaluation report, the Bruneau Field Office Manager found that no rangeland health determination was required on September 30, 2009.

The Nahas FFR Allotment is divided into several pastures by existing fencing. Three pastures contain the bulk of the public land, though some isolated corners are fenced with private lands in the other pastures and may be grazed by cattle and horses primarily in the spring and summer months. The FFR status was granted by decision in 1997. Nahas FFR Allotment “may be utilized at the discretion of the permittee at any time from April 1 through November 30 providing such use is in conformance with the land use plan objectives and . . . ISRH&GLGM”. Approximately 163 acres of the Pole Creek Wilderness Area are within the Nahas FFR.

Public lands in Nahas FFR are grazed primarily in fall as cattle are removed from the adjacent Big Springs Allotment. Some cattle drift between the Bullhead Basin area of the Nahas FFR and the Avery Table area of the Big Springs Allotment due to gaps along the rimrock of Avery Table. The amount of cattle drift between the two allotments is manageable without construction of a barrier.

Environmental Assessment (EA) / Finding of No Significant Impact (FONSI)

This Proposed Decision will serve as the Decision Record for modification and reissuance of SDR’s FFR permit in the Nahas FFR Allotment and was analyzed as Alternative B in EA #ID-120-2009-EA-3838. Nearly all terms and conditions of the existing permit will continue. The allotment and pasture boundaries have been corrected based on new information. Specifically, Pasture 46, erroneously designated as part of Black FFR Allotment in 1997 is now recognized as part of the Nahas FFR Allotment. The accompanying FONSI and EA for this action are attached.

Proposed Decision

My proposed decision is to issue a grazing permit with a term of 10-years from March 1, 2012 to February 28, 2022 to Sierra Del Rio. The potential impacts of this grazing permit were considered in the proposed action (Alternative B) described in the attached EA # ID-120-2009-EA-3838. The management objectives in the MFP and EA along with livestock management

and monitoring will be used to set the parameters in the development of the annual grazing instructions for the allotment.

The proposed action of issuing a ten year grazing permit will be implemented by incorporating terms and conditions into the grazing permit offered to Sierra Del Rio (1100227) that authorizes livestock grazing in the Nahas FFR Allotment.

Table 1 below specifies mandatory terms and conditions in compliance with 43 CFR 4130.3-1 (a). The mandatory terms and conditions are: the kind and number of livestock, the period(s) of use, the allotment to be used and the amount of use in animal unit months.

Mandatory Terms and Conditions of the Permit

The season of use will be modified as shown in Table 1:

Table 1. Mandatory terms and conditions for Sierra Del Rio that comply with 43 CFR 4130.3-1(a) in Nahas FFR Allotment.

From:

Allotment	Livestock		Grazing Period		% Public Land	Animal Unit Months		
	Number	Kind	Begin	End		Active	Suspended	Permitted
Nahas FFR #00892	10	Cattle	4/1	11/30	100	80	0	80

To:

Allotment	Livestock		Grazing Period		% Public Land	Animal Unit Months		
	Number	Kind	Begin	End		Active	Suspended	Permitted
Nahas FFR #00892	54*	Cattle	7/1	11/30	100	80	0	80

*This does not represent an increase in authorized use, but reflects livestock numbers reported on actual use forms. Flexibility in numbers is retained consistent with previous authorizations.

Grazing practices under this permit will continue to be modified as necessary to respond to drought, fire, and other events, as required by the BLM Grazing Regulations.

Short-Term Implementation Monitoring

The objective of monitoring is to determine whether management is being implemented as intended and whether the actions are effective at maintaining desired conditions. Short-term monitoring will document any changes in impacts and resource conditions over the life of the permit. Short-term monitoring will be repeated annually.

Monitoring information will be reviewed for the applicable objectives identified in Section 1.6 of EA# ID-120-2009-EA-3838. Implementation and effectiveness monitoring locations and methods are summarized in Table 2 of this decision and in Appendix B of the EA. Table 2 displays additional monitoring for each resource value identified in the Evaluation Report:

Table 2. Implementation Monitoring Plan– Nahas FFR Allotment.

Pasture	Short-Term Implementation Monitoring
all	Type: upland utilization monitoring to ensure less than 50% utilization of key perennial grasses Method: height-weight method Location: representative vegetation communities
all	Type: actual/licensed use Method: bills and actual use reports
all	Type: range readiness inspection monitoring to ensure turnout criteria are met Method: observation / range readiness inspection form
all	Type: Mud Flat milkvetch population monitoring to ensure continuing compliance with salting restrictions Method: periodic observation Location: known populations
Circle Pond Exclosure	Type: trough valve status Method: observation / range improvement inspection form Location: Avery Table Spring

An interdisciplinary review of this decision will occur after 10 years or sooner if conditions warrant. If that review indicates that management continues to meet standards and achieve desired conditions, management activities will be allowed to continue under this renewed permit.

If monitoring demonstrates that objectives are not being met and management options beyond the scope of the analysis are warranted, or if new information demonstrates significant effects not previously considered, a new proposed action will be developed and further analysis under NEPA will occur.

Other Terms and Conditions of the Permit

The following Terms and Conditions will be incorporated in addition to the General Terms and Conditions that are applicable to your permit within the Nahas FFR Allotment, and will be in addition to BLM’s Standard Terms and Conditions:

- Livestock numbers and season of use may fluctuate to the extent that the total AUMs used do not exceed the permitted use and the season of use is within the period of use specified in the permit schedule.
- The valve system at Avery Table Spring which supplies water to a trough outside the Circle Pond Exclosure will be shut-off and drained by the permittee when livestock are not present in the allotment unless otherwise specified by the Authorized Officer.
- Motorized or mechanized vehicles and equipment are not permitted within the wilderness unless specific written permission is received by the Authorized Officer.

- Pursuant to 43 CFR 10.4(B) the permittee 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) the permittee must immediately stop any ongoing activities connected with such discovery and make a reasonable effort to protect the discovered remains or objects.
- Construction, reconstruction, maintenance or other ground disturbing activities (including range improvement project maintenance) that could affect previously undisturbed ground or involve heavy machinery require advance approval from the authorized officer.

General Terms and Conditions:

- Range improvements must be maintained in accordance with applicable Cooperative Agreements and Range Improvement Permits.
- The permittee shall contact the BLM Authorized Officer at least two weeks prior to maintenance on existing reservoirs and spring developments so that an archeologist can evaluate the area for site potential and possible adverse effects.
- Turnout is subject to Boise District range readiness criteria (Appendix B).
- Salt and/or supplement shall not be placed within one quarter (0.25) mile of springs, streams, meadows, aspen stands, playas, or water developments.
- A change to the scheduled use requires prior approval from the Authorized Officer.
- Livestock exclosures are closed to all domestic grazing use.
- All appropriate documentation regarding base property leases, lands offered for exchange-of-use, and livestock control agreements must be approved prior to turnout. Leases of land and/or livestock must be notarized prior to submission and be in compliance with Boise District Policy.
- Certified Actual Use Report is due within 15 days of completing the authorized annual grazing use.

BLM's Standard Terms and Conditions

1. Grazing permit or lease terms and conditions and the fees charged for grazing use are established in accordance with the provisions of the grazing regulations now or hereafter approved by the Secretary of the Interior.
2. They are subject to cancellation, in whole or in part, at any time because of:
 - a. Noncompliance by the permittee/lessee with rules and regulations.
 - b. Loss of control by the permittee/lessee of all or part of the property upon which it is based.

- c. A transfer of grazing preference by the permittee/lessee to another party.
 - d. A decrease in the lands administered by the Bureau of Land Management within the allotment(s) described.
 - e. Repeated willful unauthorized grazing use.
 - f. Loss of qualifications to hold a permit or lease.
3. They are subject to the terms and conditions of allotment management plans if such plans have been prepared. Allotment management plans MUST be incorporated in permits or leases when completed.
 4. Those holding permits or leases MUST own or control and be responsible for the management of livestock authorized to graze.
 5. The authorized officer may require counting and/or additional or special marking or tagging of the livestock authorized to graze.
 6. The permittee's/lessee's grazing case file is available for public inspection as required by the Freedom of Information Act.
 7. Grazing permits or leases are subject to the nondiscrimination clauses set forth in Executive Order 11246 of September 24, 1964, as amended. A copy of this order may be obtained from the authorized officer.
 8. Livestock grazing use that is different from that authorized by a permit or lease MUST be applied for prior to the grazing period and MUST be filed with and approved by the authorized officer before grazing use can be made.
 9. Billing notices are issued which specify fees due. Billing notices, when paid, become a part of the grazing permit or lease. Grazing use cannot be authorized during any period of delinquency in the payment of amounts due, including settlement for unauthorized use.
 10. Grazing fee payments are due on the date specified on the billing notice and MUST be paid in full within 15 days of the due date, except as otherwise provided in the grazing permit or lease. If payment is not made within that time frame, a late fee (the greater of \$25 or 10 percent of the amount owed but not more than \$250) will be assessed.
 11. No Member of, or Delegate to, Congress or Resident Commissioner, after his/her election of appointment, or either before or after he/she has qualified, and during his/her continuance in office, and no officer, agent, or employee of the Department of the Interior, other than members of Advisory committees appointed in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 1) and Sections 309 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et. seq.) shall be admitted to any share or part in a permit or lease, or derive any benefit to arise therefrom; and the provision of Section 3741 Revised Statute (41 U.S.C. 22), 18 U.S.C. Sections 431-433, and 43 CFR Part 7, enter into and form a part of a grazing permit or lease, so far as the same may be applicable.

This grazing permit:

1. conveys no right, title, or interest held by the United States in any lands or resources.
2. is subject to (a) modification, suspension or cancellation as required by land plans and applicable law; (b) annual review and modification of terms and conditions as appropriate; and (c) the Taylor Grazing Act, as amended, the Federal Land Policy and Management Act, as amended, the Public Rangelands Improvement Act, and the rules and regulations now or hereafter promulgated by the Secretary of the Interior.

Range Improvements

The following management designs apply to maintenance or reconstruction of existing projects:

Fences:

- will adhere to the specifications for standard livestock fences in deer, elk, and antelope habitat.
- will consist of three barbed upper strands and a smooth bottom strand for exterior allotment boundary fences.
- will consist of two barbed upper strands and a smooth bottom strand for interior pasture fences.
- will consist of three upper barbed strands and one lower smooth strand for enclosure fences.
- will be marked or flagged if sage-grouse collisions are documented and where the field office wildlife biologist believes sage-grouse fence collision potential is high.
- fence lines will not be bladed or scraped and heavy equipment will not be used to clear fence lines.

Fences, springs, and reservoirs:

- Motorized travel for maintenance of existing projects will be limited to existing, authorized roads and trails. Any off-road or off-trail travel will require prior consultation and approval by the BLM Authorized Officer.
- Vegetation clearing associated with project maintenance will be kept to the minimum necessary and require prior authorization from the BLM's Authorized Officer.

Rationale for the Proposed Decision

The existing permit for Nahas FFR Allotment has recently been reviewed for conformance with the Idaho Standards for Rangeland Health and Guidelines for Livestock Grazing Management and with the objectives and decisions of the Bruneau MFP. The allotment meets all applicable Idaho Standards for Rangeland Health. Upon review of the evaluation report, the Bruneau Field Office Manager found that no rangeland health determination was required. No additional issues were identified through the public scoping process.

Instruction Memorandum ID-2011-045 (May 6, 2011) directs that “alternatives considered in the EA should be based on specific conditions, resources of concern, and results of current grazing activities.” Further, “there may be site-specific circumstances where analyzing [no- or reduced grazing] alternatives in detail may not be appropriate (e.g. limited federal land ownership. . .)”.

Alternative B represents Sierra Del Rio's permit renewal application to continue the existing Terms and Conditions, but incorporates additions to and updates to the wording of existing Other Terms and Conditions on your current permit that conform to current BLM policy (Sections 2.2.1 and 2.2.2.1 of EA# ID-120-2009-EA-3838). Development of a monitoring plan and specifications for maintenance or reconstruction of existing projects for Alternative B also conform to current BLM policy (Section 2.2.4 of EA# ID-120-2009-EA-3838). FFR status of the allotment will be retained, including all public lands within the updated boundaries.

I have reviewed the EA (#ID-120-2009-EA-3838) and the accompanying FONSI. I have found that the Terms and Conditions, the continuing and modified grazing practices, the flexibility offered to Sierra Del Rio, the AIC, the Monitoring Plan and the maintenance of existing range improvements in the Nahas FFR Allotment are compliant with the objectives and decisions of the Bruneau MFP. They also comply with applicable Idaho Standards for Rangeland Health and Guidelines for Livestock Grazing Management, all other applicable laws, regulations and policies, and with the Finding of No Significant Impact.

All qualifications of 43 CFR 4110.1, 4110.2, 4110.2-1, and 4110.2-2 are met by your application. The renewal and reissuance of this grazing permit is consistent with 43 CFR 4100.0-8, 4130.1-1, 4130.2, 4130.3, 4130.3-1, 4130.3-2, 4160 and all of subpart 4180. Range improvements within this allotment will be maintained consistent with 43 CFR 4120.3.

Authority

The Bruneau Management Framework Plan (1983) allocates livestock grazing as one of the authorized uses within the Nahas FFR grazing allotment. BLM's regulatory authority under which this proposed decision is being issued is found in Title 43 of the Code of Federal Regulations (CFR) 4100 Grazing Regulations.

43 CFR 4100.0-8
43 CFR 4110.1
43 CFR 4110.2-2
43 CFR 4110.3
43 CFR 4120.3
43 CFR 4130.1-1
43 CFR 4130.2
43 CFR 4130.3
43 CFR 4130.3-1
43 CFR 4130.3-2
43 CFR 4160
43 CFR 4180

Right of Protest and Appeal

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 *Arnold L. Pike, 3948 Development Avenue, Boise, Idaho 83705* within 15 days after receipt of such decision. The protest, if filed, should clearly and concisely state the reason(s) 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 this final decision may file an appeal (*in writing*) in accordance with 43 CFR 4.470 and 43 CFR 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, *Arnold L. Pike, 3948 Development Avenue, Boise, Idaho 83705*, 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, Idaho 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. The appeal must comply with the provisions of 43 CFR 4.470.

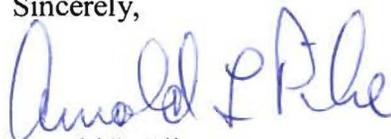
Should you wish to file a petition for a stay, see 43 CFR 4.471 (a) and (b). In accordance with 43 CFR 4.471(c), a petition for a stay must show sufficient justification based on the following standards:

- (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 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 Mike Boltz at 384-3346 or myself at 384-3331.

Sincerely,



Arnold L. Pike
Bruneau Field Manager

Copies sent to:

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