

# **NOTICE OF PROPOSED DECISION FOR TERM GRAZING PERMIT RENEWALS FOR THE FREMONT (00900), NORTH WEBSTER (00906), AND WASTINA (00901) ALLOTMENTS**

## **INTRODUCTION AND BACKGROUND**

The Bureau of Land Management (BLM) has completed an environmental assessment (EA# DOI-BLM-OR-L050-2013-0043-EA) documenting the potential effects of renewing term grazing permit #3601219, #3601435, and #3602287 for a ten-year period. The National Environmental Policy Act (NEPA) directs that an environmental analysis be conducted on all proposed Federally-authorized actions. The renewal or initial issuance of term grazing permits is a Federal action to authorize livestock grazing on public land for a specified period of time, and under a set of specified terms and conditions. These permits address livestock grazing management within the Fremont (#00900), North Webster (#00906), and Wastina (#00901) Allotments.

The Fremont Allotment is located approximately 6 miles northwest of the town of Fort Rock. This allotment encompasses approximately 28,800 acres of BLM-administered lands with an additional 1,898 acres of private land (refer to EA Map 1). The allotment is dominated by mountain big sagebrush and native perennial grass communities. This allotment has nine pastures used from 4/1-9/30. The grazing system described in the Lakeview RMP/ROD for this allotment is a rest rotation system used in the spring/summer season.

The North Webster Allotment is located approximately 13 miles northeast of Fort Rock. This allotment encompasses approximately 1,719 acres of BLM-administered lands with an additional 3,504 acres of private land (refer to EA Map 1). The allotment is dominated by mountain big sagebrush and native perennial grass communities. This allotment has two pastures with reliable water used from 6/1-10/30. The allotment has been used on a deferred rotation grazing system. Grazing use alternates between early and late season use annually between the two pastures.

The Wastina Allotment is located approximately 7 miles northwest of Fort Rock. This allotment encompasses approximately 5,759 acres of BLM-administered lands with an additional 30 acres of private land (refer to EA Map 1). The allotment is dominated by bitterbrush, mountain big sagebrush and native perennial grass communities. This allotment has six pastures used from 4/1- 11/2 under a deferred rotation grazing system where at least one pasture is rested each year on a rotational basis. Deferral is achieved by alternating the season of use in the remaining pastures.

All three allotments are classified as "Maintain" category allotments, which means that a moderate level of management effort should be given to maintain condition and/or affect change.

## **PROPOSED DECISION**

It is my proposed decision to adopt Alternative 2 from the EA which will authorize livestock grazing use in the Fremont (00900), North Webster (00906) and Wastina (00901) Allotments by renewing the grazing permits (#3601219, #3601435, and #3602287) for a term of 10 years. Table 1 shows the permit dates and active preference for the 3 allotments which will be authorized under the 3 permits renewed by this decision. Existing grazing systems will be carried forward in this permit.

This proposed decision also authorizes the designation of an administrative Fenced Federal Range (FFR) Pasture in the Fremont Allotment. The proposed pasture consists predominantly of private land located in the northeast corner of the Fremont Allotment. There are approximately 304 acres of public land

**Table 1. Permit dates and active preference for the Fremont, North Webster, and Wastina Allotments**

Permit authorization #	Allotment #	Permitted dates	Active AUMs
3601219	00900	4/1- 9/30	1970
3601435	00906	6/1-10/30	112
3602287	00901	4/1- 11/2	419

currently fenced in with approximately 2,001 acres of private land (refer to Maps 2 and 3 of the EA). Historically, this area has been grazed in conjunction with the other existing pastures, but was never assigned a pasture name or number. This proposed FFR pasture designation would officially incorporate this area in to the same management strategy as the rest of the Fremont Allotment. There would be no change in AUMs associated with this administrative action.

#### Permit Terms and Conditions

When issued, grazing permits must include appropriate terms and conditions designed to “achieve management and resource condition objectives for the public lands... and to ensure conformance with part 4180” (43 CFR Part 4130.3).

#### Range Improvement Maintenance

In addition, the proposed decision authorizes maintenance of existing range improvements throughout the 3 allotments on an as needed basis. Maintenance would be conducted in accordance with existing cooperative agreements between the BLM and the permittee (see Table B-14 and Map 4 of the EA). Pipeline maintenance will include, but is not limited to, fixing/replacing sections of pipeline, valves/fittings, air valves, and troughs. Well maintenance will include, but is not limited to, re-plumbing or re-wiring the well, replacing the pump, casing, valves/fittings, plumbing associated with the well. Maintenance may also include deepening the well if needed. Waterhole and reservoir will include the cleaning and maintenance of a given reservoir to ensure continued function. This may include, but is not limited to, the application of a native or natural clay liner or dam reconstruction. Waterhole maintenance will include cleaning the existing waterhole while maintaining its existing size, and placing the removed material on top of existing berms or disturbed areas.

#### Fence Maintenance

Cooperative agreements have been signed by the permittee and BLM assigning fence and corral maintenance responsibilities in the allotments to the permittee. Future fence maintenance would be authorized within the existing authorized “footprint” of original project, as needed. This could include replacement of posts and wire or reconstruction of corners and H-braces, as well as maintenance or clean-out of cattle guards.

### **RATIONALE/AUTHORITY**

Grazing permits are subject to issuance or renewal in accordance with the provisions of the Taylor Grazing Act (1934), Federal Land Policy and Management Act (1976), Public Rangelands Improvement Act (1978), and applicable grazing regulations at 43 Code of Federal Regulations (CFR) Part 4100 (2005).

## Conformance with Grazing Regulations – 43 CFR Part 4000

The primary authority for this decision is contained in the BLM grazing regulations, which outline in pertinent parts: 43 CFR 4110.1 Mandatory qualifications, 4110.2-1 Base Property, 4110.2-2 Specifying permitted use, 4130.2 Grazing permits or leases, 4130.3(1) through 4130.3(2) Mandatory and Other terms and conditions, 4160.1 Proposed Decisions, and 4180.2 Standards and guidelines for grazing administration.

Grazing permittees who wish to graze livestock on public land must have a grazing permit or lease issued to them under the grazing regulations (43 CFR 4130.1(a)). 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 BLM that are designated as available for livestock grazing through land use plans (43 CFR 4130.2(a)). The permit applicants, Paul Bowers, Nelson Livestock, and Clayton Sharp control the base property associated with the grazing preference on the three allotments and have been determined to be qualified applicants with a record of performance to be substantially in compliance with 43 CFR Part 4110.1(b) (refer to EA, page 4). This performance review is available in the range administration files.

Grazing permits shall be issued for a term of ten years unless there is some reason which requires a term of less than 10 years under the grazing regulations (43 CFR 4130.2(d)). In addition, grazing permits need to be issued with appropriate terms and conditions which are designed to “achieve management and resource condition objectives for the public lands... and to ensure conformance with part 4180”... (43 CFR Part 4130.3).

## Compliance with the National Environmental Policy Act (NEPA)

Prior to issuing this proposed decision, an ID Team prepared an environmental assessment (EA) and Finding of No Significant Impact (FONSI) in conformance with the National Environmental Policy Act of 1969. The EA analyzed the impacts of three alternatives including: (1) No Action (continue current grazing), (2) Administrative Pastures, (3) No Grazing (not renewing the 10-year permit).

The results of the Rangeland Health Assessments (RHA), completed in 2002 and 2005, and updated in 2013, were considered during this analysis. As noted in the FONSI, the selected alternative (Alternative 2) will not have any significant effects on the human environment. Potentially interested public, agencies, tribes, and the permittee were provided a 30-day review period on the EA and FONSI. No comments were received.

## **Decision Factors**

Decision factors are a set of criteria used by the decision maker to choose the alternative that best meet the purpose and need for the proposal. These include:

- a) How well does the decision conform to laws, regulations, and policies related to grazing use and protecting other resource values?
- b) How well does the decision conform to the resource management and allotment management plans?
- c) How well does the decision promote maintenance of rangeland health standards?
- d) How well does the decision conform with those Oregon Department of Fish and Wildlife (ODFW) 2005 sage-grouse guidelines that were incorporated into the Lakeview RMP/ROD through plan maintenance?
- e) How well does the decision conform with IM 2012-043 regarding interim sage-grouse management?

A discussion addressing these decision factors as they relate to Alternative 2 from the Fremont (00900),

North Webster (00906), and Wastina (00901) Livestock Grazing Permit Renewal EA follows. Generally, implementation of Alternatives 1 and 2 will conform with all applicable laws, regulations, land use plan direction, allotment management plan direction, and applicable sage-grouse management guidance. However, Alternative 2 was selected over Alternative 1 because the fenced and unfenced fragments of public land currently part of the Fremont Allotment will be better managed as part of the annual rotation and deferment grazing systems under the renewed permit. Alternative 2 will result in rangeland management that best meets the desired ecological conditions and management goals and objectives for the allotment, as well as provide for continuance of the permittee's livestock operation (EA Chapter 3, Page 19).

Alternative 3 was considered within the EA analysis to provide a full range of alternatives and comply with grazing management permit renewal guidance (BLM 2000, 2008b). However, implementation of Alternative 3 would only be appropriate if an analysis or evaluation of monitoring data or rangeland health assessment identified a need for adjustments (e.g. livestock reduction or removal) to meet management objectives. In this instance, complete removal of grazing or closing the allotments to grazing use for a ten year period will not be consistent with the management goals and direction contained in this land use plan, as current livestock grazing is not causing any violations of rangeland health standards (see EA Chapter 3). Neither the 2002 and 2005 RHA, 2013 updates, nor other monitoring data have indicated any resource conflict or problem on the allotment that would require or justify complete removal of livestock. Therefore, BLM has no rational basis for adopting this alternative as the proposed decision.

### **Conformance with the Federal Land Policy and Management Act and the Lakeview RMP/ROD (2003)**

The Federal Land Policy and Management Act requires that all management decisions be consistent with the approved land use plan (43 CFR 1610.5-3). Renewing these permits are in conformance with following management goals and direction contained within the Lakeview RMP/ROD (2003; as maintained):

**Livestock Grazing Management Goal** - *“provide for a sustainable level of livestock grazing consistent with other resource objectives and public land-use allocations (Page 52, as maintained).*

#### **Management Direction**

*“The current licensed grazing levels (Appendix E1) will be maintained until analysis or evaluation of monitoring data or rangeland health assessments identify a need for adjustments to meet objectives. Applicable activity plans (including existing allotment management plans, agreements, decisions and/or terms and conditions of grazing use authorizations) will be developed, revised where necessary, and implemented to ensure that resource objectives are met. The full permitted use level for each allotment has been and continues to be analyzed through individual allotment assessments, such as rangeland health and livestock grazing guidelines....” (Page 52, as maintained).*

#### **Plan Conformance**

The Fremont, North Webster, and Wastina Allotments are currently open or allotted to grazing use, and are allocated for forage use as listed in Table 5 of the Lakeview RMP/ROD (Page 48, as maintained).

## Operation and Maintenance Actions

### Management Direction

*“Maintenance of existing and newly constructed facilities or projects will occur over time... Such activities could include, but are not limited to, routine maintenance of existing...water control structures..., reservoirs, wells, pipelines, waterholes, fences, cattle guards, seedings, ... and other similar facilities/projects” (Page 100).*

### Plan Conformance

Conducting range improvement maintenance activities on an as-needed basis would conform with this management direction.

## Appendix E1 – Allotment Specific Management Direction

### **Fremont Allotment** (Page A-106, as maintained)

**Livestock distribution/management** - *Improve livestock management and distribution through improved management practices, installation of livestock management facilities (such as fences and water sources), and/or other actions as opportunities arise.*

**Improve/maintain range condition** - *Use management practices and/or better animal distribution; develop range improvements when appropriate: adjust permitted use as needed.*

**Noxious weed encroachment** – *Implement the current Integrated Noxious Weed Management Plan.*

**Wildlife/wildlife habitat** – *Follow the greater sage-grouse Livestock Grazing guidelines (pages 75-76 of ODFW 2005), where appropriate. (See the sage-grouse sections below).*

*Monitor % Utilization of browse in (deer) winter range areas. Avoid livestock % Utilization levels that reduce the long-term viability of browse plants.*

*Monitor (elk) population to ensure sufficient forage and habitat are available.*

**Special Management Areas** – *(Devils Garden ACEC/WSA). Manage WSA to protect wilderness values under the current WSA management policy.*

*Consider fencing the northeast boundary of the allotment if needed to prevent livestock drift into the ACEC/WSA.*

**Fire Hazard Reduction** – *Implement fuel-loading treatments to protect Deschutes National Forest from catastrophic fire.*

*Coordinate fuel treatments with grazing management.*

### **North Webster Allotment** (Page A-112, as maintained)

**Livestock distribution/management** - *Improve livestock management and distribution through improved management practices, installation of livestock management facilities (such as fences and water sources), and/or other actions as opportunities arise.*

**Improve/maintain range condition** - *Use management practices and/or better animal distribution; develop range improvements when appropriate: adjust permitted use as needed.*

**Noxious weed encroachment** – Implement the current Integrated Noxious Weed Management Plan.

**Special status species** - Monkey flower may be present. Survey for monkey flower species and determine appropriate management needs.

**Wildlife/wildlife habitat** – Follow the greater sage-grouse Livestock Grazing guidelines (pages 75-76 of ODFW 2005), where appropriate. (See the sage-grouse sections below).

Mule deer winter range - Monitor % Utilization of browse in (deer) winter range areas. Avoid livestock % Utilization levels that reduce the long-term viability of browse plants.

Elk and bighorn sheep habitat – Monitor populations to ensure that sufficient forage and habitat are available.

**Special Management Areas** – (Devils Garden ACEC/WSA). Manage WSA to protect wilderness values under the current WSA management policy.

Consider fencing the northeast boundary of the allotment if needed to prevent livestock drift into the ACEC/WSA.

**Fire Hazard Reduction** – Implement fuel-loading treatments to protect Deschutes National Forest from catastrophic fire.

Coordinate fuel treatments with grazing management.

#### **Wastina Allotment (Page A-107, as maintained)**

**Livestock distribution/management** - Improve livestock management and distribution through improved management practices, installation of livestock management facilities (such as fences and water sources), and/or other actions as opportunities arise.

**Improve/maintain range condition** - Use management practices and/or better animal distribution; develop range improvements when appropriate: adjust permitted use as needed.

**Noxious weed encroachment** – Implement the current Integrated Noxious Weed Management Plan.

**Special status species** - Monkey flower may be present. Survey for monkey flower species and determine appropriate management needs.

**Wildlife/wildlife habitat** – Follow the greater sage-grouse Livestock Grazing guidelines (pages 75-76 of ODFW 2005), where appropriate. (See the sage-grouse sections below).

Mule deer winter range - Monitor % Utilization of browse in (deer) winter range areas. Avoid livestock % Utilization levels that reduce the long-term viability of browse plants.

Elk habitat – Monitor populations to ensure that sufficient forage and habitat are available.

**Fire Hazard Reduction** – Implement fuel-loading treatments to protect Deschutes National Forest from catastrophic fire.

Coordinate fuel treatments with grazing management.

### Plan Conformance with Allotment Management Direction

Renewing the term grazing permits for the 3 allotments as described under my proposed decision (Alternative 2 from the EA) is consistent with the range, livestock, and sage-grouse management direction described in Appendix E1 above for each of the allotments.

### **Conformance with Rangeland Health Standards and Guidelines (43 CFR 4180)**

An ID team completed a Rangeland Health Assessment on the Fremont, North Webster, and Wastina Allotments in 2002 and 2005, in conformance with the requirements of 43 CFR 4180 and determined that all standards applicable to livestock grazing management on the allotment were being met for all pastures analyzed in attached DOI-BLM-OR-L050-2013-0003-EA. An ID team updated the Rangeland Health Assessments in 2013 for all three allotments. Updates were based on field visits, monitoring summaries and evaluations, and interdisciplinary input. All 3 allotments continue to meet all applicable rangeland health standards under current management.

Under Alternative 2, continuing to authorize grazing under the existing terms and conditions, as shown in Table 1, is expected to result in soil, vegetation, wildlife habitat, and rangeland conditions that remain relatively stable or improve over time (see Chapter III of attached EA). Long-term monitoring study plots have been established in the allotments and include nested frequency trend, 180 degree pace transects, photo trend, and utilization (Chapter 3, and Appendix B - Monitoring Summary Tables). These studies will continue in the future and will help determine whether management objectives, including Rangeland Health Standards are continuing to be attained.

### **Conformance with the ODFW Greater Sage-Grouse Conservation Assessment and Strategy for Oregon (ODFW 2005)**

A substantial portion of this ODFW strategy was adopted by the Lakeview RMP/ROD through plan maintenance. This strategy states “where livestock grazing management results in a level of forage use (use level) that is consistent with Resource Management Plans, Allotment Management Plans, Terms and Conditions of Grazing Permits or Leases, other allotment specific direction, and regulations, no changes to use or management are required if habitat quality meets Rangeland Health Standard and Guidelines” (Page 75). The ODFW strategy also provides guidelines on how to construct or maintain range improvement projects to minimize impacts to sage-grouse habitat (Page 76).

Since the original Rangeland Health Assessments and 2013 updates found no violation of standards related to grazing use, and renewing the permits as described under Alternative 2 is expected to result in continuing to meet these standards over the life of the permits (see Chapter 3 of the EA), my proposed decision will also be consistent with the 2005 ODFW strategy. In addition, maintenance of existing range improvements will follow appropriate project guidelines (ODFW, 2005; page 76).

### **Conformance with Greater Sage-Grouse Interim Management Policies and Procedures (IM 2012-043)**

This IM represents the current BLM Washington Office interim policy for sage-grouse habitat management until such time as plan amendments can be completed throughout the range of the species that address a comprehensive conservation strategy. As discussed in Chapter 3, no preliminary priority habitat (PPH) is present in any of the allotments. All 3 allotments contain preliminary general (PGH) habitat. This policy provides the following management direction for PGH:

#### Interim Conservation Policies and Procedures for Preliminary General Habitat (PGH)

The intent of these interim conservation policies and procedures in PGH is to reduce and mitigate adverse effects on Greater Sage-Grouse and its habitat to the extent practical.

Management Activities in PGH:

When approving uses and authorizations, consider and analyze management measures that would reduce direct, indirect, and cumulative adverse effects on Greater Sage-Grouse and its habitat.

Consider deferring authorizations in PGH where appropriate, depending on local characteristics, new science and/or data (e.g., migratory corridors or habitat between PPH), and relative habitat importance if authorizations could result in Greater Sage-Grouse population loss in PPH.

Consider offsite mitigation measures in collaboration with state wildlife agencies and project proponents when authorizing activities.

Evaluate and address anticipated fence collision risks within 1.25 miles of leks and other seasonal habitats. Where NEPA analysis suggests that a deviation from this distance is warranted, modifications of this distance are acceptable.

Conformance with Interim Sage-grouse Management Policy:

The EA analyzed the effects of a reasonable range of alternatives (including no action, reduced grazing, and no grazing) that would reduce direct, indirect, and cumulative adverse effects on Sage-Grouse and its habitat. These alternatives addressed residual cover in terms of utilization standards and goals for key plant species and utilized ecological site inventory data in the analysis (see Chapters 2 and 3). Existing sage-grouse habitats were assessed in accordance with several protocols, including the *Sage-Grouse Habitat Assessment Framework* (see Chapter 3).

Based on the analysis of potential impacts contained within the EA, there is no reason to consider deferring the issuance of the term grazing permits, as the decision would not result in sage-grouse population loss within PPH (see Chapter 3).

Off-site mitigation was not deemed necessary for several reasons. As stated earlier, my proposed decision conforms with ODFW (2005) livestock grazing management guidelines. Further, the ODFW's current sage-grouse plan (2011, page 79) "recognizes that livestock ranching operations which manage for ecologically sustainable native rangelands are compatible with sage-grouse conservation, and necessary management activities to maintain a sustainable ranching operation are not considered "development actions" under the application of the Mitigation Policy to sage-grouse habitat." As a policy matter, ODFW does not consider issuing a grazing permit or associated range improvement maintenance projects to be actions that require mitigation.

Conformance with Wilderness Characteristics Inventory Guidance

An inter-disciplinary team completed wilderness characteristics inventories within the allotments in accordance with the inventory guidance that existed at the time. Other than the existing Devils Garden WSA, BLM did not find wilderness characteristics to be present within the three allotments (see Table 5 of the EA).

## **RIGHT OF PROTEST AND/OR APPEAL**

Any applicant, permittee, lessee or other affected interest may protest this proposed decision under Section 43 CFR 4160.1 and 4160.2, either in person or by writing to me at the following address:

Bureau of Land Management  
Lakeview District Office  
1301 South G Street  
Lakeview, OR 97630

within 15 days after receipt of the decision. A written protest that is electronically transmitted (e.g., email, facsimile, or social media) will not be accepted. A written protest must be on paper. The protest should clearly and concisely state the reason(s) as to why the proposed decision is in error. Any protest received will be carefully considered and then a final decision will be issued. In the absence of a protest, the proposed decision will become my final decision without further notice.

Any applicant, permittee, lessee, or other person whose interest is adversely affected by the final grazing decision may appeal the decision to an administrative law judge in accordance with 43 CFR 4.470 and 43 CFR 4160.3 and 4160.4. The appeal must be in writing and filed in my office, at the address above, within 30 days following receipt of the final decision, or within 30 days after the date the proposed decision becomes final. A notice of appeal that is electronically transmitted (e.g., email, facsimile, or social media) will not be accepted. A notice of appeal must be on paper.

The appellant must serve a copy of the appeal, by certified mail, to the:

Office of the Solicitor  
U.S. Department of the Interior  
805 SW Broadway, Suite 600  
Portland, OR 97205

The appellant must also serve a copy of the appeal on any person named in the decision or listed in the “copies sent to” section at the end of this decision.

The appeal must state the reasons, clearly and concisely, why you believe the final decision is in error, and comply with all other provisions of 43 CFR 4.470.

An appellant may also petition for a stay of the final decision by filing a petition for stay together with the appeal in accordance with the provisions of 43 CFR 4.471. Should you wish to file a petition for a stay, you must file within the appeal period. In accordance with 43 CFR 4.471, 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.
4. Whether or not the public interest favors granting the stay.

You bear the burden of proof in demonstrating that the decision is in error and that a stay should be granted.

The petition for stay must be filed in my office, at the address above, and be served in accordance with the requirements of 43 CFR 4.473. A petition for stay that is electronically transmitted (e.g., email,

facsimile, or social media) will not be accepted. A petition for stay must be on paper.

Any person named in the decision that receives a copy of a petition for stay and/or an appeal should refer to 43 CFR 4.472(b) for the procedures to follow should you wish to respond.

If you should have any questions regarding this decision, please contact me at 541-947-2177.



Thomas E. Rasmussen  
Lakeview Resource Area, Field Manager

Date

5/7/84

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