



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Ely District Office

702 North Industrial Way

Ely, Nevada 89301

<https://www.blm.gov/nevada>

12/21/2020

Bernard Peterson
SNWA
HC 10 Box 10853
Ely, NV 89301

FINAL DECISION

Grazing Permit Renewal for

Southern Nevada Water Authority (# 2703273)

on the South Lake Valley Use Area and Deadman Use Area of the
Wilson Creek Allotment (NV01201)

Introduction

On September 4, 2020, the Bureau of Land Management (BLM) issued ten Final Decisions that renewed grazing permits for the Wilson Creek Allotment. Subsequently, the BLM reissued three of those decisions to correct inadvertent errors. The BLM then engaged in further discussion with the various permittees and discovered that there were potentially other unintended errors in the decisions, likely as a result of version control problems. On September 23, 2020, the BLM issued a letter to notify the permittees and interested public that all of the Final Decisions issued in September 2020 that renewed the grazing permits for the Wilson Creek Allotment were vacated. The BLM conducted a thorough review of the documents and is now issuing this Final Decision.

This Final Decision renews the grazing permit for Southern Nevada Water Authority (SNWA or Permittee) and authorizes sheep grazing use for the South Lake Valley Use Area and the Deadman/White River Use Area of the Wilson Creek Allotment. Final Decisions will be issued separately and concurrently with this Final Decision authorizing grazing for the other use areas within the Wilson Creek Allotment. Grazing use in the Deadman/White River Use Area for SNWA will be evaluated again during the forthcoming Blue Diamond Oil Corporation grazing term permit renewal.

This Final Decision modifies the existing terms and conditions of the grazing permit by changing the authorized seasons of use maintaining the current animal unit months (AUMs) for the South Lake Valley Use Area pastures 1 and 2 and the Deadman Use Area. The renewed grazing permit will include new terms and conditions that will allow and promote flexibility as part of the overall livestock operation in order to maintain an economically viable grazing operation while still achieving goals and objectives pertaining to rangeland health within the constraints of the permit's terms and conditions.

This Final Decision is in compliance with the Nevada and Northern California Greater Sage-Grouse Record of Decision and Approved Resource Management Plan Amendment (2015 ARMPA), by improving habitat for sage-grouse with range improvement projects resulting in greater distribution of livestock and meeting habitat objectives in Table 2-2 (2015 ARMPA) where appropriate.

This decision will be effective at the end of the appeal period or if an appeal is filed and a stay is granted, upon a final determination on appeal. Upon the decision becoming effective, the Bureau of Land Management (BLM) will issue the Permittee a grazing permit for a ten-year period.

Background Information

On November 5, 1992 a Final Multiple Use Decision (FMUD) was issued for the Wilson Creek Allotment. Following appeals of the decision settlement agreements were reached between four permittees and BLM in 1994. In the settlement BLM agreed to address several items (primarily the number of AUMs and grazing use area boundaries) within a five-year time frame from issuance of the decision. The process to address the settlement agreement was initiated numerous times since 1997 and is culminating with issuance of Final grazing Decisions.

On December 5, 2017 the BLM signed the Standards Determination Document (SDD) for the Wilson Creek Grazing Allotment (01201), and it was sent to the permittees along with a request to review and provide comments on a draft Wilson Creek Allotment Grazing Practices document. On April 17, 2018, the BLM gave the permittees and cooperating agencies an administrative draft of Chapters 1 and 2 of the preliminary Environmental Assessment (EA) for a 15-day review. That administrative draft included alternatives submitted by the nine permittees on the Wilson Creek Allotment. Once the BLM reviewed those comments, it prepared a Preliminary EA and provided it to the public for a 30-day comment period concluding on August 3, 2018. The BLM reviewed and considered all the public comments.

On October 4, 2018, the BLM issued the Final EA and signed a Finding of No Significant Impact (FONSI). On October 5, 2018 the Final EA and FONSI were mailed to all permittees and all interested publics. The BLM also sent the Proposed Decision to authorize a Grazing Permit Renewal for SNWA (#2703273) on the Wilson Creek Allotment (NV01201) to the Permittee, the other grazing permittees on the Wilson Creek Allotment, and all interested publics on October 12, 2018.

The BLM received protests from: Wildlands Defense dated October 28, 2018; Western Watersheds Project on November 5, 2018; SNWA dated October 24, 2018; and B Bar D, LLC on December 10, 2018. The BLM reviewed all the protest points. Following this review and consideration of protest points, the BLM made changes and corrections to the Final Decision based on substantive comments. A comprehensive comment and response matrix; attached to this Final Decision at Appendix 3, includes the following protest and comment categories; substantive, not substantive, opinion, or out of scope.

Rangeland Health Evaluation

The SDD initiated the grazing permit renewal process for the Wilson Creek Allotment. Rangeland monitoring data associated with rangeland health conditions and a description of grazing use is presented in the SDD. In addition to the rangeland health evaluation included in the SDD is a review and evaluation of current grazing use and grazing practices. The evaluation includes recommendations to continue with existing terms and conditions and grazing practices, unless spring rest could be implemented, as well as recommendations to adjust grazing practices or further evaluate stocking levels based on carrying capacity for all users in a particular use area or by seasonal grazing use. Management recommendations presented in the SDD are included as alternatives in the EA.

The BLM completed a rangeland health evaluation based on a review and analysis of rangeland monitoring data. This analysis is summarized in the SDD. The SDD includes a determination of achievement of Standards for Rangeland Health. The Standards and Guidelines for Grazing Administration were developed by the Mojave-Southern Great Basin Resource Advisory Council (MOSORAC) and approved by the Secretary of the Interior on February 12, 1997. The Mojave-Southern Great Basin Area Standards and Guidelines include a standards and guidelines implementation process. The implementation process states that grazing permits shall contain terms and conditions that ensure conformance with the approved standards and guidelines.

The rangeland health evaluation concluded that the South Lake Valley Use Area is not meeting standards and not making progress to meeting standards. Livestock Grazing was not found to be a causal factor. Causal factors that are not allowing standards to be met are encroachment of pinyon and juniper trees into the area, which are causing Black Sagebrush and Wyoming Big Sage communities to decrease and the use area to lose its understory cover of forbs and grasses. The encroachment will also decrease the amount of water in the riparian areas, which is also a causal factor of the Use Area not meeting standards. The encroachment will also cause a decline in the (quality or quantity) of Greater sage grouse habitat because it will cause a decrease in the amount of forage and cover available. However, soils in South Lake Valley are meeting standards due to the amount of perennial cover at the key areas. The foliar and ground cover is sufficient to the potential of the site.

Rangeland health evaluation for the north portion of the Deadman use area concluded that standards are being met. The evaluation also recommended changes could be made in seasons of use with ensuring rest during the springtime.

LIVESTOCK MANAGEMENT DECISION

In accordance with 43 CFR §4130.3, §4130.3-1, and §4130.3-2, mandatory terms and conditions of the grazing permit include the kind and number of livestock, the period of use, the allotment to be used, the amount of use in AUMs, and terms and conditions that ensure conformance with the fundamentals of rangeland health and standards and guidelines for grazing administration. This decision does not change the grazing terms and conditions for SNWA authorizations for the Muleshoe, Atlanta, Shoshone Unit Trail, Spring Trail and Fall Trail. SNWA authorization in DLVUA is being issued in a separate decision.

Actions Selected from Alternative A

The Pioche Bench Use Area was recently fenced on both sides of the highway, which separated it into two pastures. Through this Final Decision, the Pioche Bench Use Area is being combined into the South Lake Valley Use Area as Pastures 1 and 2 to make four pastures, and the four pastures are now named (from west to east) Pastures 1, 2, 3, and 4 (See Appendix 1). SNWA authorized use will remain in Pastures 1 and 2. The West Boundary of the South Lake Valley Use Area is also being adjusted to the watershed boundary with Dry Lake Valley

An adjustment to the east boundary of Deadman Use Area to the watershed boundary as described on page 15 of the EA which inadvertently called it the boundary between Deadman and South Lake Valley. (See Appendix 1) is occurring as well.

Action Selected as a combination of Alternative C and D

Through this Final Decision BLM has selected a combination of actions from Alternative C and D for the Deadman Use Area that includes extending the season of use within the Deadman Use area as analyzed in alternative C. However the season of use will be reevaluated for the Deadman Use area when the Blue Diamond Oil permit renewal occurs, thus selecting portion of Alternative D. Matching the seasons of use in the Deadman Use Area with the other use areas that SNWA grazes allows for greater flexibility and the ability to rotate grazing use during the spring. Spring use in the same area will not occur two years in a row as identified in the SDD and hereby authorizes grazing subject to the following terms and conditions to assist in achieving management objectives, provide for proper range management, and assist with the orderly administration of the public rangelands.

From:

Summary of Grazing Authorization # 2703273

Use Area	Number	Kind	Period of Use		Type Use	Active Use (AUMs)
			Begin	End		
Deadman/ White River	897	Sheep	12/1	2/15	Active	445
Pioche Bench (West) AKA South Lake Valley	1,945	Sheep	4/15	5/31	Active	601
Pioche Bench (East) AKA South Lake Valley	1,712	Sheep	4/15	5/31	Active	529
Permitted Use Summary (Wilson Creek)					Total ⁴	1,575
Active AUMs 1575	Suspended AUMs 0	Temp Suspended 0	Permitted Use 1575			

To:

Summary of Grazing Authorization # 2703273

Use Area		Number	Kind	Period of Use		Type Use	Active Use (AUMs)
				Begin	End		
Deadman/ White River		Variable	Sheep	11/01	5/1	Adaptive	445
South Lake Valley		Variable	Sheep	11/01	5/01	Adaptive	1,130
Permitted Use Summary (Wilson Creek)						Total	1,575
Active AUM 1575	Suspended AUMs ² 0	Temp Suspended 0		Permitted Use 1575			

Other Terms and Conditions

1. The Permittee is authorized to graze sheep in Pastures 1 & 2 of South Lake Valley Use Area and grazing must be alternated between the two pastures in a rest rotation system resting one pasture each year. Permittee must implement a deferred rotation grazing system for the South Lake Valley Use Area. Cattle grazing will be authorized in all four pastures of the South Lake Valley Use Area, but the permittee will defer spring grazing on pastures as to only graze a pasture in the spring one time within a three-year period. Pastures 1 and 2 will be used in conjunction with each other where one may be rested on a given year to allow for additional rest. The deferred rotation grazing system for South Lake Valley Use Area will be coordinated between the sheep and cattle operators. Deferred rotation grazing will accommodate the sheep and cattle operators and allow for resting pastures on a rotational basis
2. For Deadman Use Area rotate sheep grazing during the spring grazing period so that grazing will not occur in the same location and time of year grazed the previous year allowing for spring rest every other year for that location.

3. Sheep grazing may include herding livestock with dogs and horses. Sheep camps will be established for the duration of the season and will be located immediately adjacent to existing dirt roads; the camps are moved regularly with sheep band(s).
4. The placement of sheep bedding grounds/sheep camps will be a minimum distance of one-half mile from known water sources, riparian areas, winterfat dominated sites, sensitive sites, populations of special status plant species, and known cultural resources.
5. The BLM may provide flexibility by authorizing a deviation in numbers of livestock, periods of use and timing of use, including scheduled beginning and end dates for use of the pasture, pasture rotations, and pasture seasons of use. Flexibility could also include temporary authorization of suspended AUMs and or Temporary Suspended AUMs. AUMs will not exceed permitted use and will be activated proportionally by the number of active AUMS by each permittee within a use area. This would be contingent upon establishment of a grazing activity plan and monitoring plan, with BLM approval.
6. The Permittee must place any mineral or salt supplements a minimum distance of ½ mile from riparian areas, winterfat dominated sites, sensitive sites, populations of special status plant species, and cultural resource sites. Mineral and salt supplements must also be at least one mile from active sage-grouse leks. Placing supplemental feed (i.e., hay, grain, pellets, etc.) on public lands without authorization is prohibited.
7. The Permittee may use temporary water hauling to distribute use, but must limit water hauling to existing roads when possible. Water haul sites must be located at least ½ mile away from winterfat dominated sites, riparian areas, and cultural sites. Placement should be based on site-specific assessment and characteristics such as riparian, topography, cultural, special status species, etc. The Permittee must coordinate with the Bureau of Land Management Rangeland Management Specialist on water haul locations on an annual basis. Any water hauling done by the Permittee associated with this term grazing permit must be in accordance with Nevada State Water Law.
8. The Permittee must move livestock to another authorized pasture (where applicable) or different portion of the use area or removed from the allotment before utilization objectives are met or no later than 5 days after meeting the utilization objectives. Any deviation in livestock movement will require authorization from the BLM authorized officer.
9. The Permittee is responsible for maintenance of all range improvements assigned through approved Cooperative Range Improvement Agreements.
10. When necessary, the Permittee must 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.
11. The Permittee must submit an actual use grazing report showing use by pasture and kind of livestock within 15 days from the last day of scheduled grazing use.
12. The Permittee must regularly coordinate with the BLM throughout the year to establish a grazing schedule and plan to include grazing objectives. If annual coordination does not occur, the BLM will authorize grazing use in accordance with the allotment/use area

specific terms and conditions of the term grazing permit. Regular coordination should include assessing the current range and forage conditions, measuring grazing utilization, determining where and when to move livestock based on the grazing operation, and coordination with other permittees.

13. In order to facilitate livestock management, water hauling, and access to range improvements, graded BLM roads may be maintained and two track roads may be improved by the permittee after a letter of agreement between the BLM and the Permittee is entered into. The letter will specify the requirements for maintaining or improving the road. Once an agreement is in place the permittee will coordinated with the BLM when maintenance is going to occur.

Allowable Use Levels

The BLM considered utilization and allowable use levels and set them based on factors such as amount of forage, standing crop remaining at the end of the grazing cycle across the use area as whole percentages of grazed and ungrazed plants, carryover vegetation, plant stubble heights and multiple use objectives. The movement of livestock across and within use areas are influenced by changes in growing conditions, especially because growing conditions within the Wilson Creek Allotment can be so highly variable.

1. Allowable Use Levels for all users in the South Lake Valley Use Area is 60% at the end of the grazing year (5/01).
2. Allowable use levels for Deadman Use Area are 60% by the end of the grazing season (5/1)

Vegetation Treatments

Vegetation treatments may be effective to address pinyon and juniper encroachment; however, this Final Decision does not authorize any vegetation treatments. The BLM may issue separate decisions to authorize vegetation treatments at another time.

Rationale for the Final Decision

The BLM selected the actions identified in this Final Decision because they will be effective in maintaining rangeland health and watershed condition on public lands in the Wilson Creek Allotment. Through sound livestock management practices and the terms and conditions of the grazing permit, Standards for Rangeland Health will continue to be achieved or make significant progress towards achievement. The BLM chose Alternative C for the South Lake Valley Use Area on the Wilson Creek Allotment which changes the period of use and terms and conditions. The BLM chose a combination between Alternative C and Alternative D for the Deadman Use area, that grazing will be revaluated with the Blue Diamond Permit renewal. Grazing authorization is not dependent on range improvements, vegetation treatment projects, or removal of wild horses.

The approved adaptive management practices will allow and promote flexibility for the Permittee as part of its overall livestock operation. Adaptive management will allow flexibility in livestock numbers and period of use while not exceeding active use AUMs by permittee for the allotment as a whole, and in this decision active use AUMs may not be exceeded for the use area without an activity and monitoring plan. The period of use change allows use areas and rotation systems to be operated in conjunction with other use areas and rotation systems in the livestock operation. The change in periods of use would allow for improvement and flexibility when livestock are being moved in and out of use areas. The adaptive use and flexibility will promote plant community resiliency and appropriate vegetation attributes of composition, production, vigor, diversity, cover, structure, residual cured grasses, and litter amount. Rest provides opportunity for the more palatable and nutritious plants to maintain or improve their vigor and increase in abundance (Schmutz 1973).

Rotation system grazing will allow for plant communities to be rested and promote re-growth while operators move livestock from use areas for the period of use. Promoting re-growth and reproduction of herbaceous species will allow for plants during dormancy to have the adequate amount of reserves for the next years growing season. This will also allow for an increase in plant recruitment and regeneration, which is necessary to maintain and promote grass cover.

Grazing management matches dietary preferences of sheep and cattle to the appropriate use areas that contain the preferred and available forage preference for sheep and cattle diets. Multi-species grazing can increase grazing land productivity. Including sheep and cattle in the grazing system would have beneficial results in terms of vegetation composition and animal health from dietary perspective. (Final Environmental Assessment Pg. 100-104).

The BLM is changing the season of use for sheep use in the South Lake Valley Use Area pastures 1 and 2. Finally, the BLM is authorizing actions to increase distribution of livestock through additional water hauls.

In order to improve grazing management and maintain Rangeland Health the BLM is making changes to permitted use. Specifically, the BLM is matching the seasons of use for the Deadman Use Area and requiring rotation of springtime use. The BLM is not changing the number of livestock or active AUMs in the Use Area. Finally, the BLM is authorizing actions to increase distribution of livestock through additional water hauls, road maintenance and springtime use rotational rest. In addition clarifying the Deadman boundary is the watershed boundary ensures use of the range is occurring in a orderly manner that ensures meeting of rangeland health standards by ensuring boundaries and use areas are clear and easily understood.

These changes – increased season of use and adjustments to livestock numbers – support increased flexibility for grazing and rotation of areas. Flexibility allows the permittees to tailor operations to annual and seasonal fluctuations in range conditions. This will also help create stable areas around springs while allowing wildlife access. Increasing livestock distribution will help provide rest for Winterfat patches during the season of use. The range improvements

selected will help to stabilize areas that are not making progress towards standards and help areas that are making progress to continue in that direction.

Although multiple factors contribute to the failure to meet rangeland health standards in the South Lake Valley Use area, it is important to note present sheep grazing is not a primary causal factor. Livestock grazing changes made in this decision seek to maintain or help make progress toward meeting rangeland health standards, but the BLM acknowledges there are other contributing factors including pinyon and juniper encroachment and wild horse use. Therefore, while not authorized in this decision, the BLM anticipates pursuing vegetation treatments to address pinyon and juniper encroachment a contributing factor to failure to meet rangeland health standards for several use areas. Terms and Conditions in this Decision are not dependent upon the anticipation of vegetation treatments. Additionally, the BLM anticipates pursuing opportunities to address the substantial impacts that the present overpopulation of wild horses has on rangeland health – also a contributing factor to failure to meet rangeland health conditions in several use areas.

Monitoring

The Ely District Approved Resource Management Plan (August 2008) identifies monitoring to include, “Monitoring to assess rangeland health standards will include records of actual livestock use, measurements of forage utilization, ecological site inventory data, cover data, soil mapping, and allotment evaluations or rangeland health assessments. Conditions and trends of resources affected by livestock grazing will be monitored to support periodic analysis/evaluation, site-specific adjustments of livestock management actions, and term permit renewals. Monitoring will determine when grazing will be authorized in burned areas, and will contribute to the selection of prescribed burn treatments or other types of treatments based on attainment of will contribute to the selection of prescribed burn treatments or other types of treatments based on attainment of resource objectives.” (pg. 88)

Land Use Plan (LUP) Conformance

This Final Decision is in conformance with the Ely District Record of Decision and Approved Resource Management Plan signed August 20, 2008, which includes the goal of managing livestock grazing on public lands to provide for a level of livestock grazing consistent with multiple use, sustained yield, and watershed function and health. In addition, it includes the objective of allowing livestock grazing to occur in a manner and at levels consistent with multiple use, sustained yield, and the standards for rangeland health. (pp. 85-86)

This LUP specifically provided for the following Management Actions (pp. 86-87):

- 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 grazing 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 Final Decision is also in conformance with the 2015 Nevada and Northeastern California Greater Sage-Grouse Record of Decision and Approved Resource Management Plan Amendment (2015 ARMPA). Livestock Grazing Objective LG 1 in the 2015 ARMPA states, “Manage Permitted livestock grazing to maintain and/or enhance Priority Habitat Management Areas (PHMA) and General Habitat Management Areas (GHMA) to meet or make progress toward meeting all GRSG life-cycle requirements and habitat objectives (Table 2-2), based on site potential.”

AUTHORITY

This Final Decision is issued in accordance with 43 CFR 4160.1. The decision complies with the BLM’s statutory obligations, the multiple use mandate specified in the Federal Land Policy and Management Act of 1976 (FLPMA), and conforms to the fundamentals of Rangeland Health (43 CFR 4180). The authority for this decision includes the BLM’s regulations at 43 CFR 4100.0-8, 4110.3, 4110.3-2 (b), 4130.2 (a), 4130.3, 4130.3-1 (a), 4130.3-1 (c), 4130.3-2, 4130.3-3, and 4180.1.

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 as provided in 43 CFR 4160.3(a).

The appeal and any petition for stay must be filed at the office of the authorized officer, Jared Bybee Field Manager, Ely District, 1400 South Front Street, P.O. Box 237, 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.

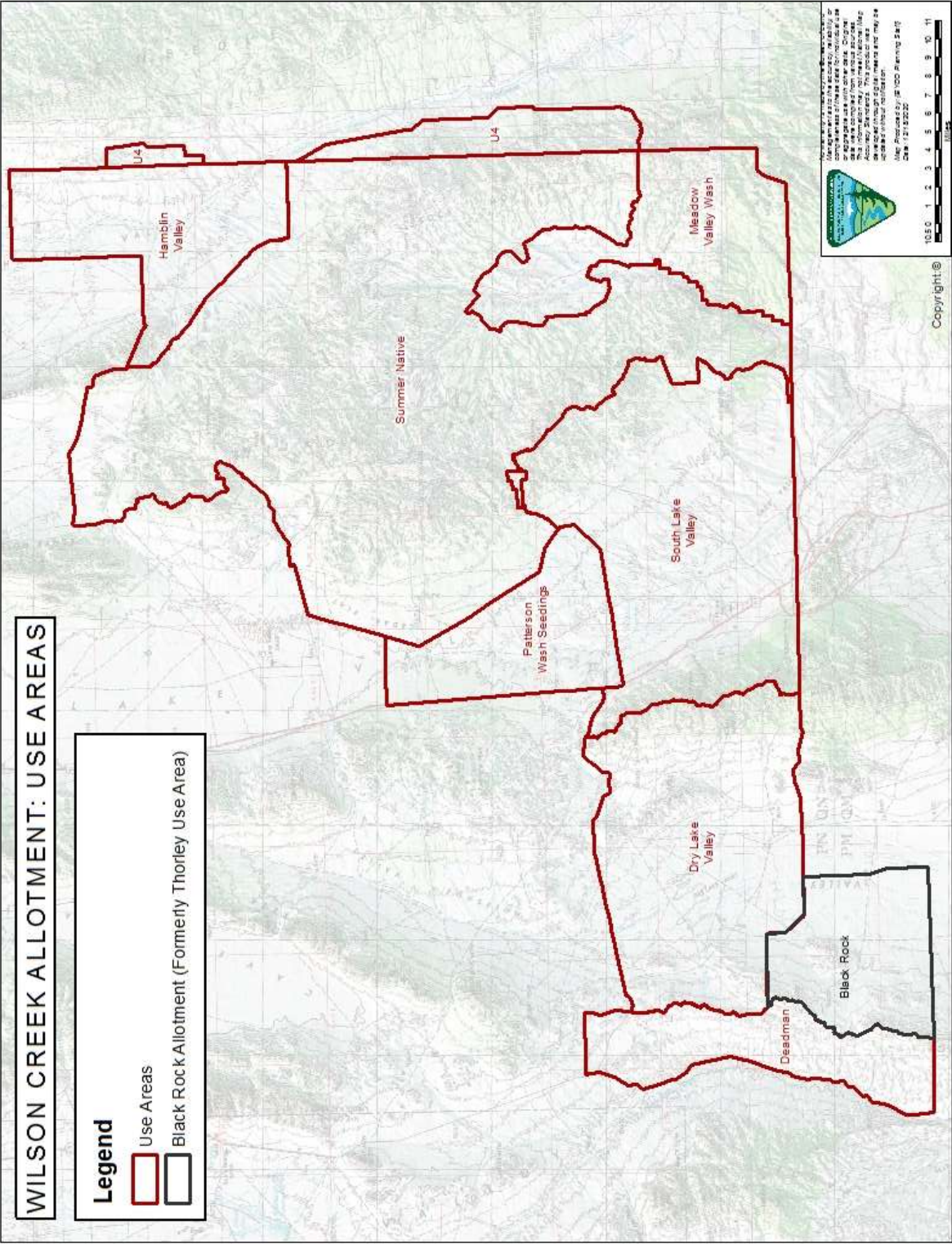
Any person named in the decision from which an appeal is taken (other than the appellant) who wishes to file a response to the petition for a stay may file with the Hearings Division in Salt Lake City, Utah, a motion to intervene in the appeal, together with the response, within 10 days after receiving 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)).

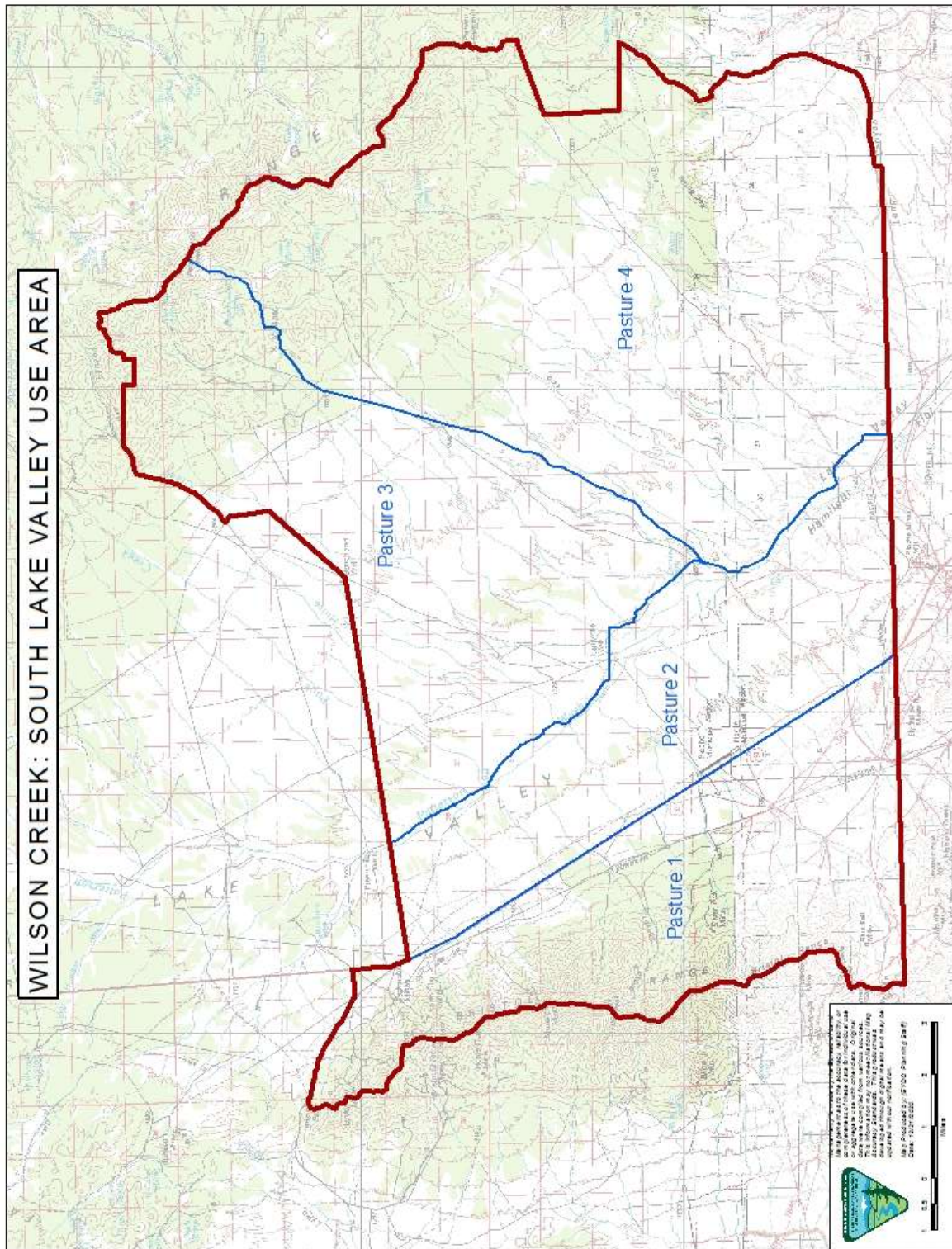
Jared Bybee
Field Manager
Bristlecone Field Office
Ely, District

Enclosures: Finding of No Significant Impact
cc List

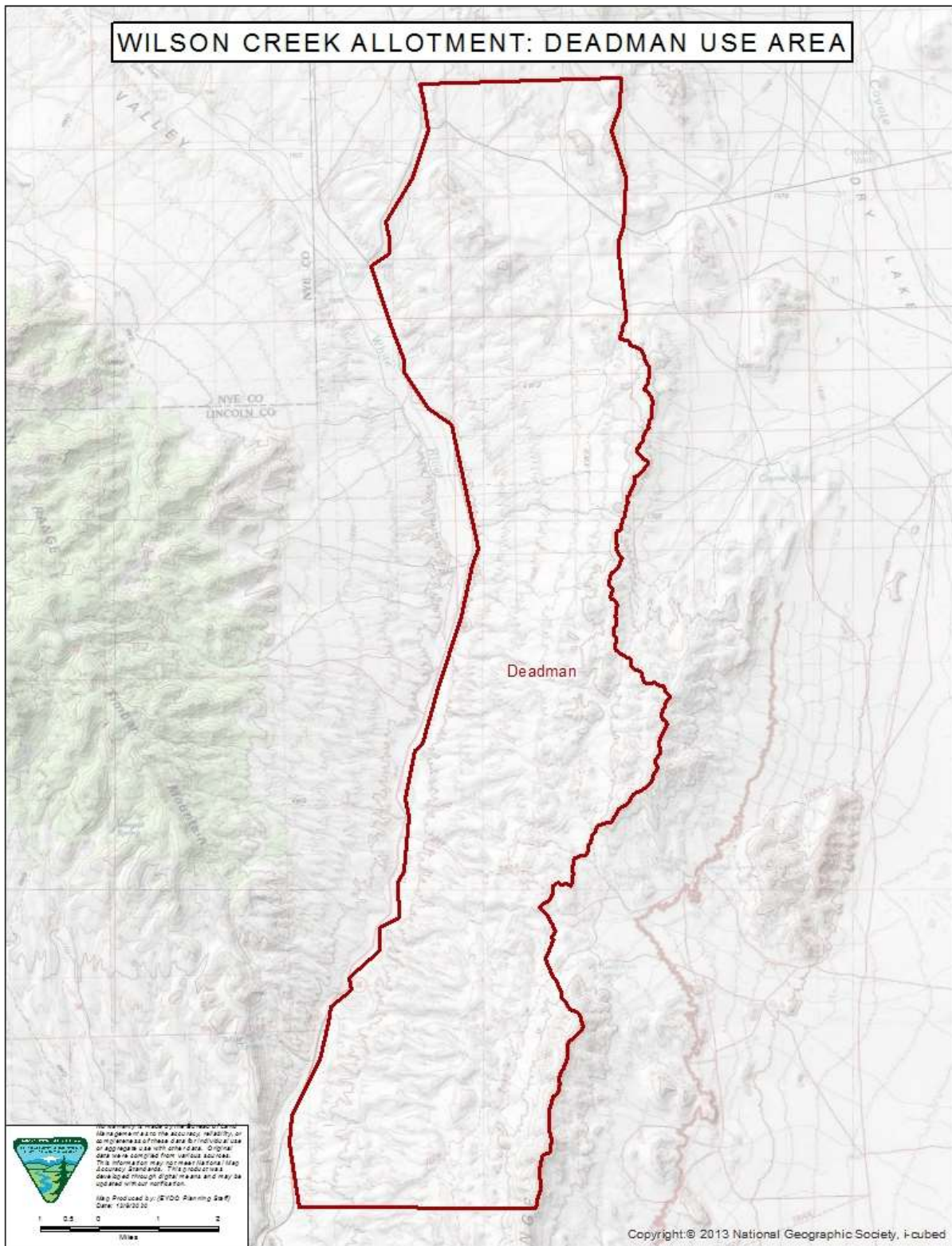
APPENDIX 1
Map 1



Map 2



Map 3



Appendix 3

Protest and Response Matrix Summary