



# 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>

In Reply Refer To:  
4130 (NVL0000)

## **PROPOSED DECISION**

Emergency Feeding  
DOI-BLM-NV-L000-2023-0003-CX

### **INTRODUCTION**

The Proposed Action is in response to the recent extreme adverse weather that the Ely District is experiencing. The Proposed Action would allow for permittees that are affected by these conditions to temporarily feed their livestock on public lands after consultation with Bureau of Land Management.

### **RATIONALE**

Emergency feeding may be required as a result of an unforeseen event which limits the forage available for livestock. Feeding of hay as result of fire, flood, or snow is an example. Emergency feeding is accepted on the public lands for short periods while the emergency exists or until the livestock can be removed.

### **LAND USE PLAN CONFORMANCE**

The Ely District Record of Decision (ROD) and Approved RMP (USDOI 2008), as amended, addresses land use planning decisions for the subject area. The Proposed Action is in conformance with the Livestock Grazing Goals and Objectives as identified on pages 85 - 86 of the RMP which are to:

- Manage livestock grazing on public lands to provide for a level of livestock grazing consistent with multiple use, sustained yield, and watershed function and health.
- Allow livestock grazing to occur in a manner and at levels consistent with multiple use, sustained yield, and the standards for rangeland health.

The Proposed Action is also in compliance with the Livestock Grazing Management Actions in the RMP regarding standards for rangeland health, specifically the bullet identified under LG [Livestock Grazing] 4 (page 86), which states to:

- Continue to monitor and evaluate allotments to determine if they are continuing to meet or are making significant progress toward meeting the standards for rangeland health. Table E-1 in Appendix E shows the current grazing preference, season-of-use, and kind of

livestock for those allotments that currently are evaluated for meeting standards, are making progress towards achieving the standards, or are in conformance with the policies as determined either through the allotment evaluation process or associated with fully processed term permit renewals. 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. Such changes would continue to meet the RMP goals and objectives, including the standards for rangeland health.

The 2015 Record of Decision and Approved Resource Management Plan Amendments for the Great Basin Region Greater Sage-Grouse Sub-Regions of Idaho and Southwestern Montana, Nevada, and Northeastern California, Oregon, and Utah (Greater Sage-Grouse Land Use Plan Amendment [LUPA]) and the 2019 Nevada and Northeastern California Greater Sage-Grouse Record of Decision and Approved Resource Management Plan Amendment (Greater Sage-Grouse ROD/ARMPA) were prepared by the BLM to amend and approve an amendment to its RMPs that manage Greater Sage-grouse (GRSG) habitat, respectively (USDOJ, BLM 2015 and 2019, respectively).

The Proposed Action is consistent with all other federal, state, local, and tribal policies and plans to the maximum extent possible.

### **AUTHORITY**

The authority for this decision is contained in Title 43 of the Code of Federal Regulations, which states in pertinent part:

#### § 4130.3 Terms and Conditions

##### §4130.3-2 Other Terms and Conditions.

(c) Authorization to use, and direction of placement of supplemental feed, including salt, for improved livestock and rangeland management on the public lands;

### **PROTEST AND APPEAL**

The grazing decision provides for a “2-step” decision process. This includes a Proposed Decision and a Final Decision. The first step in the process includes issuance of a Proposed Decision. The Proposed Decision allows for a protest period. The Proposed Decision may be protested within 15 days after receipt of the decision. If an applicant, permittee, or other interested party does not protest a proposed decision within 15 days after receipt of the decision, the Proposed Decision becomes the Final Decision. The Final Decision is subject to appeal and allows for an additional 30 days during which an appeal must be filed. A total of 45 days (15-day protest and 30-day appeal) after receipt of the Proposed Decision must lapse before the Project would be authorized. If an appeal is not filed or the final decision is not stayed the Project would be authorized.

## **Protest**

In accordance with 43 C.F.R. 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 Robbie McAboy, District Manager Ely District Office, 702 N Industrial Way, Ely, Nevada 89301 within 15 days after receipt of such decision. The protest, if filed, must clearly and concisely state the reason(s) why the protestant thinks the proposed decision is in error. In accordance with 43 C.F.R. 4160.3 (a), 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 C.F.R. 4160.3 (b), should a timely protest be filed with the authorized officer, the authorized officer will reconsider the proposed decision and shall serve the final decision on the protestant and the interested public.

## **APPEAL**

This decision may be appealed to the Interior Board of Land Appeals (Board), U. S. Department of the Interior (DOI) Office of Hearings and Appeals, in accordance with the regulations contained in 43 CFR, Part 4. The appellant has the burden of showing that the decision appealed from is in error. If an appeal is taken, a notice of appeal must be filed at the Bureau of Land Management, Ely District Office, 702 North Industrial Way, Ely, Nevada within 30 days of either of receipt of the decision if served a copy of the document, or otherwise within 30 days of the date of the decision. If sent by United States Postal Service, the notice of appeal must be sent to the following address:

Bureau of Land Management  
702 North Industrial Way  
Ely, Nevada 89301

The appeal may include a statement of reasons at the time the notice of appeal is filed, or the statement of reasons may be filed within 30 days of filing this appeal. At the same time, the original documents are filed with this office, copies of the notice of appeal, statement of reasons, and all supporting documentation also must be sent to each party named in this decision and to the U. S. Department of Interior (DOI) Solicitor at the following address:

Regional Solicitor, Pacific Southwest Region  
U.S. Department of the Interior  
2800 Cottage Way, Room E-2753  
Sacramento, CA 95825-1890

If a statement of reasons is filed separately from the notice of appeal, it also must be sent to the following location within 30 days after the notice of appeal was filed:

Interior Board of Land Appeals  
Office of Hearings and Appeals  
U.S. Department of the Interior  
801 N. Quincy Street, Suite 300  
Arlington, VA 22203

This decision will remain in effect during the appeal unless a petition for stay is granted. If the appellant wishes to file a petition pursuant to regulations at 43 CFR 2931.8 (b) 4.21 for a stay of

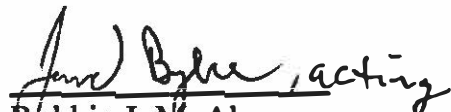
the effectiveness of this decision during the time that the appeal is being reviewed by the Board, the petition for a stay must accompany the notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. If the appellant requests a stay, the appellant has the burden of proof to demonstrate that a stay should be granted.

**Standards for Obtaining a Stay**

Except as otherwise provided by law or by other pertinent regulation, a petition for a stay of a decision pending appeal shall 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.

The grazing decision provides for a “2-step” decision process. This includes a Proposed Decision and a Final Decision. The first step in the process includes issuance of a Proposed Decision. The Proposed Decision allows for a protest period. The Proposed Decision may be protested within 15 days after receipt of the decision. If an applicant, permittee, or other interested party does not protest a proposed decision within 15 days after receipt of the decision, the Proposed Decision becomes the Final Decision. The Final Decision is subject to appeal and allows for an additional 30 days during which an appeal must be filed. A total of 45 days (15-day protest and 30-day appeal) after receipt of the Proposed Decision must lapse before the Project would be authorized. If an appeal is not filed or the final decision is not stayed the Project would be authorized.

  
Robbie J. McAboy  
District Manager  
Ely District Office

2/13/2023  
Date

Attachments (1):

CC:

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Nevada Department of Wildlife  
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Jerry Johnson & Janet Lind  
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Kent Whipple Ranch LLC  
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Partnership  
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Moriah Ranches, INC  
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**U.S. Department of the Interior  
Bureau of Land Management**

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**Categorical Exclusion**

**DOI-BLM-NV-L000-2023-0003-CX**

**Emergency Feeding for the Ely District**

**PREPARING OFFICE**

U.S. Department of the Interior  
Bureau of Land Management

Ely District Office  
Ely, Nevada



## Background

**BLM Office:** LLNVL00000

**Proposed Action Title/Type:** Emergency Feeding, DOI-BLM-NV-L000-2023-0003-CX

**Location of Proposed Action:** On all grazing allotments in the Ely District Office that are available for grazing as identified in Ely District Record of Decision and Resource Management Plan (RMP), as amended, that have a need for emergency feeding due to recent winter precipitation events.

## Land Use Plan Conformance

**Land Use Plan Name:** Ely District Record of Decision and Resource Management Plan (RMP), as amended.

**Date Approved/Amended:** Approved 2008, Amended 2015

The proposed project is consistent and in conformance with the decisions and/or Best Management Practices (BMPs) contained within the LUP.

The following BMPs are found in Appendix A, Section 1 of the RMP under the headings indicated:

### Special Status Species (#9)

- Base placement of salt and mineral supplements on site specific assessment
- Normally place salt and mineral supplements at least 0.5 mile away from riparian areas, sensitive sites, populations of special status plant species, cultural resource sites.
- Place salt and mineral supplements at least 1 mile from sage grouse leks.

### Livestock Grazing (#2)

“Based on allotment situations and circumstances associated with livestock grazing and multiple use management, implement any or all, of the following appropriate management practices on winterfat dominated ecological sites.

- Place salt and supplements at least 0.5 mile away from winterfat dominated sites. Base placement on site-specific assessment and characteristics such as riparian, topography, cultural, special status species, etc.”

**Land Use Plan Name:** Nevada and Northern California Greater Sage-Grouse Approved Resource Management Plan Amendment (ARMPA).

**Date Approved/Amended:** Amended 2015

## Compliance with NEPA:

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 2, as per **H-1790-1, NEPA Handbook, Appendix 4, D-3:** Temporary emergency feeding of livestock or wild horse and burros during periods of extreme adverse weather conditions.

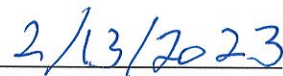
This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The Proposed Action has been reviewed and none of the extraordinary circumstances apply.

## Approval and Contact Information

Acting



Robbie J. McAboy  
Ely District Manager



Date

### Contact Person

Arthur (AJ) Flint

Supervisory Range Management Specialist

Ely District Office-Bristlecone Field Office

702 N. Industrial Way  
Ely, NV 89301  
(775) 289-1914

**Appendix 1. Extraordinary Circumstances Documentation**

BLM National NEPA Register #:	DOI-BLM-NV-L000-2023-0003-CX
Date:	February 13, 2023

The action has been reviewed to determine if any of the extraordinary circumstances (43 CFR 46.215) apply.

**Impacts on Public Health and Safety**

<b>1. Does the proposed action have significant impacts on public health and safety?</b>		
<b>YES</b>	<b>NO</b>	<b>Rationale</b>
	X	Public health and safety is not considered an issue during the implementation of this project.

**Impacts on Natural Resources or Unique Geographic Characteristics**

<b>2. Does the proposed action have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness or wilderness study areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds (Executive Order 13186); and other ecologically significant or critical areas?</b>		
<b>YES</b>	<b>NO</b>	<b>Rationale</b>
	X	None of the above resources would be significantly impacted by the Proposed Action. RDFs would be applied to minimize any effects to GRSG and their habitat if project occurs in sage grouse habitat. Emergency feeding will not be authorized in designated wilderness or wilderness study Areas

**Level of Controversy**

<b>3. Does the proposed action have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)]?</b>		
<b>YES</b>	<b>NO</b>	<b>Rationale</b>
	X	No highly controversial environmental effects or unresolved conflicts concerning alternative uses of the available resources exist.

**Highly Uncertain or Unique or Unknown Environmental Risks**

<b>4. Does the proposed action have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks?</b>		
<b>YES</b>	<b>NO</b>	<b>Rationale</b>
	X	The Proposed Action does not have any highly uncertain, potentially significant environmental effects, or unknown environmental risks.

**Precedent Setting**

<b>5. Does the proposed action establish a precedent for future action, or represent a decision in principle about future actions, with potentially significant environmental effects?</b>		
<b>YES</b>	<b>NO</b>	<b>Rationale</b>
	X	This action does not establish a precedent for future actions nor does it represent a decision in principal about future actions with potentially significant environmental effects.

### Cumulatively Significant Effects

<b>6. Does the proposed action have a direct relationship to other actions with individually insignificant, but cumulatively significant, environmental effects?</b>		
<b>YES</b>	<b>NO</b>	<b>Rationale</b>
	X	This project does not have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.

### Impacts on Cultural Properties

<b>7. Does the proposed action have significant impacts on properties listed or eligible for listing, on the National Register of Historic Places as determined by either the Bureau or office?</b>		
<b>YES</b>	<b>NO</b>	<b>Rationale</b>
	X	There are no significant impacts on properties listed or eligible for listing on the National Register of Historic Places.

### Impacts on Federally Listed Species or Critical Habitat

<b>8. Does the proposed action have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species?</b>		
<b>YES</b>	<b>NO</b>	<b>Rationale</b>
	X	Emergency Feeding will not be permitted in threatened and endangered species habitat.

### Compliance with Laws

<b>9. Does the proposed action violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment?</b>		
<b>YES</b>	<b>NO</b>	<b>Rationale</b>
	X	The BLM will not violate any Federal, State, local or tribal laws while implementing this action.

### Environmental Justice

<b>10. Does the proposed action have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898)?</b>		
<b>YES</b>	<b>NO</b>	<b>Rationale</b>
	X	The Proposed Action would not have disproportionately high or adverse effects on low income or minority populations. Health and environmental statuses would not be compromised.

### Indian Sacred Sites

<b>11. Does the proposed action limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners, or significantly adversely affects the physical integrity of such sacred sites (Executive Order 13007)?</b>		
<b>YES</b>	<b>NO</b>	<b>Rationale</b>
	X	The Proposed Action would not limit access to, or inhibit the ceremonial use of, Indian sacred sites protected by EO 13007.

Noxious and Non-Native Invasive Species

12. Does the proposed action contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area, or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112)?		
YES	NO	Rationale
	X	The proposed action would be for certified weed free hay unless it cannot be obtained in time to deal with the emergency situation. If noncertified weed free hay is used all locations of hay placement will recorded, monitored, and if necessary treated.