



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

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DEPARTMENT OF ADMINISTRATION
OFFICE OF THE DIRECTOR
BUDGET AND PLANNING DIVISION

In Reply Refer To:
4160 (NV032)

March 17, 2006

NOTICE OF PROPOSED DECISION

Change in Livestock Numbers and Period of Use
on the Buckeye Grazing Allotment (EA-NV-030-06-02),
Offer of a Term Grazing Permit, and Construction of Range Improvements

Certified Mail No. 7004-2890-0003-0317-4761
Return Receipt Requested

Bently Family Limited Partnership
Attn: Mr. Matt McKinney
P.O. Box 127
Minden, NV 89423

Dear Mr. McKinney:

INTRODUCTION

The Bureau of Land Management (BLM) is proposing to issue a new term livestock grazing permit for the Buckeye Allotment with modified terms and conditions as well as authorize twelve miles of fence construction and the use of five water haul sites. The new term grazing permit would authorize cattle to graze in the Buckeye Allotment from April 1st until September 15th. Permitted use would be 1,471 AUMs annually on the BLM Managed Land. A deferred livestock grazing schedule would be utilized. During odd numbered years livestock grazing would begin in the central portion of the allotment and move counterclockwise through the allotment. During even numbered years livestock grazing would begin in the central portion of the allotment and move clockwise through the allotment. The purpose of the deferred grazing schedule is to ensure that the same portion of the allotment is not grazed at the same time each year. Under the deferred schedule the south half of the allotment would be grazed in the spring and the north half of the allotment would be grazed in the summer. A portion of the northern end of the allotment is designated as a wild horse herd management area (HMA). The HMA would not have livestock grazing during the spring growing season.

Approximately twelve miles of fence along with associated cattle guards and gates would be authorized for construction. The majority (11 miles) of the fencing would occur along

the north western boundary of the allotment. The fence would be designed to keep livestock out of residential areas and facilitate recreational uses on BLM managed land. The remainder of the fencing would be constructed around sensitive and/or buckwheat plant populations (1 mile). The exact type of fencing material has not been determined yet. Fencing materials may include post and rail, barbed and smooth wire, wood posts and wire or other appropriate materials. With the exception of small enclosure fences around Kearney buckwheat populations all proposed fencing is located outside of the Wild Horse HMA.

Designate five areas within the allotment as water haul locations. No water haul locations would be permitted in known paleontological areas or near sensitive or Kearney buckwheat plant populations.

Permitted use is currently 2,200 AUMs annually on the BLM Managed Land within the Buckeye Allotment. Under the proposed decision permitted livestock use on BLM managed lands within the allotment would be reduced by 730 AUMs, and the annual livestock grazing period of use would be reduced by six months. The current livestock grazing permit authorizes cattle to graze in the allotment on a yearlong basis, but the permit is subject to the terms in the 1994 allotment evaluation. These terms state cattle should be authorized in the southeast portion of the allotment only in conjunction with private lands of the central pasture so that a rotational strategy would result in livestock leaving the riparian zones by mid-July. The west side of the allotment should have cattle only in the wintertime; use in other seasons would require the western boundary to be fenced to prevent livestock from leaving the allotment. The north end of the allotment is designated as a wild horse herd management area (HMA) and should not have livestock grazing during the growing season. These terms in the 1994 evaluation were incorporated into the current permit by reference. Under the existing condition no new fencing or water haul sites are authorized at this time.

BACKGROUND

On November 9, 2005, the BLM sent out letters requesting that anyone interested in livestock grazing management on the Carson City Field Office please respond so they could be added to the "interested public" mailing list. On January 19, 2006 a cover letter requesting comments on Environmental Assessment (EA-NV-030-06-02) and a copy of the EA were sent to the interested public. Responses were received from six interested parties. Thank you for your interest in the proposal and your comments. Comments received are summarized below with BLM responses:

Comment 1: Habitat for the Carson Wandering Skipper (*Pseudocopa eunus obscurus*) a federally endangered species may exist within the Buckeye grazing allotment.

BLM Response 1: Habitat surveys were conducted between May and July of 2005 and no Wandering Skipper habitat was identified within the grazing allotment. Therefore, the actions proposed in EA-NV-030-06-02 would not impact this species.

Comment 2: Your plan to remove wild horses from the Pine Nut HMA is for the sole purpose of increasing livestock grazing.

BLM Response 2: Due to the number of comments that were received regarding wild horse management in the Pine Nut HMA, a brief background regarding wild horse management is being provided. However, it is important to stress that EA-NV-030-06-02 and this proposed decision only pertain to livestock grazing within the Buckeye Allotment and in no way affect management of wild horses. There are no other proposals at this time to change either wild horse numbers or wild horse management within the Pine Nut HMA.

After completing the required analysis, of which extensive public participation was an integral part, a Final Multiple Use Decision (FMUD) setting the stocking level for all grazing animals within the Pine Nut Mountains was finalized on August 18, 1995. The FMUD, which covered the Herd Management Area (HMA), stated; "the analysis of current monitoring data presented in the allotment evaluations for those allotments in the Pine Nut HMA indicate that a thriving natural ecological balance will be achieved at a level of 2,152 AUMs of wild horse use. In order to minimize the disruption of band structure and the stress to individual animals the population of wild horses would be reduced 34% below the Appropriate Management Level (AML). This would further allow a three or four year interval between removals." This effectively set the AML as a range between 118 and 179 horses. In 2003 the wild horse population within the Pine Nuts was estimated at 439 head. Based on current monitoring information, which showed that the AML was valid, a gather removed excess horses down to the low end of the AML, leaving 118 head.

Prior to removing any horses or changing wild horse management in the future an analysis of current monitoring information will be completed. Based on this analysis a separate document, another FMUD if the AML has changed or, if the AML is valid, a Capture Plan/Environmental Assessment will be issued with appropriate public input before any action is taken.

The portion of the HMA that encompasses the northern portion of the Buckeye Allotment provides 493 AUMs of forage for wild horses and as stated earlier will not change.

The proposed action in the EA and the proposed decision is recommending to decrease permitted livestock use by 729 Animal Unit Months (AUMs).

Comment 3: Water hauling will create roads which will attract ORV and OHV traffic.

BLM Response 3: No new roads are proposed for construction. The five proposed water haul sites would be placed along existing roads.

The purpose of the proposed decision is to authorize the issuance of a Term Livestock Grazing Permit for the Buckeye Allotment consistent with the attainment of site specific objectives found in the Carson City Field Office (CCFO) Consolidated Resource Management Plan (CRMP), and implement livestock grazing practices that will ensure compliance with the approved Standards for Rangeland Health & Guidelines for Grazing Management (S&Gs), Sierra Front Northwestern Great Basin Area. Management of grazing will come through the issuance of a grazing permit which will provide the parameters and guidelines for management of the range resources on the allotment. Proper management will result in improved range condition throughout the area.

A livestock grazing decision is needed at this time for the Buckeye Allotment because: 1) the BLM has had an opportunity to evaluate cattle grazing in the allotment since 1995 and has identified a need to modify the grazing permit to more accurately reflect actual grazing use; 2) the condition of natural resources on the allotment was evaluated in 2003 and grazing management needs to be updated at this time through a fully processed grazing permit; 3) the BLM Managed Lands within the allotment were identified as available for livestock grazing in the CCFO CRMP, and continued livestock grazing is consistent with the goals, objectives, standards and guidelines identified in the CRMP; and 4) where consistent with other multiple use goals and objectives, there is a congressional intent to allow grazing on BLM Managed Lands. This is evidenced by the Taylor Grazing Act of 1934 (as amended), the Federal Land Policy and Management Act of 1975, the Public Rangelands Improvement Act of 1978, and the approved Standards and Guidelines of 2003, as well as various other federal laws and regulations.

FINDING OF NO SIGNIFICANT IMPACT (FONSI)

I have reviewed Environmental Assessment (EA) NV-030-06-02, dated January 2006. After consideration of the environmental effects as described in the EA, and incorporated herein, I have determined that the proposed action identified in the EA will not significantly affect the quality of the human environment and that an Environmental Impact Statement (EIS) is not required to be prepared.

I have determined the proposed action is in conformance with the approved Consolidated Resource Management Plan, dated May 2001 for the Carson City Field Office, and is consistent with the plans and policies of neighboring local, county, state, tribal and federal agencies and governments. This finding and conclusion is based on my consideration of the Council on Environmental Quality's (CEQ) criteria for significance (40 CFR 1508.27), both with regard to the context and intensity of impacts described in the EA.

Context: The Buckeye Grazing Allotment is located approximately five miles southeast of Carson City, NV and is within the jurisdictional boundary of the Carson City Field Office of the Bureau of Land Management (BLM). The allotment encompasses the west side of the Pine Nut Mountains and is approximately 124,920 acres in size. There are BLM managed lands (65%), private lands controlled by the livestock operator (3%), Bureau of Indian Affairs (BIA) managed lands (22%), and other privately owned lands

within the allotment (10%). The BLM is currently considering the issuance of a new term livestock grazing permit for this allotment and the addition of range improvement projects (water haul sites & fencing).

Intensity:

1) *Impacts that may be both beneficial and adverse.*

The environmental assessment has considered both beneficial and adverse impacts of the proposed grazing system and the addition of range improvements. On the whole, the proposed action would result in improved vegetative condition and wildlife habitat. Improving ecological conditions is an improvement in the quality of the human environment through the management of rangeland resources, and is not considered a significant effect in either the short or long term.

2) *The degree to which the proposed action affects public health or safety.*

The proposed action would have no affect on public health and safety.

3) *Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.*

The majority of the riparian areas within the project area were found to be functioning. Approximately one half of the riparian areas were at risk, but livestock grazing was not a risk factor. As a standard operating practice, activities which result in the congregation of livestock are not authorized in areas with known historic and cultural values.

4) *The degree to which the possible effects on the quality of the human environment are likely to be highly controversial.*

The effects of livestock grazing and range improvement projects are well known and documented and are not highly controversial. Livestock management techniques are scientifically accepted methods of achieving both domestic livestock grazing and natural resource management goals. These practices are not considered highly controversial.

5) *The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.*

There are no known effects of the proposed action identified in the EA which are considered uncertain or involve unique or unknown risks. The proposed action is comprised of accepted standard practices of livestock grazing and range improvement projects.

6) *The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.*

The proposed action does not establish a precedent for future actions with significant effects and does not represent a decision in principle about a future consideration. All future grazing systems and range improvements, if they occur would be subject to the same environmental assessment standards and independent decision making.

7) *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.*

No significant cumulative impacts have been identified in the EA. Other grazing and range improvement projects (both private and public) may be proposed within the grazing allotment in the future and other land uses are ongoing within the same geographic area. These projects seen together with other land uses would not result in cumulatively significant impacts at the local or watershed scale.

8) *The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the NRHP or may cause loss or destruction of significant scientific, cultural, or historical resources.*

No districts, sites, highways, structures, or objects listed in or eligible for listing in the NRHP would be affected by the proposed action. Nor would the proposed action result in the loss or destruction of significant scientific, cultural or historical resources.

9) *The degree to which the action may adversely affect an endangered or threatened species or its habitat has been determined to be critical under the ESA of 1973.*

No threatened or endangered species or their habitats were identified in the project area.

10) *Whether the action threatens a violation of Federal, State, or local law requirements imposed for the protection of the environment.*

The proposed action will not violate or threaten to violate any Federal, State, or local law or requirement imposed for the protection of the environment.

PROPOSED DECISION

It is my proposed decision to implement the Proposed Action as described in Environmental Assessment (EA) NV-030-06-02, dated January 2006. The Bureau of Land Management (BLM) is proposing to issue a new term livestock grazing permit for the Buckeye Allotment with modified terms and conditions as well as authorize twelve miles of fence construction and the use of five water haul sites. The new term grazing permit would authorize cattle to graze in the Buckeye Allotment from April 1st until September 15th. Permitted use would be 1,471 AUMs annually on the BLM Managed Land. A deferred livestock grazing schedule would be utilized. During odd numbered years livestock grazing would begin in the central portion of the allotment and move counterclockwise through the allotment. During even numbered years livestock grazing would begin in the central portion of the allotment and move clockwise through the allotment.

Approximately twelve miles of fence along with associated cattle guards and gates would be authorized for construction. The majority (11 miles) of the fencing would occur along the north western boundary of the allotment. The remainder of the fencing would be constructed around sensitive and/or buckwheat plant populations (1 mile).

Designate five areas within the allotment as water haul locations. No water haul locations would be permitted in known paleontological areas or near sensitive or Kearney buckwheat plant populations.

RATIONALE

The purpose of the proposed action is to authorize the issuance of a Term Grazing Permit for the Buckeye Allotment consistent with the attainment of site specific objectives found in the Carson City Field Office (CCFO) Consolidated Resource Management Plan (CRMP), and implement livestock grazing practices that will ensure compliance with the approved Standards for Rangeland Health & Guidelines for Grazing Management (S&Gs), Sierra Front Northwestern Great Basin Area. Management of grazing will come through the issuance of a grazing permit which will provide the parameters and guidelines for management of the range resources on the allotment. Proper management will result in improved range condition throughout the area.

AUTHORITY

The following citations come from 43 CFR, subpart 4100:

{§4100.0-8} states that “The authorized officer shall manage livestock grazing on public lands under the principle of multiple use and sustained yield, and in accordance with applicable land use plans. Land use plans shall establish allowable resource uses (either singly or in combination), related levels of production or use to be maintained, areas of use, and resource condition goals and objectives to be obtained. The plans also set forth program constraints and general management practices needed to achieve management objectives. Livestock grazing activities and management actions approved by the authorized officer shall be in conformance with the land use plan as defined at 43 CFR 1601.0-5(b).”

{§4110.3} states that “The authorized officer shall periodically review the permitted use specified in a grazing permit or lease and shall make changes in the permitted use as needed to manage, maintain or improve rangeland productivity, to assist in restoring ecosystems to properly functioning condition, to conform with land use plans or activity plans, or to comply with the provisions of subpart 4180 of this part. These changes must be supported by monitoring, field observations, ecological site inventory or other data acceptable to the authorized officer.”

{§4130.3} states that “Livestock grazing permits and leases shall contain terms and conditions determined by the authorized officer to be appropriate to achieve management and resource condition objectives for the public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with the provisions of subpart 4180 of this part.”

{§4130.3-1} states that “(a) The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the amount of use, in

animal unit months, for every grazing permit or lease. The authorized livestock grazing use shall not exceed the livestock carrying capacity of the allotment.” “(b) All permits or leases shall be made subject to cancellation, suspension, or modification for any violation of these regulations or of any term or condition of the permit or lease.” “(c) Permits and leases shall incorporate terms and conditions that ensure conformance with subpart 4180 of this part.”

RIGHT OF PROTEST AND/OR APPEAL

PROTEST

In accordance with 43 CFR 4160.2, any applicant, permittee, lessee or other interested public may protest the Proposed Decision under 4160.1 of this title, in person or in writing to the authorized officer Elayn Briggs Assistant Manager, Renewable Resources Bureau of Land Management Carson City Field Office 5665 Morgan Mill Road Carson City, NV 89701 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 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

In accordance with 43 CFR 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

In accordance with 43 CFR 4.470, 4160.3 (c) and 4160.4, any person whose interest is adversely affected by a final decision of the authorized officer may appeal the decision for the purpose of a hearing before an administrative law judge. The appeal must be filed within 30 days after the date the proposed decision becomes final or 30 days after receipt of the final decision. In accordance with 43 CFR 4.470, the appeal shall state clearly and concisely the reason(s) why the appellant thinks the final decision of the authorized officer is wrong.

Pursuant to 43 CFR 4.471 and 4160.3(c), an appellant also may petition for a stay of the final decision pending appeal by filing a petition for stay along with the appeal within 30 days after the date the proposed decision becomes final or 30 days after receipt of the final decision.

The appeal and any petition for stay must be filed at the office of the authorized officer Elayn Briggs Assistant Manager, Renewable Resources Bureau of Land Management Carson City Field Office 5665 Morgan Mill Road Carson City, NV 89701. 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:

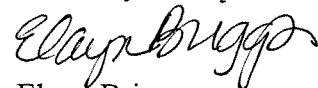
- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted;
and,
- (4) Whether the public interest favors granting the stay.

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)).

Sincerely,



Elayn Briggs
Assistant Manager
Renewable Resources
Carson City Field Office

cc:	Craig Downer	7004-2890-0003-0317-4778
	Gail Fox	7004-2890-0003-0317-4785
	Willis Lamm	7004-2890-0003-0317-4792
	Fish and Wildlife Service	7004-2890-0003-0317-4808
	Western Watersheds Project	7004-2890-0003-0317-4815
	Nevada State Clearinghouse	7004-2890-0003-0317-4822
	Bureau of Indian Affairs	7004-2890-0003-0317-4839
	Michael Arett	7004-2890-0003-0317-4884

