



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Carson City Field Office
5665 Morgan Mill Road
Carson City, Nevada 89701
<http://www.nv.blm.gov>



In Reply Refer To:
(NV-032)
4160

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

NOTICE OF FINAL DECISION

INTRODUCTION

The Belleville Allotment is comprised of 154,491 acres of public lands in Mineral County, Nevada. These are low production desert lands as precipitation averages only around 5 inches a year. The allotment has historically been a cattle allotment during the winter and spring, with the majority of the use being west of the Candelaria Hills. This area is comprised of lands that were once included in the Candelaria and Marietta Allotments. Currently, permitted livestock use in the Belleville Allotment is 55 cattle from November 1 to April 15, for a total of 303 Animal Unit Months (AUM's).

The Record of Decision for the Major Land Use Decision Summary and Environmental Impact Statement, Walker Planning Area was issued in 1986. These documents established the multiple use goals and objectives which guide management of the public lands contained in the Belleville Allotment. The Rangeland Program Summary for the Walker Resource Area was issued in 1986 and updated in 1989, which further identified the allotment specific objectives for this area of public lands.

The Carson City Field Office (CCFO) established the 2001 Consolidated Resource Management Plan, which incorporates decisions from eight major field office planning documents and five amendments to these plans.

As identified in the Rangeland Program Summary, monitoring was established on the allotment to determine if existing multiple uses were consistent with the attainment of the objectives established by the Resource Management Plans. Monitoring data has been collected, and this data has been analyzed, through a standards and guidelines assessment, to determine progress in meeting multiple use objectives and determine if changes in existing management are required in order to meet specific objectives for the allotment.

BACKGROUND

The CCFO is in the process of renewing all of its active grazing permits under the requirements of recent regulations. Monitoring has been carried out on this allotment, a Standards and Guidelines Determination completed, and an Environmental Assessment (EA-NV-030-07-020) that analyzed a proposed action and alternatives was prepared. The Proposed Action, as put forth in this Decision, is a result of those activities.

A Standards and Guidelines Assessment was conducted on the allotment in order to document current conditions and determine if the allotment is currently achieving applicable Rangeland Health Standards and conforming to the applicable Guidelines for Livestock Grazing Management. As a result of the assessment, it was determined that all applicable standards and guidelines are being met.

A Notice of Proposed Decision regarding the reissuance of a Term Grazing Permit for the Belleville Allotment was mailed to all interested parties on June 21, 2007. A timely Protest to this Proposed Decision was received from the Western Watersheds Project, and also from Tony and Jerrie Tipton. I have carefully considered the Protests' statements of reasons as to why the Proposed Decision was in error, and have responded below.

Point

"I would first like to bring to your attention that the Belleville Allotment (formerly Candelaria and Marietta Allotments) has, from BLM records, run about 3300 aum's and is a 'year round' allotment."

Response

The Belleville Allotment was formed in 1990 from a combination of the Candelaria and Marrietta Allotments. As per the 1989 Walker Resource Area Rangeland Program Summary, the Marietta Allotment was allocated at 1536 AUMs. The Candelaria Allotment was unallocated (no AUMS allocated for livestock use), but there was a provision for Temporary Nonrenewable (TNR) use when forage was available. A permit was issued to two permittees (McKay and Harris Brothers) for 1536 AUMs. It is a winter/spring allotment.

Point

“Therefore, if it be true that the 15+ years of monitoring data is ‘lost’ and no other data exists, then this entire document is based on one (1) year’s worth of monitoring data...

Response

The Environmental Assessment prepared to analyze the alternatives involved in the issuance of the McKay term permit drew on a number of sources of monitoring data collected over a number of years by BLM personnel. This monitoring data included: (1) Actual Use data for the years 1990-2006; (2) Precipitation Data for the years 1990-2005; (3) Use Pattern mapping for 2005-2006; (4) Frequency (trend) Monitoring in 1991, 1999, 2005, 2006; (5) Photo Plot Monitoring in 1979, 1980, 2005; (6) Riparian Assessment completed for this process in 2006; (7) Rangeland Health Assessments completed for this process in 2005; and (8) Standards and Guidelines Assessment and Determination completed for this process in 2006.

Point

“The authorized officer has the ability to implement changes in management practices that will improve health, function, productivity and sustainability of all resources associated with this and other allotments.”

Response

While this is a true statement, the protestants are referring to changes to management that they would like to make on the allotment. The application that has been received, and the alternatives that have been analyzed, concern the reissuance of a term grazing permit to Robert McKay on the Belleville Allotment. This is the Decision to be rendered in this document.

FINDING OF NO SIGNIFICANT IMPACT (FONSI):

I have reviewed Environmental Assessment (EA) NV-030-07-020, dated May 2007. 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: Reissuing a term grazing permit for a period of ten years does not have international, national, regional or statewide importance. The discussion of significance criteria that follows applies to the Proposed Action and within the context of local importance in the area associated with the Belleville Allotment.

Intensity:

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

The environmental assessment has considered both beneficial and adverse impacts of the Proposed Action, to include the addition of two water haul sites and limiting the utilization on key plant species to 45%. 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 for the Allotment would not have an effect on public health or 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 Belleville Allotment does contain prehistoric-period lithic scatters, stone alignments, and camp sites of an extensive period of time ranging from the Paleoarchaic (over 8500 years ago) through the nineteenth-century. Also present are historic-period debris scatters; stone structures and buildings; roads associated with mining, limited settlement, and transportation; and include the mining town sites of Belleville and Candelaria. Based on a review of the range use data, utilization of the allotment landscape is slight to light; therefore, grazing is not likely to be a significant impact to known or unknown cultural resources.

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

Livestock grazing effects are well known and are not considered highly controversial. Livestock practices are geared towards meeting multiple use objectives, and 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 anticipated effects of the Proposed Action which are considered uncertain or involve unique or unknown risks. The Proposed Action is comprised of accepted standard practices of livestock grazing.

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. It does not represent a decision in principle about any future consideration.

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 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 National Register of Historic Places (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. The Proposed Action would not 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.*

There are no endangered or threatened species in the Belleville Allotment.

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.

FINAL DECISION

After careful consideration of the Protests received, all further information received through consultation, communication and coordination with the interested public, and reconsideration of all information contained in the Environmental Assessment prepared for this action, **my Final Decision is to implement the Proposed Action as described in Environmental Assessment EA-NV-030-07-020 for authorization of livestock grazing use on the Belleville Allotment.**

Implementation of the Proposed Action will authorize (1) a new ten year grazing permit for grazing use on the Belleville Allotment; (2) 55 cattle to graze on the Belleville Allotment from November 1st until April 15th for a total of 303 AUM's; (3) the addition of two water haul sites; (4) a limitation on the utilization of desirable shrubs, such as antelope bitterbrush (*Purshia tridentata*), spiny hopsage (*Grayia spinosa*), budsage (*Artemisia spinescens*), fourwing saltbush

(*Atriplex canescens*), and winterfat (*Krascheninnikovia lanata*), so as not to exceed 45% in the upland key areas in the allotment.; and (5) a limitation on the utilization of desirable grasses, such as Indian ricegrass (*Achnatherum hymenoides*), Thurber's needlegrass (*Stipa thurberiana*), galleta grass (*Hilaria jamesii*), and Sandberg bluegrass (*Poa secunda*), so as not to exceed 45% in the upland key areas in the allotment..

RATIONALE

Current grazing management on the Belleville Allotment is meeting all applicable Standards and Guidelines at the present time. The EA process recently completed, along with the monitoring data and Rangeland Health Assessments completed, have indicated that issuing a permit for 303 AUMs for a winter/spring grazing season is the proper grazing management program to provide an opportunity for improvement of the vegetative base when adequate moisture is received on the allotment. Implementation of the Proposed Action through this decision will provide for such improvement.

With the addition of two more water haul sites on the allotment and the 45% utilization limit on key upland shrub and grass species, there will be an improvement in the vegetative condition throughout the allotment as the cattle will not be able to congregate in one area for too long.

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 make changes in 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.”

§4160.3(b) states that “Upon the timely filing of a protest, the authorized officer shall reconsider her/his proposed decision in light of the protestant’s statement of reasons for protest and in light of other information pertinent to the case. At the conclusion to her/his review of the protest, the authorized officer shall serve her/his final decision on the protestant, or her/his agent, or both, and the interested public.

RIGHT OF 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. At this time, the BLM will not accept protests or appeals sent by electronic mail. 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)).

Elayn Briggs
Assistant Manager Renewable Resources
Carson City Field Office

Date

CC: (by certified mail):

Western Watersheds Project (CRR# 7002 2410 0005 6671 0195)
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CC: (by electronic mail):

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United States Department of the Interior

BUREAU OF LAND MANAGEMENT

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Carson City, Nevada 89701-1448
<http://www.nv.blm.gov/Carson>



In Reply Refer to:

(NV-032)
4160

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

NOTICE OF FINAL DECISION

INTRODUCTION

The Gillis Mountain Allotment is located entirely within Mineral County, Nevada, and is directly north of the Hawthorne Army Depot. Walker Lake forms the western boundary, and the Walker River Indian Reservation forms the northern boundary. The Gabbs Valley Range forms the majority of the eastern boundary. The allotment contains 160,300 acres of public land and approximately 240 acres of deeded land, primarily patented mining claims. Approximately 9,900 acres of the Pilot Mountain Herd Management Area overlaps into the northeast portion of the allotment. The BLM is considering the renewal of the term livestock grazing permit for this allotment. Currently permitted livestock use in the Gillis Mountain Allotment is 321 cattle from October 1st to March 31st for a total of 1,924 Animal Unit Months (AUM's). The new grazing permit would authorize 422 cattle to graze on the Gillis Mountain Allotment from November 15th until April 30th for a total of 2,317 AUM's.

The Record of Decision for the Major Land Use Decision Summary and Environmental Impact Statement, Walker Planning Area was issued in 1986. These documents established the multiple use goals and objectives which guide management of the public lands contained in the Gillis Mountain Allotment. The Rangeland Program Summary for the Walker Resource Area was issued in 1986 and updated in 1989, which further identified the allotment specific objectives for this area of public lands.

The Carson City Field Office (CCFO) established the 2001 Consolidated Resource Management Plan, which incorporates decisions from eight major field office planning documents and five amendments to these plans.

As identified in the Rangeland Program Summary, monitoring was established on the allotment to determine if existing multiple uses were consistent with the attainment of the objectives

established by the Resource Management Plans. Monitoring data has been collected, and this data has been analyzed, through a standards and guidelines assessment, to determine progress in meeting multiple use objectives and determine if changes in existing management are required in order to meet specific objectives for the allotment.

BACKGROUND

The CCFO is in the process of renewing all of its active grazing permits under the requirements of recent regulations. Monitoring has been carried out on this allotment, a Standards and Guidelines Determination completed, and an Environmental Assessment (EA-NV-030-07-019) that analyzed a proposed action and alternatives was prepared. The Proposed Action, as put forth in this Decision, is a result of those activities.

A Standards and Guidelines Assessment was conducted on the allotment in order to document current conditions and determine if the allotment is currently achieving applicable Rangeland Health Standards and conforming to the applicable Guidelines for Livestock Grazing Management. As a result of the assessment, it was determined that all applicable standards and guidelines are being met.

A Notice of Proposed Decision regarding the reissuance of a Term Grazing Permit for the Gillis Mountain Allotment was mailed to all interested parties on June 20, 2007. A timely Protest to this Proposed Decision was received from the Western Watersheds Project. I have carefully considered the Protest's statement of reasons as to why the Proposed Decision was in error.

FINDING OF NO SIGNIFICANT IMPACT (FONSI):

I have reviewed Environmental Assessment (EA) NV-030-07-019, dated May 2007. 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: Renewing a term grazing permit for a period of ten years does not have international, national, regional or statewide importance. The discussion of significance criteria that follows applies to the Proposed Action and within the context of local importance in the area associated with the Gillis Mountain Allotment.

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, the change of grazing season, and the increase in AUM's. On the whole, the Proposed Action would not change the vegetative condition or 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 for the Allotment would not have an effect on public health or 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 east shore of Walker Lake, which forms the western boundary of the Gillis Mountain Allotment, has important prehistoric-period lithic scatters, stone alignments, rock art, and camp sites, but it is rare for cattle to range west of the mountain crest; therefore, grazing is not likely to be a significant impact to historic or cultural resources.

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

Livestock grazing effects are well known and are not considered highly controversial. Livestock practices are geared towards meeting multiple use objectives, and 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 anticipated effects of the Proposed Action which are considered uncertain or involve unique or unknown risks. The Proposed Action is comprised of accepted standard practices of livestock grazing.

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. It does not represent a decision in principle about any future consideration.

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 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 National Register of Historic Places (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. The Proposed Action would not 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.*

A determination of “No Effect” to both the bald eagle and Lahontan Cutthroat trout (LCT) was made for re-issuing this grazing permit. Livestock grazing wouldn’t affect bald eagles flying over the allotment since the only use made would be scavenging. Because of the current functional condition of soil and vegetation on this allotment, there would be no indirect effect to LTC habitat from sediments entering Walker Lake from unstable watersheds on Gillis Mountain.

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.

FINAL DECISION

After careful consideration of the Protest received, all further information received through consultation, communication and coordination with the interested public, and reconsideration of all information contained in the Environmental Assessment prepared for this action, **my Final Decision is to implement the Proposed Action as described in Environmental Assessment EA-NV-030-07-019 for authorization of livestock grazing use on the Gillis Mountain Allotment.**

Implementation of the Proposed Action will authorize (1) a new ten year grazing permit for grazing use on the Gillis Mountain Allotment; (2) 422 cattle to graze on the Gillis Mountain Allotment from November 15th until April 30th for a total of 2,317 AUM’s; (3) the removal of the ecoplot fence and posts located in the Win Wan Valley; (4) the incorporation of a two-pasture rest-rotation system, using the west side of the allotment one year and the east side the next year, when forage is readily available; and (5) the limitation of the utilization to 45%

(moderate) on key shrub and grass species, which are winterfat (*Krascheninnikovia lanata*) and Indian ricegrass (*Achnatherum hymenoides*).

RATIONALE

Current grazing management on the Gillis Mountain Allotment is meeting the Plant and Animal Habitat Standard and is meeting all other applicable standards. With the implementation of the Proposed Action through this decision, there will be a slight increase of 393 AUM's on the new grazing permit. This is due to the substantial amount of unused forage that has been observed at the end of most grazing seasons when the utilization studies have been completed. Use of this excess forage will not change the overall utilization class on the allotment.

The removal of the ecoplot fence in the Win Wan Valley will reduce the congregation of cattle, as well as prevent other ranchers (nonpermittees) from using the structure as a holding facility. Also, with the increased use of water haul sites and the 45% utilization limit, there will be an improvement in the vegetative condition throughout the allotment as the cattle will not be able to congregate in one area for too long.

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 make changes in 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.”

§4160.3(b) states that “Upon the timely filing of a protest, the authorized officer shall reconsider her/his proposed decision in light of the protestant’s statement of reasons for protest and in light of other information pertinent to the case. At the conclusion to her/his review of the protest, the authorized officer shall serve her/his final decision on the protestant, or her/his agent, or both, and the interested public.

RIGHT OF 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. At this time, the BLM will not accept protests or appeals sent by electronic mail. 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 it's 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)).

Elayn Briggs
Assistant Manager Renewable Resources
Carson City Field Office

Date

CC: (by certified mail):

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