



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>



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(NV-032)

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NOTICE OF FINAL DECISION

INTRODUCTION

The Flanigan Allotment is located within the jurisdictional boundary of the Carson City Field Office (CCFO) of the Bureau of Land Management (BLM). The grazing allotment is located in Washoe County, Nevada approximately 50 miles north of Reno, NV and runs along the northern end of the Virginia Mountains. The allotment boundaries are formed by the Pyramid Lake Indian Reservation to the east, Tule and Vinegar Peaks and Sugarloaf Mountain to the south and Fort Sage Mountains to the west. As with most of the allotment boundary the northern end is also fenced. Other than an east west drift fence that separates the summer and winter pastures and several protected areas there is no internal fencing on the allotment.

The BLM is considering the renewal of the term livestock grazing permit for this Allotment. Currently permitted livestock use in the Flanigan Allotment is; 322 cattle from 12/01 to 04/15 and 749 cattle from 06/16 to 09/30 15th for a total of 5015 AUMs. The Record of Decision for the Major Land Use Decision Summary and Environmental Impact Statement, Reno Planning Area was issued in December of 1982. These documents established the multiple use goals and objectives which guide management of the public lands located in the Flanigan Allotment. The Rangeland Program Summary (RPS) for the Reno Planning Area was issued on May 30, 1984 and 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-030-07-018) 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 (S&Gs) for Soils, Plants and Animal Habitat and Special Species Habitat are being met. All S&Gs for Riparian/Wetland and Water Quality, with the exception of Anderson Spring, are also being met. The S&Gs for Riparian/Wetland will be met at Anderson Spring after reconstruction of the existing enclosure. The springs identified as having noxious weeds present will be sprayed to eradicate these species. After the recommended actions are taken on the allotment, all of the Riparian/Wetlands Standard will be met.

A Notice of Proposed Decision regarding the re-issuance of a Term Grazing Permit for the Flanigan Allotment was mailed to all interested parties on June 28, 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-030-07-018, dated May 11, 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 Flanigan 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 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 for the Flanigan 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 Flanigan Allotment contains no unique geographic areas that would merit concern.

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

Livestock grazing and range improvement projects 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 nor 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. 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.*

A biological evaluation and assessment was prepared for the Carson Wandering Skipper, bald eagle. A determination of “May Affect, Not Likely to Adversely Affect” from reissuing this grazing permit was made for the Carson Wandering Skipper.

A determination of “No Effect” to the bald eagle was made. Concurrence was obtained from the U.S. Fish & Wildlife Service on these determinations.

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-030-07-018 for authorization of livestock grazing use on the Flanigan Allotment.**

Implementation of the Proposed Action will authorize:

- (1) A new ten year grazing permit for grazing use on the Flanigan Allotment;
- (2) A maximum of 322 cattle will be authorized to graze the allotment between 12/01 and 04/15 and 749 cattle from 06/16 to 09/30. This will provide a total of 5015 AUMs of grazing;
- (3) All grazing use will be in accordance with the Flanigan AMP and revisions outlined in the current EA. The current AMP will be followed as written with the exception of the change pertaining to the Wandering Skipper,
- (4) Repair or reconstruction of the identified spring enclosures will be completed.

RATIONALE

Current grazing management on the Flanigan allotment is meeting all Standards and Guidelines including Riparian/Wetlands with the exception of Anderson Spring. Implementation of the

Proposed Action through this decision will provide for improvement to Anderson Spring thereby meeting all Riparian/Wetland Standards allotment wide. As concurred by the Fish and Wildlife Service, removal of livestock by June 1st, from the area around the identified Wandering Skipper habitat will assure that there is no adverse affect on this species.

The maintenance of existing structures will protect these areas not only from livestock, but also wild horses and recreationists. Continuing to follow the existing AMP with its current management strategy will provide for a sustainable level of grazing use throughout the allotment.

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.”

§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):

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Western Watersheds Project (CRR# 7005 2570 0000 0785 4967)
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Resource Concepts, Inc. (CRR# 7005 2570 0000 0785 4950)
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