



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

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In Reply Refer to:  
(NV-032)

4160

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### **NOTICE OF PROPOSED 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.

In 1992, the Belleville Allotment, along with the Little Huntoon Allotment, was formed by a Decision, which removed a portion of the old Candelaria and Marietta Allotments to be managed exclusively for wild burros. At that time, two permittees held a grazing preference for the Belleville Allotment, Mervin McKay with 650 Animal Unit Months (AUM's) and the Harris Brothers with 768 AUM's. In 1994 the Harris Brothers' grazing preference for the Belleville Allotment was cancelled after repeated years of nonuse on the allotment and failing to use base property as the base of a livestock operation in the Carson City District. The cancellation of this grazing preference eliminated the possibility that a future applicant could qualify to hold the Harris Brothers' grazing preference for the Belleville Allotment by acquiring the former base property or through a transfer of the Harris Brothers' grazing permit.

McKay's grazing preference was split between two base properties at the time of his death in 1994. 347 AUM's were attached to the "Tidd Ranch" parcel, and 303 AUM's were attached to the "Antelope Pasture" parcel. After the sale of the "Tidd Ranch" parcel, McKay's active preference was reduced to 303 AUM's, the current permit number attached to the "Antelope Pasture" parcel. The preference that had been attached to the "Tidd Ranch" was cancelled when it was sold in 1999 without the transfer of the grazing preference attached.

In 1997, an Environmental Assessment (EA Number 97013), titled "Cedar Mountain/Belleville Ecosystem Restoration Project" was prepared and signed by the authorized officer, allowing Tony and Jerrie Tipton, permittees on the Cedar Mountain Allotment, to participate in a restoration project on the above allotments. The Tiptons were billed for 891 AUM's in 1993, 541 AUM's in 1995, and 791 AUM's for the 1996 – 1997 grazing season, all temporary nonrenewable authorizations. Letters and other documentation in the Carson City Field Office files indicate that they also grazed various numbers of cattle on the Belleville Allotment at no

charge, authorized by CCFO staff in an informal manner, outside the legality of the grazing regulations. The Tiptons made application for a grazing permit in the Belleville Allotment on March 14, 2008. The Tiptons' proposed base property does not now nor has it ever had any attached grazing preference for the Belleville Allotment. BLM has determined therefore that the Tiptons are not qualified applicants. Additionally, BLM has determined that there are no additional AUM's permanently available beyond the 303 AUM's permitted to Robert McKay.

Currently, there is only one grazing permit on the Belleville Allotment, authorizing 55 cattle from November 1 to April 15, for a total of 303 AUM's. This permit belongs to Robert McKay.

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 CCFO established the 2001 Consolidated Resource Management Plan (CRMP), 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.

## **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 CRMP, dated May 2001 for the CCFO, 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 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.

## **PROPOSED DECISION**

**Therefore, it is my proposed decision 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 (Operator #2702877) for grazing use on the Belleville Allotment; (2) 55 cattle to graze on the Belleville Allotment from November 1<sup>st</sup> until April 15<sup>th</sup> 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 (*Achnatherum thurberianum*), 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, to include the following: Soils, Riparian/Wetlands, Water Quality, Plant and Animal Habitat, and Special Status Species Habitat. However, improvement can always be made, by clarification in management needs, as well as changes in management. The recommendations following the Belleville Allotment 2006 Standards & Guidelines Analysis include the following: 1) the consideration of only the current term grazing permit with 303 AUM's, with no additional AUM's available on the allotment; 2) a 45% limit on utilization of the key grass species and desirable shrubs; and 3) the requirement for water hauling each year in order to utilize the vegetation at a more even level.

The addition of two more water haul sites on the allotment and the 45% utilization limit on key upland shrub and grass species will improve the vegetative condition throughout the allotment as the cattle will not be able to congregate in one area for too long. Implementation of the Proposed Action through this decision will provide improvement to all habitats.

## **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.”

{§4180.1} states that “(a) Watersheds are in, or are making significant progress toward, properly functioning condition, including their upland, riparian-wetland, and aquatic components; soil and plant conditions support infiltration, soil moisture storage, and the release of water that are in balance with climate and landform and maintain or improve water quality, water quantity, and timing and duration of flow.” “(b) Ecological processes, including the hydrologic cycle, nutrient cycle, and energy flow, are maintained, or there is significant progress toward their attainment, in order to support healthy biotic populations and communities.” “(c) Water quality complies with State water quality standards and achieves, or is making significant progress toward achieving, established BLM management objectives such as meeting wildlife needs.” “(d) Habitats are, or are making significant progress toward being restored or maintained for Federal threatened and endangered species, Federal proposed or candidate threatened and endangered species, and other special status species.”

## **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. At this time, the Bureau of Land Management will not accept protests or appeals sent by electronic mail. 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: (by certified mail):**

Western Watersheds Project (CRR# 7007 0710 0002 5045 5850)  
Attn: Katie Fite  
P.O. Box 2863  
Boise, ID 83701

Mr. Robert W. McKay (CRR# 7005 1820 0003 8678 3228)  
P.O. Box 17  
Smith, NV 89430

Mr. & Mrs. Tony Tipton (CRR# 7005 1820 0003 8678 3204)  
Box 138  
1 Muletown Road  
Mina, NV 89422

**CC: (by electronic mail):**

Nevada State Clearinghouse (clearinghouse@budget.state.nv.us)  
209 E. Musser Street, Room 200  
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