



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Carson City Field Office
5665 Morgan Mill Road
Carson City, NV 89701



In Reply Refer To:
(NV-032)
4160

CERTIFIED MAIL
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NOTICE OF PROPOSED DECISION

INTRODUCTION

The Cedar Mountain Allotment is located southeast of Hawthorne, Nevada, and is within the Jurisdictional Boundary of the Carson City Field Office (CCFO) of the Bureau of Land Management (BLM). The grazing Allotment is located in Mineral County and encompasses approximately 62,611 acres of BLM managed land. The BLM is considering the renewal of the term livestock grazing permit for this Allotment. Currently permitted livestock use in the Cedar Mountain Allotment is 186 cattle from November 1 until March 31 for a total of 925 AUMs.

The Record of Decision for the Major Land Use Decision Summary and Environmental Impact Statement, Walker Planning Area was issued in June of 1986. These documents established the multiple use goals and objectives which guide management of the public lands contained in the Cedar Mountain Allotment. The Rangeland Program Summary (RPS) for the Walker Planning Area was issued in November of 1989 and 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 RPS, 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 (RMP's). Monitoring data has been collected and this data has been analyzed through a Standards and Guidelines (S&G's) assessment, to 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, and an S&G's Determination completed, and an Environmental Assessment ((EA)-NV-

030-07-13) that analyzed a proposed action and alternatives was prepared. The Proposed Action, as put forth in this Proposed Decision, is a result of those activities.

An S&G's 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 the S&G's for Soils, Plant and Animal Habitat, and Special Status Species Habitat were being met. S&G's for Riparian/Wetland and Water Quality were not being met and livestock grazing practices were deemed to be a significant factor. It was determined that conditions could be improved at Douglas Basin Complex, Graham Spring, and Lower Gunmetal Spring by way of repairing, expanding, and/or constructing new fence at these sites. Upon further staff review it was determined that Bettles Ranch spring could be fenced to improve conditions at this site also.

FINDING OF NO SIGNIFICANT IMPACT (FONSI)

I have reviewed EA NV-030-07-13, dated April 30, 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 (CEQ) criteria for significance (40 CFR 1508.27), both with regard to the context and intensity of impacts described in the EA.

Intensity:

1) Impacts that may be both beneficial and adverse.

The environmental assessment has considered both beneficial and adverse impacts of the proposed grazing management and the addition of range improvements. On the whole, the proposed action would result in improved riparian/wetland conditions and improved water quality. Improving ecological conditions of these sites 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 Cedar Mountain Allotment contains no unique geographic areas that would merit concern. The Allotment contains some locations of known cultural resources that represent significant past human use of the landscape. These include prehistoric-period lithic scatters, stone alignments and camp sites of a wide range of age ranging from the Paleoarchaic (over 8500 years ago) through the nineteenth century. Livestock grazing has been present in the immediate region for well over 80 years and for most of the allotment, cultural resources generally lack potential for being sensitive and at-risk from proposed grazing activities. Four spring areas were identified as requiring additional fieldwork in order to evaluate the significant values of historic properties versus dispersed livestock range use and the concentration of livestock at springs. These areas are the locations for which fencing is proposed. Other than these four areas, the existing range use pattern is not anticipated to have current or future impacts to historic properties.

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 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 (NHRP) 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. As noted under item 3, other than the four riparian areas proposed for fencing, the existing range use pattern is not anticipated to have current or future impacts to historic properties.

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.

The Allotment contains no known endangered or threatened species, only BLM sensitive species.

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-030-07-13 for authorization of livestock grazing use on the Cedar Mountain Allotment.

Implementation of the Proposed Action will authorize (1) A new ten year grazing permit for grazing use on the Cedar Mountain Allotment; (2) A total of 186 cattle will be authorized to graze on the allotment, with a season of use of 11/01 through 03/31. This will provide a total of 925 AUMs of grazing; (3) Limit utilization on desirable shrubs and key grasses so as not to exceed 45%; (4) Water hauling would be required each year; (5) For Graham Spring, repair and expand the existing enclosure and provide water for cattle and wild horses; (6) For Lower Gunmetal Spring, fence most of the spring and provide water for cattle and wild horses; (7) For the Douglas Basin Complex, fence the spring area to exclude cattle; and (8) For Bettles Ranch Spring, fence the spring area to exclude livestock and provide water for cattle and wild horses. The proposed fencing would consist of three strands of barbed wire and one smooth bottom wire. The fencing would comply with BLM wildlife fence standards (type B antelope). The wire spacing for the wildlife standard is 16", 22", 30" and 42" and 16 1/2' spacing between T-posts.

RATIONALE

The proposed action maintains the total number of animal unit months and the authorized period of use. It further proposes a maximum utilization level of 45% along with the proposal to expand existing fencing and/or construct new fencing around four riparian areas. Establishing the 45% utilization level for desirable shrubs and key grasses should continue to make progress towards improving the forage base. Protection of the riparian sites should make progress toward meeting the Riparian/Wetland and Water Quality Standards. All other applicable standards are being met.

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 grazing preference specified in a grazing permit or lease and make changes in the grazing preference as needed to: (1) Manage, maintain or improve rangeland productivity; (2) Assist in making progress toward restoring ecosystems to properly functioning condition; (3) Conform with land use plans or activity plans; or (4) Comply with the provisions of subpart 4180 of this part. (b) The authorized officer will support these changes by monitoring, documented field observations, ecological site inventory, or other data acceptable to the authorized officer. (c) Before changing grazing preference, the authorized officer will undertake the appropriate analysis as required by the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*). Under NEPA the authorized officer will analyze and, if appropriate, document the relevant social, economic, and cultural effects of the proposed action.”

{§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)).

Elayn Briggs
Assistant Manager, Renewable Resources
Carson City Field Office

Date

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