

January 4, 2008

Kyle Hansen/William Dunn
Ely BLM
PO Box 33500 (702 N. Industrial Way HC 33)
Ely, NV 89301

RECEIVED

JAN 22 2008

DEPARTMENT OF ADMINISTRATION
OFFICE OF THE DIRECTOR
BUDGET AND PLANNING DIVISION

Office of the Solicitor, Reg. Solicitor
Pacific Southwest Region
2800 Cottage Way, Room E-1712
Sacramento, CA 95825-1890

RE: Appeal of EA NV-040-07-025 Sheep Flat and Barclay allotments. FONSI is unsigned, has William Dunn's printed name. Decision is stamped November 30, 2007 and signed by Kyle Hansen.

Western Watersheds Project files this Notice of Appeal, Statement of Reasons and Standing, and Petition for Stay for:

EA NV-040-07-025, FONSI, FRH Assessment/Determination, Final Grazing Decision for Newby Cattle Sheep Flat and Barclay allotments, Decision by Kyle Hansen of November 30, 2007.

Western Watersheds Project files this Appeal pursuant to 43 CFR 4.470 and 4160.4, 4.470, 4.480, and seeks a Stay of the Decision pursuant to 43 CFR 4.471 © and (d) and any other applicable regulations.

Appellant appeals the Decision(s) and all associated documents and actions. This appeal is pursuant to all applicable authority, including the Federal Lands Policy Management Act (16 U.S.C. 1752) and implementing regulations of the BLM and Department of the Interior, including 43 C.F.R. 4180.

Appellant Western Watershed Project is a not-for-profit conservation organization with over 1200 members. WWP and its members have a keen interest in protection of biodiversity and restoration of damaged arid lands, especially fragile high desert sagebrush, aspen, and arid forest uplands and riparian habitats, and the scenic wild BLM lands that are important to a number of rare and declining species, and whose watersheds affect numerous sensitive, important and rare species habitats and populations. Appellant is a not-for-profit conservation organization that has been an active participant in the BLM decision-making processes. WWP's members have a long-standing interest in preservation of biodiversity and native ecosystems, effects of grazing and wild lands issues in the lands managed by the Field Office. We hike, enjoy, photograph and contemplate nature in these public lands. Appellants members use these BLM public lands of the project area for scientific, educational, recreational (including hunting, fishing, wildlife viewing, and botanizing), aesthetic and spiritual purposes. In addition, Appellants have a particular interest in the management of the project area that are rich in biodiversity, and home to the rare and declining species such as Loggerhead Shrike, Ferruginous Hawk, Golden Eagle, Loggerhead Shrike and numerous other BLM sensitive species.

The lands in this part of the Great Basin face a variety of serious threats - ranging from livestock grazing under this permit causing weed invasions and emperilment of sensitive species, to expanding OHV use, local and regional de-watering for SNWA, Vidler or other development or other purposes, renewable and other energy development, expanding pipeline, utility corridors, industrial (power plant,

wind facilities, solar facilities, etc.) and other rights-of-way and development, disposals of BLM land, as well as the landscape-level destruction of sagebrush and pinyon-juniper that Ely contemplates under highly controversial "Healthy Forests" and other vegetation manipulation processes, especially on top of the "treatments" already conducted here that destroyed important and sensitive species habitats and native vegetation communities, and that disrupted ecological processes.

It is deeply troubling to see Ely BLM ignore the necessary systematic site-specific baseline surveys for important and sensitive species, and so abuse the FRH process that is supposed to be a careful and science-based examination of ecological processes, habitats, and conditions on the public lands – including soils, microbiotic crusts, watersheds, riparian areas, native vegetation communities, risks of weed invasion, etc. It is also BLM's duty under FLPMA to conduct necessary studies, as well as carefully examine effects on cultural values, recreational values and other values of the public lands, and to carefully examine attainment of, and progress towards, goals, objectives, promises of the Land Use Plan. BLM has violated, NEPA, FLPMA, the APA, and other rules and regulations, including its own policies for important and sensitive species.

STATEMENT OF REASONS

BLM failed to prepare an EIS to examine the full range of direct, indirect, cumulative, foreseeable and synergistic effects of the high stocking rate, injurious utilization level, harmful seasons of use, stocking lands above average actual use or levels that are sustainable in the face of existing desertification and depletion and Global Warming, drought and other processes.

BLM failed to analyze a suitable range of alternatives, including restoration of depleted or and reduced stocking and use levels. This range of alternatives and mitigation actions is especially important in a landscape where weeds are proliferating, and water export/water mining to fuel distant subdivision and development is slated to occur, and where a series of recent wildfires gave greatly reduced or eliminated habitats. The full range of occurring/foreseeable actions, including those associated with private lands or development or industries including utility or other corridors that will fragment habitats, desertify the landscape and de-water the aquifer, must be fully examined.

BLM failed to conduct a valid FRH process by failing to systematically examine the ecological conditions and ecological processes across these lands, including by ignoring surveys for, and analysis of, livestock grazing effects on sensitive species habitats and viable populations. See Sheridan CEQ 1981, Fleischner 1994, Belsky and Gelbard 2000, Belsky et al. 1999, USDI BLM Belnap et al. 2001, Sada et al. 2001, Wisdom et al. 2002, Wisdom et al. 2003, Connelly et al. 2004, Steinfeld et al. 2006, Pellant Congressional Testimony 2007.

BLM failed to conduct current Ecological Site Inventories, failed to critically examine adverse effects of livestock grazing in selecting upland sites distant from water sources or other areas facing heavy livestock disturbance. BLM also failed to provide necessary information and analysis to understand the current range of effects of livestock disturbance, facilities, and use levels to these lands and their values.

It is clear (as shown by the Statement of Reasons) that BLM failed to comply with NEPA by rubberstamping grazing here under an EA that did not critically examine serious threats posed by cheatgrass and other invasive species - especially with such uncertain methods of use, high stocking rates, and harmful management schemes.

BLM failed to conduct necessary analysis of the existing condition, and adverse environmental effects of, a plethora of livestock facilities and management actions— such as troughs, ponds dug into springs and intermittent drainages, fences, etc. BLM failed to examine adverse effects if facilities and management practices on important and sensitive species habitats and populations; on local and regional aquifers, etc. and failed to consider removal of facilities that may be harming important and sensitive species habitats and populations – ranging from loggerhead shrike to pinyon jay and golden eagle. This involves taking into consideration conditions on neighboring lands as well – that may be important to maintain viable populations of sensitive species. This violates the BLM’s sensitive species policies and the FRH, as well as FLPMA – and will result in undue degradation to the public lands. Are migratory birds and bats drowning in all the troughs? Are ponds promoting West Nile mosquitoes that endanger rare species and recreational visitors? Are water tables dropping due to well de-watering? Where and how is cheatgrass, brome, annual mustards, or knapweed being spread by intensive concentration of livestock associated with facilities including water hauling or salting? How are fences causing injury of mortality to migratory birds, or elevating predation risk? What is the basis for stocking rates? Are sheep trailed on and through these lands – and if so where and what are the effects? Where is there little to no available forage during drought? A host of questions remain unanswered.

BLM has not provided data and analysis that allows understanding of the capability suitability, production, carrying capacity and other information necessary to understand how any current stocking rates may be applied. BLM has not proved data and analysis ot understand why it is not proposing restoring seedings to native vegetation.

BLM has failed to define terms and methods used, explain how it determined, for example, in the FRH soils paragraphs, how cover is “adequate” while microbiotic crust is only a tiny fraction of what should be present. BLM has not described or quantified how any “progress” has been made. It has failed to systematically examine the health of the diverse native vegetation communities - in or near all “seedings”. Where is cheatgrass now present – in both seeding and native areas?

BLM has also split off Newby allotments, and not completed an integrated process. It appears this may be done to segment analysis and try to avoid the necessary EIS-level look at conditions, BLM has also not described how livestock grazing here may be related to use on other allotments, may be impairing habitats for mobile species such as golden eagle or sage-grouse shared between allotments, or those of more localized species.

BLM has failed to support claims of pinyon juniper “encroachment” vs, re-establishment in sites where it had been removed by past treatment, mining, etc. BLM has failed to examine how Global Warming and other processes may facilitate pinyon-juniper increase, and the adverse effects and risks of any removal especially with fire or large-scale mechanical means.

BLM as failed to consider effects of grazing on other Newby and neighboring allotments where it has recently conducted the same rubberstamp Grazing Permit process, and likewise failed to do an EIS. BLM claims to be addressing issues on watershed levels – yet her BLM has purposefully segmented NEPA analyses.

APPEAL

As shown in the Statement of Reasons, BLM has violated NEPA, FLPMA, the FRH, the APA, and its own policies and regulations in failing to take the necessary detailed site specific and “hard look” at the conditions of the allotment lands, and their effects on a wealth of resources.

Without collecting and assessing much more site-specific data (such as the real effects of a hundred artificial waters on these lands and important species), and identifying all areas at risk of conversion to annual grasses or other weeds and taking measures to stop this, BLM can not properly manage the public lands for the American people.

Instead, BLM has acted solely in the interest of the industry/permittee. BLM has also wrongly concluded that the action would provide “stability” to the operator –BLM has never revealed the necessary economic information needed to understand what “stability” means. In fact, what has happened in this decision is that BLM has shown bias towards the livestock industry, and forsaken its duty to take care of the public lands for the public, and not just the livestock industry.

BLM has also failed to reveal the full location, condition, extent and importance of native sagebrush, mixed shrub, juniper, pinyon-juniper, juniper and other communities in the allotments. BLM must also examine changes over time in vegetation and upland and riparian communities, including the adverse effects of grazing and facilities and management schemes.

We are also deeply concerned that BLM has failed to reveal the full effects of the operations of the various entities that graze on and across these and nearby lands. Are there areas related to SNWA-purchased permits as a result of a ranch purchase for aquifer mining/water export to Las Vegas? What corridors may cross these lands – now and foreseeably? For example, what effects do trailing livestock have on spreading weeds across the landscape? What is the full environmental footprint of the Newby operations and activities on public and private lands?

We are mystified at the Actual Use info shown in the EA, and it appears that BLM is authorizing a new permit at levels well above the average actual use.

We incorporate by reference all of our previous comments, protests, etc. on all Newby and neighboring allotments.

PETITION FOR STAY


A Stay is requested on the decision for the Newby Cattle Sheep Flat and Barclay allotment EA and Decision. There would be no harm to BLM of its conducting a valid FRH and grazing EIS process. In fact, this would be valuable for staff experience. Since the permit holder shown in news reports is known to be a developer, ranching may be a minimal part of their income, or even a financial loss. Aquifer de-watering and water export is likely to be more profitable. WWP is likely to succeed in this Appeal because of the blatant violations of NEPA, the FRH process, and lack of site-specific data and analysis. BLM has ignored necessary analysis of adverse effects of grazing under the Decision on pinyon jay and loggerhead shrike and other important and sensitive species, Sagebrush-dependent species occur at the southern edge of their range in this landscape facing an array of existing and foreseeable threats as the region is being converted into a Water and Industrial Colony for development to the south.

There will be immediate irreparable harm if this decision goes forward. Sagebrush species populations at the southern periphery of their range will suffer continued habitat loss and degradation such as weed

invasion. Populations will decline and may blink out altogether. Their recovery may not be possible at all, as the habitat becomes increasingly overrun with an explosion of invasive species. Our member's ability to use and enjoy these species and thriving native ecosystems will be harmed.

We also request that protective Interim standards of use and other measures including reductions in use levels and stocking, including closure of sensitive species habitats be applied while BLM can prepare the necessary EIS.

Sincerely,



Katie Fite
Western Watersheds Project
PO Box 2863
Boise, ID 83701
208-429-1679

Copies of Appeal will be mailed to the Interested Public when info is supplied by BLM. Appeal submitted and mailed to Solicitor and Ely BLM on _____.

January 4, 2008

Kyle Hansen/William Dunn
Ely BLM
PO Box 33500 (702 N. Industrial Way HC 33)
Ely, NV 89301

Office of the Solicitor, Reg. Solicitor
Pacific Southwest Region
2800 Cottage Way, Room E-1712
Sacramento, CA 95825-1890

RE: Appeal of EA NV-040-07-025 Crossroads allotment. FONSI is unsigned, has William Dunn's printed name. Decision is stamped November 30, 2007 and signed by Kyle Hansen.

Western Watersheds Project files this Notice of Appeal, Statement of Reasons and Standing, and Petition for Stay for:

EA NV-040-07-025, FONSI, FRH Assessment/Determination, Final Grazing Decision for Newby Cattle Crossroads allotment, Decision by Kyle Hansen of November 30, 2007.

Western Watersheds Project files this Appeal pursuant to 43 CFR 4.470 and 4160.4, 4.470, 4.480, and seeks a Stay of the Decision pursuant to 43 CFR 4.471 © and (d) and any other applicable regulations.

Appellant appeals the Decision(s) and all associated documents and actions. This appeal is pursuant to all applicable authority, including the Federal Lands Policy Management Act (16 U.S.C. 1752) and implementing regulations of the BLM and Department of the Interior, including 43 C.F.R. 4180.

Appellant Western Watershed Project is a not-for-profit conservation organization with over 1200 members. WWP and its members have a keen interest in protection of biodiversity and restoration of damaged arid lands, especially fragile high desert sagebrush, aspen, and arid forest uplands and riparian habitats, and the scenic wild BLM lands that are important to a number of rare and declining species, and whose watersheds affect numerous sensitive, important and rare species habitats and populations. Appellant is a not-for-profit conservation organization that has been an active participant in the BLM decision-making processes. WWP's members have a long-standing interest in preservation of biodiversity and native ecosystems, effects of grazing and wild lands issues in the lands managed by the Field Office. We hike, enjoy, photograph and contemplate nature in these public lands. Appellants members use these BLM public lands of the project area for scientific, educational, recreational (including hunting, fishing, wildlife viewing, and botanizing), aesthetic and spiritual purposes. In addition, Appellants have a particular interest in the management of the project area that are rich in biodiversity, and home to the rare and declining species such as Loggerhead Shrike, Ferruginous Hawk, Golden Eagle, Loggerhead Shrike and numerous other BLM sensitive species.

The lands in this part of the Great Basin face a variety of serious threats - ranging from livestock grazing under this permit causing weed invasions and emperilment of sensitive species, to expanding OHV use, local and regional de-watering for SNWA, Vidler or other development or other purposes, renewable and other energy development, expanding pipeline, utility corridors, industrial (power plant,

wind facilities, solar facilities, etc.) and other rights-of-way and development, disposals of BLM land, as well as the landscape-level destruction of sagebrush and pinyon-juniper that Ely contemplates under highly controversial “Healthy Forests” and other vegetation manipulation processes, especially on top of the “treatments” already conducted here that destroyed important and sensitive species habitats and native vegetation communities, and that disrupted ecological processes.

It is deeply troubling to see Ely BLM ignore the necessary systematic site-specific baseline surveys for important and sensitive species, and so abuse the FRH process that is supposed to be a careful and science-based examination of ecological processes, habitats, and conditions on the public lands – including soils, microbiotic crusts, watersheds, riparian areas, native vegetation communities, risks of weed invasion, etc. It is also BLM’s duty under FLPMA to conduct necessary studies, as well as carefully examine effects on cultural values, recreational values and other values of the public lands, and to carefully examine attainment of, and progress towards, goals, objectives, promises of the Land Use Plan. BLM has violated, NEPA, FLPMA, the APA, and other rules and regulations, including its own policies for important and sensitive species.

STATEMENT OF REASONS

BLM failed to prepare an EIS to examine the full range of direct, indirect, cumulative, foreseeable and synergistic effects of the high stocking rate, injurious utilization level, harmful seasons of use, stocking lands above average actual use or levels that are sustainable in the face of existing desertification and depletion and Global Warming, drought and other processes.

BLM failed to analyze a suitable range of alternatives, including restoration of depleted or and reduced stocking and use levels. This range of alternatives and mitigation actions is especially important in a landscape where weeds are proliferating, and water export/water mining to fuel distant subdivision and development is slated to occur, and where a series of recent wildfires gave greatly reduced or eliminated habitats. The full range of occurring/foreseeable actions, including those associated with private lands or development or industries including utility or other corridors that will fragment habitats, desertify the landscape and de-water the aquifer, must be fully examined.

BLM failed to conduct a valid FRH process by failing to systematically examine the ecological conditions and ecological processes across these lands, including by ignoring surveys for, and analysis of, livestock grazing effects on sensitive species habitats and viable populations. See Sheridan CEQ 1981, Fleischner 1994, Belsky and Gelbard 2000, Belsky et al. 1999, USDI BLM Belnap et al. 2001, Sada et al. 2001, Wisdom et al. 2002, Wisdom et al. 2003, Connelly et al. 2004, Steinfeld et al. 2006, Pellant Congressional Testimony 2007.

BLM failed to conduct current Ecological Site Inventories, failed to critically examine adverse effects of livestock grazing in selecting upland sites distant from water sources or other areas facing heavy livestock disturbance. BLM also failed to provide necessary information and analysis to understand the current range of effects of livestock disturbance, facilities, and use levels to these lands and their values.

It is clear (as shown by the Statement of Reasons) that BLM failed to comply with NEPA by rubberstamping grazing here under an EA that did not critically examine serious threats posed by cheatgrass and other invasive species - especially with such uncertain methods of use, high stocking rates, and harmful management schemes.

BLM failed to conduct necessary analysis of the existing condition, and adverse environmental effects of, a plethora of livestock facilities and management actions— such as troughs, ponds dug into springs and intermittent drainages, fences, etc. BLM failed to examine adverse effects if facilities and management practices on important and sensitive species habitats and populations; on local and regional aquifers, etc. and failed to consider removal of facilities that may be harming important and sensitive species habitats and populations – ranging from loggerhead shrike to pinyon jay and golden eagle. This involves taking into consideration conditions on neighboring lands as well – that may be important to maintain viable populations of sensitive species. This violates the BLM’s sensitive species policies and the FRH, as well as FLPMA – and will result in undue degradation to the public lands. Are migratory birds and bats drowning in all the troughs? Are ponds promoting West Nile mosquitoes that endanger rare species and recreational visitors? Are water tables dropping due to well de-watering? Where and how is cheatgrass, brome, annual mustards, or knapweed being spread by intensive concentration of livestock associated with facilities? How are fences causing injury of mortality to migratory birds, or elevating predation risk? What is the basis for stocking rates? Are sheep trailed on and through these lands – and if so where and what are the effects? Where is there little to no available forage during drought? A host of questions remain unanswered.

BLM has not provided data and analysis that allows understanding of the capability suitability, production, carrying capacity and other information necessary to understand how any current stocking rates may be applied. BLM has not proved data and analysis ot understand why it is not proposing restoring seedings to native vegetation.

BLM has failed to define terms and methods used, explain how it determined, for example, in the FRH soils paragraphs, how cover is “adequate” while microbiotic crust is only a tiny fraction of what should be present. BLM has not described or quantified how any “progress” has been made. It has failed to systematically examine the health of the diverse native vegetation communities - in or near all “seedings”. Where is cheatgrass now present – in both seeding and native areas?

BLM has also split off Newby allotments, and not completed an integrated process. It appears this may be done to segment analysis and try to avoid the necessary EIS-level look at conditions, BLM has also not described how livestock grazing here may be related to use on other allotments, may be impairing habitats for mobile species such as golden eagle or sage-grouse shared between allotments, or those of more localized species.

BLM has failed to support claims of pinyon juniper “encroachment” vs, re-establishment in sites where it had been removed by past treatment, mining, etc. BLM has failed to examine how Global Warming and other processes may facilitate pinyon-juniper increase, and the adverse effects and risks of any removal especially with fire or large-scale mechanical means.

BLM as failed to consider effects of grazing on other Newby and neighboring allotments where it has recently conducted the same rubberstamp Grazing Permit process, and likewise failed to do an EIS. BLM claims to be addressing issues on watershed levels – yet her BLM has purposefully segmented NEPA analyses.

APPEAL

As shown in the Statement of Reasons, BLM has violated NEPA, FLPMA, the FRH, the APA, and its own policies and regulations in failing to take the necessary detailed site specific and “hard look” at the conditions of the allotment lands, and their effects on a wealth of resources.

Without collecting and assessing much more site-specific data (such as the real effects of a hundred artificial waters on these lands and important species), and identifying all areas at risk of conversion to annual grasses or other weeds and taking measures to stop this, BLM can not properly manage the public lands for the American people.

Instead, BLM has acted solely in the interest of the industry/permittee. BLM has also wrongly concluded that the action would provide “stability” to the operator –BLM has never revealed the necessary economic information needed to understand what “stability” means. In fact, what has happened in this decision is that BLM has shown bias towards the livestock industry, and forsaken its duty to take care of the public lands for the public, and not just the livestock industry.

BLM has also failed to reveal the full location, condition, extent and importance of native sagebrush, mixed shrub, juniper, pinyon-juniper, juniper and other communities in the allotments. BLM must also examine changes over time in vegetation and upland and riparian communities, including the adverse effects of grazing and facilities and management schemes.

We are also deeply concerned that BLM has failed to reveal the full effects of the operations of the various entities that graze on and across these and nearby lands. Are there areas related to SNWA-purchased permits as a result of a ranch purchase for aquifer mining/water export to Las Vegas? What corridors may cross these lands – now and foreseeably? For example, what effects do trailing livestock have on spreading weeds across the landscape? What is the full environmental footprint of the Newby operations and activities on public and private lands?

We are mystified at the Actual Use info shown in the EA, and it appears that BLM is authorizing a new permit at levels well above the average actual use.

We incorporate by reference all of our previous comments, protests, etc. on all Newby and neighboring allotments.

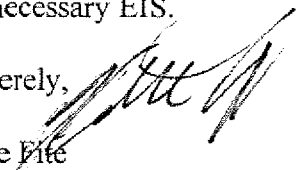
PETITION FOR STAY

A Stay is requested on the decision for the Newby Cattle Crossroads allotment EA and Decision. There would be no harm to BLM of its conducting a valid FRH and grazing EIS process. In fact, this would be valuable for staff experience. Since the permit holder shown in news reports is known to be a developer, ranching may be a minimal part of their income, or even a financial loss. Aquifer de-watering and water export is likely to be more profitable. WWP is likely to succeed in this Appeal because of the blatant violations of NEPA, the FRH process, and lack of site-specific data and analysis. BLM has ignored necessary analysis of adverse effects of grazing under the Decision on pinyon jay and loggerhead shrike and other important and sensitive species, Sagebrush-dependent species occur at the southern edge of their range in this landscape facing an array of existing and foreseeable threats as the region is being converted into a Water and Industrial Colony for development to the south.

There will be immediate irreparable harm if this decision goes forward. Sagebrush species populations at the southern periphery of their range will suffer continued habitat loss and degradation such as weed invasion. Populations will decline and may blink out altogether. Their recovery may not be possible at all, as the habitat becomes increasingly overrun with an explosion of invasive species. Our member’s ability to use and enjoy these species and thriving native ecosystems will be harmed.

We also request that protective Interim standards of use and other measures including reductions in use levels and stocking, including closure of sensitive species habitats be applied while BLM can prepare the necessary EIS.

Sincerely,



Katie Fite
Western Watersheds Project
PO Box 2863
Boise, ID 83701
208-429-1679

Copies of Appeal will be mailed to the Interested Public when info is supplied by BLM. Appeal submitted and mailed to Solicitor and Ely BLM on _____ .



January 4, 2008

Kyle Hansen/William Dunn
Ely BLM
33500 (702 N. Industrial Way HC 33)
Ely, NV 89301

Office of the Solicitor, Reg. Solicitor
Pacific Southwest Region
2800 Cottage Way, Room E-1712
Sacramento, CA 95825-1890

RE: Appeal of EA NV-040-07-028, FONSI, Final Grazing Decision for Geysers Ranch Allotment, Lake Valley Cattle Co., LLC (Geysers Ranch) and any affected portions of the Wilson Creek allotment, Unsigned, and typed with Manager Hansen's name and date-stamped Nov 30, 2007. FONSI is likewise unsigned, stamped with Range Chris Mayer's name.

Western Watersheds Project files this Notice of Appeal, Statement of Reasons and Standing, and Petition for Stay for:

EA NV-040-07-028, FONSI, FRH Assessment/Determination, Final Grazing Decision for Geysers Ranch Allotment and any affected portions of the Wilson Creek allotment, Lake Valley Cattle Co., LLC (Geysers Ranch), typed with Mr. Hansen and Mr. Mayer's names. Decision stamped Nov. 30, 2007.

Western Watersheds Project files this Appeal pursuant to 43 CFR 4.470 and 4160.4, 4.470, 4.480, and seeks a Stay of the Decision pursuant to 43 CFR 4.471 © and (d) and any other applicable regulations.

Appellant appeals the Decision(s) and all associated documents and actions. This appeal is pursuant to all applicable authority, including the Federal Lands Policy Management Act (16 U.S.C. 1752) and implementing regulations of the BLM and Department of the Interior, including 43 C.F.R. 4180.

Appellant Western Watershed Project is a not-for-profit conservation organization with over 1200 members. WWP and its members have a keen interest in protection of biodiversity and restoration of damaged arid lands, especially fragile high desert sagebrush, aspen, and arid forest uplands and riparian habitats, and the scenic wild BLM lands that are important to a number of rare and declining species, and whose watersheds affect numerous sensitive, important and rare species habitats and populations. Appellant is a not-for-profit conservation organization that has been an active participant in the BLM decision-making processes. WWP's members have a long-standing interest in preservation of biodiversity and native ecosystems, effects of grazing and wild lands issues in the lands managed by the Field Office. We hike, enjoy, photograph and contemplate nature in these public lands. Appellants members use these BLM public lands of the project area for scientific, educational, recreational (including hunting, fishing, wildlife viewing, and botanizing), aesthetic and spiritual purposes. In addition, Appellants have a particular interest in the management of the project area that are rich in biodiversity, and home to the rare and declining species such as Loggerhead Shrike, Ferruginous Hawk, Golden Eagle, Sage Grouse and numerous other BLM sensitive species.

The lands in this part of the Great Basin face a variety of serious threats - ranging from livestock grazing under this permit causing weed invasions and emperilment of sensitive species, to expanding

OHV use, local and regional de-watering for SNWA, Vidler or Whittemore Coyote Springs development or other purposes, renewable and other energy development, expanding pipeline, utility corridor, industrial and other rights-of-way and development, disposals of BLM land, as well as the landscape-level destruction of sagebrush and pinyon-juniper that Ely contemplates under highly controversial "Healthy Forests" and other vegetation manipulation processes, especially on top of the "treatments" already conducted here that destroyed important and sensitive species habitats and native vegetation communities, and that disrupted ecological processes.

It is deeply troubling to see Ely BLM ignore the necessary systematic site-specific baseline surveys for important and sensitive species, and so abuse the FRH process that is supposed to be a careful and science-based examination of ecological processes, habitats, and conditions on the public lands – including soils, microbiotic crusts, watersheds, riparian areas, native vegetation communities, risks of weed invasion, etc. It is also BLM's duty under FLPMA to conduct necessary studies, as well as carefully examine effects on cultural values, recreational values and other values of the public lands, and to carefully examine attainment of, and progress towards, goals, objectives, promises of the Land Use Plan. BLM has violated, NEPA, FLPMA, the APA, and other rules and regulations, including its own policies for important and sensitive species.

Statement of Reasons

BLM failed to prepare an EIS to examine the full range of direct, indirect, cumulative, foreseeable and synergistic effects of the high stocking rate, injurious utilization level, harmful seasons of use, stocking lands above average actual use or levels that are sustainable in the face of existing desertification and depletion and Global Warming, drought and other processes.

BLM failed to analyze a suitable range of alternatives, including restoration of depleted or and reduced stocking and use levels. This range of alternatives and mitigation actions is especially important in a landscape where weeds are proliferating, and water export/water mining to fuel distant subdivision and development is slated to occur. The full range of occurring/foreseeable actions, including those associated with private lands that will desertify the landscape and de-water the aquifer, must be fully examined.

BLM failed to conduct a valid FRH process by failing to systematically examine the ecological conditions and ecological processes across these lands, including by ignoring surveys for, and analysis of, livestock grazing effects on sensitive species habitats and viable populations. See Sheridan CEQ 1981, Fleischner 1994, Belsky and Gelbard 2000, Belsky et al. 1999, USDI BLM Belnap et al. 2001, Sada et al. 2001, Wisdom et al. 2002, Wisdom et al. 2003, Connelly et al. 2004, Steinfeld et al. 2006, Pellant Congressional Testimony 2007.

BLM failed to conduct current Ecological Site Inventories, failed to critically examine adverse effects of livestock grazing in selecting upland sites distant from water sources or other areas facing heavy livestock disturbance. BLM also failed to provide necessary information and analysis to understand the current range of effects of livestock disturbance, facilities, and use levels to these lands and their values.

It is clear (as shown by the Statement of Reasons) that BLM failed to comply with NEPA by rubberstamping grazing here under an EA that did not critically examine serious threats posed by cheatgrass and other invasive species - especially with such uncertain methods of use, high stocking rates, and harmful management schemes.

BLM failed to conduct necessary analysis of the existing condition, and adverse environmental effects of, a plethora of livestock facilities – wells, troughs, ponds dug into springs and intermittent drainages, fences, etc.. BLM failed to examine adverse effects if facilities and management practices on important and sensitive species habitats and populations; on local and regional aquifers, etc. and failed to consider removal of facilities that may be harming important and sensitive species habitats and populations – ranging from pygmy rabbit to greater sage- grouse to loggerhead shrike to Pinyon Jay. This involves taking into consideration conditions on neighboring lands as well – that may be important to maintain viable populations of sage grouse or other species. This violates the BLM's sensitive species policies and the FRH, as well as FLPMA – and will result in undue degradation to the public lands. Are migratory birds and bats drowning in all the troughs? Are ponds promoting West Nile mosquitoes that endanger rare species and recreational visitors? Are water tables dropping due to well de-watering? Where and how is knapweed being spread by intensive concentration of livestock associated with facilities? How are fences causing injury of mortality to sage grouse, or elevating predation risk? Are stocking rates based on “young” vigorous seedings? Are sheep trailed on and through these lands – and if so where and what are the effects? Where is there little to no available forage during drought? A host of questions remain unanswered.

BLM has not provided data and analysis that allows understanding of the capability suitability, production, carrying capacity and other information necessary to understand how any current stocking rates may be applied.

BLM has failed to define terms and methods used, explain how it determined, for example, in the FRH soils paragraphs, how cover is “adequate” while microbiotic crust composition is only a tiny fraction of what should be present. It has failed to systematically examine the health of the diverse native vegetation communities - in or near all “seedings”. Where is cheatgrass now present – in both seeding and native areas?

BLM has also split off part of the Wilson Creek allotment and not completed an integrated process begun several years ago, and in which WWP has long been involved. It appears this may be done to segment analysis and try to avoid the necessary EIS-level look at conditions, BLM has also not described how livestock grazing here may be related to Wilson Creek use, may be impairing habitats for mobile such as golden eagle or sage-grouse shared between allotments, or those of more localized species.

BLM has failed to examine how livestock grazing is adversely affecting the thriving ecological balance of the Dry Lake and Wilson Creek HMAs.

BLM has failed to support claims of pinyon juniper “encroachment” vs, re-establishment in sites where it had been removed by past treatment, mining, etc. BLM has failed to examine how Global Warming and other processes may facilitate pinyon-juniper increase, and the adverse effects and risks of any removal especially with fire or large-scale mechanical means.

BLM as failed to consider effects of grazing on other Dry Lake allotments where it has recently conducted the same rubberstamp Grazing Permit process, and likewise failed to do an EIS. BLM claims to be addressing issues on watershed levels – yet her BLM has purposefully segmented NEPA analyses.

APPEAL

As shown in the Statement of Reasons, BLM has violated NEPA, FLPMA, the FRH, the APA, and its own policies and regulations in failing to take the necessary detailed site specific and “hard look” at the conditions of the allotment lands, and their effects on a wealth of resources.

Without collecting and assessing much more site-specific data (such as the real effects of a hundred artificial waters on these lands and important species), and identifying all areas at risk of conversion to annual grasses or other weeds and taking measures to stop this, BLM can not properly manage the public lands for the American people.

Instead, BLM has acted solely in the interest of the industry/permittee. BLM has also wrongly concluded that the action would provide “stability” to the operator – the operator is a wealthy developer and friend of prominent politicians. BLM has never revealed the necessary economic information needed to understand what “stability” means. In fact, what has happened in this decision is that BLM has shown bias towards the interest of a permittee and forsaken its duty to take care of the public lands for the public, and not just the livestock industry.

BLM has also failed to reveal the full location, condition, extent and importance of native sagebrush, salt desert, juniper, pinyon-juniper, juniper and other communities in the allotments. BLM must also examine changes over time in vegetation and upland and riparian communities, including the adverse effects of grazing and facilities and management schemes.

We are also deeply concerned that BLM has failed to reveal the full effects of the operations of the various entities that graze on and across these lands – including the El Tejon operation that now is understood to have been bought out by SNWA as a result of a ranch purchase for aquifer mining/water export to Las Vegas. For example, what effects to trailing of El Tejon livestock have on spreading weeds across the landscape? What is the full footprint of the Lake Valley and El Tejon operations and activities on public and private lands?

We incorporate by reference all of our previous comments, protests, etc. on both Geyser Ranch and Wilson Creek grazing process begun several years ago, as well as the Ely-Mount Wilson WUI project.

PETITION FOR STAY

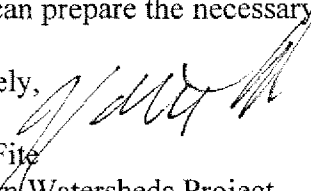
A Stay is requested on the decision for the Geyser Ranch/Wilson Creek Lake Valley LLC (Whittemore) EA and Decision. There would be no harm to BLM of its conducting a valid FRH and grazing EA process. In fact, this would be valuable for staff experience. Since the permit holder shown in news reports is known to be a developer, ranching may be a minimal part of their income, or even a financial loss. Aquifer de-watering and water export is likely to be more profitable. WWP is likely to succeed in this Appeal because of the blatant violations of NEPA, the FRH process, and lack of site-specific data and analysis. BLM has ignored necessary analysis of adverse effects of grazing under the Decision on sage-grouse and other important and sensitive species, Sagebrush-dependent species such as sage-grouse occur at the southern edge of their range in this landscape facing an array of existing and foreseeable threats as it is being converted into a Water Colony for development to the south.

There will be immediate irreparable harm if this decision goes forward. Sage grouse at the southern periphery of their range will suffer continued habitat loss and degradation such as weed invasion.

Populations will decline and may blink out altogether. Their recovery may not be possible at all, as the habitat becomes increasingly overrun with an explosion of invasive species.

We also request that protective Interim standards of use and other measures including reductions in use levels and stocking, including closure of sensitive sage grouse and other habitats be applied while BLM can prepare the necessary EIS.

Sincerely,



Katie Fite
Western Watersheds Project
PO Box 2863
Boise, ID 83701
208-429-1679

Copies of Appeal will be mailed to the Interested Public when info is supplied by BLM. Appeal submitted and mailed to Solicitor and Ely BLM on _____.

