



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Winnemucca Field Office
5100 East Winnemucca Boulevard
Winnemucca, Nevada 89445
<http://www.nv.blm.gov>



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DEPARTMENT OF ADMINISTRATION
OFFICE OF THE DIRECTOR
BUDGET AND PLANNING DIVISION

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NOTICE OF FINAL DECISION Effective Immediately

*Goshute
ELKO*

Humboldt Ranches
c/o Gene Heckman
P.O. Box 1216
Winnemucca, NV 89445

Dear Mr. Heckman:

On June 5, 2006, the Humboldt Assist Fire 1 burned approximately 280 acres on the White Horse Allotment. This fire affected northern portion of the allotment.

Decision

For protection of the soil and vegetation, due to fire, and because continued grazing use of the burned area poses a significant risk of resource damage, I hereby close to livestock grazing the burned portion of the White Horse Allotment for a minimum of two (2) growing seasons (2007-2008).

This final decision is **effective upon receipt** in accordance with 43 CFR 4110.3-3(b), 4160.3(c) and 4190.1(a) for the protection of the soil and vegetation due to wildfire.

The emergency closure will be lifted when the vegetative cover meets or exceeds 50% of the minimum potential perennial ground cover for the ecological site after a minimum of two growing seasons. The Winnemucca Field Office will monitor the recovery of the burned area to see if the objectives of the closure are being achieved.

The permittee must keep livestock out of the burned portions of the allotments by implementing livestock management strategies, such as herding, riding, salting/mineral supplements, and controlling water sources

No AUMs will be suspended on the White Horse Allotment due to the fire closure.

Pre-burn management practices may resume once the fire rehabilitation criteria are met and the areas have been re-opened to livestock grazing. Once the burned portions and/or pastures are open to authorized livestock grazing, a 50% utilization objective, for all species (native and seeded) will be in effect.

Rationale

The White Horse Allotment is composed of approximately 21,973 public acres and approximately 280 acres were burned by the Humboldt Assist Fire 1. This is approximately one percent of the allotment. Since burned the area has been fenced to prevent the use by livestock during the closure and it only comprises 1% of the allotment, no AUM's will be suspended.

The emergency closure will provide rest for surviving perennial species to regain vigor and will provide seedling establishment of native and seeded species. The rest will also benefit both the native and seeded species by allowing sufficient time for germination of seed, development of adequate seedling root growth, to prevent uprooting by grazing animals, and by allowing perennial seedlings to develop good vigor and produce viable seed.

Areas to be seeded, lack perennial species for natural re-vegetation. The burned area will not successfully reestablish to a native perennial plant community in a reasonable time frame of two or three growing seasons without seeding. These areas, if left to natural rehabilitation, could be invaded by less desirable annual plant species. Areas that are dominated by annual species have a high potential hazard for recurring wildfire and the competition of annuals reduces the chance of perennial species establishing.

We will be soliciting your participation in the selection and monitoring of key areas and key species, which will be the basis for the re-opening of the closed portion(s) of the allotment.

Authority

The authority for this decision is contained in Title 43 of the Code of Federal Regulations, which states in pertinent parts:

§4110.3-3(b)(1) "After consultation with, or a reasonable attempt to consult with, affected permittees or lessees and the state having lands or responsible for managing resources within the area, the authorized officer will close allotments or portions of allotments to grazing by any kind of livestock or modify authorized grazing use notwithstanding the provisions of paragraph (a) of this section when the authorized officer determines and documents that-

- (i) The soil, vegetation, or other resources on the public lands require immediate protection because of conditions such as drought, fire, flood, insect infestation; or,

(ii) Continued grazing use poses an imminent likelihood of significant resource damage.”

§4110.3-3(b)(2) “Notices of closure and decisions requiring modification of authorized grazing use may be issued as final decisions effective upon issuance or on the date specified in the decision. Such decisions will remain in effect pending the decision on appeal unless the Office of Hearings and Appeals grants a stay in accordance with §4.472 of this title.”

§4190.1(a) “Notwithstanding the provisions of 43 CFR 4.21 (a)(1), when BLM determines that vegetation, soil, or other resources on public lands are at substantial risk of wildfire due to drought, fuels buildup, or other reasons, or at immediate risk of erosion or other damage due to wildfire, BLM may make a rangeland wildfire management decision effective immediately or on a date established in the decision. Wildfire management includes but is not limited to:(2) Projects to stabilize and rehabilitate lands affected by wildfire.”

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 4160.4(a), 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 Arlan G. Hiner, AFM-Renewable Resources, 5100 E. Winnemucca Blvd., Winnemucca, NV 89445. 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,

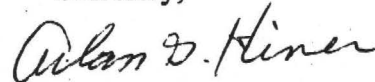
(4) Whether the public interest favors granting the stay.

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,



Arlan G. Hiner
Assistant Field Manager
Renewable Resources

cc:

Western Watersheds Project
PO Box 2863
Boise, ID 83701

Humboldt County Commissioners
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Winnemucca, NV 89445

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Department of Administration
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Winnemucca, NV 89445

NDOW-Fallon
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Nevada Cattlemen's Association
PO Box 310
Elko, NV 89803-0310

Nevada Wool Growers
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Spring Creek, NV 89815

Cindy MacDonald
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Drawer E
Lovelock, NV 89419