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FINAL GRAZING DECISION
Buffalo Valley and South Buffalo Allotments
Joe Saval Ranching Company, LLC Permit Renewal

INTRODUCTION

In order to renew one of the grazing permits associated with the Buffalo Valley and South Buffalo Allotments as “fully processed”, the Battle Mountain Field Office (BMFO) initiated monitoring efforts and compiled data to assess the need for changes in livestock grazing management practices to address resource issues such as upland vegetative condition, riparian functionality, and sage grouse habitat condition. The term fully processed grazing permit has been defined through BLM policy as a grazing permit that has undergone adequate environmental impact analysis under the National Environment Policy Act (NEPA) and appropriate consultation in accordance with the Endangered Species Act (ESA).

In order to attain Shoshone Eureka Resource Management Plan (RMP) objectives, Sonoma Gerlach Management Framework Plan (MFP) III, allotment specific objectives (See “Attachment 1”), along with the Northeastern Great Basin Resource Advisory Counsel (RAC) and Sierra Front-Northwestern Great Basin RAC Standards and Guidelines for Rangeland Health, and to address resource issues identified through monitoring and field observations, the BMFO has determined that changes to existing terms and conditions for livestock grazing are needed.

BACKGROUND

In 2006, the Joe Saval Ranching Company, LLC and the BMFO initiated discussions regarding their permit for the Buffalo Valley and South Buffalo Allotments due to the upcoming expiration of their current base property lease with Joint-Ventured Company Partnership, C/O Mike Marvel. The Joe Saval Ranching Company, LLC, current lessee, potential future lessees, and members of the interested public have since been notified regarding data collection and the process for renewing and fully processing grazing permits for the Buffalo Valley and South Buffalo Allotments. Actual use data, precipitation data, and use pattern mapping from 1997 to present was utilized for the purpose of renewing the grazing permit. Joint-Ventured Company-Partnership C/O Mike Marvel acquired the base property lease from the Joe Saval Ranching Company, LLC and was issued a term-grazing permit by the BMFO in 1997. Riparian monitoring was initiated in 2004 through Proper Functioning Condition Assessments. The collection of upland monitoring data and field observations were initiated in 2007. Discussions with permittees, interested publics, along with state and county governments also initiated in 2006 have focused on the permit renewal process, livestock operations, and resource management issues. Due to an expiring base property lease and grazing permit, the BMFO determined that the permit would be “fully processed” in conjunction with the term permit associated with the Joe Saval Ranching Company, LLC’s base property lease renewal. The fully processed permit would be issued to Joe Saval Ranching Company, LLC prior to the issuance of another base property lease to Joint Ventured Company-Partnership or to another individual. Permit renewal discussions continued throughout the spring and summer of 2007 as the BMFO worked to complete a monitoring report that identified resource issues associated with upland vegetative communities, riparian and wetland zones, and condition of range improvement projects (namely watering facilities) throughout the allotment. The BMFO, the Joe Saval Ranching Company, LLC, the current permittee, future potential lessees of the Joe Saval Ranching Company LLC’s base property, and their range consultant met regularly to develop terms and conditions that addressed resource issues occurring throughout the allotment while providing for an economically viable system for both the Joe Saval Ranching Company, LLC and subsequent lessees. In addition, consultation with the Nevada Department of Wildlife (NDOW) and the interest group Western Watersheds Project (WWP) occurred during the completion of the monitoring report and development of the proposed grazing management system.

On June 25th, the BMFO along with a member of the Joe Saval Ranching Company LLC, a potential future lessee, Resource Concepts, Inc. (RCI), and WWP toured the Buffalo Valley and South Buffalo Allotments. This tour provided these individuals the opportunity to observe upland and riparian issues within the allotment and to discuss how the BMFO, along with the Joe Saval Ranching Company, LLC were proposing to address these issues through livestock grazing management. It also provided an opportunity for WWP to address their concerns and issues with the allotment and the proposed grazing management system. It was during this meeting that recommendations were made by WWP to further monitor microbiotic crusts and rest of the “Fish Creek use area” from grazing for at least one year due to riparian and sage grouse habitat concerns.

On July 12th, 2007, the BMFO issued the 2007 Monitoring Report for the Buffalo Valley and South Buffalo Allotments along with a proposed grazing management system that was developed

to address resource issues, ensure conformance with the Northeastern Great Basin and the Sierra Front-Northwestern Resource Advisory Council (RAC) Standards and Guidelines, and to ensure progress towards management objectives and the Standards for Rangeland Health. The proposed grazing management system was established to address appropriate seasons of use for vegetative communities and riparian zones throughout both allotments. The proposed grazing management system was also developed to address sage grouse habitat, particularly within the Fish Creek Sage Grouse Population Management Unit (PMU). Due to a small, isolated population of sage grouse, high degree of human-caused disturbance, and the number of risks to its habitats, the PMU has been designated by the State of Nevada's South Central Nevada Sage Grouse Management Planning group as being one of the two highest priority PMUs within the planning area. In consideration of WWP's comments regarding closure of the Fish Creek Use Area, the BMFO, in coordination with the Joe Saval Ranching Company, LLC proposed closing this area to grazing for at least one year in the consultation letter submitted with the 2007 monitoring report.

Following the public comment period for the 2007 monitoring report and proposed grazing management systems, the BMFO carefully considered comments received by the permittee and interested publics. Comments were received by RCI on behalf of the Joe Saval Ranching Company, LLC. As a result of the comments received from Resource Concepts, Inc., the following changes were made to the proposed action assessed in EA #NV062-EA07-080 as originally described in the public consultation letter dated July 12th, 2007:

1. Correct key herbaceous species utilization limit from 30% to 40% for the Buffalo Valley, McCoy, and Jersey Valley Use Areas.
2. Modified removal period for the Jersey High, Fish Creek and Tobin Use Areas from 5 days to 7 days once utilization rates are achieved. Livestock remaining within these areas without written authorization will be considered unauthorized use.

In addition to the above changes, each comment was addressed and considered in the development of EA #NV062-EA07-080. On August 17th, 2007, EA # NV062-EA07-080 was issued to the permittee and interested public for review and comment. Comments were received by RCI on behalf of the Joe Saval Ranching Company, LLC. Comments received that were editorial in nature were noted but did not require revisions to the EA. Comments regarding season of use and terms & conditions were carefully considered by the BMFO interdisciplinary team. These comments and responses were addressed in "Attachment 2" of the Proposed Decision.

In order to address resource issues that were identified by the BMFO interdisciplinary team, permittees, and the interested public, attain allotment objectives and the Standards for Rangeland Health, and to conform to the Northeastern Great Basin and Sierra Front-Northwestern Great Basin RAC Guidelines for livestock grazing, changes in permit terms and conditions are required. The Proposed Decision issued on September 7th, 2007 presented the grazing management system that the BMFO recommended for implementation along with issuance of a ten-year permit. A signed Finding of No Significant Impact (FONSI) for EA #NV062-EA07-080 was issued with the Proposed Decision.

PROTESTS

Timely protests to the Proposed Grazing Decision for the Joe Saval Ranching Company, LLC Permit Renewal were received from Western Watersheds Project (WWP) via e-mail on October 2, 2007.

On September 26th, 2007, Ms. Jane Trigaro, a representative of the Joe Saval Ranching Company, LLC, contacted the Battle Mountain Field Office (BMFO) to further discuss comments that had been submitted by RCI on the behalf of her family. The comments that Ms. Trigaro brought forward were concerns regarding clarification of the proposed terms and conditions relating to utilization limits. On October 11th, 2007, Ms. Trigaro again contacted the BMFO to discuss clarification and interpretation of the utilization terms and conditions while also bringing forward concerns regarding use of the Buffalo Rehabilitation Seeding. Many of these concerns had been brought forward during the comment period and had been addressed appropriately. The Joe Saval Ranching Company, LLC determined that they would not submit protests to the Proposed Decision. However, in light of the content associated with Ms. Trigaro's comments and concerns, the BMFO has determined that modifications to certain terms and conditions are appropriate to clarify use of the Buffalo Valley and South Buffalo Allotments. General comments presented by Ms. Trigaro and the BMFO's responses are included in "Attachment 2".

I have carefully reviewed and considered each protest and statement of reasons as to why the Proposed Decision was in error, information received through consultation, cooperation, and coordination, along with other information pertinent to the matters addressed in this decision and have responded in "Attachment 2". With review of the protests filed and comments made by Ms. Trigaro, the following additions/modification will be made to the Final Grazing Decision for the Joe Saval Ranching Company, LLC Permit Renewal. Modifications allow for further clarification to terms & conditions and rationale; therefore, further analysis under EA #NV062-EA07-080 is not required:

1. Additional rationale to support the placement of AUMs in temporary suspension.
2. Modify Annual Authorization Terms & Conditions #4:

From: "The period of use in any use area may be temporarily modified on an annual basis if monitoring data indicates that changes are appropriate to achieve the terms and conditions for grazing use and meet allotment specific objectives and the Standards for Rangeland Health."

To: "The period of use in any use area may be temporarily modified on an annual basis if monitoring data indicates that changes are appropriate to achieve the terms and conditions for grazing use and meet allotment specific objectives and the Standards for Rangeland Health. Temporary annual changes in grazing use that may be authorized will be considered if the use is within the intent of the grazing permit as described in 4130.4(b)."

3. Modify Terms & Conditions: Jersey High, Fish Creek, and Tobin Use Areas #2:

From: “If monitoring indicates that grazing use results in less than 4-inch residual stubble height of riparian herbaceous species by July 31st then the period of use for that use area may be modified the following year.”

To: “If monitoring indicates that grazing use results in less than 4-inch residual stubble height of riparian herbaceous species by July 31st, then the BLM will examine all possible causes for exceeding the specified 4” stubble height requirement in order to determine if any temporary changes in the period of use may be required for the following year.”

4. Modify Terms & Conditions: Jersey High, Fish Creek, and Tobin Use Areas #4:

From: “The Buffalo Rehabilitation Seeding within the Tobin Use Area will be utilized in conjunction with the Buffalo Valley Use Area from 09/01 – 02/28. During this time frame, the permittee would be required to remove livestock within 7 days from the seeding once utilization of crested wheatgrass reaches 60%. Use within the seeding and Buffalo Valley combined will not exceed 3,638 AUMs during this time frame. However, use within this seeding may occur prior to 09/01 if it is determined that utilization standards for riparian areas within the Tobin Use Area are met prior to the one-date for the next scheduled pasture.”

To: “The Buffalo Rehabilitation Seeding within the Tobin Use Area will be utilized in conjunction with the Buffalo Valley Use Area from 09/01 – 02/28. During this time frame, the permittee would be required to remove livestock within 7 days from the seeding once utilization of crested wheatgrass reaches 60%. Use within the seeding and Buffalo Valley combined will not exceed 3,638 AUMs during this time frame. However, use within this seeding may occur upon receiving written authorization prior to 09/01 if it is determined that utilization standards for riparian areas within the Tobin Use Area are met prior to the on-date for the next scheduled pasture. Grazing will not exceed the 3,638 AUMs designated for the Buffalo Valley Use Area if use occurs prior to 09/01.”

5. Include an additional Term and Condition for the Jersey High, Fish Creek, and Tobin Use Areas stating the following: “Trailing through the Buffalo Rehabilitation Seeding in the spring may be authorized on an annual basis when moving to the Tobin Use Area. Trailing through the seeding with a group of cattle would be limited to one day.

FINAL DECISION

After considering the Protests from Western Watersheds Project, and additional comments from the Joe Saval Ranching Company, LLC, and incorporating the Protests and comments accordingly, it is my decision to implement the management actions identified below for livestock grazing management:

1. Retain the total permitted use for the Joe Saval Ranching Company, LLC at 21,079 AUMs. A total of 12,546 AUMs will be active and 8,533 AUMs will be suspended. Of the 8,533 suspended AUMs, a total of 3,077 AUMs will be temporarily suspended until watering facilities are maintained and in working order.

Rationale:

Due to the current condition associated with a number of authorized livestock watering facilities throughout the lower elevations of the Buffalo and South Buffalo (jointly referred as “Buffalo Valley”), the BMFO will place 3,077 AUMs in temporary suspension. These facilities were previously authorized and maintenance has been assigned to the permittee under a Cooperative Agreement. However, many of these facilities are in need of repair and are therefore non-functional. Many of the non-functional watering facilities are associated with the Buffalo Valley, Jersey Valley, and McCoy Use Areas. This has resulted in limited distribution of livestock throughout the allotments.

Under 4110.3-2(a), permitted use may be suspended in whole or in part on a temporary basis to facilitate the installation, maintenance, or modification of range improvements. An average actual use was calculated from actual use reports submitted to the BMFO by the permittee over the last ten years. The average actual use was then utilized as an indicator in determining the AUMs to be placed in temporary suspension. The AUMs to be placed in temporary suspension are a result of limiting the herd size for the allotment to 1,044 animals (two herds of 522 animals) as agreed to by the BMFO and the Joe Saval Ranching Company, LLC. A carrying capacity analysis will be undertaken when this allotment undergoes a formal Standards and Guidelines Evaluation in the future. The limitations associated with the non-functioning waters are lack of distribution of livestock throughout the allotment resulting in potential over use in portions of the allotment while others are under utilized. The Joe Saval Ranching Company, LLC has submitted a maintenance schedule for the non-functioning waters to the BMFO and is committed to the maintenance of these systems. As the water developments are deemed functional to BLM specifications, the BMFO and the Joe Saval Ranching Company, LLC will further examine the areas associated with the range improvements to determine when the AUMs will be placed back into active use. When all of the waters are made functional and meet BLM specifications, all 3,077 AUMs will be reactivated.

The permitted use for the Buffalo Valley and South Buffalo Allotments are jointly named “Buffalo Valley” on the term permit. Therefore the permitted use summary will be joined due to restraints of the permitting system used by the BMFO. Once waters are functioning and repaired to BLM specifications, and temporary suspended AUMs are reactivated, the total preference for the “Buffalo Valley” Allotment will be the following:

Permittee	Allotment	Total Preference (AUMs)	Total Suspended Use (AUMs)	Active Preference (AUMs)
Joe Saval Ranching Company, LLC	Buffalo Valley	21,079	5,456	15,623

However, the grazing schedule of the permit does not make reference to “South Buffalo” which therefore limits the ability to split the permitted use summary on the permit. However, through this decision, it will be recognized that once livestock waters are made functional and are maintained, the permitted use for the Buffalo Valley and South Buffalo Allotments for the Joe Saval Ranching Company, LLC is the following:

Permittee	Allotment	Total Preference (AUMs)	Total Suspended Use (AUMs)	Active Preference (AUMs)
	Joe Saval Ranching Company, LLC	Buffalo Valley South Buffalo	6,588 14,491	

2. Issue a ten-year permit from March 1st, 2008 through February 28th, 2018 to Joe Saval Ranching Company, LLC for the “Buffalo Valley” Allotment with the following grazing management system and Terms & Conditions:

Allotment	Use Area	Dates	Kind	Number	AUM's
Buffalo Valley	Buffalo Valley	03/01-04/30	Cattle	522	1,047
	McCoy	03/01-04/15	Cattle	522	789
	McCoy	04/15-04/30	Cattle	392	206
	Jersey Valley	04/15-05/15	Cattle	130	132
	Tobin	05/01-07/31	Cattle	522	1,579
	Fish Creek	05/01-05/15	Cattle	303	149
	Jersey High	05/01-07/15	Cattle	89	222
	Fish Creek	05/16-07/15	Cattle	433	868
	Jersey Valley	07/16-09/15	Cattle	522	1,064
	Buffalo Valley	08/01-02/28	Cattle	522	3,638
	McCoy	09/16-02/28	Cattle	522	2,849
	Total				1,044

*Due to rounding errors, the AUMs utilized on an annual basis would be 12,543 under this grazing schedule. However, the active preference will remain at 12,546.

Annual Authorization Terms & Conditions

1. Grazing use will be in accordance with the Joe Saval Ranching Company, LLC Permit Renewal Final Decision dated October 23, 2007.
2. The permittee would be required to meet with the BLM prior to each grazing year in order to determine if any temporary changes in permitted use are required either at the request of the permittee or at the discretion of the BLM based on monitoring data collected during the previous year.
3. A total of 3,077 AUMs will be placed in temporary suspension due to non-functioning water developments throughout the Buffalo Valley and South Buffalo Allotments. As watering facilities are made functional by the Joe Saval Ranching Company, LLC, the BMFO and Joe Saval Ranching Company, LLC will examine the use area(s) associated with these waters to determine when the AUMs will be placed back into active use. When all waters are functional, all 3,077 AUMs will be re-activated.
4. The period of use in any use area may be temporarily modified on an annual basis if monitoring data indicates that changes are appropriate to achieve the terms and conditions for grazing use and meet allotment specific objectives and the Standards for Rangeland Health. Temporary annual changes in grazing use that may be authorized will be considered if the use is within the intent of the grazing permit as described in 4130.4(b).

Terms & Conditions: Buffalo Valley, McCoy, and Jersey Valley Use Areas

1. For grazing use that occurs from 4/1 – 5/15, the permittee would be required to remove livestock within 7 days from either a portion of or from the entire use area to the next scheduled pasture anytime after 5/1 when key area utilization on key upland herbaceous species reaches 40% and key shrub species reaches 25%.
2. For grazing that occurs from 7/15 – 3/31, the permittee would be required to remove livestock within 7 days from either a portion of or from the entire use area(s), to the next scheduled pasture, or off the allotment when key area utilization on key upland species reaches 40%.

Terms & Conditions: Jersey High, Fish Creek, and Tobin Use Areas

1. For grazing use that occurs from 5/1 – 7/15, the permittee would be required to remove livestock within 7 days from either a portion of or from the entire use area to the next scheduled pasture anytime after 7/1 when key area utilization on key upland species reaches 40%.
2. If monitoring indicates that grazing use results in less than 4-inch residual stubble height of riparian herbaceous species by July 31st, then the BLM will examine all possible causes for exceeding the specified 4” stubble height requirement in order to determine if any temporary changes in the period of use may be required for the following year.

3. The permittee would be required to remove livestock within 7 days from either a portion of or from the entire use area(s) anytime after 6/30 when monitoring indicates that utilization of riparian woody or browse species (e.g. aspen, elderberry, serviceberry, etc.) reaches 30%.
4. The Buffalo Rehabilitation Seeding within the Tobin Use Area will be utilized in conjunction with the Buffalo Valley Use Area from 09/01 – 02/28. During this time frame, the permittee would be required to remove livestock within 7 days from the seeding once utilization of crested wheatgrass reaches 60%. Use within the seeding and Buffalo Valley combined will not exceed 3,638 AUMs during this time frame. However, use within this seeding may occur upon receiving written authorization prior to 09/01 if it is determined that utilization standards for riparian areas within the Tobin Use Area are met prior to the on-date for the next scheduled pasture. Grazing will not exceed the 3,638 AUMs designated for the Buffalo Valley Use Area if use occurs prior to 09/01.
5. Trailing through the Buffalo Rehabilitation Seeding in the spring may be authorized on an annual basis when moving to the Tobin Use Area. Trailing through the seeding with a group of cattle will be limited to one day.

Administrative Terms & Conditions:

1. In accordance with 43 CFR 4130.8-1(F): Failure to pay grazing bills within 15 days of the due date specified in the bill shall result in a late fee assessment of \$25.00 or 10 percent of the grazing bill, whichever is greater, but no to exceed \$250.00. Payment made later than 15 days after the due date, shall include the appropriate late fee assessment. Failure to make payment within 30 days may be a violation of 43 CFR Sec. 4140.1 (B) (1) and shall result in action by the authorized officer under 43 CFR Secs. 4150.1 and 4160.1-2
2. In accordance with 43 CFR 4130.3-2(D): Actual use information for each pasture will be submitted to the authorized officer within 15 days of completing grazing use as specified on the grazing permit and/or grazing licenses.
3. In accordance with 43 CFR 4120.31(A): All range improvements shall be installed, used, maintained, and/or modified on the public lands, or removed from these lands, in a manner consistent with multiple-use management.
4. In accordance with 43 CFR 4130.3-2(C): In order to improve livestock and rangeland management on the public lands, all salt and/or mineral supplements will not be placed within ¼ mile of any riparian area, wet meadow, or watering facility (either permanent or temporary) unless stipulated through a written agreement or decision.
5. In accordance with 43 CFR 4130.3-2(H): All grazing permittees shall provide reasonable access across private and/or leased lands to the Bureau of Land Management for the orderly management and protection of the public lands.

6. In accordance with 43 CFR 4130.3-3: The authorized officer may modify terms and conditions of the permit or lease when the active use or related management plan are not meeting the Land Use Plan, Allotment Management Plan or other activity plan, or provisions of subpart 4180 RAC Standards and Guidelines.
7. Pursuant to 43 CFR 10.4(G): The holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony (as defined at 43 CFR 10.2). Further, pursuant to 43 CFR 10.4(C) and (D), you must stop activities in the immediate vicinity of the discovery and protect it from your activities for 30 days or until notified by the authorized officer.
8. In accordance with 43 CFR 4130.3-1(B): All permits and 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.

Due to the current condition of the Fish Creek Watershed which occurs within the Fish Creek Use Area, the BMFO proposes to implement at least one year of rest from livestock grazing in this use area. For at least the first year of the grazing management system, the permittee would rest the Fish Creek Use Area in its entirety. In order to allow for the rest of this use area, the BMFO proposes that in the interim, the herd utilizing the McCoy Use Area would be moved through the Jersey Valley Use Area will be herded into the Tobin Use Area rather than Fish Creek. The grazing schedule will allow for a period of rest for the Fish Creek would be as follows:

Allotment	Use Area	Dates	Kind	Number	AUM's
Buffalo Valley	Buffalo Valley (1*)	3/1 – 4/30	Cattle	522	1047
	Buffalo Valley (1)	5/1 – 7/31	Cattle	344	1040
	Jersey High (1)	5/1 – 7/15	Cattle	100	250
	Buffalo Valley (1)	5/1 – 5/10	Cattle	78	26
	Tobin (1 + 2)	5/10 – 7/31	Cattle	600	1637
	Buffalo Valley (1)	8/1 – 2/28	Cattle	522	3638
	McCoy (2)	3/1 – 4/15	Cattle	522	789
	McCoy (2)	4/15 – 5/12	Cattle	392	361
	Jersey Valley (2)	4/15 – 5/12	Cattle	130	120
	Jersey Valley (2)	8/1 – 9/15	Cattle	522	789
	McCoy (2)	9/16 – 2/28	Cattle	522	2849
Total				1,044	12,546

*1 = Herd 1 2 = Herd 2

These use areas would be closely monitored to ensure that utilization triggers are not exceeded in an effort to continue to provide for making progress towards allotment specific objectives and the Standards for Rangeland Health. Once utilization triggers are achieved within the allotment, cattle would be moved to private lands. It is expected that resting the Fish Creek Use Area for at

least one grazing season would provide an increased opportunity to make progress towards allotment specific objectives and the Standards for Rangeland Health. With at least one year of rest, it is expected that riparian species within Fish Creek would be given the opportunity increase in vigor without additional pressure from livestock grazing. This would therefore result in increased stream bank stability and allow for the capture of sediment during run-off events.

RATIONALE

The Final Decision will comply with the BLM Washington Office Instruction Memorandum 2003-071 which required permits issued under the various Congressional Omnibus Appropriations bills from 1999 to present or that have not been fully processed and are due to expire before September 2009 to be fully processed by the end of September 2009.

The Final Decision will issue a fully processed ten-year grazing permit to the Joe Saval Ranching Company, LLC for the Buffalo Valley and South Buffalo Allotments (jointly named "Buffalo Valley") in order to implement grazing management practices that will address resource issues related to climate & drought, upland vegetation, riparian resources, and noxious weeds. In addition, the Final Decision will implement grazing management practices and terms and conditions that will be in conformance with the Northeastern Great Basin Resource Advisory Council (RAC) Guidelines (Guidelines 1.1, 1.2, 1.3, 2.1, 2.3, 3.1, 3.2, 3.3, 3.5, and 4.1) and the Sierra Front-Northwestern Great Basin Area RAC Guidelines (Guidelines 1, 2, 3, 4, 7a-d, 9, 12, 13, 17, 18, 20, and 21). The management actions implemented by the Final Decision will also ensure that progress is made towards the objectives of the Shoshone-Eureka Resource Management Plan (SERA RMP) Record of Decision (1986), the Shoshone-Eureka Rangeland Program Summary (SERA RPS) (1988), the Sonoma-Gerlach Management Framework Plan (MFP) III (1982) and the Sonoma-Gerlach Rangeland Program Summary (1992). As a result, the grazing permit will be in compliance with 43 CFR 4180.

The grazing management system implemented through the Final Decision will establish use areas (see Appendix 1) with seasons of use that are appropriate for various resources within those areas. Use areas designated for the allotment were developed based on resource values, topography, seedings, and fencing infrastructure that is currently in place within the allotments. With the formal designation of use areas through the Final Decision, appropriate season of use for particular rangeland types and resource issues (upland condition, riparian functionality, and habitat values) will be implemented. The implementation of specific periods of grazing use for each use area will then provide for conditions that will lead to the maintenance or improvement of upland plant communities, seedings, riparian areas, and wildlife habitat (particularly sage grouse). The establishment of use areas will provide for the orderly administration of the range in the short term and will facilitate future rangeland health evaluations and determinations in the long term by creating an environment where monitoring data and management can be evaluated for specific administrative units. The implementation of use areas will be in conformance with the Northeastern Great Basin RAC Guidelines (Guidelines 2.1, 2.3, 3.1, 3.2, 3.3, and 4.1) and the Sierra Front-Northwestern RAC Guidelines (Guidelines 2, 3, 7a-d, 17, and 21) for grazing administration. By implementing seasons of use for the designated use areas, the entire system will allow for improved rangeland health, improved forage for livestock and habitat for wildlife, and improved riparian and wetland functioning conditions.

The Buffalo Valley and McCoy Use Areas are dominated by salt desert shrub communities consisting primarily of shadscale and bud sagebrush. As illustrated in the 2007 Monitoring Report issued on July 12th, 2007, key perennial grass species are limited within this portion of the allotment, and in many cases lacking, within the vegetative community (pgs 29-31, 34-35, 37-39, and 41-49). Although key perennial grass species do not contribute to the majority of the vegetative composition at potential, it is expected that a greater occurrence of Indian ricegrass and bottlebrush squirreltail would be present at these sites. Sandberg bluegrass appears to dominate the perennial grass component; however, the report further documents that the understory within these vegetative communities is dominated by cheatgrass. The presence of microbiotic crusts currently appear to be contributing to the soil site stability associated with these sites as indicated by the lack of perennial grass species within the understory.

The Final Decision implements a season of use for these use areas that will provide rest during the critical growth period for the perennial grasses and shrubs that occur within these vegetative communities. Use by cattle will occur from August 1st through April 30th for the Buffalo Valley use area and from September 16th through April 30th for the McCoy Use Area. The majority of the use within these use areas will occur during the dormant season (approximately August 1st - February 28th for bud sagebrush, mid-August - March 31st for shadscale, August 1st - April 1st for Indian ricegrass, mid-July - March 31st for bottlebrush squirreltail, and July 1st - mid-March for Sandberg bluegrass) Depending on precipitation, temperature and soil type, the phenology of the various species may vary two weeks to one month (BMFO 1975 Plant Phenology Table). Research from the Desert Experimental Range (DER) indicates that season of use resulted in the greatest difference in range condition. The least amount of grazing damage within the DER occurred from early to mid-winter (late November to late February). Shrubs, particularly bud sagebrush and winterfat, are vulnerable to grazing pressures from March into April. However, periods of rest, rotating use, or adjustments in rate of stocking have allowed for improvement in range condition when grazing did occur in the late winter to early spring (Blaisdell et. al. 1984).

It is recognized that some use will occur during the initial growth period of key vegetative types that occur within the salt-desert shrub communities. Recommendations for grazing that occurs during the onset of the growth period of these communities include dividing large areas into smaller units that allows for alternation or rotation of the period of use within these units from year to year (Blaisdell et. al. 1984). Due to the size of the use areas, the Final Decision includes the requirement that the permittee and BMFO staff meet prior to the onset of the next grazing year to determine where cattle grazing will occur on a year to year basis within these use areas. With the aid of functional watering facilities, portions of the use areas will be able to be deferred in order to limit the repeated occurrence of late-winter/early spring (March - April) grazing throughout both of these use areas. Due to the current condition and capability of the salt-desert shrub communities within these use areas, it is expected that changes in species composition in response to changes in livestock management will be long-term in nature. The grazing management system of the Final Decision is expected to result in improvements in range condition within these use areas. Evidence has shown that even under the poorest of conditions, range condition has improved with adjustments in stocking rates and season of use (Blaisdell et. al. 1984).

The Jersey Valley Use Area is also dominated by salt-desert shrub communities. Vegetative communities are dominated by shadscale and bud sagebrush with a Sandberg bluegrass understory. Bottlebrush squirreltail was observed at one of the key management areas that represent this portion of the allotment. However, Indian ricegrass was not observed within the understory. With proper grazing management, species such as bottlebrush squirreltail and Indian ricegrass can regain their occurrence within the vegetative community, which improves the variety and quality of the forage (Blaisdell et. al. 1984). Under the Final Decision, the majority of the use will occur during the dormant season for the perennial grasses that occur within these range sites. Use of shrubs within this use area will occur during a portion of the critical growth season for shadscale (July 16th – August 31st). Although most of the cattle use under the grazing management system of the Final Decision will occur during the dormant season, some use will occur during the onset of the critical growth period (April 15th – May 15th). The reduced stocking rate coupled with proper utilization levels for the vegetative community will allow for improvements in range condition and attainment of allotment specific objectives even though grazing will occur during the onset of the critical growth period.

The season of use is also expected to aid in the maintenance of the microbiotic crusts that occur within the lower elevations of the allotments. The majority of the use by cattle in the Buffalo Valley, Jersey Valley, and McCoy use areas will occur during the fall, winter, and early spring seasons. These crusts are less susceptible to disturbance when soils are snow covered and frozen on all soil types. Light to moderate stocking rates in the early- to mid- season is generally recommended in order to maintain biological crusts (Belnap et. al. 2001). In addition to the majority of the use occurring during the fall, winter, and early spring months, the permittee will be required to meet with the BMFO to determine livestock movement within the Buffalo Valley and McCoy Use Areas in order to possibly defer use within portions of the use area. The system within these large use areas will minimize the frequency of soil disturbance during the dry season while maximizing the periods between disturbances from livestock grazing (Belnap et. al. 2001).

Management of the Jersey High, Fish Creek, and Tobin Use Areas have developed to primarily address riparian functionality and habitat for sage grouse. The 2007 monitoring report documents that existing grazing use during the hot season has contributed to the majority of the riparian zones within the Fish Creek Use Area and Jersey High Use Area being rated as either non-functional or functional at risk with a downward trend. The majority of riparian areas within the Tobin Use Area are not properly functioning and were rated either as functioning at risk with a downward trend or functioning at risk with no apparent trend. Indicators for riparian areas that are in properly functioning condition include adequate vegetation, large woody debris or rock that dissipates energy during high flow events, adequate vegetation that facilitates water retention, filtering, and release as indicated by plant species and cover, appropriate sinuosity, width/depth ratios and gradient that dissipates stream flow without excessive erosion or deposition, and plant diversity (Northeastern Great Basin RAC and Sierra Front-Northwestern Great Basin RAC 1997).

Livestock and wild horse use can alter the chemical, physical and biological integrity of water. Grazing impacts may also modify the hydrologic response of watersheds by reducing infiltration and vegetative cover, increasing stream channel/floodplain erosional processes, decreasing surface roughness, increasing compaction, and lowering water tables. In order to achieve proper

functioning condition and to promote regeneration of woody riparian browse species within these use areas, changes in grazing management are necessary. The Final Decision will reduce livestock grazing pressures during the hot season (July 1st – October 15th) by requiring that livestock be removed from the Fish Creek and Jersey High Use Areas by July 15th. Livestock will be removed from the Tobin Use Area by July 31st due to higher elevation zones and inaccessibility to a number of riparian areas within the use area. Grazing throughout the hot season generally results in concentrated livestock use in or near riparian areas as upland forage begins to dry out, water distribution becomes limited, and the need for shaded areas are increased. Use during the summer typically results in greater utilization and causes the greatest impact on riparian areas, especially during the months of July through September.

Use during the hot season will result in failure to make progress towards the standards for rangeland health. The season of use under the Final Decision will provide a greater opportunity for re-growth and plant recovery than hot season or fall use. This is supported by Leonard 1997 (TR1737-17). Repeated grazing throughout the hot season on an annual basis has almost always resulted in detrimental impacts to riparian vegetation. It has been found that grazing during the hot season resulted in limited ability to meet habitat goals (Leonard 1997). Grazing from May 1st through July 15th for Fish Creek and Jersey High Use Areas and May 1st through July 31st for the Tobin Use Area will improve livestock distribution since livestock will not be as likely to congregate or loiter around water sources and riparian zones as they would otherwise during the months of August and September. Improved distribution reduces the possibility of overgrazing. It is anticipated that spring and early summer grazing of moderate to higher elevation areas will encourage livestock to be less selective in the use of forage plants. This tendency will result in increased use on species that would otherwise be unavailable or unpalatable later in the year and decreased use on key species. Improving livestock distribution while achieving proper use levels will increase trend and improve range condition by increasing the opportunity for growth and reproduction of key species.

Due to the current degraded condition of the Fish Creek Watershed which occurs within the Fish Creek Use Area, the Final Decision will include the implementation of at least one year of rest from livestock grazing in this use area. For at least the first year of the grazing management system, the permittee will rest the Fish Creek Use Area in its entirety to improve riparian zones and sage grouse habitat that occurs within the use area. In order to allow for the rest of this use area, the Final Decision will implement an interim grazing management system that requires the herd utilizing the McCoy Use Area to be moved through the Jersey Valley Use Area into the Tobin Use Area rather than to the Fish Creek Use Area. These use areas will be closely monitored to ensure that utilization triggers are not exceeded and that microbotic crusts are not adversely affected in an effort to continue to provide for making progress towards allotment specific objectives and the Standards for Rangeland Health. Once utilization triggers are achieved within the allotment, cattle will be moved to private lands. It is expected that resting the Fish Creek Use Area for at least one grazing season would provide an increased opportunity to make progress towards allotment specific objectives and the Standards for Rangeland Health. With at least one year of rest, it is expected that riparian species within Fish Creek would be given the opportunity increase in vigor without additional pressure from livestock grazing. This would therefore result in increased stream bank stability and allow for the capture of sediment during run-off events.

Although monitoring of microbiotic crusts will occur it is expected that increased disturbance to microbiotic crusts may occur during the year of rest for the Fish Creek Use Area, particularly within the Buffalo Valley Use Area. Cattle that would use the Fish Creek Use Area will be placed in the Buffalo Valley Use Area and Tobin Use Area for the one year of rest. The additional use of the Tobin Use Area is not expected to further impact soils because the season of use will not be modified and cattle numbers will increase by 100 head. Use within the Buffalo Valley Use Area could increase disturbance to microbiotic crusts due to continued use throughout the summer months into the fall and winter. Because use will occur after the end of the wet season, re-growth of crustal organisms may be inhibited (Belnap et. al. 2001). However, dispersal of livestock throughout portions of the Buffalo Valley Use Area will aid in limiting the possible degradation of microbiotic crusts for use that would occur during the summer in order to allow for rest of the Fish Creek Use Area. In addition, livestock use will be allowed in the Buffalo Rehabilitation seeding, which occurs in mid-elevations within the Tobin use area. This will further limit impacts to microbiotic crusts when use occurs after the wet season.

The Jersey High and Fish Creek use areas are currently dominated by Wyoming big sagebrush communities with limited perennial grasses in the understory. The vegetative communities that exist within these use areas should consist of a fairly equal proportion of shrubs and perennial grasses. Upland conditions within the Tobin Use Area are lacking adequate key perennial grasses within the understory. This suggests that upland conditions within this portion of the allotment are not in a desired state, limiting forage for livestock, wildlife, and wild horses. Upper elevations within this use area indicate that the dominant perennial grass species consists of Sandberg bluegrass. However, the understory of these sites should be dominated by Thurber needlegrass and Indian ricegrass. In order to improve upland range condition, the season of use implemented through the Final Decision will allow for increased distribution of livestock within the uplands. Although the season of use will occur during a portion of the critical growth season for key perennial grasses, the utilization triggers discussed below will allow for maintenance and improvement of these key species. Holecheck (2004) recommends that proper utilization for sagebrush-grasslands should be between 30-40%. Grazing that will occur in the upper elevations under the Final Decision will occur during a period when moisture contents may be high, dependant upon the precipitation rates that occurred during the winter and spring months. Although soil moisture contents may be high when grazing is initiated on these areas, the majority of the soils have high volumes of gravel, cobbles, and stones within their profile. This will aid in reducing compaction of these soils when moisture content is high.

Field observations indicate that portions of the Buffalo Rehabilitation seeding appear to be in good condition while others appear to be in poor condition. Under the Final Decision, the Buffalo Fire Rehabilitation seeding will not be listed on the grazing schedule for the term-permit. However, use of this seeding has been included within the terms and conditions of the permit. Use that would occur within this seeding will be applied for on an annual basis. Use of the Buffalo Valley Use Area and the Buffalo Fire Rehabilitation Seeding will not exceed those AUMs designated for the Buffalo Valley Use Area (3,638 AUMs). In order to improve the seeding, grazing will be authorized from 09/01 – 02/28 in conjunction with the use period for the Buffalo Valley Use Area. However, use within the seeding may occur prior to 09/01 if it is determined through monitoring that riparian utilization standards are attained prior to the on-date of the next scheduled pasture. This will allow for flexibility in management and provide a pasture for livestock to be moved to in order to ensure that riparian utilization standards are not

exceeded within the Tobin Use Area. The season of use will occur during the dormant period which provides rest during the active and critical growth period for crested wheatgrass.

In addition, trailing through the seeding is necessary in order to graze portions of the Tobin use area in the spring. Therefore, the Final Decision will implement a term and condition that recognizes this need. Trailing must be applied for on an annual basis and approved by the authorized officer. Trailing will be limited to one day for each group of livestock moved to the Tobin Use Area. Trailing of cattle through the seeding during the spring will address the needs for movement between use areas while providing for the maintenance and/or improvement of the seeding by limiting spring use followed by fall use on a yearly basis.

Through comments received in response to EA #NV062-07-080, it was proposed to utilize the seeding in conjunction with the Tobin Use Area from May 1st through July 31st. This proposal would result in use of crested wheatgrass throughout the critical growth period for this species (approximately May 15th through June). Defoliation during the critical growth period can generally reduce the ability for the plant to gain in vigor, reproduce seeds, and store root reserves. When defoliation occurs after maturity during the late fall and winter the use generally has the least effect (either detrimental or beneficial) to subsequent growth or root total available carbohydrate (TAC) reserves (Vallentine 2001). The growth period is an important time for the accumulation of carbohydrates. Studies have shown that reserves are restored most rapidly in May prior to head emergence in June (Hyder and Sneva 1970). In areas where crested wheatgrass is considered an invasive species, grazing is suggested to defer until June 1st in order to reduce or control the establishment of crested wheatgrass (Saskatchewan Watershed Authority Fact Sheet). Dormant season or deferred grazing will be beneficial for the crested wheatgrass seeding by providing plants the opportunity to gain in vigor, store nutrients to establish root systems, reproduce and set seed. In addition, deferred grazing of crested wheatgrass will provide an opportunity for the maintenance of the seedings (Ogle 2006) along with providing an opportunity for the species to better withstand periods of drought and accommodate to better than average growing conditions (Sharp 1985). Riparian areas occur on both private and public lands within these seedings. The season of use could allow for the improvement of these areas if use occurred during the cooler fall and winter months, particularly mid-October through February. The main objective for the seeding is to maintain or improve the condition of the seeding which provides an important management tool if monitoring indicates that within season triggers or end-point indicators are met prior to the end date for a particular use area or if objectives for native range are not being attained. It is recognized that crested wheatgrass seedings can withstand early-season grazing; however, literature review has indicated that use during each spring and following fall can lead to concerns regarding the conditions of the stand including increased shrub canopy cover, lower vigor, increased halogeton establishment, and ability to store root reserves for survival during the dormant season (Horton and Weissert 1969, Robertson et. al. 1970, Frischknecht 1968, Frandsen 1950).

Soil site stability is an important rangeland health attribute in determining the functionality of a system. Under the Final Decision, soils will be managed to maintain the natural habitat of the area and to minimize the potential for accelerated erosion events. A healthy, productive, and diverse plant community appropriate for the range site plays an important role in the improvement and/or maintenance of soil processes such as permeability and infiltration rates and soil site stability. Designating use areas and establishing appropriate seasons of use will directly

impact soils by reducing soil compaction and aiding in permeability and infiltration rates that are appropriate for the range site. Reduced soil compaction will at least maintain and could possibly increase the production of the native perennial grasses and forbs that should occur within a particular range site. Proper vegetative management would also aid in the maintenance and/or improvement of the plant community, which would result in further protection of soil and water resources.

In addition to establishing use areas and seasons of use to the term permit, modification and additional terms and conditions tied to the grazing permit will be implemented under the Final Decision. The terms and conditions of the Final Decision provide direction to the permittee on livestock management (e.g. movement of livestock, placement of salt) and administrative procedures (e.g. payment of fees, actual use submission) that the permittee will be required to abide by. The requirement for the permittee to meet with the BLM prior to each grazing year will provide an opportunity to discuss monitoring data that was collected along with any issues that arose during the previous grazing season. Temporary changes to livestock grazing management will be addressed during the annual operation meeting if it determined that changes are necessary in order to achieve the allotment specific objectives and the Standards for Rangeland Health. Temporary changes may also occur during the grazing season in order to address modifications to grazing schedules based upon yearly fluctuations (i.e. drought, wet springs, excessive snow packs, meeting established utilization rates for the use area or pasture, etc.) which would require adjustments to the movement of livestock.

The Final Decision implements utilization *within-season triggers* and *end-point indicators* within the terms and conditions of the permit. The within-season triggers will require the permittee to move cattle to portions of the use area where utilization rates have not been exceeded and/or moved to the next scheduled use area when utilization and/or stubble height limits are reached. As recognized in the Nevada Rangeland Monitoring Handbook (2006), within-season triggers and end-point indicators provide a means to determine if grazing use left resources in an appropriate condition for moving towards objectives. The utilization and/or stubble height limit will serve as an indicator of annual progress toward the attainment of management objectives and the Standards for Rangeland Health.

Due to the current range conditions that exist within the allotment, the Final Decision will implement 40% utilization for key perennial upland grasses and 25% utilization for key shrubs within the Buffalo Valley, McCoy, and Jersey Valley Use Areas. This utilization level will also be implemented in the terms and conditions for the Fish Creek, Jersey High, and Tobin Use Areas. For ranges that are considered to be in less than desirable condition, utilization rates are recommended to be between 25-40% in order to allow for improvement of range condition (Blaisdell et. al. 1984, Vallentine 2001, Holecheck 2004). In order to prevent excess utilization and attain allotment specific objectives and the Standards for Rangeland Health, the permittee will be required to move livestock from either a portion of or from the entire use area within 7 days once utilization triggers are achieved.

The terms and conditions of the Final Decision will also implement utilization within-season triggers that require the permittee to remove livestock from a portion of or from the entire Fish Creek, Jersey High, and Tobin Use Areas to the next scheduled use area anytime after June 30th when utilization of riparian woody browse species exceeds 30%. Because a portion of the use

will occur during the initial stages of the hot season (July 1st through July 31st), it is particularly important to remove livestock once these stubble height and utilization triggers are achieved. Achievement of the utilization of riparian woody browse species would further improve the vigor of species such as willow. Vigorous woody plant growth along with residual herbaceous stubble heights of at least 6 inches at the end of the growing season is characteristic of riparian areas that are in excellent, good, or rapidly improving condition (Clary et. al. 1989). The permittee will be required to remove livestock from either a portion of or from the entire use area within 7 days once utilization triggers are achieved in order to prevent excess utilization levels within the use area. This will provide for attainment of allotment-specific objectives and the Standards for Rangeland Health.

In order to provide for the attainment of long-term riparian objectives and the Standards for Rangeland Health, the Final Decision will also implement terms and conditions that will require adjustments in the season of use if monitoring indicates that residual stubble heights of riparian herbaceous species exceed 4 inches by July 31st. Achieving a minimum of 4 inches of residual biomass of riparian herbaceous species by July 31st will maintain plant vigor and ensure that adequate residual vegetation is present to dissipate energy, protect stream banks during high spring flows and trap and filter sediment (Clary et. al. 1989). If monitoring indicates that this requirement has been exceeded, the BMFO, in conjunction with the permittee, will determine if factors other than the season of use contributed to non-attainment of the stubble height requirement prior to modifying the season of use for the following grazing season.

Studies by Clary et al. (1996), Rumsey (1996), Gray et al. (1997) and others found that during high flows, stubble heights below 1 inch, collected significantly less sediment than sediment deposited on unclipped and on 3 and 6 inch stubble heights (Skinner 1998). Stubble heights that protect riparian-wetland areas vary by plant species, but as a rule, *Carex* and *Juncus* species should be left at a minimum of 3-inch stubble height at the completion of grazing, and bluegrasses and tufted hair grasses at 2 inch stubble height. This assumes that some re-growth will occur after grazing has ceased on plants located near the waters edge and that plants such as bluegrass growing on the upper flood plains, which receive less moisture, will remain dormant during most years.

Clarey (1995) found that a 10 cm (3.9 inches) minimum stubble height at the end of grazing was required to ensure full biomass production in mountain sedge communities. Clarey and Webster (1989) recommend that a minimum herbage stubble height be present on all streamside areas at the end of the growing season, or at the end of the grazing season if grazing occurs after frost in the fall. The residual stubble height should be at least 4 to 6 inches in height to provide sufficient herbaceous forage biomass to meet the requirements of plant vigor maintenance, bank protection, and sediment entrapment. The 4-6 inch stubble height may seem restrictive, but a study by Kinney and Clary (1994) found that Nebraska sedge, the most common *Carex* species found in the Buffalo Valley and South Buffalo Allotments, grazed to 6-inches equals 50% of the total above ground biomass of an 18-inch plant, which exceeds the 30% maximum use target in the SERA RMP.

In order to improve the seeding, the permittee will be required to remove livestock from the seeding within 7 days once utilization of crested wheatgrass reaches 60%. Utilization/stubble height triggers and indicators are established use levels of vegetative use that would, along with

other required management practices, move specific plant community composition toward desired long-term resource objectives. In order to reach the objectives of either maintaining or improving the production of crested wheatgrass, the terms and conditions will require the permittee to move livestock from the seedings once utilization limits are achieved. It has been shown through studies of crested wheatgrass seedings in Northern Nevada with similar conditions as the Buffalo Valley/South Buffalo Allotments (Paradise Valley study) that the highest vigor of crested wheatgrass plants occurred under moderate late-season grazing and the lowest vigor occurred under prolonged early season use. Although results for sagebrush crown cover were varied, cover at this site was reduced by late and early heavy grazing. However, season-long grazing resulted in the highest average shrub cover (Robertson et. al. 1970).

The BLM and the permittees will monitor the effects of livestock grazing in accordance with an approved cooperative monitoring plan (in the absence of one, we will refer to a monitoring plan and discuss periodic monitoring by BLM). The monitoring plan will state allotment specific management objectives, within-season triggers and end-point indicators for upland and riparian resources, how management is expected to achieve the objectives, and how the indicators and triggers track the progress of management toward achieving the objectives. Although temporary adjustments in grazing use may be required to comply with the permit on an annual basis in order to be consistent with achieving desired end-point indicators and established within-season triggers, any permanent revision to the grazing permit and/or terms and conditions will be made following a thorough management evaluation. The management evaluation will consider all uses and potential factors affecting the degree of progress made towards allotment specific management objectives and the Standards for Rangeland Health. The management evaluation will consider short-term and long-term monitoring data in determining the need to further modify or revise the grazing permit.

The terms and conditions relating to utilization are measurable grazing management parameters that provide monitoring information and support in the rationale for maintaining current management or modification to grazing management in future Rangeland Health Evaluations and Multiple Use Decisions. The BMFO will continue to monitor utilization as short-term indicators for range condition. This, along with long-term monitoring data, will be utilized to determine if the management system implemented through this decision is making progress towards the attainment of the Standards for Rangeland Health. Multiple uses, including livestock, will be addressed through the Standards for Rangeland Health Evaluation. If it is determined that the Standards for Rangeland Health are not being met, and significant progress is not being made, the BMFO will utilize short and long-term monitoring data to determine if livestock use was the causal factor.

A cooperative monitoring plan will be developed once the grazing decision becomes final. Once developed, the cooperative grazing plan will be issued to the permittee and the interested public for their record.

DECISION AUTHORITY: The authority for this decision is contained in Title 43 of the Code of Federal Regulations (CFR) including, but not limited to the following:

CFR 4100.3 Changes in permitted use.

The authorized officer shall periodically review the permitted use specified in a grazing permit or lease and shall make changes in the permitted use as needed to manage, maintain or improve rangeland productivity, to assist in restoring ecosystems to properly functioning condition, to conform with land use plans or activity plans, or to comply with the provisions of subpart 4180 of this part. These changes must be supported by monitoring, field observations, ecological site inventory or other data acceptable to the authorized officer. [60 FR 9963, Feb. 22, 1995]

CFR 4110.3-2 Decreasing permitted use

(a) Permitted use may be suspended in whole or in part on a temporary basis due to drought, fire, or other natural causes, or to facilitate installation, maintenance, or modification of range improvements. [53 FR 10234, Mar. 29, 1988, as amended at 60 FR 9963, Feb., 22, 1995]

CFR 4120.3-1 Conditions of Range Improvements

(a) Range improvements shall be installed, used, maintained, and/or modified on the public lands, or removed from these lands, in a manner consistent with multiple-use management.

(b) Prior to installing, using, maintaining, and /or modifying range improvements on the public lands, permittees or lessees shall have entered into a cooperative range improvement agreement or must have an approved range improvement permit.

(c) The authorized officer may require a permittee or lessee to maintain and/or modify range improvements on the public lands under CFR 4130.3-2 of this title.

(d) The authorized officer may require a permittee or lessee to install range improvements on the public lands in an allotment with two or more permittees or lessees and/or to meet the terms and conditions of agreement.

(e) A range improvement permit or cooperative range improvement agreement does not convey to the permittee or cooperator any right, title, or interest in any lands or resources held by the United States.

(f) Proposed range improvement projects shall be reviewed in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4371 *et seq.*). The decision document following the environmental analysis shall be considered the proposed decision under subpart 4160 of this part. [49 FR 6452, Feb. 21, 1984, as amended at 60 FR 9964, Feb. 22, 1995p 61 FR 4227, Feb. 5, 1996]

CFR 4130.3 Terms and conditions

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. [60 FR 9966, Feb. 22, 1995]

CFR 4130.3-1 Mandatory terms and conditions

(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 and leases shall be made subject to cancellation, suspension, or modification for any violation of these regulations or of any terms 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. [49 FR 6453, Feb. 21, 1984, as amended at 53 FR 10234, Mar. 29, 1988. Redesignated at 60 FR 9965, Feb. 22, 1995, and amended at 60 FR 9966, Feb. 22, 1995]

CFR 4130.3-2 Other terms and conditions

The authorized officer may specify in grazing permits or leases other terms and conditions which will assist in achieving management objectives, provide for proper management, or assist in the orderly administration of the public rangelands. These may include by are not limited to:

(a) The class of livestock that will graze on the allotment;

(b) The breed of livestock in allotments within which two or more permittees or lessees are authorized to graze;

(c) Authorization to use, and directions for placement of supplemental feed, including salt, for improved livestock and rangeland management on the public lands;

(d) A requirement that permittees or lessees operating under a grazing permit or lease submit within 15 days after completing their annual grazing use, or as otherwise specified in the permit or lease, the actual use made;

(e) The kinds of indigenous animals authorized to graze under specific terms and conditions;

(f) Provision for livestock grazing temporarily to be delayed, discontinued or modified to allow for the reproduction, establishment, or restoration of vigor of plants, provide for the improvement of riparian areas to achieve proper functioning condition or for the protection of other rangeland resources and values consistent with objectives of applicable land use plans, or to prevent compaction of wet soils, such as where delay of spring turnout is required because of weather conditions or lack of plant growth;

(g) The percentage of public land use determined by the proportion of livestock forage available on public lands within the allotment compared to the total amount available from both public lands and those owned or controlled by the permittee or lessee; and

(h) A statement disclosing the requirement that permittees and lessees shall provide reasonable administrative access across private and leased lands to the Bureau of Land Management for the orderly management and protection of the public lands. [49 FR 6453, Feb. 21, 1984; 49 FR 12704, Mar. 30, 1984. Redesignated at 60 FR 9965, Feb. 22, 1995, and amended at 60 FR 9966, Feb. 22, 1995]

CFR 4130.3-3 Modification of permits or leases

Following consultation, cooperation, and coordination with the affected lessees or permittees, the State having lands or responsible for managing resources within the area, and the interested public, the authorized officer may modify terms and conditions of the permit or lease when the active use or related management practices are not meeting the land use plan, allotment management plan or other activity plan, or management objectives, or is not in conformance with the provisions of subpart 4180 of this part. To the extent practical, the authorized office shall

provide to affected permittees or lessees, States having lands or responsibility for managing resources within the affected area, and the interested public an opportunity to review, comment and give input during the preparation of reports that evaluate monitoring and other data that are used as a basis for making decisions to increase or decrease grazing use, or to change the terms and conditions of a permit or lease. [60 FR 9966, Feb. 22, 1995]

CFR 4160.1 Proposed Decisions

(a) Proposed decisions shall be served on any affected applicant, permittee or lessee, and any agent and lien holder of record, who is affected by the proposed actions, terms or conditions, or modifications relating to applications, permits and agreements (including range improvement permits) or leases, by certified mail or personal delivery. Copies of proposed decisions shall also be sent to the interested public.

(b) Proposed decisions shall state the reasons for the action and shall reference the pertinent terms, conditions and the provision of applicable regulations. As appropriate, decisions shall state the alleged violations of specific terms and conditions and provisions of these regulations alleged to have been violated, and shall state the amount due under CFR 4130.8 and 4150.3 and the action to be taken under CFR 4170.1.

(c) The authorized officer may elect not to issue a proposed decision prior to a final decision where the authorized officer has made a determination in accordance with CFR 4110.3-3(b) or CFR 4150.2(d). [60 FR 9968, Feb. 22, 1995]

CFR 4160.2 Protests

Any applicant, permittee, lessee or other interested public may protest the proposed decision under CFR 4160.1 of this title in person or in writing to the authorized officer within 15 days after receipt of such decision. [47 FR 41713, Sept. 21, 1983, as amended at 49 FR 6455, Feb. 21, 1984; 61 FR 4227, Feb. 5, 1996]

APPEAL PROVISIONS

In accordance with 43 CFR 4.470, 4160.3 (d), 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 4.461 and 4160.3 (d), 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 (Douglas W. Furtado, authorized officer, Battle Mountain Field Office, 50 Bastian Road, Battle Mountain, NV 89820), 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 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,

Douglas W. Furtado
Assistant Field Manager
Renewable Resources

cc : Interested Public List

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ATTACHMENT 1

Shoshone-Eureka Resource Management Plan (1986) and Amendment (1987)

1. Livestock Grazing Management Objectives

- a) Manage livestock use at 239,717 AUMs (5-year average use) in the short-term and determine if such use can be maintained. In the long-term, manage livestock use at 262,500 AUMs.
- b) Establish a grazing management program designed to provide key forage plants with adequate rest from grazing during critical growth periods.
- c) Achieve, through management of livestock and wild horses, utilization levels consistent with those recommended by the Nevada Rangeland Monitoring Handbook to allow more plants to complete growth cycles and to increase storage reserves for future growth.
- d) Increase vegetative production while protecting sensitive resource values.
- e) In the long-term, improve ecological condition of 585,191 acres to good condition and 25,990 acres to excellent condition.
- f) In the long-term, stop downward trend in ecological condition on 464,873 acres and manage for upward trends on 643,868 acres.
- g) In the long-term improve and maintain 133,075 acres of big game habitat in good condition and 6,104 acres in excellent condition.
- h) In the long-term, stop downward trends on 65,702 acres of big game habitat and manage for upward trends on 144,186 acres.
- i) In the short-term, improve or maintain in good or better condition, 64 miles of aquatic habitat and 768 acres of riparian habitat associated with the streams and an additional 1,067 acres of other meadows, springs, and aspen groves.
- j) In the long-term, improve and maintain in good or better condition, a total of 84.8 miles of aquatic habitat and 1,018 acres of riparian habitat associated with the streams and an additional 1,414 acres of other meadows, springs, and aspen groves.

2. Wildlife Habitat Management Objectives

- a) To maintain and improve wildlife habitat and to reduce habitat conflicts while providing for other appropriate resource uses.
- b) To provide habitat sufficient to allow big game populations to achieve reasonable numbers in the long-term.
- c) To improve and maintain habitat for state listed sensitive species and federally listed threatened or endangered species.

3. Riparian & Aquatic Habitat Management Objectives

- a) To improve priority riparian and stream habitat to good or better condition and prevent decline of remaining areas.
- b) To improve and maintain habitat for state listed sensitive species and federally listed threatened and endangered species.

4. Watershed Management Objectives

- a) Reduce and prevent, to the extent possible, erosion throughout the resource area.
- b) Identify and protect or improve those areas which are particularly susceptible to erosion.
- c) Maintain and/or improve present water quality and yield throughout the resource area.
- d) Conduct watershed studies and inventories necessary to provide current information on watershed conditions and problems.
- e) Restore optimum watershed production and stabilization throughout grazing management whenever feasible.

Shoshone-Eureka Rangeland Program Summary (1988)

1. Buffalo Valley (Allotment Category: Improve)

Vegetation and Ecological Condition & Trend Objectives

- a) In the long-term, improve 23,515 acres to good and 664 acres to excellent condition. For those acres not identified for improvement, ecological condition, wildlife habitat, and wild horse and burro habitat will be managed to prevent downward trends.
- b) In the long-term, stop downward trends on 18,091 acres, and manage for upward trends on 24,176 acres
- c) In the long-term, stop downward trends on 18,091 acres, and manage for upward trends on 24,179 acres.

Livestock Management Objectives

- a) In the short-term, manage use at 6,454 AUMs.
- b) In the long-term, manage use at 7,035 AUMs in conformance with other objectives of the RMP.

Riparian/Wildlife Management Objectives

- a) In the short-term, improve 5 acres of riparian habitat to good condition.
- b) In the long-term, improve 1.0 miles of Fish Creek to good condition riparian'/aquatic habitat including 12 acres of associated riparian habitat.
- c) Existing big game use (AUMs): 409. In the long-term, provide habitat to support 580 AUMs (forage needs for reasonable numbers) of big game use, in conformance with other objectives of the RMP.
- d) Manage rangeland habitat to maintain or enhance sage grouse strutting and nesting areas, in conformance with other objectives of the RMP.

2. South Buffalo (Allotment Category: Improve)

Vegetation and Ecological Condition & Trend Objectives

- a) Improve range/ecological condition from poor to fair on 1,054 acres, and from fair to good on 24,617 acres and from good to excellent on 497 acres. For those acres not identified for improvement, ecological conditions, wildlife habitat and wild horse and burro habitat will be managed to prevent downward trends.

Livestock Management Objectives

- a) Manage, maintain, and improve public rangeland conditions to provide forage on a sustained yield basis with an initial stocking level of 9,035 AUMs.

Wildlife Management Objectives*

- a) Manage, maintain or improve public rangeland habitat condition to provide forage on a sustained yield basis with an initial forage demand for big game of 381 AUMs for mule deer and 135 AUMs for bighorn sheep by:
- b) Improving and maintaining the mule deer habitat condition in Stillwater Range DY-3 and Tobin Range DY-4 to at least good condition.
- c) Improving bighorn sheep habitat in Tobin Range BY-2 to 90% optimum. Protect sage grouse strutting and nesting habitats, and improve brooding habitat.

*The Shoshone-Eureka Resource Area, Battle Mountain District administers the livestock grazing management and wildlife habitat management in the South Buffalo Allotment, with one exception. The Sonoma-Gerlach Resource Area, Winnemucca District administers the wildlife habitat management on the Tobin Mountain Range and Buffalo Mountains. The South Buffalo Allotment has been placed in the Intensive (I) Selective Management Category to match the category for the adjoining Buffalo Valley Allotment.

Sonoma Gerlach Management Framework Plan III (1982)

1. Range Management Objectives

- a) To provide forage on a sustained yield basis through natural regeneration. Reverse downward deterioration of public grazing lands by improving 647,962 acres in poor ecological condition to fair ecological condition, and 331, 861 acres in fair ecological condition to good and/or excellent ecological condition with 35 years.
- b) Increase existing allocatable livestock forage by artificial methods from 140,583 AUMs identified as suitable for livestock to 229,129 AUMs (88,546 AUM increase) within 5-7 years.

2. Wildlife Objectives

- a) Provide for the improvement or maintenance of 4.5 million acres of wildlife habitat in the planning area in order to assure that a sufficient quantity, quality, and diversity of habitat exists to accommodate the needs of all species of wildlife presently or potentially using the planning area, by 1991, and to enable the public lands to better fulfill public demand for consumptive and non-consumptive wildlife uses.

3. Wildlife Aquatic Objectives

- a) Improve and maintain the condition of all the aquatic habitat of each stream, lake, or reservoir having the potential to support a sport fishery or threatened or endangered fish species, at a level conducive to the establishment and maintenance of a healthy fish community.

4. Watershed

- a) Preservation and improvement of quality water necessary to support current and future land uses.
- b) Preservation of adequate water to support public land uses.
- c) Reduction of soil loss and associated flood and sediment damage on public lands caused by accelerated (man-induced) wind and water erosion.
- d) Preservation of threatened, endangered or sensitive plant species and/or improvement of their habitats.
- e) Preservation and improvement of air quality.

Sonoma Gerlach Resource Area Rangeland Program Summary (1992): South Buffalo Allotment

A. Livestock Management Objectives

1. Manage, maintain and improve public rangeland conditions to provide forage on a sustained yield basis with an initial stocking level of 9,035.
2. Maintain an acceptable allowable use level on key forage species that will provide a sustained yield.
3. Improve range/ecological condition from poor to fair on 1,354 acres and from fair to good on 24,617 acres and from good to excellent on 497 acres.
4. Administer as part of the Buffalo Valley allotment of the Battle Mountain District.
5. Revise and update AMP as needed through Battle Mountain District.

B. Wildlife Objectives

1. Manage, maintain and improve public rangeland habitat condition to provide forage on a sustained yield basis, with an initial forage demand for big game of 381 AUMs for mule deer and 135 AUMs for bighorn sheep by:
 - a. Improving or maintaining mule deer habitat in Stillwater Ranch DY-3 and Tobin Range DY-4 and DS-4 to at least good condition.
 - b. Improving bighorn sheep habitat in Tobin Range BY-2 to 90% of optimum.
2. Protect sage grouse strutting and nesting habitats and improve brooding habitat.
3. Wildlife habitat management objectives for vegetation utilization shall be as follows except where adjusted by an approved HMP, AMP, and HMAP.
 - a. Terrestrial: Will not exceed levels established in the Sonoma-Gerlach EIS Table I-3 for key species.
 - b. Wetland Riparian: Shall not exceed 50% for key species.
4. The HMP for the Stillwater Range WHA-T-16 was developed during FY86.
5. Develop an HMP for WHA-T-8 for Tobin Range in cooperation with NV060.

NORTHEASTERN RAC STANDARDS AND GUIDELINES (Established in 1997)

Standards and Guidelines will be implemented through terms and conditions of grazing permits, leases, and other authorizations, grazing-related portions of activity plans (including Allotment Management Plans) and through range improvement-related activities.

STANDARD 1. UPLAND SITES:

Upland soils exhibit infiltration and permeability rates that are appropriate to soil type, climate and land form. As indicated by:

Indicators are canopy and ground cover, including litter, live vegetation and rock, appropriate to the potential of the site.

STANDARD 2. RIPARIAN, AND WETLAND SITES

Riparian and wetland areas exhibit a properly functioning condition and achieve state water-quality criteria. As indicated by:

- *Streamside riparian areas are functioning properly when adequate vegetation, large woody debris, or rock is present to dissipate stream energy associated with high water flows. Elements indicating proper functioning condition such as avoiding accelerating erosion, capturing sediment, and providing for groundwater recharge and release are determined by the following measurements as appropriate to the site characteristics.*
 - *Width/Depth ratio;*
 - *Channel roughness;*
 - *Sinuosity of stream channel;*
 - *Bank stability;*
 - *Vegetative cover (amount, spacing, life form); and*
 - *other cover (large woody debris, rock).*
- *Natural spring, seeps, and marsh areas are functioning properly when adequate vegetation is present to facilitate water retention, filtering, and release as indicated by plant species and cover appropriate to the site characteristics.*
- *Chemical, physical, and biological water constituents are not exceeding the state water-quality standards.*

STANDARD 3. HABITAT:

Habitats exhibit a healthy, productive, and diverse population of native and/or desirable plant species, appropriate to the site characteristics, to provide suitable feed, water, cover, and living space for animal species and maintain ecological processes. Habitat conditions meet the life cycle requirements of threatened and endangered species. As indicated by:

- *Vegetation composition (relative abundance of species);*
- *Vegetation structure (life forms, cover, heights, or age classes);*
- *Vegetation distribution (patchiness, corridors);*
- *Vegetation productivity; and*
- *Vegetation nutritional value.*

VEGETATION GUIDELINES

The Vegetation Guidelines are included as Appendix A of the Standards and Guidelines for Nevada's North Eastern Great Basin RAC. These guidelines were approved in March 2004 by the North Eastern Great Basin RAC. The guidelines are as follows:

1. Non-indigenous annual grasslands

a. Definitions:

1. Cheatgrass/Annual Grass Monoculture: Areas dominated by cheatgrass or other non-indigenous annual grass species that have crossed a threshold and lost the ability to recover naturally due to lack of perennial species.
2. Cheatgrass/Annual Grass Dominant: Recently burned areas having native perennial species present with potential for natural recover with appropriate management of non-indigenous annual grasses.
3. Cheatgrass/Annual Grass Infested: Shrub dominated communities with a limited understory of native perennial species, but a significant amount of annual grasses, exhibiting a high potential to be converted to non-indigenous annual grass dominate ranges.

b. Desired Conditions: Communities will exhibit or be progressing toward a healthy, productive, diverse population of native and/or desirable plant species, and functioning disturbance processes appropriate to the site characteristics.

c. Guidelines Common to All:

1. Encourage research and field trials in all non-indigenous annual grass ranges to determine effectiveness of control on recovery and rehabilitation efforts in perennial plant communities.
2. Non-indigenous annual grass monoculture and dominated ranges must follow a successional process from annual/perennial grass mix to a shrub/grass

community. Large scale seeding of shrubs should be discouraged, and small scale (islands), of intensively managed shrub seedings/transplants encouraged.

d. Guidelines for Cheatgrass/Annual Monoculture:

1. Break up the monoculture through the use of chemical, biological, and/or mechanical means to stop the spread of the effected area especially in areas that border critical habitat. Use native and non-native desirable species known to be fire tolerant and resistant during the late summer fire season.
2. Use the best available information to determine the most effective processes to break up the monoculture, reduce the cheatgrass seed bank, and restore native plant communities.

e. Guidelines for Cheatgrass Dominant and Cheatgrass infested ranges:

1. Encourage innovative approaches to control cheatgrass, such as, strategically controlled grazing and the use of prescribed fire to favor production of perennial species.
2. Seed areas with perennial grass species to reduce the dominance of cheatgrass.

f. Strategies:

1. Management practices to maintain healthy ecological sites should include: prescribed fire, prescribed natural fire, mechanical manipulations, specialized prescription herbivory, chemical treatments, re-seeding, or combinations of treatments.
2. Special emphasis must be placed on management activities where public safety at wildland urban interfaces is jeopardized.

2. Salt-Desert Shrublands

- a. Definition: Plant communities dominated by members of the Chenopodiaceae family including: shadscale, four-wing saltbush, black and Bailey greasewoods, spiny hopsage, and white sage; with an understory including ricegrass, squirreltail, saltgrass, and other saline tolerant plants.
- b. Desired Conditions: Communities will exhibit or be progressing toward a healthy, productive, diverse population of native and/or desirable plant species, and functioning disturbance processes appropriate to the site characteristics.
- c. Guidelines:
 1. Grazing should generally be limited to very early season or dormant season rather than year-round. If very early season grazing is permitted or prescribed to control cheatgrass early in the spring, grazing should be terminated early enough to allow perennial plant species to set seed.

2. After disturbance such as fire, insect infestation, and periods of less than desirable grazing management, consider resting communities for an appropriate amount of time relative to moisture conditions.
3. All management and re-vegetation strategies must consider current site conditions and associated thresholds (i.e., current status in state-and-transition model appropriate for the site). In addition, factors such as ecological site, presence of undesirable species (e.g., invasive or noxious species), adjacent plant communities, current use or management status, and position in the watershed must be considered prior treatment application.
4. Encourage research and field trials in salt desert shrub communities to determine the best effective method of restoration.

d. Strategies:

1. Management practices to maintain healthy ecological sites should include: prescribed fire, prescribed natural fire, mechanical manipulations, specialized prescription herbivory, chemical treatments, re-seeding, or combinations of treatments.
2. Special emphasis must be placed on management activities where public safety at wildland urban interfaces is jeopardized.

3. Sagebrush/bunchgrass rangelands

- a. Definitions: Plant communities dominated by one or more members of the *Artemisia* genus including Wyoming big sagebrush, low sagebrush, basin sagebrush, black sagebrush, Lahontan sagebrush, and mountain sagebrush. Herbaceous understory is dominated by perennial grasses but includes a component of annual and perennial forbs. Other shrubs may also be present.
- b. Desired Conditions: Communities will exhibit or be progressing toward a healthy, productive, diverse population of native and/or desirable plant species, and functioning disturbance processes appropriate to the site characteristics.
- c. Guidelines
 1. Create and maintain a diversity of sagebrush age and over classes on the landscape through the use of prescribed fire, prescribed natural fire, mechanical, biological, and/or chemical means to provide a variety of habitats and productivity conditions.
 2. Vegetation treatments should be of appropriate size to meet land management objectives. Where possible, inclusions of intact sagebrush should be left scattered within the treated area or in relatively close proximity to provide a seed source for recruitment. Distribution of residual plants will determine in part, the time period required for the successional process to proceed toward sagebrush re-colonization.

3. All treatments must consider current site conditions and associated thresholds (i.e., current status in state-and-transition model appropriate for the site). In addition, factors such as ecological site, presence of undesirable species (e.g., invasive or noxious species), adjacent plant communities, current use or management status, and position in the watershed must be considered prior to treatment application.
4. Where initial condition has a depleted herbaceous understory, vegetation treatment should include seeding with desirable species suited or adapted to site conditions. Seeding methods and dates should be appropriate to the plant materials and site conditions.
5. Where a mosaic of age and cover classes already exists, maintain landscape diversity through fuels management and periodic disturbance. Recognize the system is dynamic, and suitability of the plant community for any given species or group of species will change over time. Maintenance of diverse habitat conditions will provide a continuous suite of seasonal habitats over time.
6. Where pinyon pine and/or juniper trees have encroached into sagebrush communities, use best management practices to remove trees and re-establish understory species.

d. Strategies

1. Management practices to maintain healthy ecological sites should include: prescribed fire, prescribed natural fire, mechanical manipulations, specialized prescription herbivory, chemical treatments, re-seeding, or combinations of treatments.
2. Special emphasis must be placed on management activities where public safety at wildland urban interfaces is jeopardized.

4. Noxious Weeds

a. Definitions

1. Noxious weed monoculture: Areas that have lost the ability to recover naturally due to lack of native perennial species.
2. Noxious weed dominant: Areas having native perennial species present with potential for natural recovery if noxious weeds are controlled.
3. Noxious weed infested: Plant communities with a limited understory of perennial species and a high potential to be converted to noxious weed dominant.

- b. Desired Conditions: Communities will exhibit or be progressing toward a healthy, productive, diverse population of native and/or desirable plant species, and functioning disturbance processes appropriate to the site characteristics.

c. Guidelines Common to All:

1. Encourage research and field trials in all noxious weed rangelands to determine effectiveness of noxious weed control in the recover process of restoring perennial plant communities.
2. Noxious weed monocultures and noxious weed dominant ranges must follow a successional process from grass/grass mix to a shrub community. Use best management practices to return site to best approximation of site potential.

d. Guidelines for Noxious Weed Monoculture:

1. Break up monoculture using an Integrated Weed Management approach that combines chemical, biological, and/or mechanical means to reduce spread of affected area, especially in areas that border critical habitat or other sensitive sites. Treatment regime should be based on ecology and phenology of the noxious species.
2. Use best available information to determine the most effective process to break up continuity and rehabilitate native plant communities, recognizing that beneficial, introduced species may provide excellent interim benefits.

e. Guidelines for Noxious Weed Dominant and Infested Rangelands:

1. Encourage practices to eliminate new noxious species entry and limit current infestations to existing levels.
2. Utilize an Integrated Weed Management approach, that consists of chemical, biological, and/or mechanical means to control noxious species.
3. Encourage innovative approaches to control noxious species, such as strategically controlled grazing and use of prescribed and prescribed natural fire to favor production of native perennial species.
4. Seed areas with perennial species to reduce dominance of noxious species.

5. Pinyon-Juniper Woodlands

- a. Definition: Plant communities dominated by one or both species of Utah juniper and/or single leaf pinyon pine. Pinyon pine generally dominates at higher and juniper at lower elevations. Herbaceous understory is dominated by perennial grasses but includes a component of annual and perennial forbs. Shrubs may also be present. In the past, woodlands were generally restricted to sites with very low fire frequency such as rocky ridges and steep slopes with little soil development.
- b. Desired Conditions: Woodland communities will exhibit or be progressing toward a healthy, productive, diverse population of native and/or desirable plant species, and functioning disturbance processes appropriate to the site characteristics. Healthy, sustainable pinyon and juniper woodlands will be maintained on appropriate soil

types as identified by Natural Resources Conservation Service soil surveys within appropriate Major Land Resource Areas (MLRAs).

c. Guidelines:

1. Woodlands will exhibit a combination of successful stages based on differing pinyon and juniper species composition, age structure, and understory composition appropriate to site characteristics on a watershed, or portion of a watershed.
2. Woodlands will be separated from other ecological sites by an ecotone interface zone, rather than a well-defined edge. Woodlands should not encroach outside of soil sites correlated with woodland communities.
3. Woodland stand structure should not, under normal conditions support catastrophic, stand replacing fires. Community species composition and proportionalities should follow Natural Resource Conservation guidelines appropriate to the site.
4. All management and re-vegetation strategies must consider current site conditions and associated thresholds (i.e., current status in state-in-transition model appropriate for the site). In addition, factors such as ecological site, presence of undesirable species (e.g., invasive or noxious species), adjacent plant communities, current use or management status, and position in watershed must be considered prior to treatment application.

d. Strategies

1. Management practices to maintain healthy woodlands should include: prescribed fire, prescribed natural fire, mechanical manipulations, specialized prescription herbivory, chemical treatments, or combinations of treatments.
2. Special emphasis must be placed on management activities where public safety at wildland urban interfaces is jeopardized.

SIERRA FRONT-NORTHWESTERN GREAT BASIN AREA RAC STANDARDS AND GUIDELINES (Established in 1997)

STANDARD 1: SOILS

--Soil processes will be appropriate to soil types, climate and land form.

As indicated by:

- Surface litter is appropriate to the potential of the site;
- Soil crusting formations in shrub interspaces, and soil compaction are minimal or not in evidence, allowing for appropriate infiltration of water;
- Hydrologic cycle, nutrient cycle and energy flow are adequate for the vegetative communities;
- Plant communities are diverse and vigorous, and there is evidence of recruitment; and
- Basal and canopy cover (vegetative) is appropriate for site potential.

STANDARD 2: RIPARIAN/WETLANDS

--Riparian/Wetland systems are in properly functioning condition.

As indicated by:

- Sinuosity, width/depth ratio and gradient are adequate to dissipate stream flow without excessive erosion or deposition;
- Riparian vegetation is adequate to dissipate high flow energy and protect banks from excessive erosion; and
- Plant species diversity is appropriate to riparian-wetland systems.

STANDARD 3: WATER QUALITY

--Water quality criteria in Nevada or California State Law shall be achieved or maintained.

As indicated by:

- Chemical constituents do not exceed the water quality Standards;
- Physical constituents do not exceed the water quality Standards;
- Biological constituents do not exceed the water quality Standards; and
- The water quality of all water bodies, including ground water located on or influenced by BLM lands will meet or exceed the applicable Nevada or California water quality Standards. Water quality Standards for surface and ground waters include the designated beneficial uses, numeric criteria, and anti-degradation requirements set forth under State law, and as found in Section 303(c) of the Clean Water Act.

STANDARD 4: PLANT AND ANIMAL HABITAT:

--Populations and communities of native plant species and habitats for native animal species are healthy, productive and diverse.

As indicated by:

- Good representation of life forms and numbers of species;
- Good diversity of height, size and distribution of plants;
- Number of wood stalks, seed stalks, and seed production adequate for stand maintenance; and
- Vegetative mosaic, vegetative corridors for wildlife, and minimal habitat fragmentation.

STANDARD 5: SPECIAL STATUS SPECIES HABITAT:

--Habitat conditions meet the life cycle requirements of special status species.

As indicated by:

- Habitat areas are large enough to support viable populations of special status species;
- Special status plant and animal numbers and ages appear to ensure stable populations;
- Good diversity of height, size, and distribution of plants;
- Number of wood stalks, seed stalks, and seed production adequate for stand maintenance; and

-Vegetative mosaic, vegetative corridors for wildlife, and minimal habitat fragmentation.

GUIDELINES FOR GRAZING MANAGEMENT:

1. Waters must be free from high temperature, biocides, and organisms pathogenic to human beings, toxic, corrosive or other deleterious substances attributable to domestic or industrial waste or other controllable sources at levels or combinations to interfere with any beneficial use of the water. Compliance with the provisions of this subsection may be determined in accordance with methods of testing prescribed by the State. If used as an Indicator, survival of test organisms must not be significantly less in test water than in control water.

Grazing management practices should be planned and implemented to meet water quality provisions in either California State water law or Nevada Administrative Code Section 445A.120-121 as applicable.

ATTACHMENT 2

This attachment addresses protest points that were relevant or within the scope of the Proposed Decision for the Buffalo Valley/South Buffalo Allotment Permit Renewal for Saval Ranching Company, LLC received from Western Watersheds Project. Protests that were specific to the Saval Ranching Company Permit Renewal Decision for the Buffalo Valley and South Buffalo Allotments were brought forward and addressed. Other comments made that were relevant to the decision are placed in categories and addressed as deemed appropriate.

Also included in this attachment are comments made by Jane Trigero, member of the Joe Saval Ranching Company, LLC family. Although these comments were not submitted as protests, the BMFO feels it necessary to address the comments made.

Western Watersheds Project Protests:

- 1) We protest the failure of the BLM grazing process here to provide adequate consideration of, and protection for, important and sensitive species and their habitats – such as the pygmy rabbit. Thorough and systematic baseline inventories of all potential pygmy rabbit habitat should be conducted, and specific grazing practices and avoidance measures applied. For example, in all occupied or potential habitats, livestock use should not be allowed during periods when young rabbits may be in readily-collapse shallow natal burrows. Livestock use should be reduced, and impacts minimized, in all such habitats. (Response for this protest includes that for comments relating to the use of current monitoring data/inventory for soils, native vegetation communities, watersheds, riparian areas, wildlife habitat, etc.).**

The impacts or effects to wildlife species, including special status species, and their associated habitat was addressed in the Saval Ranching Company Permit Renewal – Buffalo Valley & South Buffalo Allotments – Environmental Assessment NV060-EA07-080. In this assessment, it is noted that pygmy rabbits occur at unexpectedly high elevations and in non-typical habitats in recent years. The assessment of the Proposed Action found that the grazing system would move the conditions associated with the allotment toward the achievement of RAC Standards and Guidelines. Due to the change in season of use and at least one year's rest within the Fish Creek Use Area, which is where pygmy rabbits have been observed during sage grouse capture efforts, upland and riparian vegetation is expected to improve. With this, habitat quality would be enhanced for the betterment of wildlife species, including special status species such as pygmy rabbits and sage grouse.

Current monitoring data has been collected and assessed for the purposes of this permit renewal and was utilized to identify resource issues and concerns. Please refer to the 2007 monitoring report for the Buffalo Valley and South Buffalo allotments issued on July 12th, 2007.

- 2) We are very concerned that stocking rates and linked facility activities applied here do not reflect the reality of understory depletion, increasing weed dominance (less sustainable forage), and necessary habitat structural components for sage grouse, pygmy rabbit, and other important and sensitive species.**

Carrying capacity analysis was not completed for the purposes of this permit renewal. Carrying capacity analysis will be completed in the future in conjunction with the Rangeland Health Assessment process. As indicated in the 2007 monitoring report for the Buffalo Valley and South Buffalo Allotments, numerous issues were brought forward regarding the condition of upland and riparian areas. As a result, an intensive grazing management system has been proposed through the permit renewal process. The system requires seasonal use and movement for designated use areas. Designation of use areas and appropriate seasons of use as applied through the Proposed Decision would benefit and improve vegetative communities, riparian zones, and soil structure, which therefore would improve habitat conditions for various wildlife species, including the special status species you refer to. In order to prevent overgrazing and excessive use of perennial species, utilization triggers for movement are being established. The BMFO, along with the permittee, recognizes that due to non-functional range improvements, distribution throughout the allotment has been limited. Because of this, AUMs associated with the areas that these facilities service are not available for use. Therefore, it was proposed to place AUMs in suspension until these improvements are maintained. However, as a result of this protest, the BMFO has determined that additional rationale is needed for the placement of AUMs into temporary suspension. This rationale is now included in the Final Decision.

- 3) We are concerned that BLM may segment NEPA analysis here – and incrementally allow the permittee to refurbishment, rebuild, or extension of facilities (range improvements, water hauls, placement of supplements) as they relate to wildlife species, their habitat, stocking rates, further analysis under an EIS.**

The permittee has signed a cooperative agreement for the range improvements associated with the Buffalo Valley and South Buffalo allotments. It is their responsibility to maintain these developments. Any extension of a range improvement project would need to be assessed through the NEPA process. However, the permittee is not authorized to expand range improvement projects in conjunction with maintenance activities, nor has this occurred. If the BMFO finds that this type of activity does occur, we will be required to take appropriate action on the project. Future range improvement projects are required to have NEPA, cultural analysis, and a decision implementing the project before any on-the-ground work can be completed.

- 4) We Protest and are alarmed at the intent of the BLM to expand or increase use in lands that are “under utilized” – without conducting an assessment of the feasibility of extending use – and the direct, indirect, and cumulative impacts to important and sensitive species in an EIS level analysis.**

One goal of managing livestock grazing is to achieve appropriate livestock distribution. This reduces or eliminates areas that are over-utilized. Non-functional range improvements due to lack of maintenance has resulted in limited distribution of livestock within portions of the Buffalo Valley and South Buffalo allotments. The lands that are “under utilized” are such due to the lack of approved functioning watering facilities. These lands would have been utilized otherwise. The vegetative communities associated with these non-functional watering facilities have been assessed and an appropriate season of use and use levels have been attributed to these areas under the grazing management system brought forward under the Proposed Decision. The grazing management system was assessed through the interdisciplinary team process. A signed Finding of No Significant Impact for EA #NV062-EA07-080 was issued with the Proposed Decision; therefore documenting the EA was adequate and does not result in the requirement to conduct an Environmental Impact Statement (EIS). For carrying capacity assessments, refer to protest and response #2.

- 5) We Protest the failure to put livestock facilities on hold until a thorough and systematic Rangeland Health process is conducted that addresses soils, sensitive species, and other concerns. BLM and the permittees have a big enough job on their hands trying to grapple with the weed infestation in the Buffalo Valley allotment. Why is the BLM not issuing short-term permits until it can conduct the necessary thorough and systematic Rangeland Health Assessment and determination process? (Response for this protest includes that for comments relating to Fundamentals for Rangeland Health deficiencies).**

New livestock facilities are not proposed through this decision process. Any future range improvement project will be subject to the CCC process, site-specific NEPA analysis, and the issuance of proposed and final decisions for implementation. Rangeland Health Assessments are not required for a permit renewal; however, grazing is required to be in conformance with 43 CFR 4180. The BLM has collected and analyzed current data through consultation with the effected permittees and interested public and identified resource issues or concerns. A proposed grazing management system with terms and conditions was drafted to address these issues and comply with the 4180 regulations. An environmental assessment was completed to document the effects of the proposed action to the environment, which after an interdisciplinary review, resulted in a finding of no significant impact. A more detailed rangeland health assessment will be completed in the future in accordance with the BMFO priority schedule for Rangeland Health Evaluations. The proposed changes in grazing management would increase the potential for these allotments to meet the Shoshone-Eureka Resource Management Plan and Sonoma-Gerlach Management Framework Plan III objectives, along with allotment specific objectives. The grazing management system, in conjunction with terms and conditions, would also increase the potential to meet or show significant progress towards the attainment of the Standards for Rangeland Health. Therefore, the BMFO will not be issuing short-term permits during the permit renewal process; however, the Buffalo Valley

and South Buffalo Allotments will be assessed and evaluated for Rangeland Health in the future.

- 6) It is critical that remaining native vegetation communities and lands not completely overrun with cheatgrass be managed with much more conservative levels of use here. To the north, habitats are torn apart by cyanide heap leach mining. To the east, large areas are becoming cheatgrass wastelands. In this context, the lands of the Buffalo Valley allotment are ever more important to remaining native wildlife species. We Protest the failure to adequately examine the environmental setting of the allotment and develop a decision that addresses the calamitous state of habitats and accelerating habitat losses that are occurring in the sagebrush biome of central Nevada. (Response for this protest includes that for comments relating to protection of native vegetation and stubble height triggers/thresholds).**

The levels of use brought forward in the Shoshone-Eureka Rangeland Program Summary (RPS) and Sonoma Gerlach Resource Area RPS managed use as the following: Buffalo Valley and South Buffalo allotment utilization is not to exceed 50% on key species by seed dissemination, and 60% by the end of the grazing year. For riparian areas within the Buffalo Valley allotment, use was not to exceed 30% on key streamside riparian species or 50% on other riparian areas. For wetland areas within the South Buffalo allotment, use was not to exceed 50% for key species.

The grazing management system described in the CCC letter dated July 12th, 2007, assessed in Environmental Assessment number NV060-EA07-080, and brought forward to the Proposed Decision specifies an intensive grazing management system along with terms and conditions that address the resource concerns you have brought forward. The levels of use within the Proposed Decision have been addressed and modified due to the issues brought forward through the monitoring report. These levels are deemed appropriate for the vegetative species that occur within the allotments. The use levels in conjunction with the season of use were carefully considered by the BMFO and were brought forward in numerous cases to the Saval Ranching Company, LLC, their current lessee, potential future lessees, and interested publics.

The BMFO recognizes the activities you bring forward through this protest point and have included these activities in the cumulative impacts section of the EA as they relate to the proposed action. However, the cumulative impacts associated with the proposed grazing system are expected to improve rangeland conditions that currently exist within the allotments. This system has been brought forward to address habitat loss and other resource issues associated with these areas.

- 7) Livestock Grazing Causes Disturbance of Native Biota, Removes Protective Cover, Reduces Available Habitat.**

The environmental assessment #NV060-EA07-080 thoroughly assessed the proposed grazing management system, including a period of complete rest from livestock grazing for the Fish Creek Use Area. This use area holds many resource values, including habitat for sage grouse and pygmy rabbit. The management system addresses resource issues concerning vegetative communities and riparian and

wetland zones that occur within the allotment. Through the NEPA process, the BMFO assessed the impacts to vegetative communities, riparian zones, and associated wildlife habitat needs and requirements. The grazing management system under the Proposed Decision addressed these issues while providing for multiple-use management of the public lands.

8) Weeds/Exotic Species

Weeds/Exotic species have been addressed in environmental assessment #NV060-EA07-080. The grazing management system under the Proposed Decision has been implemented to address resource concerns and improve rangeland condition. By improving rangeland condition, niches for weed species to proliferate and expand are reduced. In addition, the BMFO will continue its efforts, in conjunction with the permittee, to inventory and treat these infestations. The BMFO treated approximately 50 acres of noxious weeds in Buffalo Valley this year and we plan on expanding that in 2008 and beyond.

9) Cultural Values

Cultural values and their impacts due to the proposed action have been assessed under environmental assessment #NV060-EA07-080.

Jane Trigerro:

1) Modification to mandatory elimination of grazing based upon utilization and stubble height limitations. Discussions also focused around modification to rationale for these terms and conditions. The following changes were submitted as proposed language by Ms. Trigerro:

- a) **“Utilization and stubble height limits, as defined by within-season triggers and end point indicators, are not mandatory limits which automatically trigger the modification or removal of grazing. If limits are exceeded, then the BLM may, in consultation, coordination, and cooperation with the permittee, modify livestock grazing to achieve attainment of the management objectives. The BLM reserves the right to apply these limits flexibly, with due consideration given to practical limitations, specific pasture conditions, and other factors which may influence application of any particular limit in a given set of circumstances.”**
- b) **Change “will require” to “may require” on page 14, last paragraph of the Proposed Decision.**
- c) **Change “will be required to “may be required” on page 15, first full paragraph of the Proposed Decision.**
- d) **Change “require” to “may require” on page 15, second full paragraph, second sentence of the Proposed Decision.**
- e) **Change “it is particularly” to “it may be particularly” on page 15, second full paragraph, second sentence of the Proposed Decision.**

- f) Change “would be required” to “may be required” on page 15, second full paragraph, second to last sentence of the Proposed Decision.**
- g) Change “will require” to “may require” on page 15, third full paragraph, first sentence of the Proposed Decision.**
- h) Change “will be required” to “may be required” on page 16, second full paragraph, first sentence of the Proposed Decision.**
- i) Change “will require” to “may require” on page 16, second full paragraph, third sentence of the Proposed Decision.**

The utilization terms and conditions have been discussed numerous times with Resource Concepts, Inc. and members of your family during the many discussions, meetings, and correspondence the need for utilization terms and conditions. Through these meetings and comment letters, it is evident that these terms and conditions were an issue. However, since a carrying capacity analysis has not yet been completed and, due to the current range condition associated with the Buffalo and South Buffalo allotments, it is necessary to impose terms and conditions that will require the permittee to move livestock once the within-season triggers and end-point indicators are achieved. In your proposed paragraph to be added to the rationale, you state that within-season triggers and end point indicators are not mandatory limits which automatically trigger the modification or removal of livestock grazing. The utilization terms and conditions are set as such—triggers that prompt the movement of livestock in an effort to limit degradation to the key vegetation species that occur within a particular use area. The terms and conditions in the Proposed Decision do not require that livestock be removed from the entire use area unless monitoring at representative sites throughout the entire use area have achieved the trigger point. If the triggers are achieved at one portion of the use area and not in another, movement within the use area would be required.

To date, Resource Concepts, Inc. has diligently worked on your behalf, to eliminate and/or modify these utilization terms and conditions. This included the submittal of an “Issue Paper” and conversations with the Nevada State Office and Washington Office. As a response to these discussions, the BMFO followed direction from the Nevada State Office to continue to include specific terms and conditions for grazing use on a case-by-case and site-specific basis as stated in the June 28th, 2007 letter from Nevada State Director Ron Wenker to Mr. John McClain of Resource Concepts, Inc. It was also assured that BLM Nevada would accompany these terms and conditions with a descriptive statement that describes how the monitoring data would be utilized in relation to the terms and conditions. The statement used by the BMFO on page 14 of the Proposed Decision is similar to the thought process used in the development of the “Idaho Decision Tree” promoted by Resource Concepts, Inc. This statement was brought forward the June 28th, 2007 letter. As further stated in the letter, “The inclusion of this or a similar statement will provide assurance to the permittees and direction to BLM staff that BLM will not use a single instance of exceeding a utilization level specified as a term and condition of permit as a sole basis to modify or cancel a permit, while at the same time provide BLM with a reasonable mechanism to ensure that timely adjustments to grazing use as needed to assure achievement of desired end point indicators are implemented.”

The BMFO has carefully considered your comments, as well as those provided by Resource Concepts, Inc. Through your comments, the BMFO feels it necessary to modify term and condition #2 for the Jersey High, Fish Creek, and Tobin Use Areas to be stated as the following: “If monitoring indicates that grazing use results in less than 4-inch residual stubble height of riparian herbaceous species by July 31st, then the BLM will examine all possible causes for exceeding the specified 4” stubble height requirement in order to determine if any temporary changes in the period of use may be required for the following grazing season.” Other than this modification, the BMFO has included the same terms and conditions as described in the Proposed Decision. Modification to the rationale to include language such as “may” instead of “will” has not been changed in the Final Decision. This provides limitations to the requirement for movement of livestock once monitoring data shows that utilization limits are achieved. However, the permittee would be requested to participate in utilization monitoring and would be made aware of any situation that would require removal from a portion of or from the entire use area, depending upon the results of the monitoring data collected. As stated in previous conversations, and as included in the rationale for implementation of the terms and conditions, the use levels and movement once these levels are achieved are necessary in order to show improvement in range conditions when a Fundamentals for Rangeland Health Assessment is completed. Although not precedent setting at this point, this issue was covered in length in Administrative Law Judge Pearlstein’s recent decision for the Nickel Creek Allotment (Docket No. ID-096-04-014).

2) Allow for trailing authorization in seedings. The following changes were submitted as proposed language by Ms. Trigerro:

“On page 6, number 4, second sentence, change 7 days to 14 days. Additionally language should be added to recognize that the permittee will request a trailing permit to trail livestock through the Tobin Use Area to and from the Buffalo Valley. The BLM will grant such permit for a period of 7 use days for trailing. The permittee agrees to notify the BLM five days prior to trailing use.”

Due to the size of the seeding and its location adjacent to the Buffalo Valley Use Area, the BMFO will not modify the time frame for removal of livestock from the seeding from 7 days to 14 days once utilization terms and conditions for the seeding are achieved. However, the BMFO does recognize the need to trail through the seeding in order to utilize the Tobin Use Area. Therefore, modifications have been made and are included in the Final Decision for the Joe Saval Ranching Company, LLC permit renewal to include a trailing term and condition. This term and condition will allow for trailing to occur during the spring; however, trailing would be limited to one day per portion of each herd moved through the seeding. The permittee must apply for such use. The permittee will be responsible for notifying the BLM regarding any deviation from the applied trailing period.

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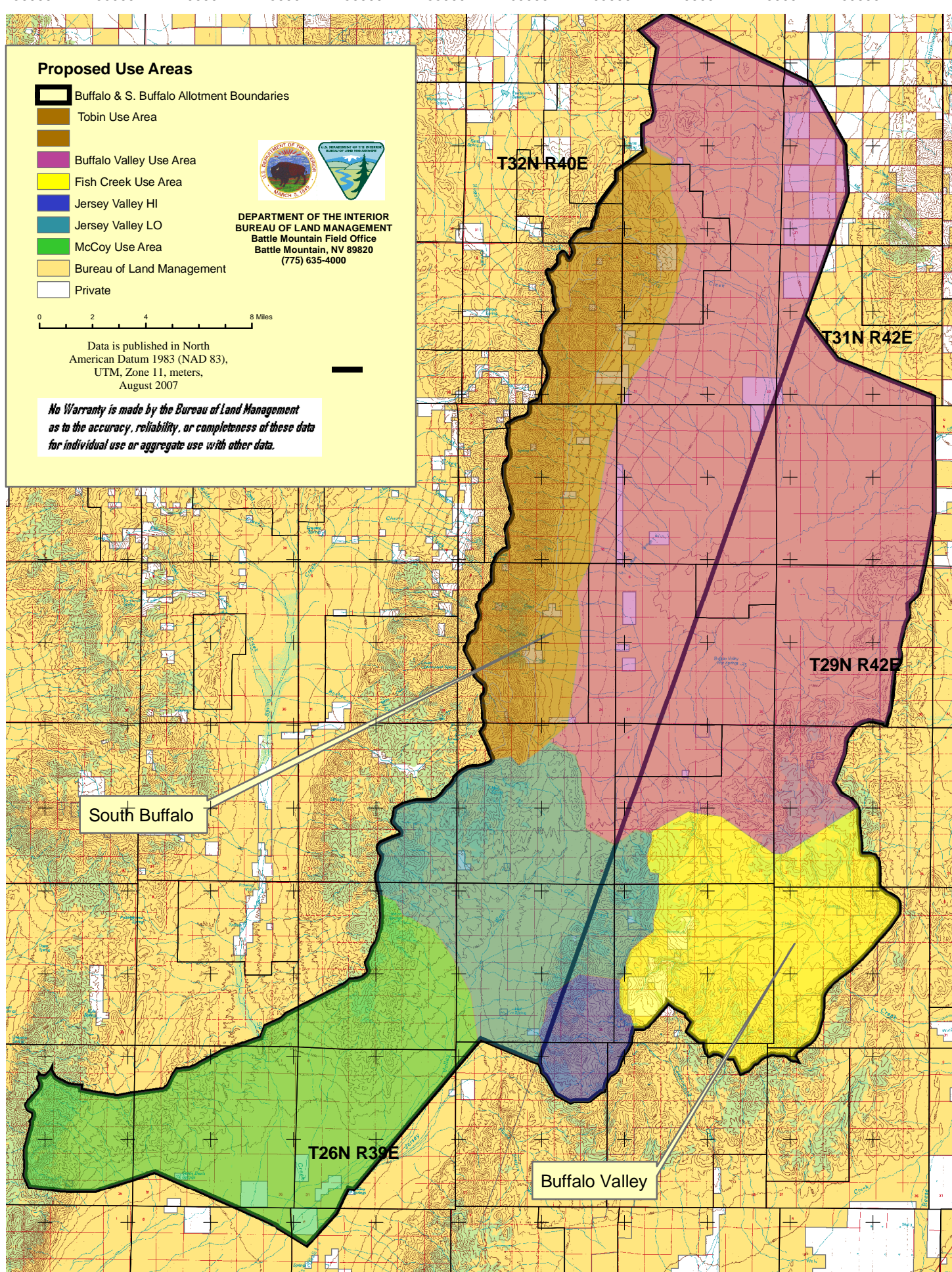
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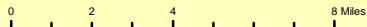


Proposed Use Areas

- Buffalo & S. Buffalo Allotment Boundaries
- Tobin Use Area
- Buffalo Valley Use Area
- Fish Creek Use Area
- Jersey Valley HI
- Jersey Valley LO
- McCoy Use Area
- Bureau of Land Management
- Private



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Data is published in North American Datum 1983 (NAD 83), UTM, Zone 11, meters, August 2007

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South Buffalo

Buffalo Valley

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