Dear interested reader:

This document includes the entire mailing that was sent out to Permittees and Interested Publics concerning grazing decisions for the North Fork Malheur Geographic Management Area between September, 2007 and February, 2008. Contents listed below:

4100 (OR-034)
NFMGMA

FEB 01 2008

[redacted]

Dear [redacted]:

Please find enclosed the Final Grazing Decisions for the North Fork Geographic Management Area.

In the summer of 2007, the Malheur Resource Area (MRA) Interdisciplinary Team (IDT) recommended the adoption of the preferred alternative in the NFMGMA Revised Environmental Assessment # OR-030-06-007; which was sent to you in August with a copy of the Field Manager's Proposed Decision. Following receipt of this Proposed Decision, NFMGMA livestock permittees and other groups dispatched protest responses concerning various points of interest. The protest points were reviewed, responded to, and utilized as a resource in conjunction with information obtained from a November 27, 2007 meeting that was assembled to discuss these points of interest. Information gained from later meetings and phone conversations with affected interests was used in designing the final grazing decisions and updating the Protest Point Response document (Attachment 1).

Please pay particular attention to the appeal provisions in the decision which state "Any person whose interest is adversely affected by a final decision may appeal the decision for the purpose of a hearing before an administrative law judge. A period of 30 days from your receipt of the final decision is provided for filing an appeal and petition for stay of the decision pending final determination on appeal, as provided in 43 CFR § 4.470 and 43 CFR § 4160.4."

Any appeal should state clearly and concisely as to why a final decision is in error. Appeals should be submitted in writing to:

Field Manager
Malheur Resource Area
Vale District Bureau of Land Management
100 Oregon Street
Vale, Oregon 97918

[redacted]

A complete explanation of the appeal process is contained in each decision. Be aware that the appeal period is set by the Code of Federal Regulations and cannot be extended.

I appreciate your interest and input concerning the management of our shared public land resource.

Sincerely,

Pat Ryan
Field Manager
Malheur Resource Area

Attachments

[redacted]

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
100 Oregon Street
Vale, Oregon 97918
http://www.or.blm.gov/Vale

TAKE PRIDE IN AMERICA

IN REPLY REFER TO:
4100

SEP 0 4 2007

[redacted]

NOTICE OF THE FIELD MANAGER'S PROPOSED DECISION

Dear [redacted]

INTRODUCTION

Subsequent to the approval of revised BLM grazing regulations in 1995, BLM State Directors were assigned the task of developing state level rangeland health standards (Title 43 Code of Federal Regulations [CFR] 4180.2). The process of developing standards and defining standard indicators was conducted in consultation with BLM Resource Advisory Councils (RACs). The purpose for setting standards and identifying their indicators was to provide BLM with a rational basis for determining whether current management is meeting the Fundamentals of Rangeland Health as described under 43 CFR 4180.1.

On August 12, 1997, Interior Secretary Bruce Babbitt approved the Oregon/Washington BLM Standards and Guidelines for Rangeland Health (SRH). BLM field offices in Oregon/Washington were subsequently directed to conduct assessments and then use that assessment information to craft range health evaluations in relation to the state standards. These evaluations are conducted under an interdisciplinary team (IDT) concept where various resource specialists, representing the biological and physical sciences, are involved in the collection, review and analysis of available data.

In order to accomplish this assessment and evaluation workload and conform to the need for completing work on a watershed basis, Malheur Resource Area was divided into nine land based administrative units now referred to as Geographic Management Areas (GMAs). Based on multiple resource values and ongoing management issues needing resolution, the North Fork Malheur GMA (NFMGMA) was selected to be the second GMA to be assessed in Malheur Resource Area.

BLM regulations specify that "the authorized officer shall take appropriate action as soon as practicable but not later than the start of the next grazing year upon determining, through assessment or monitoring by experienced professionals and interdisciplinary teams, that a standard is not being achieved and that livestock are a significant contributing factor to the

failure to achieve the standards and conform with the guidelines" (43 CFR 4180).

This decision is the final step in the GMA process, where changes to existing grazing management practices will be implemented. Issuing this decision will allow for significant progress to be made toward meeting Standards for Rangeland Health in NFMGMA, and is issued in compliance with the Southeastern Oregon Resource Management Plan (SEORMP) and Record of Decision of September 2002.

BACKGROUND

Consultation, cooperation, and coordination with both grazing permittees and the interested public are critical components of BLM's range health assessment and evaluation process. On numerous occasions, BLM has communicated with both groups on range health standards and GMA assessments, by way of mailed written materials, public meetings, and onsite visits within NFMGMA.

In 2000 and 2001, the NFMGMA interdisciplinary team used a variety of information sources and the professional judgment of members and senior staff specialists to conduct upland and riparian health assessments. The best available rangeland vegetation and soils maps were consulted and agency-approved technical references and methodology, including protocols outlined in BLM Manual H-4180-1, "Rangeland Health Standards", were used to arrive at conclusions about range health conditions. These assessments were used to determine if Oregon/Washington BLM's "Standards for Rangeland Health" were being met. The Oregon/Washington Rangeland Health Standards are as follows:

- Standard 1 – Watershed Function – Uplands: upland soils exhibit infiltration and permeability rates, moisture storage, and stability that are appropriate to soil, climate, and landform.
- Standard 2 – Watershed Function --Riparian/wetland areas: riparian-wetland areas are in properly functioning physical condition appropriate to soil, climate, and landform.
- Standard 3 – Ecological Processes –Uplands: healthy, productive and diverse plant and animal populations and communities appropriate to soil, climate, and landform are supported by ecological processes of nutrient cycling, energy flow, and the hydrologic cycle.
- Standard 4 – Water Quality: surface water and ground water quality, influenced by agency actions, complies with State water quality standards.
- Standard 5 – Native, Threatened and Endangered (T&E), and Locally Important Species: habitats support healthy, productive, and diverse populations and communities of native plants and animals (including special status species and species of local importance) appropriate to soil, climate, and landform.

As a result of the interdisciplinary team assessments within the NFMGMA, upland sites in 45 pastures within 11 allotments did not meet the Standards for Rangeland Health due to current livestock grazing. The assessments that were completed in riparian areas revealed that 29% of all riparian areas were rated at proper functioning condition (PFC), 36% functioning at risk with a trend of "not apparent", 7% functioning at risk with an upward trend, 18% functioning at risk with a downward trend, and 10% nonfunctioning.

The BLM and the NFMGMA grazing permittees initially met in 2002 and 2003 to establish short and long term solutions to areas that were not meeting standards. The short term solution that allowed for movement toward meeting the standards became the interim grazing strategy that some NFMGMA permittees have operated under since the 2002 and 2003 grazing season. In the fall of 2004, the IDT presented the formal findings of the assessments through Determination Summaries for the Standards of Rangeland Health to grazing permittees in NFMGMA, and members of the interested public. The long term solutions from recommendations in the Determination Summaries were used to develop the preferred alternative that was proposed in the NFMGMA and analyzed in the attached Revised Environmental Assessment # OR-030-06-007. The other alternatives that were described and analyzed in this document were crafted by the BLM, in consultation, cooperation and coordination with members of the interested public. Each developed alternative was assessed and analyzed in the EA to determine if management objectives, as described in the SEORMP and Record of Decision, will be met by the actions proposed for the alternatives. The preferred alternative described in the EA will allow for attainment of all applicable Vale District BLM objectives found in Revised EA OR-030-06-007 and SEORMP ROD (2002). The applicable management objectives are consistent with and support the Oregon/Washington Standards for Rangeland Health. Existing grazing management (i.e. that occurring prior to the interim strategy) will not meet the standards for rangeland health as described in the No-Action alternative of the EA.

PROPOSED DECISION

Therefore, it is my proposed decision to implement the preferred alternative described in the attached Revised Environmental Assessment (EA) # OR-030-06-007. This decision includes authorization of your livestock grazing use on the Malheur River Allotment # 10219 in your grazing permit for operator number 3600205 with a term of 10 years beginning in 2008 and expiring in 2018. Your grazing use within the Malheur River Allotment will occur in the Stanfield pasture which is located at T. 18 S., R. 36 E., Section 14 SE ¼. This decision will maintain the Malheur River Allotment in the Custodial category which according to the SORMP is management of a group of similar allotments with minimal expenditure of appropriated funds to continue protecting existing resource values. This type of management also includes conditions which state numbers and seasons of use are not defined, so long as unnecessary or undue damage to public land resources do not occur.

Malheur River Allotment #10219

Rangeland improvement projects are not proposed for the Lockhart Crossing (Stanfield) Pasture as indicated in Appendix D of Revised EA No. OR-030-06-007.

Your grazing authorization will not be modified from your existing term permit, which is as follows:

Allotment	Livestock		Grazing Period		AUMs
	Number	Kind	Begin	End	
10219 Malheur River	11	Cattle	04/01	04/30	11

Total Preference AUMs = 41 (11 Active AUMs and 30 Suspended AUMs).

Other terms and conditions of your new term grazing permit will be:

- The season of use and numbers shown are for administrative purposes only. Seasons and numbers can vary from year to year and will not be restricted unless damage to public lands occurs.
- Annual payment of grazing fees is required prior to making grazing use in the Malheur River Allotment.
- Grazing schedules for custodial allotments would remain as authorized in conjunction with private land so long as North Fork Malheur GMA management objectives continue to be met.
- Salt or supplements shall be placed at least ½ mile away from water sources and ¼ sage-grouse leks on public land.
- This permit is subject to modification as necessary to achieve compliance with the Standards for Rangeland Health and Guidelines for Livestock Management (43 CFR 4180).
- Grazing use will occur in the Lockhart Crossing (Stanfield) pasture which is located at T. 18 S., R. 36 E., Section 14 SE ¼.
- Grazing use in the Malheur River Allotment shall be in accordance with the signature of this decision which incorporates the preferred alternative in the North Fork Malheur Geographic Management Area EA # OR-030-06-007.

It is expected that livestock grazing in the Malheur River Allotment planned by this proposed decision, and outlined above, will be fully achievable once this decision has been completed.

General NFMGMA Decisions

Wildlife and Wildlife Habitat and Special Status Animal Species
BLM will continue to monitor habitat conditions in NFMGMA, and Oregon Department of Fish and Wildlife will continue to monitor sage-grouse population status. Existing rangeland vegetation monitoring will be supplemented with appropriate additional studies in accordance with SEORMP ROD Monitoring Appendix W to document success or failure in meeting NFMGMA resource objectives.

Livestock salting and mineral supplement stations will be placed at least ¼ mile from sage grouse leks to avoid drawing livestock into centers of sage-grouse breeding activity.

Monitoring Methods and Adaptive Management in NFMGMA

BLM monitoring, as described in section 8 of the EA and Appendix W of the SEORMP ROD, may determine if authorized grazing use in NFMGMA results in attainment of the management objectives as described below.

Short-term Performance Evaluations
The proposed grazing system adopted in this decision may undergo periodic performance evaluation by BLMs IDT to determine if the short-term management objectives for NFMGMA

are being met.

Existing monitoring sites will continue to be used to evaluate management. New key monitoring sites will be selected by the IDT with the full knowledge of affected livestock permittees and interested publics.

Long-term Performance Evaluation
A long-term performance evaluation of this grazing system and its effects on resources shall be completed by the IDT prior to the 2018 expiration date of your new term grazing permit. Monitoring methods shall be in accordance with approved BLM protocols identified in Appendix W of the SEORMP ROD.

RATIONALE

Under the direction of the SEORMP, GMA assessments are an administrative mechanism by which BLM will make adjustments to authorized land uses. Based on the NFMGMA rangeland assessment findings of 2000 and 2001, changes in livestock use are needed in NFMGMA grazing allotments in order to resolve certain resource management conflicts. The rationale for this decision is based on the Standards of Rangeland Health and Guidelines for Livestock Management for Public Lands Administered by the Bureau of Land Management in the States of Oregon and Washington for pastures within the Malheur River Allotment. These determinations were published in 2003 and 2004 and were in Appendix C the Initial EA No. OR-030-06-007.

Where existing grazing management practices on public lands are significant factors in failing to achieve the standards for rangeland health and conform to the guidelines, BLM is taking action with this proposed decision as described in the preferred alternative in Revised EA No. OR-030-06-007 to move toward the attainment of SRH.

Malheur River Allotment (#10219)

All standards were met in the Lockhart Crossing (Stanfield) pasture and current livestock management would be expected to maintain resource conditions and provide forage for livestock as authorized in the existing permit for the pasture.

AUTHORITY

The authority for this decision is contained in Title 43 of the Code of Federal Regulations (CFR) including and the following laws:
The Taylor Grazing Act
The Federal Land Management Act

4100.0-2 Objectives.
The objectives of these regulations are to promote healthy sustainable rangeland ecosystems; to accelerate restoration and improvement of public rangelands to properly functioning conditions; to promote the orderly use, improvement and development of the public lands; to establish efficient and effective administration of grazing of public rangelands; and to provide for the sustainability of the western livestock industry and communities that are dependent upon productive, healthy public rangelands. These objectives shall be realized in a manner that is

consistent with land use plans, multiple use, sustained yield, environmental values, economic and other objectives stated in 43 CFR part 1720, subpart 1725; the Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315, 315a-315r); section 102 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740).

§4100.0-3 Authority.

(a) The Taylor Grazing Act of June 28, 1934 as amended (43 U.S.C. 315, 315a through 315r);

(b) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) as amended by the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.);

(c) Executive orders transfer land acquired under the Bankhead-Jones Farm Tenant Act of July 22, 1937, as amended (7 U.S.C. 1012), to the Secretary and authorize administration under the Taylor Grazing Act.

(e) The Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.); and

(f) Public land orders, Executive orders, and agreements authorize the Secretary to administer livestock grazing on specified lands under the Taylor Grazing Act or other authority as specified.

§4130.2 Grazing permits or leases.

(a) Grazing permits or leases shall be issued to qualified applicants to authorize use on the public lands and other lands under the administration of the Bureau of Land Management that are designated as available for livestock grazing through land use plans. Permits or leases shall specify the types and levels of use authorized, including livestock grazing, suspended use, and conservation use. These grazing permits and leases shall also specify terms and conditions pursuant to §§4130.3, 4130.3-1, and 4130.3-2.

(b) The authorized officer shall consult, cooperate and coordinate with affected permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public prior to the issuance or renewal of grazing permits and leases.

(c) Grazing permits or leases convey no right, title, or interest held by the United States in any lands or resources.

(d) The term of grazing permits or leases authorizing livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management shall be 10 years.

Southeastern Oregon Resource Management Plan, Record of Decision and Final Environmental Impact Statement, September 2002.

RIGHT OF PROTEST AND/OR APPEAL

Any applicant, permittee, lessee or other interested publics may protest this proposed decision in accordance with 43 CFR § 4160.1 and § 4160.2, you are allowed fifteen (15) days from receipt of this notice to file such a protest with:

Field Manager
Malheur Resource Area
Vale District Bureau of Land Management
100 Oregon Street
Vale, Oregon 97918

A protest may be made in writing and should specify the reasons clearly and concisely as to why you think the proposed decision is in error. Upon the timely filling of a protest, the authorized officer shall reconsider the proposed decision in light of the protestant's statement of reasons for protest and in light of other information pertinent to the case. At the conclusion of this review of the protest, the authorized officer shall serve a final decision on the protestant, or his agent, or both, and the interested public in accordance with 43 CFR § 4160.3 (b).

In the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice. 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. A period of 45 days from your receipt of the proposed decision is provided for filling an appeal and petition for stay of the decision pending final determination on appeal, as provided in 43 CFR § 4.470 and 43 CFR § 4160.4.

Any appeal should state clearly and concisely as to why the final decision is in error. All grounds of error not stated shall be considered waived, and no such waived ground of error may be presented at the hearing unless ordered or permitted by the administrative law judge. Any appeal should be submitted in writing to:

Field Manager
Malheur Resource Area
Vale District Bureau of Land Management
100 Oregon Street
Vale, Oregon 97918

Filing an appeal does not by itself stay the effectiveness of the final BLM decision. The appeal may be accompanied by a petition for a stay of the decision pending final determination on appeal, in accordance with 43 CFR § 4.471 and 4.479. Any request for a stay of the final decision in accordance with 43 CFR 4.21 must be filled with the appeal. In accordance with 43 CFR 4.21 (b) (1), a petition for a stay must show sufficient justification based on the following:

- The relative harm to the parties if the stay is granted or denied,
- The likelihood of the appellant’s success on the merits,
- The likelihood of immediate and irreparable harm if the stay is not granted, and

- Whether the public interest favors granting the stay.

Additionally, in accordance with 43 CFR § 4.471(b), within 15 days after filing the appeal and petition for a stay with the authorized officer, the appellant must also serve copies on:
1) all other person(s) named in the Copies sent to: section of this decision; and
2) the appropriate office of the Office of the Solicitor as follows, in accordance with 43 CFR § 4.413(a) and (c):

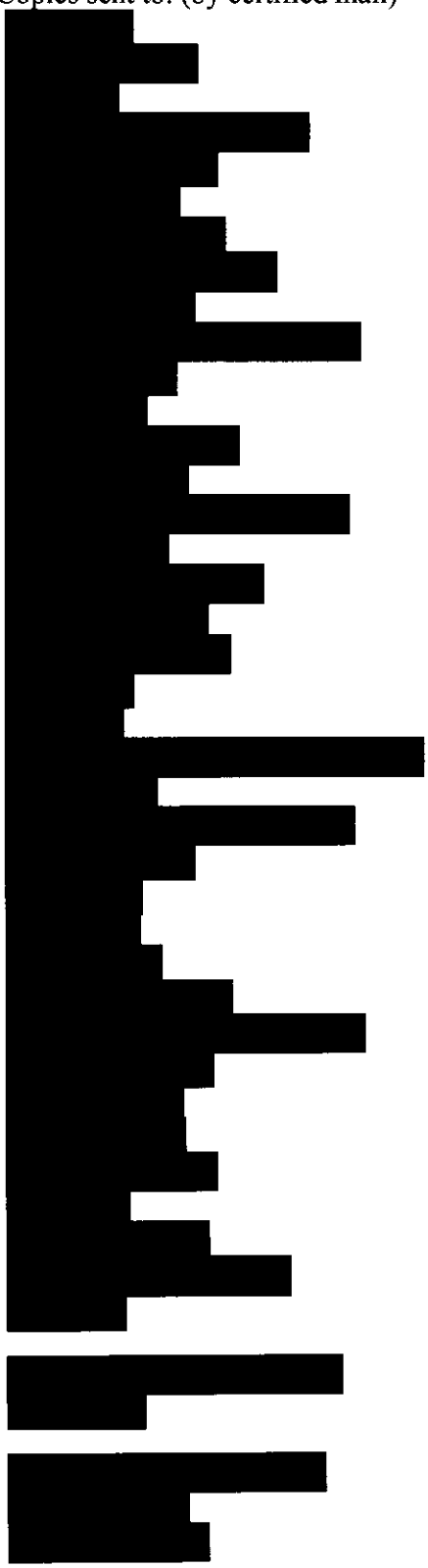
Office of the Solicitor
US Department of the Interior
Pacific NW Region
500 NE Multnomah, Suite 607
Portland, OR 97213

Finally, in accordance with 43 CFR 4.472(b), 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 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 respond, the person must serve copies on the appellant, the appropriate office of the Office of the Solicitor in accordance with Sec. 4.413(a) and (c), and any other person named in the decision.

Sincerely,

Pat Ryan
Field Manager
Malheur Resource Area

Copies sent to: (by certified mail)



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
100 Oregon Street
Vale, Oregon 97918
http://www.or.blm.gov/Vale

TAKE PRIDE IN AMERICA

IN REPLY REFER TO:
4100

SEP 0 4 2007

[redacted]

NOTICE OF THE FIELD MANAGER'S PROPOSED DECISION

Dear [redacted]

INTRODUCTION

Subsequent to the approval of revised BLM grazing regulations in 1995, BLM State Directors were assigned the task of developing state level rangeland health standards (Title 43 Code of Federal Regulations [CFR] 4180.2). The process of developing standards and defining standard indicators was conducted in consultation with BLM Resource Advisory Councils (RACs). The purpose for setting standards and identifying their indicators was to provide BLM with a rational basis for determining whether current management is meeting the Fundamentals of Rangeland Health as described under 43 CFR 4180.1.

On August 12, 1997, Interior Secretary Bruce Babbitt approved the Oregon/Washington BLM Standards and Guides for Rangeland Health (SRH). BLM field offices in Oregon/Washington were subsequently directed to conduct assessments and then use that assessment information to craft range health evaluations in relation to the state standards. These evaluations are conducted under an interdisciplinary team (IDT) concept where various resource specialists, representing the biological and physical sciences, are involved in the collection, review and analysis of available data.

In order to accomplish this assessment and evaluation workload and conform to the need for completing work on a watershed basis, Malheur Resource Area was divided into nine land based administrative units now referred to as Geographic Management Areas (GMAs). Based on multiple resource values and ongoing management issues needing resolution, the North Fork Malheur GMA (NFMGMA) was selected to be the second GMA to be assessed in Malheur Resource Area.

BLM regulations specify that "the authorized officer shall take appropriate action as soon as practicable but not later than the start of the next grazing year upon determining, through assessment or monitoring by experienced professionals and interdisciplinary teams, that a

standard is not being achieved and that livestock are a significant contributing factor to the failure to achieve the standards and conform with the guidelines" (43 CFR 4180).

This decision is the final step in the GMA process, where changes to existing grazing management practices will be implemented. Issuing this decision will allow for significant progress to be made toward meeting Standards for Rangeland Health in NFMGMA, and is issued in compliance with the Southeastern Oregon Resource Management Plan (SEORMP) and Record of Decision of September 2002.

BACKGROUND

Consultation, cooperation, and coordination with both grazing permittees and the interested public are critical components of BLM's range health assessment and evaluation process. On numerous occasions, BLM has communicated with both groups on range health standards and GMA assessments, by way of mailed written materials, public meetings, and onsite visits within NFMGMA.

In 2000 and 2001, the NFMGMA interdisciplinary team used a variety of information sources and the professional judgment of members and senior staff specialists to conduct upland and riparian health assessments. The best available rangeland vegetation and soils maps were consulted and agency-approved technical references and methodology, including protocols outlined in BLM Manual H-4180-1, "Rangeland Health Standards", were used to arrive at conclusions about range health conditions. These assessments were used to determine if Oregon/Washington BLM's "Standards for Rangeland Health" were being met. The Oregon/Washington Rangeland Health Standards are as follows:

- Standard 1 – Watershed Function – Uplands: upland soils exhibit infiltration and permeability rates, moisture storage, and stability that are appropriate to soil, climate, and landform.
- Standard 2 – Watershed Function --Riparian/wetland areas: riparian-wetland areas are in properly functioning physical condition appropriate to soil, climate, and landform.
- Standard 3 – Ecological Processes –Uplands: healthy, productive and diverse plant and animal populations and communities appropriate to soil, climate, and landform are supported by ecological processes of nutrient cycling, energy flow, and the hydrologic cycle.
- Standard 4 – Water Quality: surface water and ground water quality, influenced by agency actions, complies with State water quality standards.
- Standard 5 – Native, Threatened and Endangered (T&E), and Locally Important Species: habitats support healthy, productive, and diverse populations and communities of native plants and animals (including special status species and species of local importance) appropriate to soil, climate, and landform.

As a result of the interdisciplinary team assessments within the NFMGMA, upland sites in 45 pastures within 11 allotments did not meet the Standards for Rangeland Health due to current livestock grazing. The assessments that were completed in riparian areas revealed that 29% of all riparian areas were rated at proper functioning condition (PFC), 36% functioning at risk with

a trend of “not apparent”, 7% functioning at risk with an upward trend, 18% functioning at risk with a downward trend, and 10% nonfunctioning.

The BLM and the NFMGMA grazing permittees initially met in 2002 and 2003 to establish short and long term solutions to areas that were not meeting standards. The short term solution that allowed for movement toward meeting the standards became the interim grazing strategy that some NFMGMA permittees have operated under since the 2002 and 2003 grazing season. In the fall of 2004, the IDT presented the formal findings of the assessments through Determination Summaries for the Standards of Rangeland Health to grazing permittees in NFMGMA, and members of the interested public. The long term solutions from the recommendations in the Determination Summaries were used to develop the preferred alternative that was proposed and analyzed in the attached NFMGMA Revised Environmental Assessment # OR-030-06-007. The other alternatives that were described and analyzed in this document were crafted by the BLM, in consultation, cooperation and coordination with members of the interested public. Each developed alternative was assessed and analyzed in the EA to determine if management objectives, as described in the SEORMP and Record of Decision, will be met by the actions proposed for the alternatives. The preferred alternative described in the EA will allow for attainment of all applicable Vale District BLM objectives found in Revised EA OR-030-06-007 and SEORMP ROD (2002). The applicable management objectives are consistent with and support the Oregon/Washington Standards for Rangeland Health. Existing grazing management (i.e. that occurring prior to the interim strategy) will not meet the standards for rangeland health as described in the No-Action alternative of the EA.

PROPOSED DECISION

Therefore, it is my proposed decision to implement the preferred alternative described in the attached Revised Environmental Assessment (EA) # OR-030-06-007. This decision includes authorization of your livestock grazing use on the Ironside Mountain East Allotment (# 00114) in your grazing permit for operator number 3600260 with a term of 10 years beginning in 2008 and expiring in 2018. This decision will maintain the Ironside Mountain East Allotment in the Custodial category which according to the SORMP is management of a group of similar allotments with minimal expenditure of appropriated funds to continue protecting existing resource values. This type of management also includes conditions which state numbers and seasons of use are not defined, so long as unnecessary or undue damage to public land resources do not occur.

Ironside East Allotment #00114

There are no existing or proposed rangeland improvement projects in this allotment.

Your grazing authorization will not be modified from your existing term permit, which is as follows:

	Livestock		Grazing Period		
Allotment	**Number**	**Kind**	**Begin**	**End**	**AUMs**
00114 Ironside Mountain East	140	Cattle	04/01	04/30	140

Total Preference AUMs = 140 (140 Active AUMs and 0 Suspended AUMs).

Other terms and conditions of your new term grazing permit will be:

- The season of use and numbers shown are for administrative purposes only. Seasons and numbers can vary from year to year and will not be restricted unless damage to public lands occurs.
- Annual payment of grazing fees is required prior to making grazing use in the Ironside Mountain East Allotment.
- Grazing schedules for custodial allotments would remain as authorized in conjunction with private land so long as North Fork Malheur GMA management objectives continue to be met.
- Salt or supplements shall be placed at least ½ mile away from water sources and ¼ sage-grouse leks on public land.
- This permit is subject to modification as necessary to achieve compliance with the Standards for Rangeland Health and Guidelines for Livestock Management (43 CFR 4180).
- Grazing use in the Ironside Mountain East Allotment shall be in accordance with the signature of this decision which incorporates the preferred alternative in the North Fork Malheur Geographic Management Area EA # OR-030-06-007.

It is expected that livestock grazing in the Ironside Mountain East Allotment planned by this proposed decision, and outlined above, will be fully achievable once this Decision Record has been implemented.

General NFMGMA Decisions

Wildlife and Wildlife Habitat and Special Status Animal Species

BLM will continue to monitor habitat conditions in NFMGMA, and Oregon Department of Fish and Wildlife will continue to monitor sage-grouse population status. Existing rangeland vegetation monitoring will be supplemented with appropriate additional studies in accordance with SEORMP ROD Monitoring Appendix W to document success or failure in meeting NFMGMA resource objectives.

Livestock salting and mineral supplement stations will be placed at least ¼ mile from sage grouse leks to avoid drawing livestock into centers of sage-grouse breeding activity.

Monitoring Methods and Adaptive Management in NFMGMA

BLM monitoring, as described in section 8 of the EA and Appendix W of the SEORMP ROD, may determine if authorized grazing use in NFMGMA results in attainment of the management objectives as described below.

Short-term Performance Evaluations

The proposed grazing system adopted in this decision may undergo periodic performance evaluation by BLMs IDT to determine if the short-term management objectives for NFMGMA are being met.

Existing monitoring sites will continue to be used to evaluate management. New key monitoring sites will be selected by the IDT with the full knowledge of affected livestock permittees and interested publics.

Long-term Performance Evaluation
A long-term performance evaluation of this grazing system and its effects on resources shall be completed by the IDT prior to the 2018 expiration date of your new term grazing permit. Monitoring methods shall be in accordance with approved BLM protocols identified in Appendix W of the SEORMP ROD.

RATIONALE

Under the direction of the SEORMP, GMA assessments are an administrative mechanism by which BLM will make adjustments to authorized land uses. Based on the NFMGMA rangeland assessment findings of 2000 and 2001, changes in livestock use are needed in NFMGMA grazing allotments in order to resolve certain resource management conflicts. The rationale for this decision is based on the Standards of Rangeland Health and Guidelines for Livestock Management for Public Lands Administered by the Bureau of Land Management in the States of Oregon and Washington for pastures within the Ironside Mountain East Allotment. These determinations were published in 2003 and 2004 and were in Appendix C of the Initial EA No. OR-030-06-007.

If existing grazing management practices on public lands are not significant factors in failing to achieve the standards for rangeland health and conform to the guidelines the authorized officer shall renew the grazing permit. The BLM is taking action with this proposed decision as described in the preferred alternative of Revised EA No. OR-030-06-007.

Ironside Mountain East Allotment (#00114)

Standards 3 and 5 were not met in this allotment due to plant community health (lack of age class diversity). Evaluation of assessment data indicated that livestock grazing was not a factor contributing to not meeting the standards. Current livestock management would be expected to maintain resource conditions and provide forage for livestock as authorized in the existing permit.

AUTHORITY

The authority for this decision is contained in Title 43 of the Code of Federal Regulations (CFR) including and the following laws:
The Taylor Grazing Act
The Federal Land Management Act

4100.0-2 Objectives.
The objectives of these regulations are to promote healthy sustainable rangeland ecosystems; to accelerate restoration and improvement of public rangelands to properly functioning conditions; to promote the orderly use, improvement and development of the public lands; to establish efficient and effective administration of grazing of public rangelands; and to provide for the

sustainability of the western livestock industry and communities that are dependent upon productive, healthy public rangelands. These objectives shall be realized in a manner that is consistent with land use plans, multiple use, sustained yield, environmental values, economic and other objectives stated in 43 CFR part 1720, subpart 1725; the Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315, 315a-315r); section 102 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740).

§4100.0-3 Authority.

(a) The Taylor Grazing Act of June 28, 1934 as amended (43 U.S.C. 315, 315a through 315r);
(b) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) as amended by the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.);
(c) Executive orders transfer land acquired under the Bankhead-Jones Farm Tenant Act of July 22, 1937, as amended (7 U.S.C. 1012), to the Secretary and authorize administration under the Taylor Grazing Act.
(e) The Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.); and
(f) Public land orders, Executive orders, and agreements authorize the Secretary to administer livestock grazing on specified lands under the Taylor Grazing Act or other authority as specified.

§4130.2 Grazing permits or leases.

(a) Grazing permits or leases shall be issued to qualified applicants to authorize use on the public lands and other lands under the administration of the Bureau of Land Management that are designated as available for livestock grazing through land use plans. Permits or leases shall specify the types and levels of use authorized, including livestock grazing, suspended use, and conservation use. These grazing permits and leases shall also specify terms and conditions pursuant to §§4130.3, 4130.3-1, and 4130.3-2.
(b) The authorized officer shall consult, cooperate and coordinate with affected permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public prior to the issuance or renewal of grazing permits and leases.
(c) Grazing permits or leases convey no right, title, or interest held by the United States in any lands or resources.
(d) The term of grazing permits or leases authorizing livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management shall be 10 years.

Southeastern Oregon Resource Management Plan, Record of Decision and Final Environmental Impact Statement, September 2002.

RIGHT OF PROTEST AND/OR APPEAL

Any applicant, permittee, lessee or other interested publics may protest this proposed decision in accordance with 43 CFR § 4160.1 and § 4160.2, you are allowed fifteen (15) days from receipt of this notice to file such a protest with:

Field Manager
Malheur Resource Area
Vale District Bureau of Land Management
100 Oregon Street
Vale, Oregon 97918

A protest may be made in writing and should specify the reasons clearly and concisely as to why you think the proposed decision is in error. Upon the timely filling of a protest, the authorized officer shall reconsider the proposed decision in light of the protestant's statement of reasons for protest and in light of other information pertinent to the case. At the conclusion of this review of the protest, the authorized officer shall serve a final decision on the protestant, or his agent, or both, and the interested public in accordance with 43 CFR § 4160.3 (b).

In the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice. 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. A period of 45 days from your receipt of the proposed decision is provided for filling an appeal and petition for stay of the decision pending final determination on appeal, as provided in 43 CFR § 4.470 and 43 CFR § 4160.4.

Any appeal should state clearly and concisely as to why the final decision is in error. All grounds of error not stated shall be considered waived, and no such waived ground of error may be presented at the hearing unless ordered or permitted by the administrative law judge. Any appeal should be submitted in writing to:

Field Manager
Malheur Resource Area
Vale District Bureau of Land Management
100 Oregon Street
Vale, Oregon 97918

Filing an appeal does not by itself stay the effectiveness of the final BLM decision. The appeal may be accompanied by a petition for a stay of the decision pending final determination on appeal, in accordance with 43 CFR § 4.471 and 4.479. Any request for a stay of the final decision in accordance with 43 CFR 4.21 must be filled with the appeal. In accordance with 43 CFR 4.21 (b) (1), a petition for a stay must show sufficient justification based on the following:

- The relative harm to the parties if the stay is granted or denied,
- The likelihood of the appellant’s success on the merits,
- The likelihood of immediate and irreparable harm if the stay is not granted, and

- Whether the public interest favors granting the stay.

Additionally, in accordance with 43 CFR § 4.471(b), within 15 days after filing the appeal and petition for a stay with the authorized officer, the appellant must also serve copies on:
1) all other person(s) named in the Copies sent to: section of this decision; and
2) the appropriate office of the Office of the Solicitor as follows, in accordance with 43 CFR § 4.413(a) and (c):

Office of the Solicitor
US Department of the Interior
Pacific NW Region
500 NE Multnomah, Suite 607
Portland, OR 97213

Finally, in accordance with 43 CFR 4.472(b), 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 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 respond, the person must serve copies on the appellant, the appropriate office of the Office of the Solicitor in accordance with Sec. 4.413(a) and (c), and any other person named in the decision.

Sincerely,

Pat Ryan
Field Manager
Malheur Resource Area

Copies sent to: (by certified mail)

[redacted]

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
100 Oregon Street
Vale, Oregon 97918
http://www.or.blm.gov/Vale

TAKE PRIDE IN AMERICA

IN REPLY REFER TO:
4100

SEP 0 4 2007

Ironside Mountain Co. LLC
C/O Marvin Farley
PO Box 490
Ontario, Oregon 97914-0490

NOTICE OF THE FIELD MANAGER'S PROPOSED DECISION

Dear Mr. Farley:

INTRODUCTION

Subsequent to the approval of revised BLM grazing regulations in 1995, BLM State Directors were assigned the task of developing state level rangeland health standards (Title 43 Code of Federal Regulations [CFR] 4180.2). The process of developing standards and defining standard indicators was conducted in consultation with BLM Resource Advisory Councils (RACs). The purpose for setting standards and identifying their indicators was to provide BLM with a rational basis for determining whether current management is meeting the Fundamentals of Rangeland Health as described under 43 CFR 4180.1.

On August 12, 1997, Interior Secretary Bruce Babbitt approved the Oregon/Washington BLM Standards and Guides for Rangeland Health (SRH). BLM field offices in Oregon/Washington were subsequently directed to conduct assessments and then use that assessment information to craft range health evaluations in relation to the state standards. These evaluations are conducted under an interdisciplinary team (IDT) concept where various resource specialists, representing the biological and physical sciences, are involved in the collection, review and analysis of available data.

In order to accomplish this assessment and evaluation workload and conform to the need for completing work on a watershed basis, Malheur Resource Area was divided into nine land based administrative units now referred to as Geographic Management Areas (GMAs). Based on multiple resource values and ongoing management issues needing resolution, the North Fork Malheur GMA (NFMGMA) was selected to be the second GMA to be assessed in Malheur Resource Area.

BLM regulations specify that "the authorized officer shall take appropriate action as soon as practicable but not later than the start of the next grazing year upon determining, through assessment or monitoring by experienced professionals and interdisciplinary teams, that a

standard is not being achieved and that livestock are a significant contributing factor to the failure to achieve the standards and conform with the guidelines" (43 CFR 4180).

This decision is the final step in the GMA process, where changes to existing grazing management practices will be implemented. Issuing this decision will allow for significant progress to be made toward meeting Standards for Rangeland Health in NFMGMA, and is issued in compliance with the Southeastern Oregon Resource Management Plan (SEORMP) and Record of Decision of September 2002.

BACKGROUND

Consultation, cooperation, and coordination with both grazing permittees and the interested public are critical components of BLM's range health assessment and evaluation process. On numerous occasions, BLM has communicated with both groups on range health standards and GMA assessments, by way of mailed written materials, public meetings, and onsite visits within LCGMA.

In 2000 and 2001, the NFMGMA interdisciplinary team used a variety of information sources and the professional judgment of members and senior staff specialists to conduct upland and riparian health assessments. The best available rangeland vegetation and soils maps were consulted and agency-approved technical references and methodology, including protocols outlined in BLM Manual H-4180-1, "Rangeland Health Standards", were used to arrive at conclusions about range health conditions. These assessments were used to determine if Oregon/Washington BLM's "Standards for Rangeland Health" were being met. The Oregon/Washington Rangeland Health Standards are as follows:

- Standard 1 – Watershed Function – Uplands: upland soils exhibit infiltration and permeability rates, moisture storage, and stability that are appropriate to soil, climate, and landform.
- Standard 2 – Watershed Function --Riparian/wetland areas: riparian-wetland areas are in properly functioning physical condition appropriate to soil, climate, and landform.
- Standard 3 – Ecological Processes –Uplands: healthy, productive and diverse plant and animal populations and communities appropriate to soil, climate, and landform are supported by ecological processes of nutrient cycling, energy flow, and the hydrologic cycle.
- Standard 4 – Water Quality: surface water and ground water quality, influenced by agency actions, complies with State water quality standards.
- Standard 5 – Native, Threatened and Endangered (T&E), and Locally Important Species: habitats support healthy, productive, and diverse populations and communities of native plants and animals (including special status species and species of local importance) appropriate to soil, climate, and landform.

As a result of the interdisciplinary team assessments within the NFMGMA, upland sites in 45 pastures within 11 allotments did not meet the Standards for Rangeland Health due to current livestock grazing. The assessments that were completed in riparian areas revealed that 29% of all riparian areas were rated at proper functioning condition (PFC), 36% functioning at risk with

a trend of “not apparent”, 7% functioning at risk with an upward trend, 18% functioning at risk with a downward trend, and 10% nonfunctioning.

The BLM and the NFMGMA grazing permittees initially met in 2002 and 2003 to establish short and long term solutions to areas that were not meeting standards. The short term solution that allowed for movement toward meeting the standards became the interim grazing strategy that some NFMGMA permittees have operated under since the 2002 and 2003 grazing season. In the fall of 2004, the IDT presented the formal findings of the assessments through Determination Summaries for the Standards of Rangeland Health to grazing permittees in NFMGMA, and members of the interested public. The long term solutions from the recommendations in the Determination Summaries were used to develop the preferred alternative that was proposed and analyzed in the attached NFMGMA Revised Environmental Assessment # OR-030-06-007. The other alternatives that were described and analyzed in this document were crafted by the BLM, in consultation, cooperation and coordination with members of the interested public. Each developed alternative was assessed and analyzed in the EA to determine if management objectives, as described in the SEORMP and Record of Decision, will be met by the actions proposed for the alternatives. The preferred alternative described in the EA will allow for attainment of all applicable Vale District BLM objectives found in Revised EA OR-030-06-007 and SEORMP ROD (2002). The applicable management objectives are consistent with and support the Oregon/Washington Standards for Rangeland Health. Existing grazing management (i.e. that occurring prior to the interim strategy) will not meet the standards for rangeland health as described in the No-Action alternative of the EA.

PROPOSED DECISION

Therefore, it is my proposed decision to implement the preferred alternative described in the attached Revised Environmental Assessment (EA) # OR-030-06-007. This decision includes authorization of your livestock grazing use on the South Willow Creek Allotment (#00153) in your grazing permit for operator number 3603153 with a term of 10 years beginning in 2008 and expiring in 2018. This decision will maintain the South Willow Creek Allotment in the Custodial category which according to the SORMP is management of a group of similar allotments with minimal expenditure of appropriated funds to continue protecting existing resource values. This type of management also includes conditions which state numbers and seasons of use are not defined, so long as unnecessary or undue damage to public land resources do not occur.

South Willow Creek #00153

Rangeland improvement projects are not proposed for the allotment in order to facilitate livestock grazing in the South Willow Creek Allotment.

Your grazing authorization will not be modified from your existing term permit, which is as follows:

Allotment	Livestock		Grazing Period		AUMs
	Number	Kind	Begin	End	
00153 South Willow Creek	17	Cattle	05/01	09/30	85

Total Preference AUMs = 85 (85 Active AUMs and 0 Suspended AUMs).

Other terms and conditions of your new term grazing permit will be:

- The season of use and numbers shown are for administrative purposes only. Seasons and numbers can vary from year to year and will not be restricted unless damage to public lands occurs.
- Annual payment of grazing fees is required prior to making grazing use in the South Willow Creek Allotment.
- Grazing schedules for custodial allotments would remain as authorized in conjunction with private land so long as North Fork Malheur GMA management objectives continue to be met.
- Salt or supplements shall be placed at least ½ mile away from water sources and ¼ sage-grouse leks on public land.
- This permit is subject to modification as necessary to achieve compliance with the Standards for Rangeland Health and Guidelines for Livestock Management (43 CFR 4180).
- Grazing use in the South Willow Creek Allotment shall be in accordance with the signature of this decision which incorporates the preferred alternative in the North Fork Malheur Geographic Management Area EA # OR-030-06-007.

It is expected that livestock grazing in the South Willow Creek Allotment planned by this proposed decision, and outlined above, will be fully achievable once this Decision Record has been implemented.

General NFMGMA Decisions

Wildlife and Wildlife Habitat and Special Status Animal Species

BLM will continue to monitor habitat conditions in NFMGMA, and Oregon Department of Fish and Wildlife will continue to monitor sage-grouse population status. Existing rangeland vegetation monitoring will be supplemented with appropriate additional studies in accordance with SEORMP ROD Monitoring Appendix W to document success or failure in meeting NFMGMA resource objectives.

Livestock salting and mineral supplement stations will be placed at least ¼ mile from sage grouse leks to avoid drawing livestock into centers of sage-grouse breeding activity.

Monitoring Methods and Adaptive Management in NFMGMA

BLM monitoring, as described in section 8 of the EA and Appendix W of the SEORMP ROD, may determine if authorized grazing use in NFMGMA results in attainment of the management objectives as described below.

Short-term Performance Evaluations

The proposed grazing system adopted in this decision may undergo periodic performance evaluation by BLMs IDT to determine if the short-term management objectives for NFMGMA

are being met.

Existing monitoring sites will continue to be used to evaluate management. New key monitoring sites will be selected by the IDT with the full knowledge of affected livestock permittees and interested publics.

Long-term Performance Evaluation
A long-term performance evaluation of this grazing system and its effects on resources shall be completed by the IDT prior to the 2018 expiration date of your new term grazing permit. Monitoring methods shall be in accordance with approved BLM protocols identified in Appendix W of the SEORMP ROD.

RATIONALE

Under the direction of the SEORMP, GMA assessments are an administrative mechanism by which BLM will make adjustments to authorized land uses. Based on the NFMGMA rangeland assessment findings of 2000 and 2001, changes in livestock use are needed in NFMGMA grazing allotments in order to resolve certain resource management conflicts. The rationale for this decision is based on the Standards of Rangeland Health and Guidelines for Livestock Management for Public Lands Administered by the Bureau of Land Management in the States of Oregon and Washington for pastures within the South Willow Creek Allotment. These determinations were published in 2003 and 2004 and were in Appendix C of the Initial EA No. OR-030-06-007.

Where existing grazing management practices on public lands are significant factors in failing to achieve the standards for rangeland health and conform to the guidelines, BLM is taking action with this proposed decision as described in the preferred alternative in Revised EA No. OR-030-06-007 to move toward the attainment of SRH.

South Willow Creek Allotment (#00153)

Current management would be expected to maintain resource conditions and provide forage for livestock as authorized in the existing permit within this allotment. While standards 3 and 5 were not met, it was determined that current livestock grazing was not a contributing factor.

AUTHORITY

The authority for this decision is contained in Title 43 of the Code of Federal Regulations (CFR) including and the following laws:
The Taylor Grazing Act
The Federal Land Management Act

4100.0-2 Objectives.
The objectives of these regulations are to promote healthy sustainable rangeland ecosystems; to accelerate restoration and improvement of public rangelands to properly functioning conditions; to promote the orderly use, improvement and development of the public lands; to establish efficient and effective administration of grazing of public rangelands; and to provide for the

sustainability of the western livestock industry and communities that are dependent upon productive, healthy public rangelands. These objectives shall be realized in a manner that is consistent with land use plans, multiple use, sustained yield, environmental values, economic and other objectives stated in 43 CFR part 1720, subpart 1725; the Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315, 315a-315r); section 102 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740).

§4100.0-3 Authority.

(a) The Taylor Grazing Act of June 28, 1934 as amended (43 U.S.C. 315, 315a through 315r);
(b) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) as amended by the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.);
(c) Executive orders transfer land acquired under the Bankhead-Jones Farm Tenant Act of July 22, 1937, as amended (7 U.S.C. 1012), to the Secretary and authorize administration under the Taylor Grazing Act.
(e) The Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.); and
(f) Public land orders, Executive orders, and agreements authorize the Secretary to administer livestock grazing on specified lands under the Taylor Grazing Act or other authority as specified.

§4130.2 Grazing permits or leases.

(a) Grazing permits or leases shall be issued to qualified applicants to authorize use on the public lands and other lands under the administration of the Bureau of Land Management that are designated as available for livestock grazing through land use plans. Permits or leases shall specify the types and levels of use authorized, including livestock grazing, suspended use, and conservation use. These grazing permits and leases shall also specify terms and conditions pursuant to §§4130.3, 4130.3-1, and 4130.3-2.
(b) The authorized officer shall consult, cooperate and coordinate with affected permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public prior to the issuance or renewal of grazing permits and leases.
(c) Grazing permits or leases convey no right, title, or interest held by the United States in any lands or resources.
(d) The term of grazing permits or leases authorizing livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management shall be 10 years.

Southeastern Oregon Resource Management Plan, Record of Decision and Final Environmental Impact Statement, September 2002.

RIGHT OF PROTEST AND/OR APPEAL

Any applicant, permittee, lessee or other interested publics may protest this proposed decision in accordance with 43 CFR § 4160.1 and § 4160.2, you are allowed fifteen (15) days from receipt of this notice to file such a protest with:

Field Manager
Malheur Resource Area
Vale District Bureau of Land Management
100 Oregon Street
Vale, Oregon 97918

A protest may be made in writing and should specify the reasons clearly and concisely as to why you think the proposed decision is in error. Upon the timely filling of a protest, the authorized officer shall reconsider the proposed decision in light of the protestant's statement of reasons for protest and in light of other information pertinent to the case. At the conclusion of this review of the protest, the authorized officer shall serve a final decision on the protestant, or his agent, or both, and the interested public in accordance with 43 CFR § 4160.3 (b).

In the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice. 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. A period of 45 days from your receipt of the proposed decision is provided for filling an appeal and petition for stay of the decision pending final determination on appeal, as provided in 43 CFR § 4.470 and 43 CFR § 4160.4.

Any appeal should state clearly and concisely as to why the final decision is in error. All grounds of error not stated shall be considered waived, and no such waived ground of error may be presented at the hearing unless ordered or permitted by the administrative law judge. Any appeal should be submitted in writing to:

Field Manager
Malheur Resource Area
Vale District Bureau of Land Management
100 Oregon Street
Vale, Oregon 97918

Filing an appeal does not by itself stay the effectiveness of the final BLM decision. The appeal may be accompanied by a petition for a stay of the decision pending final determination on appeal, in accordance with 43 CFR § 4.471 and 4.479. Any request for a stay of the final decision in accordance with 43 CFR 4.21 must be filled with the appeal. In accordance with 43 CFR 4.21 (b) (1), a petition for a stay must show sufficient justification based on the following:

- The relative harm to the parties if the stay is granted or denied,
- The likelihood of the appellant’s success on the merits,
- The likelihood of immediate and irreparable harm if the stay is not granted, and
- Whether the public interest favors granting the stay.

Additionally, in accordance with 43 CFR § 4.471(b), within 15 days after filing the appeal and petition for a stay with the authorized officer, the appellant must also serve copies on:
1) all other person(s) named in the Copies sent to: section of this decision; and

2) the appropriate office of the Office of the Solicitor as follows, in accordance with 43 CFR § 4.413(a) and (c):

Office of the Solicitor
US Department of the Interior
Pacific NW Region
500 NE Multnomah, Suite 607
Portland, OR 97213

Finally, in accordance with 43 CFR 4.472(b), 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 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 respond, the person must serve copies on the appellant, the appropriate office of the Office of the Solicitor in accordance with Sec. 4.413(a) and (c), and any other person named in the decision.

Sincerely,

Pat Ryan
Field Manager
Malheur Resource Area

Copies sent to: (by certified mail)

[redacted]

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
100 Oregon Street
Vale, Oregon 97918
http://www.or.blm.gov/Vale

TAKE PRIDE IN AMERICA

SEP 0 4 2007

IN REPLY REFER TO:
4100
[redacted]

NOTICE OF THE FIELD MANAGER'S FINAL DECISION

Dear [redacted]:

INTRODUCTION

Subsequent to the approval of revised BLM grazing regulations in 1995, BLM State Directors were assigned the task of developing state level rangeland health standards (Title 43 Code of Federal Regulations [CFR] 4180.2). The process of developing standards and defining standard indicators was conducted in consultation with BLM Resource Advisory Councils (RACs). The purpose for setting standards and identifying their indicators was to provide BLM with a rational basis for determining whether current management is meeting the Fundamentals of Rangeland Health as described under 43 CFR 4180.1.

On August 12, 1997, Interior Secretary Bruce Babbitt approved the Oregon/Washington BLM Standards and Guidelines for Rangeland Health (SRH). BLM field offices in Oregon/Washington were subsequently directed to conduct assessments and then use that assessment information to craft range health evaluations in relation to the state standards. These evaluations are conducted under an interdisciplinary team (IDT) concept where various resource specialists, representing the biological and physical sciences, are involved in the collection, review and analysis of available data.

In order to accomplish this assessment and evaluation workload and conform to the need for completing work on a watershed basis, Malheur Resource Area was divided into nine land based administrative units now referred to as Geographic Management Areas (GMAs). Based on multiple resource values and ongoing management issues needing resolution, the North Fork Malheur GMA (NFMGMA) was selected to be the second GMA to be assessed in Malheur Resource Area.

BLM regulations specify that "the authorized officer shall take appropriate action as soon as practicable but not later than the start of the next grazing year upon determining, through assessment or monitoring by experienced professionals and interdisciplinary teams, that a standard is not being achieved and that livestock are a significant contributing factor to the

failure to achieve the standards and conform with the guidelines".

This decision is the final step in the GMA process, where changes to existing grazing management practices will be implemented. Issuing this decision will allow for significant progress to be made toward meeting Standards for Rangeland Health in NFMGMA, and is issued in compliance with the Southeastern Oregon Resource Management Plan (SEORMP) and Record of Decision of September 2002.

BACKGROUND

Consultation, cooperation, and coordination with both grazing permittees and the interested public are critical components of BLM's range health assessment and evaluation process. On numerous occasions, BLM has communicated with both groups on range health standards and GMA assessments, by way of mailed written materials, public meetings, and onsite visits within NFMGMA.

In 2000 and 2001, the NFMGMA interdisciplinary team used a variety of information sources and the professional judgment of members and senior staff specialists to conduct upland and riparian health assessments. The best available rangeland vegetation and soils maps were consulted and agency-approved technical references and methodology, including protocols outlined in BLM Manual H-4180-1, "Rangeland Health Standards", were used to arrive at conclusions about range health conditions. These assessments were used to determine if Oregon/Washington BLM's "Standards for Rangeland Health" were being met. The Oregon/Washington Rangeland Health Standards are as follows:

- Standard 1 – Watershed Function – Uplands: upland soils exhibit infiltration and permeability rates, moisture storage, and stability that are appropriate to soil, climate, and landform.
- Standard 2 – Watershed Function --Riparian/wetland areas: riparian-wetland areas are in properly functioning physical condition appropriate to soil, climate, and landform.
- Standard 3 – Ecological Processes –Uplands: healthy, productive and diverse plant and animal populations and communities appropriate to soil, climate, and landform are supported by ecological processes of nutrient cycling, energy flow, and the hydrologic cycle.
- Standard 4 – Water Quality: surface water and ground water quality, influenced by agency actions, complies with State water quality standards.
- Standard 5 – Native, Threatened and Endangered (T&E), and Locally Important Species: habitats support healthy, productive, and diverse populations and communities of native plants and animals (including special status species and species of local importance) appropriate to soil, climate, and landform.

As a result of the interdisciplinary team assessments within the NFMGMA, upland sites in 45 pastures within 11 allotments did not meet the Standards for Rangeland Health due to current livestock grazing. The assessments that were completed in riparian areas revealed that 29% of all riparian areas were rated at proper functioning condition (PFC), 36% functioning at risk with a trend of "not apparent", 7% functioning at risk with an upward trend, 18% functioning at risk with a downward trend, and 10% nonfunctioning.

The BLM and the NFMGMA grazing permittees initially met in 2002 and 2003 to establish short and long term solutions to areas that were not meeting standards. The short term solution that allowed for progress toward meeting the standards became the interim grazing strategy that some NFMGMA permittees have operated under since the 2002 and 2003 grazing season. In the fall of 2004, the IDT presented the formal findings of the assessments through Summaries and Determinations for the Standards of Rangeland Health to grazing permittees in NFMGMA, and members of the interested public. The long term solutions from the recommendations in the Determination Summaries were used to develop the preferred alternative that was proposed and analyzed in the attached NFMGMA Revised Environmental Assessment # OR-030-06-007. The other alternatives that were described and analyzed in this document were crafted by the BLM, in consultation, cooperation and coordination with members of the interested public. Each developed alternative was assessed and analyzed in the EA to determine if management objectives, as described in the SEORMP and Record of Decision, will be met by the actions proposed for the alternatives. The preferred alternative described in the EA will allow for attainment of all applicable Vale District BLM objectives found in Revised EA OR-030-06-007 and SEORMP ROD (2002). The applicable management objectives are consistent with and support the Oregon/Washington Standards for Rangeland Health. Existing grazing management (i.e. that occurring prior to the interim strategy) in most allotments will not meet the standards for rangeland health as described in the No-Action alternative of the EA.

PROPOSED DECISION

Therefore, it is my proposed decision to implement the preferred alternative described in the attached Revised Environmental Assessment (EA) # OR-030-06-007. This decision includes authorization of your livestock grazing use on the Chukar Park Allotment (# 00162) in your grazing permit for operator number 3603215 with a term of 10 years beginning in 2008 and expiring in 2018. This decision will maintain the Chukar Park Allotment in the Custodial category which according to the SORMP is management of a group of similar allotments with minimal expenditure of appropriated funds to continue protecting existing resource values. This type of management also includes conditions which state numbers and seasons of use are not defined, so long as unnecessary or undue damage to public land resources do not occur.

Chukar Park Allotment

The rangeland improvement project (1.0 mile of fence) described under separate NEPA analysis (EA No. OR-030-04-009) was constructed and will be maintained in accordance with 43 CFR §4120.3. The rangeland improvement project was constructed to provide a livestock barrier between BLM and adjacent private land in the Chukar Park Allotment. As a result of this project, and to improve resource conditions, the Chukar Park FFR North pasture will be rested for rested for 3 years (2006, 2007 and 2008) or until upland trends improve.

Your grazing authorization will not be modified from your existing term permit, which is as follows:

Allotment	Livestock		Grazing Period		AUMs
	Number	Kind	Begin	End	
00225 Chukar Park	81	Cattle	11/01	11/30	80

Total Preference AUMs = 81 (35 Active AUMs and 46 Suspended AUMs).

Other terms and conditions of your new term grazing permit will be:

- The season of use and numbers shown are for administrative purposes only. Seasons and numbers can vary from year to year and will not be restricted unless damage to public lands occurs.
- Annual payment of grazing fees is required prior to making grazing use in the Chukar Park Allotment.
- Grazing schedules for custodial allotments would remain as authorized in conjunction with private land so long as North Fork Malheur GMA management objectives continue to be met.
- Salt or supplements shall be placed at least ½ mile away from water sources and ¼ sage-grouse leks on public land.
- This permit is subject to modification as necessary to achieve compliance with the Standards for Rangeland Health and Guidelines for Livestock Management (43 CFR 4180).
- The Chukar Park FFR North pasture will be rested for 3 years (2006, 2007, and 2008) or until upland trends improve.
- Grazing use in the Chukar Park Allotment shall be in accordance with the signature of this decision which incorporates the preferred alternative in the North Fork Malheur Geographic Management Area EA # OR-030-06-007.

<u>Rangeland Improvement Maintenance Responsibility</u>
You will maintain the following rangeland improvement projects described below in accordance with 43 CFR 4120.3.

Chukar Park Allotment

Rangeland Improvement Number	Type**	Project Name	Location
512	Fence	China Rock Fence	T.20S., R.37E., Sec 28

It is expected that livestock grazing in the Chukar Park Allotment planned by this proposed decision, and outlined above, will be fully achievable once this Decision Record is implemented.

General NFMGMA Decisions

Wildlife and Wildlife Habitat and Special Status Animal Species
BLM will continue to monitor habitat conditions in NFMGMA, and ODFW will continue to monitor sage-grouse population status. Existing rangeland vegetation monitoring will be supplemented with appropriate additional studies in accordance with SEORMP ROD Monitoring Appendix W to document success or failure in meeting NFMGMA resource objectives.

Livestock salting and mineral supplement stations will be placed at least ¼ mile from sage grouse leks to avoid drawing livestock into centers of sage-grouse breeding activity.

Monitoring Methods and Adaptive Management in NFMGMA

BLM monitoring, as described in section 8 of the EA and Appendix W of the SEORMP ROD, may determine if authorized grazing use in NFMGMA results in attainment of the management objectives as described below.

Short-term Performance Evaluations
The proposed grazing system adopted in this decision may undergo periodic performance evaluation by BLMs IDT to determine if the short-term management objectives for NFMGMA are being met.

Monitoring methods shall be in accordance with approved BLM protocols identified in Appendix W of the SEORMP ROD.

Existing monitoring sites will continue to be used to evaluate management. New key monitoring sites will be selected by the IDT with the full knowledge of affected livestock permittees and interested publics.

Long-term Performance Evaluation
A long-term performance evaluation of this grazing system and its effects on resources shall be completed by the IDT prior to the 2018 expiration date of your new term grazing permit. Monitoring methods shall be in accordance with approved BLM protocols identified in Appendix W of the SEORMP ROD.

RATIONALE

Under the direction of the SEORMP, GMA assessments are an administrative mechanism by which BLM will make adjustments to authorized land uses. Based on the NFMGMA rangeland assessment findings of 2000 and 2001, construction of 1.0 miles of fence was needed in the Chukar Park allotment in order to resolve certain resource management conflicts. The rationale for this decision is based on the Standards of Rangeland Health and Guidelines for Livestock Management for Public Lands Administered by the Bureau of Land Management in the States of Oregon and Washington for pastures within the Chukar Park Allotment. These determinations were published in 2003 and 2004 and were in Appendix C of the Initial EA No. OR-030-06-007.

Where existing grazing management practices on public lands are significant factors in failing to achieve the standards for rangeland health and conform to the guidelines, BLM is taking action with this proposed decision as described in the preferred alternative in Revised EA No. OR-030-06-007 to move toward the attainment of SRH.

Chukar Park Allotment (#00225)

Methods of achieving standard 1 in the Chukar Park North FFR pasture within the Chukar Park Allotment included the construction of 1.0 mile of fence to prevent unauthorized livestock use from adjacent private land into the Chukar Park North FFR pasture under separate NEPA document (EA-OR-030-04-009), and through a livestock use agreement where the Chukar Park North FFR pasture will be rested for 3 years (2006, 2007 and 2008) or until upland trends improve.

AUTHORITY

The authority for this decision is contained in Title 43 of the Code of Federal Regulations (CFR) including and the following laws:
The Taylor Grazing Act
The Federal Land Management Act

4100.0-2 Objectives.
The objectives of these regulations are to promote healthy sustainable rangeland ecosystems; to accelerate restoration and improvement of public rangelands to properly functioning conditions; to promote the orderly use, improvement and development of the public lands; to establish efficient and effective administration of grazing of public rangelands; and to provide for the sustainability of the western livestock industry and communities that are dependent upon productive, healthy public rangelands. These objectives shall be realized in a manner that is consistent with land use plans, multiple use, sustained yield, environmental values, economic and other objectives stated in 43 CFR part 1720, subpart 1725; the Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315, 315a-315r); section 102 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740).

§4100.0-3 Authority.
(a) The Taylor Grazing Act of June 28, 1934 as amended (43 U.S.C. 315, 315a through 315r);
(b) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) as amended by the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.);
(c) Executive orders transfer land acquired under the Bankhead-Jones Farm Tenant Act of July 22, 1937, as amended (7 U.S.C. 1012), to the Secretary and authorize administration under the Taylor Grazing Act.
(e) The Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.); and
(f) Public land orders, Executive orders, and agreements authorize the Secretary to administer livestock grazing on specified lands under the Taylor Grazing Act or other authority as specified.

§4120.3-1 Conditions for 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 with the Bureau of Land Management or must have an approved range improvement permit.

(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.

§4130.2 Grazing permits or leases.

(a) Grazing permits or leases shall be issued to qualified applicants to authorize use on the public lands and other lands under the administration of the Bureau of Land Management that are designated as available for livestock grazing through land use plans. Permits or leases shall specify the types and levels of use authorized, including livestock grazing, suspended use, and conservation use. These grazing permits and leases shall also specify terms and conditions pursuant to §§4130.3, 4130.3-1, and 4130.3-2.

(b) The authorized officer shall consult, cooperate and coordinate with affected permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public prior to the issuance or renewal of grazing permits and leases.

(c) Grazing permits or leases convey no right, title, or interest held by the United States in any lands or resources.

(d) The term of grazing permits or leases authorizing livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management shall be 10 years.

Southeastern Oregon Resource Management Plan, Record of Decision and Final Environmental Impact Statement, September 2002.

RIGHT OF PROTEST AND/OR APPEAL

Any applicant, permittee, lessee or other interested publics may protest this proposed decision in accordance with 43 CFR § 4160.1 and § 4160.2, you are allowed fifteen (15) days from receipt of this notice to file such a protest with:

Field Manager
Malheur Resource Area
Vale District Bureau of Land Management
100 Oregon Street
Vale, Oregon 97918

A protest may be made in writing and should specify the reasons clearly and concisely as to why

you think the proposed decision is in error. Upon the timely filling of a protest, the authorized officer shall reconsider the proposed decision in light of the protestant's statement of reasons for protest and in light of other information pertinent to the case. At the conclusion of this review of the protest, the authorized officer shall serve a final decision on the protestant, or his agent, or both, and the interested public in accordance with 43 CFR § 4160.3 (b).

In the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice. 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. A period of 45 days from your receipt of the proposed decision is provided for filling an appeal and petition for stay of the decision pending final determination on appeal, as provided in 43 CFR § 4.470 and 43 CFR § 4160.4.

Any appeal should state clearly and concisely as to why the final decision is in error. All grounds of error not stated shall be considered waived, and no such waived ground of error may be presented at the hearing unless ordered or permitted by the administrative law judge. Any appeal should be submitted in writing to:

Field Manager
Malheur Resource Area
Vale District Bureau of Land Management
100 Oregon Street
Vale, Oregon 97918

Filing an appeal does not by itself stay the effectiveness of the final BLM decision. The appeal may be accompanied by a petition for a stay of the decision pending final determination on appeal, in accordance with 43 CFR § 4.471 and 4.479. Any request for a stay of the final decision in accordance with 43 CFR 4.21 must be filled with the appeal. In accordance with 43 CFR 4.21 (b) (1), a petition for a stay must show sufficient justification based on the following:

- The relative harm to the parties if the stay is granted or denied,
- The likelihood of the appellant’s success on the merits,
- The likelihood of immediate and irreparable harm if the stay is not granted, and
- Whether the public interest favors granting the stay.

Additionally, in accordance with 43 CFR § 4.471(b), within 15 days after filing the appeal and petition for a stay with the authorized officer, the appellant must also serve copies on:
1) all other person(s) named in the Copies sent to: section of this decision; and
2) the appropriate office of the Office of the Solicitor as follows, in accordance with 43 CFR § 4.413(a) and (c):

Office of the Solicitor
US Department of the Interior
Pacific NW Region
500 NE Multnomah, Suite 607
Portland, OR 97213

Finally, in accordance with 43 CFR 4.472(b), 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 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 respond, the person must serve copies on the appellant, the appropriate office of the Office of the Solicitor in accordance with Sec. 4.413(a) and (c), and any other person named in the decision.

Sincerely,

Pat Ryan
Field Manager
Malheur Resource Area

Copies sent to: (by certified mail)

[redacted]

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
100 Oregon Street
Vale, Oregon 97918
http://www.or.blm.gov/Vale

TAKE PRIDE IN AMERICA

IN REPLY REFER TO:
4100

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[redacted]

NOTICE OF THE FIELD MANAGER'S PROPOSED DECISION

Dear [redacted]

INTRODUCTION

Subsequent to the approval of revised BLM grazing regulations in 1995, BLM State Directors were assigned the task of developing state level rangeland health standards (Title 43 Code of Federal Regulations [CFR] 4180.2). The process of developing standards and defining standard indicators was conducted in consultation with BLM Resource Advisory Councils (RACs). The purpose for setting standards and identifying their indicators was to provide BLM with a rational basis for determining whether current management is meeting the Fundamentals of Rangeland Health as described under 43 CFR 4180.1.

On August 12, 1997, Interior Secretary Bruce Babbitt approved the Oregon/Washington BLM Standards and Guidelines for Rangeland Health (SRH). BLM field offices in Oregon/Washington were subsequently directed to conduct assessments and then use that assessment information to craft range health evaluations in relation to the state standards. These evaluations are conducted under an interdisciplinary team (IDT) concept where various resource specialists, representing the biological and physical sciences, are involved in the collection, review and analysis of available data.

In order to accomplish this assessment and evaluation workload and conform to the need for completing work on a watershed basis, Malheur Resource Area was divided into nine land based administrative units now referred to as Geographic Management Areas (GMAs). Based on multiple resource values and ongoing management issues needing resolution, the North Fork Malheur GMA (NFMGMA) was selected to be the second GMA to be assessed in Malheur Resource Area.

BLM regulations specify that "the authorized officer shall take appropriate action as soon as practicable but not later than the start of the next grazing year upon determining, through assessment or monitoring by experienced professionals and interdisciplinary teams, that a standard is not being achieved and that livestock are a significant contributing factor to the failure to achieve the standards and conform with the guidelines" (43 CFR 4180).

This decision is the final step in the GMA process, where changes to existing grazing management practices will be implemented. Issuing this decision will allow for significant progress to be made toward meeting Standards for Rangeland Health in NFMGMA, and is issued in compliance with the Southeastern Oregon Resource Management Plan (SEORMP) and Record of Decision of September 2002.

BACKGROUND

Consultation, cooperation, and coordination with both grazing permittees and the interested public are critical components of BLM's range health assessment and evaluation process. On numerous occasions, BLM has communicated with both groups on range health standards and GMA assessments, by way of mailed written materials, public meetings, and onsite visits within NFMGMA.

In 2000 and 2001, the NFMGMA interdisciplinary team used a variety of information sources and the professional judgment of members and senior staff specialists to conduct upland and riparian health assessments. The best available rangeland vegetation and soils maps were consulted and agency-approved technical references and methodology, including protocols outlined in BLM Manual H-4180-1, "Rangeland Health Standards", were used to arrive at conclusions about range health conditions. These assessments were used to determine if Oregon/Washington BLM's "Standards for Rangeland Health" were being met. The Oregon/Washington Rangeland Health Standards are as follows:

- Standard 1 – Watershed Function – Uplands: upland soils exhibit infiltration and permeability rates, moisture storage, and stability that are appropriate to soil, climate, and landform.
- Standard 2 – Watershed Function --Riparian/wetland areas: riparian-wetland areas are in properly functioning physical condition appropriate to soil, climate, and landform.
- Standard 3 – Ecological Processes –Uplands: healthy, productive and diverse plant and animal populations and communities appropriate to soil, climate, and landform are supported by ecological processes of nutrient cycling, energy flow, and the hydrologic cycle.
- Standard 4 – Water Quality: surface water and ground water quality, influenced by agency actions, complies with State water quality standards.
- Standard 5 – Native, Threatened and Endangered (T&E), and Locally Important Species: habitats support healthy, productive, and diverse populations and communities of native plants and animals (including special status species and species of local importance) appropriate to soil, climate, and landform.

As a result of the interdisciplinary team assessments within the NFMGMA, upland sites in 45 pastures within 11 allotments did not meet the Standards for Rangeland Health due to current livestock grazing. The assessments that were completed in riparian areas revealed that 29% of all riparian areas were rated at proper functioning condition (PFC), 36% functioning at risk with a trend of "not apparent", 7% functioning at risk with an upward trend, 18% functioning at risk with a downward trend, and 10% nonfunctioning.

The BLM and the NFMGMA grazing permittees initially met in 2002 and 2003 to establish short and long term solutions to areas that were not meeting standards. The short term solution that allowed for movement toward meeting the standards became the interim grazing strategy that some NFMGMA permittees have operated under since the 2002 and 2003 grazing season. In the fall of 2004, the IDT presented the formal findings of the assessments through Determination Summaries for the Standards of Rangeland Health to grazing permittees in NFMGMA, and members of the interested public. The long term solutions from recommendations in the Determination Summaries were used to develop the preferred alternative that was proposed in the NFMGMA and analyzed in the attached Revised Environmental Assessment # OR-030-06-007. The other alternatives that were described and analyzed in this document were crafted by the BLM, in consultation, cooperation and coordination with members of the interested public. Each developed alternative was assessed and analyzed in the EA to determine if management objectives, as described in the SEORMP and Record of Decision, will be met by the actions proposed for the alternatives. The preferred alternative described in the EA will allow for attainment of all applicable Vale District BLM objectives found in Revised EA OR-030-06-007 and SEORMP ROD (2002). The applicable management objectives are consistent with and support the Oregon/Washington Standards for Rangeland Health. Existing grazing management (i.e. that occurring prior to the interim strategy) will not meet the standards for rangeland health as described in the No-Action alternative of the EA.

PROPOSED DECISION

Therefore, it is my proposed decision to implement the proposed alternative described in the attached Environmental Assessment (EA) # OR-030-06-007. This decision includes authorization of your livestock grazing use on the Kivett (# 00133) and Squaw Butte (00233) Allotments in your grazing permit for operator number 3603038 with a term of 10 years beginning in 2008 and expiring in 2018. This decision will maintain the Kivett and Squaw Butte Allotments in the Custodial category which according to the SORMP is management of a group of similar allotments with minimal expenditure of appropriated funds to continue protecting existing resource values. This type of management also includes conditions which state numbers and seasons of use are not defined, so long as unnecessary or undue damage to public land resources do not occur.

Your grazing authorization will not be modified from your existing term permit, which is as follows:

Allotment	Livestock		Grazing Period		AUMs
	Number	Kind	Begin	End	
00133 Kivett Allotment	26	Cattle	04/01	04/30	26
00233 Squaw Butte Allotment	35	Cattle	10/01	10/31	36

Total Preference AUMs = 46 (26 Active AUMs and 20 Suspended AUMs) for Kivett.
Total Preference AUMS= 67(35 Active AUMs and 32 Suspended AUMs) for Squaw Butte.

Other terms and conditions of your new term grazing permit will be:

- Grazing use in Squaw Butte and Kivett Allotments shall be in accordance with the preferred alternative in the Revised EA # OR-030-06-007.

- The season of use and numbers shown are for administrative purposes only. Seasons and numbers can vary from year to year and will not be restricted unless damage to public lands occurs.
- Annual payment of grazing fees is required prior to making grazing use in the Kivett and Squaw Butte Allotment.
- Grazing schedules for custodial allotments would remain as authorized in conjunction with private land so long as North Fork Malheur GMA management objectives continue to be met.
- Salt or supplements shall be placed at least ½ mile away from water sources and ¼ sage-grouse leks on public land.
- This permit is subject to modification as necessary to achieve compliance with the Standards for Rangeland Health and Guidelines for Livestock Management (43 CFR 4180).

It is expected that livestock grazing in the Kivett and Squaw Butte Allotments planned by this proposed decision, and outlined above, will be fully achievable once this Decision Record has been implemented.

General NFMGMA Decisions

Wildlife and Wildlife Habitat and Special Status Animal Species
BLM will continue to monitor habitat conditions in NFMGMA, and Oregon Department of Fish and Wildlife will continue to monitor sage-grouse population status. Existing rangeland vegetation monitoring will be supplemented with appropriate additional studies in accordance with SEORMP ROD Monitoring Appendix W to document success or failure in meeting NFMGMA resource objectives.

Livestock salting and mineral supplement stations will be placed at least ¼ mile from sage grouse leks to avoid drawing livestock into centers of sage-grouse breeding activity.

Monitoring Methods and Adaptive Management in NFMGMA

BLM monitoring, as described in section 8 of the EA and Appendix W of the SEORMP ROD, may determine if authorized grazing use in NFMGMA results in attainment of the management objectives as described below.

Short-term Performance Evaluations
The proposed grazing system adopted in this decision may undergo periodic performance evaluation by BLMs IDT to determine if the short-term management objectives for NFMGMA are being met.

Existing monitoring sites will continue to be used to evaluate management. New key monitoring sites will be selected by the IDT with the full knowledge of affected livestock permittees and interested publics.

Long-term Performance Evaluation
A long-term performance evaluation of this grazing system and its effects on resources shall be completed by the IDT prior to the 2018 expiration date of your new term grazing permit. Monitoring methods shall be in accordance with approved BLM protocols identified in Appendix W of the SEORMP ROD.

RATIONALE

Under the direction of the SEORMP, GMA assessments are an administrative mechanism by which BLM will make adjustments to authorized land uses. Based on the NFMGMA rangeland assessment findings of 2000 and 2001, changes in livestock use are needed in NFMGMA grazing allotments in order to resolve certain resource management conflicts. The rationale for this decision is based on the Standards of Rangeland Health and Guidelines for Livestock Management for Public Lands Administered by the Bureau of Land Management in the States of Oregon and Washington for pastures within the Kivett and Squaw Butte Allotments. These determinations were published in 2003 and 2004 and were in Appendix C of the Initial EA No. OR-030-06-007.

Where existing grazing management practices on public lands are significant factors in failing to achieve the standards for rangeland health and conform to the guidelines, BLM is taking action with this proposed decision as described in the preferred alternative in Revised EA No. OR-030-06-007 to move toward the attainment of SRH.

Kivett Allotment (#00133)

Within the Kivett Allotment, all SRH were met. Since publication of the Determinations, major improvements have taken place in this allotment by fencing off the riparian vegetation along the Little Malheur River and aspen stands on private land. Current management would be expected to maintain resource conditions and provide forage for livestock as authorized in the existing permit.

Squaw Butte Allotment (#00233)

The SRH in the Squaw Butte Allotment were met. Current management would be expected to maintain resource conditions and provide forage for livestock as authorized in the existing permit.

AUTHORITY

The authority for this decision is contained in Title 43 of the Code of Federal Regulations (CFR) including and the following laws:
The Taylor Grazing Act
The Federal Land Management Act

4100.0-2 Objectives.
The objectives of these regulations are to promote healthy sustainable rangeland ecosystems; to accelerate restoration and improvement of public rangelands to properly functioning conditions; to promote the orderly use, improvement and development of the public lands; to establish

efficient and effective administration of grazing of public rangelands; and to provide for the sustainability of the western livestock industry and communities that are dependent upon productive, healthy public rangelands. These objectives shall be realized in a manner that is consistent with land use plans, multiple use, sustained yield, environmental values, economic and other objectives stated in 43 CFR part 1720, subpart 1725; the Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315, 315a-315r); section 102 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740).

§4100.0-3 Authority.

(a) The Taylor Grazing Act of June 28, 1934 as amended (43 U.S.C. 315, 315a through 315r);
(b) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) as amended by the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.);
(c) Executive orders transfer land acquired under the Bankhead-Jones Farm Tenant Act of July 22, 1937, as amended (7 U.S.C. 1012), to the Secretary and authorize administration under the Taylor Grazing Act.
(e) The Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.); and
(f) Public land orders, Executive orders, and agreements authorize the Secretary to administer livestock grazing on specified lands under the Taylor Grazing Act or other authority as specified.

§4130.2 Grazing permits or leases.

(a) Grazing permits or leases shall be issued to qualified applicants to authorize use on the public lands and other lands under the administration of the Bureau of Land Management that are designated as available for livestock grazing through land use plans. Permits or leases shall specify the types and levels of use authorized, including livestock grazing, suspended use, and conservation use. These grazing permits and leases shall also specify terms and conditions pursuant to §§4130.3, 4130.3-1, and 4130.3-2.
(b) The authorized officer shall consult, cooperate and coordinate with affected permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public prior to the issuance or renewal of grazing permits and leases.
(c) Grazing permits or leases convey no right, title, or interest held by the United States in any lands or resources.
(d) The term of grazing permits or leases authorizing livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management shall be 10 years.

Southeastern Oregon Resource Management Plan, Record of Decision and Final Environmental Impact Statement, September 2002.

RIGHT OF PROTEST AND/OR APPEAL

Any applicant, permittee, lessee or other interested publics may protest this proposed decision in accordance with 43 CFR § 4160.1 and § 4160.2, you are allowed fifteen (15) days from receipt of this notice to file such a protest with:

Field Manager
Malheur Resource Area
Vale District Bureau of Land Management
100 Oregon Street
Vale, Oregon 97918

A protest may be made in writing and should specify the reasons clearly and concisely as to why you think the proposed decision is in error. Upon the timely filling of a protest, the authorized officer shall reconsider the proposed decision in light of the protestant's statement of reasons for protest and in light of other information pertinent to the case. At the conclusion of this review of the protest, the authorized officer shall serve a final decision on the protestant, or his agent, or both, and the interested public in accordance with 43 CFR § 4160.3 (b).

In the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice. 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. A period of 45 days from your receipt of the proposed decision is provided for filling an appeal and petition for stay of the decision pending final determination on appeal, as provided in 43 CFR § 4.470 and 43 CFR § 4160.4.

Any appeal should state clearly and concisely as to why the final decision is in error. All grounds of error not stated shall be considered waived, and no such waived ground of error may be presented at the hearing unless ordered or permitted by the administrative law judge. Any appeal should be submitted in writing to:

Field Manager
Malheur Resource Area
Vale District Bureau of Land Management
100 Oregon Street
Vale, Oregon 97918

Filing an appeal does not by itself stay the effectiveness of the final BLM decision. The appeal may be accompanied by a petition for a stay of the decision pending final determination on appeal, in accordance with 43 CFR § 4.471 and 4.479. Any request for a stay of the final decision in accordance with 43 CFR 4.21 must be filled with the appeal. In accordance with 43 CFR 4.21 (b) (1), a petition for a stay must show sufficient justification based on the following:

- The relative harm to the parties if the stay is granted or denied,
- The likelihood of the appellant’s success on the merits,
- The likelihood of immediate and irreparable harm if the stay is not granted, and

- Whether the public interest favors granting the stay.

Additionally, in accordance with 43 CFR § 4.471(b), within 15 days after filing the appeal and petition for a stay with the authorized officer, the appellant must also serve copies on:
1) all other person(s) named in the Copies sent to: section of this decision; and
2) the appropriate office of the Office of the Solicitor as follows, in accordance with 43 CFR § 4.413(a) and (c):

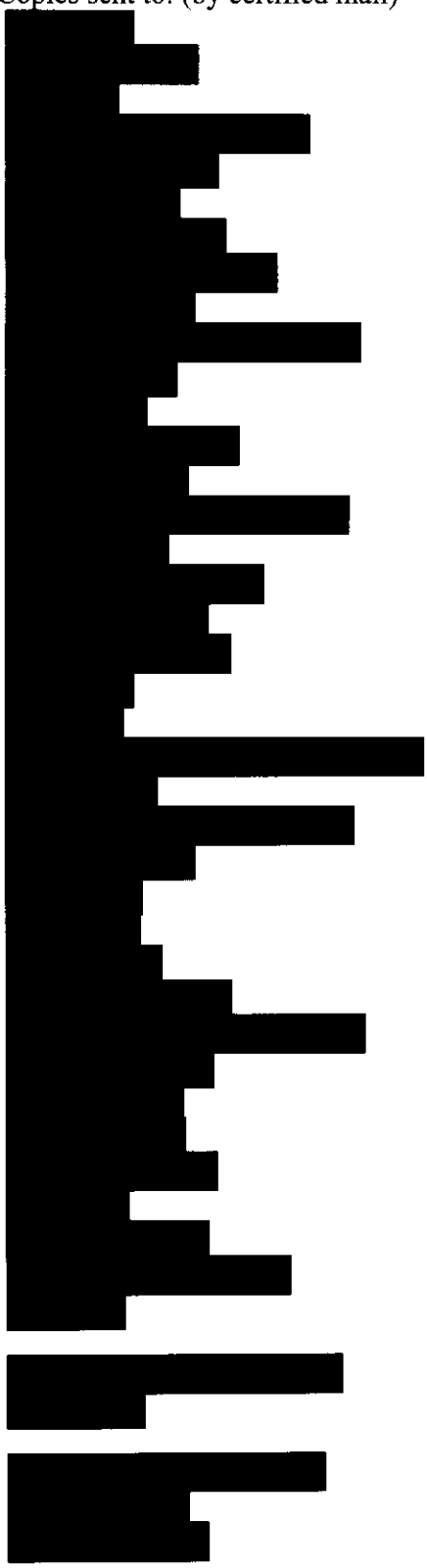
Office of the Solicitor
US Department of the Interior
Pacific NW Region
500 NE Multnomah, Suite 607
Portland, OR 97213

Finally, in accordance with 43 CFR 4.472(b), 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 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 respond, the person must serve copies on the appellant, the appropriate office of the Office of the Solicitor in accordance with Sec. 4.413(a) and (c), and any other person named in the decision.

Sincerely,

Pat Ryan
Field Manager
Malheur Resource Area

Copies sent to: (by certified mail)



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
100 Oregon Street
Vale, Oregon 97918
http://www.or.blm.gov/Vale

TAKE PRIDE IN AMERICA

IN REPLY REFER TO:
4100

SEP 0 4 2007

[redacted]

NOTICE OF THE FIELD MANAGER'S PROPOSED DECISION

Dear Mr. Wilber:

INTRODUCTION

Subsequent to the approval of revised BLM grazing regulations in 1995, BLM State Directors were assigned the task of developing state level rangeland health standards (Title 43 Code of Federal Regulations [CFR] 4180.2). The process of developing standards and defining standard indicators was conducted in consultation with BLM Resource Advisory Councils (RACs). The purpose for setting standards and identifying their indicators was to provide BLM with a rational basis for determining whether current management is meeting the Fundamentals of Rangeland Health as described under 43 CFR 4180.1.

On August 12, 1997, Interior Secretary Bruce Babbitt approved the Oregon/Washington BLM Standards and Guidelines for Rangeland Health (SRH). BLM field offices in Oregon/Washington were subsequently directed to conduct assessments and then use that assessment information to craft range health evaluations in relation to the state standards. These evaluations are conducted under an interdisciplinary team (IDT) concept where various resource specialists, representing the biological and physical sciences, are involved in the collection, review and analysis of available data.

In order to accomplish this assessment and evaluation workload and conform to the need for completing work on a watershed basis, Malheur Resource Area was divided into nine land based administrative units now referred to as Geographic Management Areas (GMAs). Based on multiple resource values and ongoing management issues needing resolution, the North Fork Malheur GMA (NFMGMA) was selected to be the second GMA to be assessed in Malheur Resource Area.

BLM regulations specify that "the authorized officer shall take appropriate action as soon as practicable but not later than the start of the next grazing year upon determining, through assessment or monitoring by experienced professionals and interdisciplinary teams, that a standard is not being achieved and that livestock are a significant contributing factor to the

failure to achieve the standards and conform with the guidelines" (43 CFR 4180).

This decision is the final step in the GMA process, where changes to existing grazing management practices will be implemented. Issuing this decision will allow for significant progress to be made toward meeting Standards for Rangeland Health in NFMGMA, and is issued in compliance with the Southeastern Oregon Resource Management Plan (SEORMP) and Record of Decision of September 2002.

BACKGROUND

Consultation, cooperation, and coordination with both grazing permittees and the interested public are critical components of BLM's range health assessment and evaluation process. On numerous occasions, BLM has communicated with both groups on range health standards and GMA assessments, by way of mailed written materials, public meetings, and onsite visits within NFMGMA.

In 2000 and 2001, the NFMGMA interdisciplinary team used a variety of information sources and the professional judgment of members and senior staff specialists to conduct upland and riparian health assessments. The best available rangeland vegetation and soils maps were consulted and agency-approved technical references and methodology, including protocols outlined in BLM Manual H-4180-1, "Rangeland Health Standards", were used to arrive at conclusions about range health conditions. These assessments were used to determine if Oregon/Washington BLM's "Standards for Rangeland Health" were being met. The Oregon/Washington Rangeland Health Standards are as follows:

- Standard 1 – Watershed Function – Uplands: upland soils exhibit infiltration and permeability rates, moisture storage, and stability that are appropriate to soil, climate, and landform.
- Standard 2 – Watershed Function --Riparian/wetland areas: riparian-wetland areas are in properly functioning physical condition appropriate to soil, climate, and landform.
- Standard 3 – Ecological Processes –Uplands: healthy, productive and diverse plant and animal populations and communities appropriate to soil, climate, and landform are supported by ecological processes of nutrient cycling, energy flow, and the hydrologic cycle.
- Standard 4 – Water Quality: surface water and ground water quality, influenced by agency actions, complies with State water quality standards.
- Standard 5 – Native, Threatened and Endangered (T&E), and Locally Important Species: habitats support healthy, productive, and diverse populations and communities of native plants and animals (including special status species and species of local importance) appropriate to soil, climate, and landform**.**

As a result of the interdisciplinary team assessments within the NFMGMA, upland sites in 45 pastures within 11 allotments did not meet the Standards for Rangeland Health due to current livestock grazing. The assessments that were completed in riparian areas revealed that 29% of all riparian areas were rated at proper functioning condition (PFC), 36% functioning at risk with a trend of "not apparent", 7% functioning at risk with an upward trend, 18% functioning at risk with a downward trend, and 10% nonfunctioning.

The BLM and the NFMGMA grazing permittees initially met in 2002 and 2003 to establish short and long term solutions to areas that were not meeting standards. The short term solution that allowed for progress toward meeting the standards became the interim grazing strategy that some NFMGMA permittees have operated under since the 2002 and 2003 grazing season. In the fall of 2004, the IDT presented the formal findings of the assessments through Summaries and Determinations for the Standards of Rangeland Health to grazing permittees in NFMGMA, and members of the interested public. The long term solutions from the recommendations in the Determination Summaries were used to develop the preferred alternative that was proposed and analyzed in the attached NFMGMA Revised Environmental Assessment # OR-030-06-007. The other alternatives that were described and analyzed in this document were crafted by the BLM, in consultation, cooperation and coordination with members of the interested public. Each developed alternative was assessed and analyzed in the EA to determine if management objectives, as described in the SEORMP and Record of Decision, will be met by the actions proposed for the alternatives. The preferred alternative described in the EA will allow for attainment of all applicable Vale District BLM objectives found in Revised EA OR-030-06-007 and SEORMP ROD (2002). The applicable management objectives are consistent with and support the Oregon/Washington Standards for Rangeland Health. Existing grazing management (i.e. that occurring prior to the interim strategy) in most allotments will not meet the standards for rangeland health as described in the No-Action alternative of the EA.

PROPOSED DECISION

Therefore, it is my proposed decision to implement the preferred alternative described in the attached Revised Environmental Assessment (EA) # OR-030-06-007. This decision includes authorization of your livestock grazing use on the Cottonwood Creek (# 00226) in your grazing permit for operator number 3603130 with a term of 10 years beginning in 2008 and expiring in 2018. This decision will maintain the Cottonwood Creek Allotment in the Custodial category which according to the SORMP is management of a group of similar allotments with minimal expenditure of appropriated funds to continue protecting existing resource values. This type of management also includes conditions which state numbers and seasons of use are not defined, so long as unnecessary or undue damage to public land resources do not occur.

The SRH determinations concluded that Standards 3 and 5 were not met, but were due to factors other than current livestock grazing. Major improvements have taken place in this allotment since the determinations were publicized by fencing off the riparian vegetation on private land. Current management would be expected to maintain resource conditions and provide forage for livestock as authorized in the existing permit.

Cottonwood Creek Allotment

Your grazing authorization will not be modified from your existing term permit, which is as follows:

Allotment	Livestock		Grazing Period		AUMs
	Number	Kind	Begin	End	
00226 Cottonwood Creek	17	Cattle	06/01	09/30	68

Total Preference AUMs = 192 (68 Active AUMs and 124 Suspended AUMs).

Other terms and conditions of your new term grazing permit will be:

- The season of use and numbers shown are for administrative purposes. Seasons and numbers can vary from year to year and will not be restricted unless damage to public lands occurs.
- Annual payment of grazing fees is required prior to making grazing use in the Cottonwood Creek Allotment.
- Grazing schedules for custodial allotments would remain as authorized in conjunction with private land so long as North Fork Malheur GMA management objectives continue to be met.
- Salt or supplements shall be placed at least ½ mile away from water sources and ¼ sage-grouse leks on public land.
- Grazing use in the Cottonwood Creek Allotment shall be in accordance with the signature of this decision which incorporates the preferred alternative in the North Fork Malheur Geographic Management Area EA # OR-030-06-007.
- This permit is subject to modification as necessary to achieve compliance with the Standards for Rangeland Health and Guidelines for Livestock Management (43 CFR 4180).

Rangeland Improvement Maintenance Responsibility

You will maintain the following rangeland improvement projects described below in accordance with 43 CFR 4120.3.

Cottonwood Creek Allotment

Rangeland Improvement Number	Type**	Project Name	Location
2642	Reservoirs	Pine Reservoir	T.17S., R.36E., Sec 30
726216	Reservoirs	Hardway Pit	T.17S., R.36E., Sec 30
726217	Reservoirs	Wrong Way Pit	T.17S., R.36E., Sec 30

It is expected that livestock grazing in the Cottonwood Creek Allotment planned by this proposed decision, and outlined above, will be fully achievable once the Decision Record has been implemented.

General NFMGMA Decisions

Wildlife and Wildlife Habitat and Special Status Animal Species
BLM will continue to monitor habitat conditions in NFMGMA, and ODFW will continue to monitor sage-grouse population status. Existing rangeland vegetation monitoring will be supplemented with appropriate additional studies in accordance with SEORMP ROD Monitoring Appendix W to document success or failure in meeting NFMGMA resource objectives.

Livestock salting and mineral supplement stations will be placed at least ¼ mile from sage grouse leks to avoid drawing livestock into centers of sage-grouse breeding activity.

Monitoring Methods and Adaptive Management in NFMGMA

BLM monitoring, as described in section 8 of the EA and Appendix W of the SEORMP ROD, may determine if authorized grazing use in NFMGMA results in attainment of the management objectives as described below.

Short-term Performance Evaluations
The proposed grazing system adopted in this decision may undergo periodic performance evaluation by BLMs IDT to determine if the short-term management objectives for NFMGMA are being met.

Monitoring methods shall be in accordance with approved BLM protocols identified in Appendix W of the SEORMP ROD.

Existing monitoring sites will continue to be used to evaluate management. New key monitoring sites will be selected by the IDT with the full knowledge of affected livestock permittees and interested publics.

Long-term Performance Evaluation
A long-term performance evaluation of this grazing system and its effects on resources shall be completed by the IDT prior to the 2018 expiration date of your new term grazing permit. Monitoring methods shall be in accordance with approved BLM protocols identified in Appendix W of the SEORMP ROD.

RATIONALE

Under the direction of the SEORMP, GMA assessments are an administrative mechanism by which BLM will make adjustments to authorized land uses. Based on the NFMGMA rangeland assessment findings of 2000 and 2001, no changes were required to graze livestock and meet resource needs The rationale for this decision is based on the Standards of Rangeland Health and Guidelines for Livestock Management for Public Lands Administered by the Bureau of Land Management in the States of Oregon and Washington for pastures within the Cottonwood Creek

Allotment. These determinations were published in 2003 and 2004 and were in Appendix C of the Initial EA No. OR-030-06-007.

The SRH determinations concluded that Standards 3 and 5 were not met, but were due to factors other than current livestock grazing. Major improvements have taken place in this allotment since the determinations were publicized by fencing off the riparian vegetation on private land. Current management would be expected to maintain resource conditions and provide forage for livestock as authorized in the existing permit.

AUTHORITY

The authority for this decision is contained in Title 43 of the Code of Federal Regulations (CFR) including and the following laws:
The Taylor Grazing Act
The Federal Land Management Act

4100.0-2 Objectives.
The objectives of these regulations are to promote healthy sustainable rangeland ecosystems; to accelerate restoration and improvement of public rangelands to properly functioning conditions; to promote the orderly use, improvement and development of the public lands; to establish efficient and effective administration of grazing of public rangelands; and to provide for the sustainability of the western livestock industry and communities that are dependent upon productive, healthy public rangelands. These objectives shall be realized in a manner that is consistent with land use plans, multiple use, sustained yield, environmental values, economic and other objectives stated in 43 CFR part 1720, subpart 1725; the Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315, 315a-315r); section 102 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740).

§4100.0-3 Authority.
(a) The Taylor Grazing Act of June 28, 1934 as amended (43 U.S.C. 315, 315a through 315r);
(b) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) as amended by the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.);
(c) Executive orders transfer land acquired under the Bankhead-Jones Farm Tenant Act of July 22, 1937, as amended (7 U.S.C. 1012), to the Secretary and authorize administration under the Taylor Grazing Act.
(e) The Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.); and
(f) Public land orders, Executive orders, and agreements authorize the Secretary to administer livestock grazing on specified lands under the Taylor Grazing Act or other authority as specified.

§4120.3-1 Conditions for 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 with the Bureau of Land Management or must have an approved range improvement permit.

(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.

§4130.2 Grazing permits or leases.
(a) Grazing permits or leases shall be issued to qualified applicants to authorize use on the public lands and other lands under the administration of the Bureau of Land Management that are designated as available for livestock grazing through land use plans. Permits or leases shall specify the types and levels of use authorized, including livestock grazing, suspended use, and conservation use. These grazing permits and leases shall also specify terms and conditions pursuant to §§4130.3, 4130.3-1, and 4130.3-2.
(b) The authorized officer shall consult, cooperate and coordinate with affected permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public prior to the issuance or renewal of grazing permits and leases.
(c) Grazing permits or leases convey no right, title, or interest held by the United States in any lands or resources.
(d) The term of grazing permits or leases authorizing livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management shall be 10 years.

Southeastern Oregon Resource Management Plan, Record of Decision and Final Environmental Impact Statement, September 2002.

RIGHT OF PROTEST AND/OR APPEAL

Any applicant, permittee, lessee or other interested publics may protest this proposed decision in accordance with 43 CFR § 4160.1 and § 4160.2, you are allowed fifteen (15) days from receipt of this notice to file such a protest with:

Field Manager
Malheur Resource Area
Vale District Bureau of Land Management
100 Oregon Street
Vale, Oregon 97918

A protest may be made in writing and should specify the reasons clearly and concisely as to why you think the proposed decision is in error. Upon the timely filling of a protest, the authorized officer shall reconsider the proposed decision in light of the protestant's statement of reasons for protest and in light of other information pertinent to the case. At the conclusion of this review of the protest, the authorized officer shall serve a final decision on the protestant, or his agent, or both, and the interested public in accordance with 43 CFR § 4160.3 (b).

In the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice. 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. A period of 45 days from your receipt of the proposed decision is provided for filling an appeal and petition for stay of the decision pending final determination on appeal, as provided in 43 CFR § 4.470 and 43 CFR § 4160.4.

Any appeal should state clearly and concisely as to why the final decision is in error. All grounds of error not stated shall be considered waived, and no such waived ground of error may be presented at the hearing unless ordered or permitted by the administrative law judge. Any appeal should be submitted in writing to:

Field Manager
Malheur Resource Area
Vale District Bureau of Land Management
100 Oregon Street
Vale, Oregon 97918

Filing an appeal does not by itself stay the effectiveness of the final BLM decision. The appeal may be accompanied by a petition for a stay of the decision pending final determination on appeal, in accordance with 43 CFR § 4.471 and 4.479. Any request for a stay of the final decision in accordance with 43 CFR 4.21 must be filled with the appeal. In accordance with 43 CFR 4.21 (b) (1), a petition for a stay must show sufficient justification based on the following:

- The relative harm to the parties if the stay is granted or denied,
- The likelihood of the appellant's success on the merits,
- The likelihood of immediate and irreparable harm if the stay is not granted, and
- Whether the public interest favors granting the stay.

Additionally, in accordance with 43 CFR § 4.471(b), within 15 days after filing the appeal and petition for a stay with the authorized officer, the appellant must also serve copies on:
1) all other person(s) named in the Copies sent to: section of this decision; and
2) the appropriate office of the Office of the Solicitor as follows, in accordance with 43 CFR § 4.413(a) and (c):

Office of the Solicitor
US Department of the Interior
Pacific NW Region
500 NE Multnomah, Suite 607
Portland, OR 97213

Finally, in accordance with 43 CFR 4.472(b), 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 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 respond, the person must serve copies on the appellant, the appropriate office of the Office of the Solicitor in accordance with Sec. 4.413(a) and (c), and any other person named in the decision.

Sincerely,

Pat Ryan
Field Manager
Malheur Resource Area

Copies sent to: (by certified mail)

[redacted]

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Vale District Office
100 Oregon Street
Vale, Oregon 97918

IN REPLY REFER TO:
4100, NFMGMA

[redacted]

FEB 0 1 2008

NOTICE OF THE FIELD MANAGER'S FINAL DECISION

Dear [redacted]

INTRODUCTION

Subsequent to the approval of revised BLM grazing regulations in 1995, BLM State Directors were assigned the task of developing state level rangeland health standards (Title 43 Code of Federal Regulations [CFR] 4180.2). The process of developing standards and defining standard indicators was conducted in consultation with BLM Resource Advisory Councils (RACs). The purpose for setting standards and identifying their indicators was to provide BLM with a rational basis for determining whether current management is meeting the Fundamentals of Rangeland Health as described under 43 CFR 4180.1.

On August 12, 1997, Interior Secretary Bruce Babbitt approved the Oregon/Washington BLM Standards and Guides for Rangeland Health (SRH). BLM field offices in Oregon/Washington were subsequently directed to conduct assessments and then use that assessment information to craft range health evaluations in relation to the state standards. These evaluations are conducted under an interdisciplinary team (IDT) concept where various resource specialists, representing the biological and physical sciences, are involved in the collection, review and analysis of available data.

In order to accomplish this assessment and evaluation workload and conform to the need for completing work on a watershed basis, Malheur Resource Area was divided into nine land based administrative units now referred to as Geographic Management Areas (GMAs). Based on multiple resource values and ongoing management issues needing resolution, the North Fork Malheur GMA (NFMGMA) was selected to be the second GMA to be assessed in Malheur Resource Area.

BLM regulations specify that "the authorized officer shall take appropriate action as soon as practicable but not later than the start of the next grazing year upon determining, through assessment or monitoring by experienced professionals and interdisciplinary teams, that a standard is not being achieved and that livestock are a significant contributing factor to the failure to achieve the standards and conform with the guidelines" (43 CFR 4180).

This decision is the final step in the GMA process, where changes to existing grazing management practices will be implemented. Issuing this decision will allow for significant progress to be made toward meeting Standards for Rangeland Health in NFMGMA, and is issued in compliance with the Southeastern Oregon Resource Management Plan (SEORMP) and Record of Decision of September 2002.

BACKGROUND

Consultation, cooperation, and coordination with both grazing permittees and the interested public are critical components of BLM's range health assessment and evaluation process. On numerous occasions, BLM has communicated with both groups on range health standards and GMA assessments, by way of mailed written materials, public meetings, and onsite visits within NFMGMA.

In 2000 and 2001, the NFMGMA interdisciplinary team used a variety of information sources and the professional judgment of members and senior staff specialists to conduct upland and riparian health assessments. The best available rangeland vegetation and soils maps were consulted and agency-approved technical references and methodology, including protocols outlined in BLM Manual H-4180-1, "Rangeland Health Standards", were used to arrive at conclusions about range health conditions. These assessments were used to determine if Oregon/Washington BLM's "Standards for Rangeland Health" were being met. The Oregon/Washington Rangeland Health Standards are as follows:

- Standard 1 – Watershed Function – Uplands: upland soils exhibit infiltration and permeability rates, moisture storage, and stability that are appropriate to soil, climate, and landform.
- Standard 2 – Watershed Function --Riparian/wetland areas: riparian-wetland areas are in properly functioning physical condition appropriate to soil, climate, and landform.
- Standard 3 – Ecological Processes –Uplands: healthy, productive and diverse plant and animal populations and communities appropriate to soil, climate, and landform are supported by ecological processes of nutrient cycling, energy flow, and the hydrologic cycle.
- Standard 4 – Water Quality: surface water and ground water quality, influenced by agency actions, complies with State water quality standards.
- Standard 5 – Native, Threatened and Endangered (T&E), and Locally Important Species: habitats support healthy, productive, and diverse populations and communities of native plants and animals (including special status species and species of local importance) appropriate to soil, climate, and landform.

As a result of the interdisciplinary team assessments within the NFMGMA, upland sites in 45 pastures within 11 allotments did not meet the Standards for Rangeland Health due to current livestock grazing. The assessments that were completed in riparian areas indicated 34 pastures within 11 allotments did not meet the Standards for Rangeland Health due to current livestock grazing.

Scaling down the assessment from the NFMGMA to the Beulah Reservoir Allotment, 1 of 4 pastures within the allotment did not meet the Standards for Rangeland Health for upland areas due to current livestock grazing. The assessments that were completed in riparian areas revealed that 2 of 4 pastures within the allotment did not meet Standards for Rangeland Health due to current livestock grazing.

The BLM and the NFMGMA grazing permittees initially met in 2002 and 2003 to establish short and long term solutions to areas that were not meeting standards. The short term solution that allowed for movement toward meeting the standards became the interim grazing strategy that some NFMGMA permittees have operated under since the 2002 and 2003 grazing season. In the fall of 2004, the Interdisciplinary Team presented the formal findings of the assessments through Determination Summaries for the Standards of Rangeland Health to grazing permittees in NFMGMA, and members of the interested public. The long term solutions from the recommendations in the Determination Summaries were used to develop the preferred alternative that was proposed and analyzed in the attached NFMGMA Revised Environmental Assessment # OR-030-06-007. The preferred alternative described in the EA will allow for attainment of all applicable Vale District BLM objectives found in Revised EA OR-030-06-007 and SEORMP ROD (2002). All alternatives that were described and analyzed in this document were designed by the BLM, in consultation, cooperation and coordination with members of the interested public. Each developed alternative was assessed and analyzed in the EA to determine if management objectives, as described in the SEORMP and Record of Decision, will be met by the actions proposed for the alternatives. The applicable management objectives are consistent with and support the Oregon/Washington Standards for Rangeland Health. Existing grazing management (i.e. that occurring prior to the interim strategy) will not meet the standards for rangeland health as described in the No-Action alternative of the EA.

In the summer of 2007, the IDT recommended the adoption of preferred alternative in the NFMGMA Revised Environmental Assessment # OR-030-06-007, which was sent to you in August with a copy of the Field Manager's Proposed Decision. Following the receipt of the proposed decision, protests were received from livestock permittees and other groups. The MRA IDT and I met with the majority of the protesters on November 27th, 2007 to discuss the protest points. The protests were reviewed, responded to (Attachment 1), and utilized as a resource in conjunction with information obtained from the November 27th, 2007 meeting and a January 15th, 2008 telephone conversation in designing the final grazing decision.

GRAZING MANAGEMENT PRACTICES

The evaluation has indicated that livestock grazing use is a causal factor in the failure to meet the upland and riparian rangeland health standard and thus upland and riparian improvement is necessary within NFMGMA. Because of this determination, BLM must now adjust the intensity (utilization) and season (timing) of grazing use in order to make substantial progress towards meeting the upland and riparian standards. BLM discussed the rationale for this action in the SEORMP ROD Appendix R "Effects of Intensity and Season of Grazing". BLM proposed actions for NFMGMA will promote that attainment of properly functioning upland and riparian systems and meet resource management objectives by employing the following monitoring methods and performance indicators.

To ensure that the proposed livestock grazing systems allow reproduction and improvement of woody riparian vegetation, a quantifiable key plant performance indicator based on the modified Cole Browse method would be utilized in pastures containing riparian/wetland areas. This performance indicator would be used to identify when excessive livestock browse on woody riparian vegetation is occurring and to trigger an appropriate management response. The permittee would be notified to remove livestock from any pasture if livestock concentration in riparian areas results in excessive use of woody vegetation. Grazing use will be considered excessive when >30% of the available leaders have been nipped or detached from woody riparian plants. This is referred to as livestock "incidence of use". It is estimated on the basis of the number of leaders that have been browsed and not on the percentage of annual growth removed. For example, on a willow plant with 100 stems, the performance indicator will be considered acceptable when fewer than 30 leaders have been clipped by livestock and big game combined. If browse on woody riparian vegetation exceeds this level, cattle would be removed from the pasture.

Riparian herbaceous stubble height measurements are a second tool or performance indicator that would be used to monitor riparian areas. Stubble height measurements will be used to determine the residual vegetation height of key species following a period of grazing. The measurements may be used two ways in conjunction with other monitoring techniques to determine when livestock should be moved from the riparian area. The first use would be during the grazing season to determine when livestock should be moved out of a pasture before excessive riparian damage occurs, and the second use would be at the end of the grazing season to determine whether changes to livestock grazing management are needed the following year. A performance indicator, not a standard, of 4 to 6 inches of stubble height vegetation would be used to indicate that livestock may need to be moved to prevent damage to riparian vegetation or streambanks. If riparian areas are in good condition or are continuing to improve in condition, this performance indicator may be adequate to prevent riparian damage, but other areas may require more residual herbaceous vegetation to protect the streambanks and improve riparian area conditions. The goal of this performance indicator is to provide a trigger to identify when established monitoring techniques should be completed to determine progress toward meeting management objectives in order for the riparian area to move in the desired direction.

The upland vegetation performance indicator that would be used to prevent excessive livestock use on perennial grass, forbs, and shrubs is average actual use based on the Landscape Appearance Method (Attachment 2). The Landscape Appearance Method is the approved protocol in the Vale District Monitoring Plan for annual monitoring of upland vegetation. The permittee would be notified to remove livestock from any pasture if livestock were exceeding the upland vegetation performance indicator for average actual use. Native pastures with upland concerns, including spring season grazing use (March through June), downward upland trends, and/ or within a two-mile radius of a known sage grouse lek, would be required to improve and/or maintain upland condition as noted in the preferred alternative of the North Fork Malheur Geographic Management Area EA # OR-030-06-007. These pastures would be monitored using upland performance indicators of 40% (maximum allowable utilization). Pastures that are grazed in the spring season of use would have a performance indicator of 40% (maximum allowable utilization), but on a deferred year (i.e. fall/ summer use) the performance indicator would be 50% (maximum allowable utilization) provided that they have a upward or static

upland trends and are outside of a two-mile radius of a known sage grouse lek.

FINAL DECISION

Therefore, it is my final decision to implement the preferred alternative described in the Revised Environmental Assessment (EA) # OR-030-06-007. This decision includes authorization of your livestock grazing use (operator #3603119) with a term of 10 years beginning in 2008 and expiring in 2018 for the Agency Mountain Allotment (# 00161). Additionally, it is my final decision to ratify new allotment grazing schedules, change the number of livestock, change a portion of the livestock class from cattle to sheep, and to implement new riparian and upland performance indicators.

Agency Mountain Allotment

The rangeland improvement projects (i.e. spring re-development and fence construction) described in Appendix D of Revised EA No. OR-030-06-007 will be authorized in accordance with 43 CFR §4120.3-4.

Your grazing authorization for the Agency Mountain Allotment will be modified from your existing term permit, which is as follows:

Allotment	Livestock		Grazing Period		AUMs
	Number	Kind	Begin	End	
00161 Agency Mountain	196	Cattle	04/01	10/31	1379

Your new grazing authorization, defined in the preferred alternative of the Revised NFMGMA EA (OR-030-06-007), for the Agency Mountain Allotment will be as follows:

Allotment	Livestock		Grazing Period		AUMs
	Number	Kind	Begin	End	
00161 Agency Mountain	225	Cattle	04/01	09/15	1243
	50	Cattle	09/16	10/31	77
	170	Sheep	04/01	05/15	50
	105	Sheep	10/01	10/15	10

Total Preference AUMs = 1380 (1380 Active AUMs and 0 Suspended AUMs).

Your new pasture rotation which is defined in the preferred alternative in the Revised EA OR-030-06-007, for the Agency Mountain Allotment will be as follows:

PASTURE	Year 1, Year4	Year 2	Year 3, Year 6	Year 5
South Agency Mountain	5/1-6/15 333AUM	9/16-10/31 76AUM	4/1-5/7 274AUM	4/1-5/1 229AUM
North Agency Mountain [a]	4/1-5/1 229AUM	4/1-5/1 229AUM	5/8-6/14 281 AUM	9/16-10/31 76AUM
Water Gulch	6/15-10/31 756AUM	5/19-9/15 880AUM	6/15-10/31 756AUM	5/19-9/15 880AUM
Orchard FFR	FFR	4/1-5/15 Sheep	FFR	4/1-5/15 Sheep
Reservoir Field/ Buelah FFR	4/1-5/15 Sheep	FFR	4/1-5/15 Sheep	FFR
Totals	1318AUM	1185AUM	1319AUM	1185AUM

(a) New pasture in the Agency Mountain Pasture as a result of a division fence
No cattle use would occur in Agency Mountain allotment in Years 2 and 5 from 5/2 to 5/18 for an estimated 133 AUMs of Non Use each year.

Other terms and conditions of your new term grazing permit will be:

- Grazing use in the Agency Mountain Allotment shall be in accordance with the above grazing authorization, grazing schedule, and with this signed decision which incorporates the preferred alternative in the Revised North Fork Malheur Geographic Management Area EA # OR-030-06-007. In emergency related situations such as drought or fire a new decision may dictate grazing use.
- Pastures with riparian resources would be required to improve and/or maintain riparian condition as noted in the preferred alternative of the Revised North Fork Malheur Geographic Management Area EA # OR-030-06-007. These pastures would be monitored using riparian performance indicators identified in the EA. The one pasture with riparian resources in the Agency Mountain Allotment is Agency Mountain.
- All other native pastures, i.e. those showing a static or upward trend, deferred use, and located outside of a two-mile radius of a known sage grouse lek, would be required to improve and/or maintain upland condition as noted in the preferred alternative of the Revised North Fork Malheur Geographic Management Area EA # OR-030-06-007. These pastures would be monitored using upland performance indicators identified in the EA. The two pasture that meets the above criteria in the Agency Mountain Allotment are Agency Mountain and Water Gulch.
- Upon reaching the maximum allowable performance indicators, livestock will be moved to the next pasture identified in the pasture rotation. If the next pasture is outside of the planned season of use, livestock will be removed from the allotment and will not return until the planned season of use. If the maximum allowable performance indicator is reached in the last pasture scheduled for use prior to the end of the identified use period, livestock will be removed from BLM public lands within the allotment. This annual monitoring requirement may result in shortened use periods for some or all pastures in years of decreased forage production, such as drought years. Additionally, this annual monitoring requirement may necessitate livestock to be removed from the allotment in the spring season of use and not return until the summer season of use.

- You shall provide BLM with a completed actual use record within 15 days of the close of the grazing season.
- Annual payment of grazing fees is required prior to making grazing use in the Agency Mountain Allotment.
- Adjustments in livestock numbers or any other changes from your normal grazing schedule must be approved in advance by the authorized officer.
- Salt or supplements shall be placed at least ½ mile away from water/riparian resources and ¼ mile away from sage-grouse leks on public land.
- This permit is subject to modification as necessary to achieve compliance with the Standards for Rangeland Health and Guidelines for Livestock Management (43 CFR 4180).
- For ease of operation, four days of flexibility in turn-out/gathering would be allowed in each pasture identified in a grazing schedule, for a maximum of 8 days.

Rangeland Improvement Maintenance Responsibility
You will maintain the following rangeland improvement projects described below in accordance with 43 CFR 4120.3-4.

Agency Mountain Allotment

Rangeland Improvement Number	Project Name	Type	Location
724254	Cricket Spring	Spring	T.19S., R.37E., Sec 14 SWSW
724760	Robertson Division Fence	Fence	T.19S., R.37E., Sec 08 NENW
724958	T J and C Boundary Fence	Fence	T.19S., R.37E., Sec 06 NWNW
725123	Agency Spring	Spring	T.19S., R.37E., Sec 04 NESW
726194	Lost Elk Reservoir	Reservoir	T.19S., R.37E., Sec 08 SESW
720847	Stemler Ridge Division Fence	Fence	T.20S., R.37E. Sec 13 NWSE
721282	Adobe Reservoir	Reservoir	T.20S., R.38E., Sec 29 NENW
721774	Dugout Reservoir	Reservoir	T.20S., R.37E., Sec 25 NESE
724280	Horseshoe Bend Reservoir	Reservoir	T.20S., R.38E., Sec 33 NWNW
725141	West Juniper Fence	Fence	T.20S., R.37E., Sec 23 SESE
726098	Malheur River Stream Excl	Fence	T.21S., R.38E., Sec 03 SW

General NFMGMA Decisions
Within the NFMGMA, grazing management will be conducted in accordance with the following mitigating measures which were identified in the Revised NFMGMA EA:

Rangeland Vegetation
Appendix S of the SEORMP ROD (Standard Implementation Features and Procedures for Rangeland Improvements) will be adhered to.

Special Status Plant Species
Special status plant surveys will be conducted prior to all surface disturbing activities and project installations. Project location adjustments necessary to avoid site specific adverse impacts to special status plants will be accommodated.

Water Resources and Riparian/Wetlands and Aquatic Species and Habitats
Project development in riparian/wetland areas will follow SEORMP ROD Appendix O (Best Management Practices) criteria to minimize disturbance and maximize potential for project success.
Adequate buffer distances will be implemented to protect riparian areas and stream channels from potential erosional impacts from construction of fences.

Wildlife and Wildlife Habitat and Special Status Animal Species
BLM will continue to monitor habitat conditions in NFMGMA, and Oregon Department of Fish and Wildlife will continue to monitor sage-grouse population status. Existing rangeland vegetation monitoring will be supplemented with appropriate additional studies in accordance with SEORMP ROD Monitoring Appendix W to document success or failure in meeting NFMGMA resource objectives.

New livestock management fences will be located at least 0.6 miles from sage grouse leks according to BLM management guidelines.

Livestock salting and mineral supplement stations will be placed at least ¼ mile from sage grouse leks to avoid drawing livestock into centers of sage-grouse breeding activity.

Livestock management fences will be constructed in a way that allows for freedom of movement for elk, mule deer, and pronghorn and minimizes potential for injury or mortality. In accordance with BLM Manual Handbook H-1741-1, interior allotment fences will conform to the following material and spacing requirements; top strand – barbed wire - no higher than 38", second strand – barbed wire at 26", bottom strand – smooth wire at 16".

New fencing will be flagged temporarily to help diminish incidence of wildlife fence collisions.

Wildlife escape ramps will be installed by the BLM in new and existing livestock water tanks to minimize potential for sage-grouse and other small animal drowning mortalities.

Rangeland/Grazing Use Management
For ease of operation, four days of flexibility in turn-out/gathering would be allowed in each pasture identified in a grazing schedule for a maximum of 8 days. This flexibility would allow for changes in use dates to accommodate for climatic conditions or the reaching of the maximum allowable utilization within a pasture. Move dates outside of the four-day allowance would be considered by BLM staff at the time of the request. Flexibility in livestock move dates will be allowed as long as the adjustments will result in the attainment of SEORMP resource management objectives.

Cultural Resources
Cultural resource surveys will be conducted prior to all surface disturbing activities and project installations. Project location adjustments necessary to avoid site specific adverse impacts to cultural resources will be accommodated.

Monitoring Methods and Adaptive Management in NFMGMA
BLM monitoring, as described in section 8 of the EA and Appendix W of the SEORMP ROD, shall determine if authorized grazing use in NFMGMA results in attainment of the management objectives as described below.

Short-term Performance Evaluations
Monitoring methods shall be in accordance with approved BLM policy and protocols.

Existing monitoring sites will continue to be used to evaluate management. New key monitoring sites will be selected by the IDT in consultation and coordination with affected livestock permittees and the interested public.

Unforeseeable circumstances such as drought, fire, or law enforcement issues which may confound planned grazing activities may cause BLM to craft a new decision and associated NEPA analysis.

Long-term Performance Evaluation
The grazing system adopted in this decision may undergo periodic performance evaluation by BLM's IDT if performance indicators are consistently not met for NFMGMA. Prior to the 2018 expiration date of your new term grazing permit, a long-term evaluation of grazing system performance will be conducted.

Monitoring methods shall be in accordance with approved BLM policy and protocols.

RATIONALE

Under the direction of the SEORMP, GMA assessments are an administrative mechanism by which BLM will make adjustments to authorized land uses. Based on the NFMGMA rangeland assessment findings of 2000 and 2001, changes in livestock use are needed in NFMGMA grazing allotments in order to resolve certain resource management conflicts. The rationale for this decision is based on the Standards of Rangeland Health and Guidelines for Livestock Management for Public Lands Administered by the Bureau of Land Management in the States of Oregon and Washington for pastures within the Agency Mountain Allotment. These determinations were published in 2003 and 2004 and were in Appendix C of the Initial EA No. OR-030-06-007.

Where existing grazing management practices on public lands are significant factors in failing to achieve the standards for rangeland health and conform to the guidelines, BLM is taking action with this final decision as described in the preferred alternative in Revised EA No. OR-030-06-007 to move toward the attainment of Standards.

Methods of achieving the SRH in the uplands of the Agency Mountain Allotment includes the following: (1) implementation of a grazing system that provides deferred rotation grazing limiting use during the critical growing season of key perennial herbaceous species, (2) construction of the Agency Mountain Pasture division fence, which will allow for deferred rotation grazing and (3) ratification of new upland performance indicators for key upland species, which may contribute to improving upland health when used as management guides. Pasture(s) for which these methods apply include the following: Agency Mountain. The upland growing season for this allotment typically ends on 6/15 in most years.

Methods of achieving the SRH in the riparian areas of the Agency Mountain Allotment include the following: (1) implementation of a grazing system that provides cool season use in riparian areas, (2) reconstruction of spring developments that allows for protection of the spring sources, (3) changing a portion of the class of livestock from cattle to sheep to allow for improved distribution, and (4) ratification of riparian performance indicators for riparian vegetation which may contribute to improving riparian health when used as management guides. Cool season use is the most optimal time to graze a pasture with riparian areas as the livestock are more likely to distribute farther away from and the riparian area at this time. Livestock drink less water in the cool season versus the hot season which tends to result in less time that livestock spend on a stream and/ or spring source. The nutritional components of riparian vegetation and upland vegetation is most similar during the cool season versus the hot season which tends to result in less time that livestock spend in a riparian area. Pastures for which these methods apply include the following: Agency Mountain and Reservoir Field.

Previous analysis of the Agency Mountain Allotment indicated that the Agency Mountain pasture was at or near maximum allowable carrying capacity and that to shift grazing intensity (AUMs/acre) or increase AUMs above a planned grazing schedule amount may cause the pasture(s) to not meet the Standards and Guidelines for Livestock Management. Based on this analysis for the Agency Mountain pasture, the BLM IDT determined that either a late season deferment period 2 out of 6 years or a period of non use 2 out of 6 years coupled with early spring use 2 out of 6 years was necessary in order to provide crucial deferment to allow the Agency Mountain Allotment to progress toward meeting SRH. Following several meetings/ discussions between your authorized representative and the BLM IDT it was decided that a combination of non-use, early spring use, and deferment would be the best way to achieve the SRH in the riparian and upland areas. Therefore, no cattle use would occur in Agency Mountain allotment in Years 2 and 5 from 5/2 to 5/19 for an estimated 133 AUMs of Non Use each year.

AUTHORITY

The authority for this decision is contained in Title 43 of the Code of Federal Regulations (CFR) including and the following laws:
The Taylor Grazing Act
The Federal Land Management Act

4100.0-2 Objectives.
The objectives of these regulations are to promote healthy sustainable rangeland ecosystems; to accelerate restoration and improvement of public rangelands to properly functioning conditions; to promote the orderly use, improvement and development of the public lands; to establish

efficient and effective administration of grazing of public rangelands; and to provide for the sustainability of the western livestock industry and communities that are dependent upon productive, healthy public rangelands. These objectives shall be realized in a manner that is consistent with land use plans, multiple use, sustained yield, environmental values, economic and other objectives stated in 43 CFR part 1720, subpart 1725; the Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315, 315a-315r); section 102 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740).

§4100.0-3 Authority.

(a) The Taylor Grazing Act of June 28, 1934 as amended (43 U.S.C. 315, 315a through 315r);
(b) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) as amended by the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.);
(c) Executive orders transfer land acquired under the Bankhead-Jones Farm Tenant Act of July 22, 1937, as amended (7 U.S.C. 1012), to the Secretary and authorize administration under the Taylor Grazing Act.
(e) The Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.); and
(f) Public land orders, Executive orders, and agreements authorize the Secretary to administer livestock grazing on specified lands under the Taylor Grazing Act or other authority as specified.

§4100.0-8 Land use plans.

The authorized officer shall manage livestock grazing on public lands under the principle of multiple use and sustained yield, and in accordance with applicable land use plans. Land use plans shall establish allowable resource uses (either singly or in combination), related levels of production or use to be maintained, areas of use, and resource condition goals and objectives to be obtained. The plans also set forth program constraints and general management practices needed to achieve management objectives. Livestock grazing activities and management actions approved by the authorized officer shall be in conformance with the land use plan as defined at 43 CFR 1601.0-5(b).

§4110.2-4 Allotments.

After consultation, cooperation, and coordination with the affected grazing permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public, the authorized officer may designate and adjust grazing allotment boundaries. The authorized officer may combine or divide allotments, through an agreement or by decision, when necessary for the proper and efficient management of public rangelands.

§4110.3 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.

§4120.2 Allotment management plans and resource activity plans.
Allotment management plans or other activity plans intended to serve as the functional equivalent of allotment management plans may be developed by permittees or lessees, other Federal or State resource management agencies, interested citizens, and the Bureau of Land Management. When such plans affecting the administration of grazing allotments are developed, the following provisions apply:

(a) An allotment management plan or other activity plans intended to serve as the functional equivalent of allotment management plans shall be prepared in careful and considered consultation, cooperation, and coordination with affected permittees or lessees, landowners involved, the resource advisory council, any State having lands or responsible for managing resources within the area to be covered by such a plan, and the interested public. The plan shall become effective upon approval by the authorized officer. The plans shall --

(1) Include terms and conditions under §§4130.3, 4130.3-1, 4130.3-2 4130.3-3, and subpart 4180 of this part;

(2) Prescribe the livestock grazing practices necessary to meet specific resource objectives;

(c) The authorized officer shall provide opportunity for public participation in the planning and environmental analysis of proposed plans affecting the administration of grazing and shall give public notice concerning the availability of environmental documents prepared as a part of the development of such plans, prior to implementing the plans. The decision document following the environmental analysis shall be considered the proposed decision for the purposes of subpart 4160 of this part.

(d) A requirement to conform with completed allotment management plans or other applicable activity plans intended to serve as the functional equivalent of allotment management plans shall be incorporated into the terms and conditions of the grazing permit or lease for the allotment.

(e) Allotment management plans or other applicable activity plans intended to serve as the functional equivalent of allotment management plans may be revised or terminated by the authorized officer after consultation, cooperation, and coordination with the affected permittees or lessees, landowners involved, the resource advisory council, any State having lands or responsible for managing resources within the area to be covered by the plan, and the interested public.

§4120.3-1 Conditions for 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 with the Bureau of Land Management or must have an approved range improvement permit.

(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.

§4130.2 Grazing permits or leases.

(a) Grazing permits or leases shall be issued to qualified applicants to authorize use on the public lands and other lands under the administration of the Bureau of Land Management that are designated as available for livestock grazing through land use plans. Permits or leases shall specify the types and levels of use authorized, including livestock grazing, suspended use, and conservation use. These grazing permits and leases shall also specify terms and conditions pursuant to §§4130.3, 4130.3-1, and 4130.3-2.

(b) The authorized officer shall consult, cooperate and coordinate with affected permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public prior to the issuance or renewal of grazing permits and leases.

(c) Grazing permits or leases convey no right, title, or interest held by the United States in any lands or resources.

(d) The term of grazing permits or leases authorizing livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management shall be 10 years.

§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.

§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 term or condition of the permit or lease.

(c) Permits and leases shall incorporate terms and conditions that ensure conformance with subpart 4180 of this part.

§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 range management or assist in the orderly administration of the public rangelands. These may include but are not limited to:

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

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

§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 officer 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.

§4160.3 Final decisions.

(a) In the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice unless otherwise provided in the proposed decision.

§4180.1 Fundamentals of rangeland health.

The authorized officer shall take appropriate action under subparts 4110, 4120, 4130, and 4160 of this part as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management needs to be modified to ensure that the following conditions exist.

(a) Watersheds are in, or are making significant progress toward, properly functioning physical condition, including their upland, riparian-wetland, and aquatic components; soil and plant conditions support infiltration, soil moisture storage, and the release of water that are in balance with climate and landform and maintain or improve water quality, water quantity, and timing and duration of flow.

(b) Ecological processes, including the hydrologic cycle, nutrient cycle, and energy flow, are maintained, or there is significant progress toward their attainment, in order to support healthy biotic populations and communities.

(c) Water quality complies with State water quality standards and achieves, or is making significant progress toward achieving, established BLM management objectives such as meeting wildlife needs.

(d) Habitats are, or are making significant progress toward being, restored or maintained for Federal threatened and endangered species, Federal Proposed, Category 1 and 2 Federal candidate and other special status species.

§4180.2 Standards and guidelines for grazing administration.

(c) The authorized officer shall take appropriate action as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management practices or levels of grazing use on public lands are significant factors in failing to achieve the standards and conform with the guidelines that are made effective under this section. Appropriate action means implementing actions pursuant to subparts 4110, 4120, 4130, and 4160 of this part that will result in significant progress toward fulfillment of the standards and significant progress toward conformance with the guidelines. Practices and activities subject to standards and guidelines include the development of grazing-related portions of activity plans, establishment of terms and conditions of permits, leases and other grazing

authorizations, and range improvement activities such as vegetation manipulation, fence construction and development of water.

(e) At a minimum, State or regional guidelines developed under paragraphs (a) and (b) of this section must address the following:

(1) Maintaining or promoting adequate amounts of vegetative ground cover, including standing plant material and litter, to support infiltration, maintain soil moisture storage, and stabilize soils;

(2) Maintaining or promoting subsurface soil conditions that support permeability rates appropriate to climate and soils;

(3) Maintaining, improving or restoring riparian-wetland functions including energy dissipation, sediment capture, groundwater recharge, and stream bank stability;

(4) Maintaining or promoting stream channel morphology (e.g., gradient, width/depth ratio, channel roughness and sinuosity) and functions appropriate to climate and landform;

(5) Maintaining or promoting the appropriate kinds and amounts of soil organisms, plants and animals to support the hydrologic cycle, nutrient cycle, and energy flow;

(6) Promoting the opportunity for seedling establishment of appropriate plant species when climatic conditions and space allow;

(7) Maintaining, restoring or enhancing water quality to meet management objectives, such as meeting wildlife needs;

(8) Restoring, maintaining or enhancing habitats to assist in the recovery of Federal threatened and endangered species;

(9) Restoring, maintaining or enhancing habitats of Federal Proposed, Category 1 and 2 Federal candidate, and other special status species to promote their conservation;

(10) Maintaining or promoting the physical and biological conditions to sustain native populations and communities;

(11) Emphasizing native species in the support of ecological function;

Southeastern Oregon Resource Management Plan, Record of Decision and Final Environmental Impact Statement, September 2002.

RIGHT OF STAY AND/OR APPEAL

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. A period of 30 days from your receipt of the final decision is provided for filling an appeal and petition for stay of the decision pending final determination on appeal, as provided in 43 CFR § 4.470 and 43 CFR § 4160.4.

Any appeal should state clearly and concisely as to why the final decision is in error. All grounds of error not stated shall be considered waived, and no such waived ground of error may be presented at the hearing unless ordered or permitted by the administrative law judge.

Any appeal should be submitted in writing to:

Field Manager
Malheur Resource Area
Vale District Bureau of Land Management
100 Oregon Street
Vale, Oregon 97918

Filing an appeal does not by itself stay the effectiveness of the final BLM decision. The appeal may be accompanied by a petition for a stay of the decision pending final determination on appeal, in accordance with 43 CFR § 4.471 and 4.479. Any request for a stay of the final decision in accordance with 43 CFR § 4.21 must be filled with the appeal. In accordance with 43 CFR § 4.21 (b) (1), a petition for a stay must show sufficient justification based on the following:

- The relative harm to the parties if the stay is granted or denied,
- The likelihood of the appellant's success on the merits,
- The likelihood of immediate and irreparable harm if the stay is not granted, and
- Whether the public interest favors granting the stay.

Additionally, in accordance with 43 CFR § 4.471(b), within 15 days after filing the appeal and petition for a stay with the authorized officer, the appellant must also serve copies on:
1) all other person(s) named in the Copies sent to: section of this decision; and
2) the appropriate office of the Office of the Solicitor as follows, in accordance with 43 CFR § 4.413(a) and (c):

Office of the Solicitor
US Department of the Interior
Pacific NW Region
500 NE Multnomah, Suite 607
Portland, OR 97213

Finally, in accordance with 43 CFR 4.472(b), 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 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 respond, the person must serve copies on the appellant, the appropriate office of the Office of the Solicitor in accordance with Sec. 4.413(a) and (c), and any other person named in the decision.

Sincerely,

Pat Ryan
Field Manager
Malheur Resource Area

Copies sent to: (by certified mail)

[redacted]

Courtesy copies sent to:

[redacted]

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Vale District Office
100 Oregon Street
Vale, Oregon 97918

IN REPLY REFER TO:
4100, NFMGMA

FEB 0 1 2008

[redacted]

NOTICE OF THE FIELD MANAGER'S FINAL DECISION

Dear [redacted]

INTRODUCTION

Subsequent to the approval of revised BLM grazing regulations in 1995, BLM State Directors were assigned the task of developing state level rangeland health standards (Title 43 Code of Federal Regulations [CFR] 4180.2). The process of developing standards and defining standard indicators was conducted in consultation with BLM Resource Advisory Councils (RACs). The purpose for setting standards and identifying their indicators was to provide BLM with a rational basis for determining whether current management is meeting the Fundamentals of Rangeland Health as described under 43 CFR 4180.1.

On August 12, 1997, Interior Secretary Bruce Babbitt approved the Oregon/Washington BLM Standards and Guidelines for Rangeland Health (SRH). BLM field offices in Oregon/Washington were subsequently directed to conduct assessments and then use that assessment information to craft range health evaluations in relation to the state standards. These evaluations are conducted under an interdisciplinary team (IDT) concept where various resource specialists, representing the biological and physical sciences, are involved in the collection, review and analysis of available data.

In order to accomplish this assessment and evaluation workload and conform to the need for completing work on a watershed basis, Malheur Resource Area was divided into nine land based administrative units now referred to as Geographic Management Areas (GMAs). Based on multiple resource values and ongoing management issues needing resolution, the North Fork Malheur GMA (NFMGMA) was selected to be the second GMA to be assessed in Malheur Resource Area.

BLM regulations specify that "the authorized officer shall take appropriate action as soon as practicable but not later than the start of the next grazing year upon determining, through assessment or monitoring by experienced professionals and interdisciplinary teams, that a standard is not being achieved and that livestock are a significant contributing factor to the failure to achieve the standards and conform with the guidelines".

This decision is the final step in the GMA process, where changes to existing grazing management practices will be implemented. Issuing this decision will allow for significant

progress to be made toward meeting Standards for Rangeland Health in NFMGMA, and is issued in compliance with the Southeastern Oregon Resource Management Plan (SEORMP) and Record of Decision of September 2002.

BACKGROUND

Consultation, cooperation, and coordination with both grazing permittees and the interested public are critical components of BLM's range health assessment and evaluation process. On numerous occasions, BLM has communicated with both groups on range health standards and GMA assessments, by way of mailed written materials, public meetings, and onsite visits within NFMGMA.

In 2000 and 2001, the NFMGMA interdisciplinary team used a variety of information sources and the professional judgment of members and senior staff specialists to conduct upland and riparian health assessments. The best available rangeland vegetation and soils maps were consulted and agency-approved technical references and methodology, including protocols outlined in BLM Manual H-4180-1, "Rangeland Health Standards", were used to arrive at conclusions about range health conditions. These assessments were used to determine if Oregon/Washington BLM's "Standards for Rangeland Health" were being met. The Oregon/Washington Rangeland Health Standards are as follows:

- Standard 1 – Watershed Function – Uplands: upland soils exhibit infiltration and permeability rates, moisture storage, and stability that are appropriate to soil, climate, and landform.
- Standard 2 – Watershed Function --Riparian/wetland areas: riparian-wetland areas are in properly functioning physical condition appropriate to soil, climate, and landform.
- Standard 3 – Ecological Processes –Uplands: healthy, productive and diverse plant and animal populations and communities appropriate to soil, climate, and landform are supported by ecological processes of nutrient cycling, energy flow, and the hydrologic cycle.
- Standard 4 – Water Quality: surface water and ground water quality, influenced by agency actions, complies with State water quality standards.
- Standard 5 – Native, Threatened and Endangered (T&E), and Locally Important Species: habitats support healthy, productive, and diverse populations and communities of native plants and animals (including special status species and species of local importance) appropriate to soil, climate, and landform.

As a result of the interdisciplinary team assessments within the NFMGMA, upland sites in 45 pastures within 11 allotments did not meet the Standards for Rangeland Health due to current livestock grazing. The assessments that were completed in riparian areas indicated 34 pastures within 11 allotments did not meet the Standards for Rangeland Health due to current livestock grazing.

Scaling down the assessment from the NFMGMA to the Calf Creek Allotment, 6 of 8 pastures within the allotment did not meet the upland Standards for Rangeland Health due to current livestock grazing. The assessments that were completed in riparian areas revealed that riparian areas in 6 of 8 pastures within the allotment did not meet Standards for Rangeland Health due to current livestock grazing.

The BLM and the NFMGMA grazing permittees initially met in 2002 and 2003 to establish short and long term solutions to areas that were not meeting standards. The short term solution that allowed for progress toward meeting the standards became the interim grazing strategy that some NFMGMA permittees have operated under since the 2002 and 2003 grazing season. In the fall of 2004, the IDT presented the formal findings of the assessments through Summaries and Determinations for the Standards of Rangeland Health to grazing permittees in NFMGMA, and members of the interested public. The long term solutions from the recommendations in the Determination Summaries were used to develop the preferred alternative that was proposed and analyzed in the NFMGMA Revised Environmental Assessment # OR-030-06-007. The preferred alternative described in the EA will allow for attainment of all applicable Vale District BLM objectives found in Revised EA OR-030-06-007 and SEORMP ROD (2002). All of the alternatives that were described and analyzed in this document were designed by the BLM, in consultation, cooperation and coordination with members of the interested public. Each developed alternative was assessed and analyzed in the EA to determine if management objectives, as described in the SEORMP and Record of Decision, will be met by the actions proposed for the alternatives. The applicable management objectives are consistent with and support the Oregon/Washington Standards for Rangeland Health. Existing grazing management (i.e. that occurring prior to the interim strategy) in most allotments will not meet the standards for rangeland health as described in the No-Action alternative of the EA.

In the summer of 2007, the IDT recommended the adoption of the preferred alternative in the NFMGMA Revised Environmental Assessment # OR-030-06-007; which was sent to you in August with a copy of the Field Manager's Proposed Decision. Following the receipt of the proposed decision, protests were received from livestock permittees and other groups. The MRA IDT and I also met with the majority of the protesters on November 27th, 2007 to discuss the protest points. The protests were reviewed, responded to (Attachment 1), and utilized as a resource in conjunction with information obtained from the November 27th, 2007 meeting in designing the final grazing decision.

GRAZING MANAGEMENT PRACTICES

The evaluation has indicated that livestock grazing use is a causal factor in the failure to meet the upland and riparian rangeland health standard and thus upland and riparian improvement is necessary within NFMGMA. Because of this determination, the BLM must now adjust the intensity (utilization) and season (timing) of grazing use in order to make substantial progress towards meeting the upland and riparian standards. BLM discussed the rationale for this action in the SEORMP ROD Appendix R "Effects of Intensity and Season of Grazing". BLM proposed actions for NFMGMA will promote that attainment of properly functioning upland and riparian systems and meet resource management objectives by employing the following monitoring methods and performance indicators:

To ensure that the proposed livestock grazing systems allow reproduction and improvement of woody riparian vegetation, a quantifiable key plant performance indicator based on the modified Cole Browse method would be utilized in pastures containing riparian/wetland areas. This performance indicator would be used to identify when excessive livestock browse on woody riparian vegetation is occurring and to trigger an appropriate management response. The permittee would be notified to remove livestock from any pasture if livestock concentration in riparian areas results in excessive use of woody vegetation. Grazing use will be considered excessive when >30% of the available leaders have been nipped or detached from woody

riparian plants. This is referred to as livestock "incidence of use". It is estimated on the basis of the number of leaders that have been browsed and not on the percentage of annual growth removed. For example, on a willow plant with 100 stems, the performance indicator will be considered acceptable when fewer than 30 leaders have been clipped by livestock and big game combined. If browse on woody riparian vegetation exceeds this level, cattle would be removed from the pasture.

Riparian herbaceous stubble height measurements are a second tool or performance indicator that would be used to monitor riparian areas. Stubble height measurements will be used to determine the residual vegetation height of key species following a period of grazing. The measurements may be used two ways in conjunction with other monitoring techniques to determine when livestock should be moved from the riparian area. The first use would be during the grazing season to determine when livestock should be moved out of a pasture before excessive riparian damage occurs, and the second use would be at the end of the grazing season to determine whether changes to livestock grazing management are needed the following year. A performance indicator, not a standard, of 4 to 6 inches of stubble height vegetation would be used to indicate that livestock may need to be moved to prevent damage to riparian vegetation or streambanks. If riparian areas are in good condition or are continuing to improve in condition, this performance indicator may be adequate to prevent riparian damage, but other areas may require more residual herbaceous vegetation to protect the streambanks and improve riparian area conditions. The goal of this performance indicator is to provide a trigger to identify when established monitoring techniques should be completed to determine progress toward meeting management objectives in order for the riparian area to move in the desired direction.

The upland vegetation performance indicator that would be used to prevent excessive livestock use on perennial grass, forbs, and shrubs is average actual use based on the Landscape Appearance Method (Attachment 2). The Landscape Appearance Method is the approved protocol in the Vale District Monitoring Plan for annual monitoring of upland vegetation. The permittee would be notified to remove livestock from any pasture if livestock were exceeding the upland vegetation performance indicator for average actual use. Native pastures with upland concerns, including spring season grazing use (March through June), downward upland trends, and/or within a two-mile radius of a known sage grouse lek, would be required to improve and/or maintain upland condition as noted in the preferred alternative of the Revised North Fork Malheur Geographic Management Area EA # OR-030-06-007. These pastures would be monitored using upland performance indicators of 40% (maximum allowable utilization). Pastures that are grazed in the spring season of use would have a performance indicator of 40% (maximum allowable utilization), but on a deferred year (i.e. fall/ summer use) the performance indicator would be 50% (maximum allowable utilization) provided that they have a upward or static upland trends and are outside of a two-mile radius of a known sage grouse lek.

FINAL DECISION

Therefore, it is my final decision to implement the preferred alternative described in the Revised Environmental Assessment (EA) # OR-030-06-007. This decision includes authorization of your livestock grazing use (operator #3603430) with a term of 10 years beginning in 2008 and expiring in 2018 for the Calf Creek Allotment (#00162). Additionally, it is my final decision to ratify new allotment grazing schedules, change the number of livestock, and to implement new riparian and upland performance indicators.

Calf Creek Allotment

The rangeland improvement projects (i.e. spring re-developments and fences) described in Appendix D of Revised EA No. OR-030-06-007 will be authorized in accordance with 43 CFR §4120.3-4.

In addition, Lower Heifer Reservoir, Lowest Heifer Reservoir, Superstition Reservoir, and Burnt Mountain Pit Reservoir will be abandoned and reclaimed by the BLM.

Your grazing authorization for the Calf Creek Allotment will be modified from your existing term permit, which is as follows:

Allotment	Livestock		Grazing Period		AUMs
	Number	Kind	Begin	End	
00162 Calf Creek	218	Cattle	03/01	10/31	1756
	37	Cattle	11/01	11/30	36

Your new grazing authorization, defined by the preferred alternative of the NFMGMA EA (OR-034-06-007), for the Calf Creek Allotment will be as follows:

Allotment	Livestock		Grazing Period		AUMs
	Number	Kind	Begin	End	
00162 Calf Creek	100	Cattle	03/15	03/31	56
	280	Cattle	04/01	07/15	976
	100	Cattle	07/16	9/01	158
	278	Cattle	10/01	12/01	567
	36	Cattle	04/01	04/30	36

Total Preference AUMs = 1793 (1793 Active AUMs and 0 Suspended AUMs). 36 AUMs of cattle use from 4/01 to 4/30 will be for Fenced Federal Range.

Your pasture rotation shown with operator #3603154 which is defined in preferred alternative in EA OR-030-06-007, for the Calf Creek Allotment will be as follows:

Calf Creek Allotment

Pasture	Year 1 (08)	Year 2 (09)	Year 3 (10)	Year 4 (07,11)
Stemler Basin	*3/26-5/1 (158AUM)*	4/1-6/1 (545AUM)	11/2-12/1 (274AUM) *4/1-4/25 (107AUM)*	11/2-12/1 (274AUM) *4/16-6/1 (201AUM)*
Dishrag	8/1-9/1, 10/1-12/1 (719AUM) *3/15-3/25,5/15-6/1 (124AUM)*	6/2-9/1 (704AUM) *5/16-6/1 (73AUM)*	6/11-9/1 (603AUM) *3/15-3/31 (71AUM)*	4/1-6/1 (620AUM)
Cave Creek	5/1-6/1 (173AUM)	4/1-4/22 (117AUM)	5/21-6/10 (100AUM)	7/1-7/15 (140AUM)
Lake Ridge	6/1-8/1 (562AUM) *5/2-5/14 (56AUM)*	10/1-11/1 (293AUM) *4/26-5/15 (86AUM)*	4/1-5/20 (488AUM)	7/16-9/1 (233AUM) *3/15-4/15 (137AUM)*
Lower Calf Creek Private	3/15-3/31 (70AUM)	3/15-3/31 (70AUM)	3/15-3/31 (70AUM)	3/15-3/31 (70AUM)
Lower Calf Creek BLM	Rest	Rest	4/1-5/1 46AUM *5/21-6/1 (51AUM)*	6/1-6/14 (130AUM)
Upper Calf Creek	5/1-6/1 (166AUM)	*3/15-3/27 (57AUM)*	5/21-6/10 (124AUM)	6/15-7/1 (170AUM)
Chalk Camp	4/1-5/1 (331AUM)	11/2-12/1 (274AUM) *3/28-4/25 (124AUM)*	10/1-11/1 (293AUM) *4/26-5/20 (109AUM)*	10/1-11/1 (293AUM)
Grasshopper	FFR	FFR	FFR	FFR
Totals	**2336**	**2336**	**2336**	**2263**

Italicized text indicates sheep use.

Grazing use will be in accordance with the following terms and conditions:

- Grazing use in the Calf Creek Allotment shall be in accordance with the above grazing authorizations, grazing schedules, and with this signed decision which incorporates the preferred alternative in the Revised North Fork Malheur Geographic Management Area EA # OR-030-06-007. In emergency related situations such as drought or fire a new decision may dictate grazing use.
- Pastures with riparian resources would be required to improve and/or maintain riparian condition as noted in the preferred alternative of the Revised North Fork Malheur Geographic Management Area EA # OR-030-06-007. These pastures would be monitored using riparian performance indicators identified in the EA. Pastures with

riparian resources in the Calf Creek Allotment are Dishrag, Lake Ridge, Lower Calf Creek, Upper Calf Creek, Cave Creek, and Chalk Camp.

- Native pastures with upland concerns, including spring season grazing use (March through June), downward upland trends, and within a two-mile radius of a known sage grouse lek, would be required to improve and/or maintain upland condition as noted in the preferred alternative of the Revised North Fork Malheur Geographic Management Area EA # OR-030-06-007. These pastures would be monitored using upland performance indicators identified in the EA. Pastures that meet the above criteria in the Calf Creek Allotment are Stemler Basin, Dishrag, Lake Ridge, Upper Calf Creek, and Chalk Camp.
- All other native pastures, i.e. those showing a static or upward trend, deferred use, and located outside of a two-mile radius of a known sage grouse lek, would be required to improve and/or maintain upland condition as noted in the preferred alternative of the Revised North Fork Malheur Geographic Management Area EA # OR-030-06-007. These pastures would be monitored using upland performance indicators identified in the EA. Pastures that meet the above criteria in the Calf Creek Allotment are Cave Creek and Lower Calf Creek.
- Upon reaching the maximum allowable performance indicators, livestock will be moved to the next pasture identified in the pasture rotation. If the next pasture is outside of the planned season of use, livestock will be removed from the allotment and will not return until the planned season of use. If the maximum allowable performance indicator is reached in the last pasture scheduled for use prior to the end of the identified use period, livestock will be removed from BLM public lands within the allotment. This annual monitoring requirement may result in shortened use periods for some or all pastures in years of decreased forage production, such as drought years. Additionally, this annual monitoring requirement may necessitate livestock to be removed from the allotment in the spring season of use and not return until the summer season of use.
- You shall provide BLM with a completed actual use record within 15 days of the close of the grazing season.
- Annual payment of grazing fees is required prior to making grazing use in the Calf Creek Allotment.
- Adjustments in livestock numbers or any other changes from your normal grazing schedule must be approved in advance by the authorized officer.
- Salt or supplements shall be placed at least ½ mile away from water/riparian resources and ¼ mile away from sage-grouse leks on public land.
- This permit is subject to modification as necessary to achieve compliance with the Standards for Rangeland Health and Guidelines for Livestock Management (43 CFR 4180).
- For ease of operation, four days of flexibility in turn-out/gathering would be allowed in each pasture identified in a grazing schedule, for a maximum of 8 days.

Rangeland Improvement Maintenance Responsibility

You will maintain the following rangeland improvement projects described below in accordance with 43 CFR 4120.3-4.

Calf Creek Allotment

Rangeland Improvement Number	Project Name	Type	Location
5057	Stemler Ridge Temp Fence	Fence	T.20S., R.38E., Sec 22
006302	Stemler Reservoir	Reservoir	T.20S., R.38E., Sec 27 SENE
720349	Calf Creek Highway Fence	Fence	T.20S., R.39E., Sec 30 SESW
720446	Forest Reservoir	Reservoir	T.20S., R.38E., Sec 2 NESW
720448	Harris Reservoir	Reservoir	T.20S., R.38E., Sec 26 NENE
720941	Juniper Tree Spring	Spring	T.19S., R.38E., Sec 28 SENE
720952	Boulder Spring 2	Spring	T.20S., R.38E., Sec 2 NWSW
720954	Dishrag Spring	Spring	T.20S., R.38E., Sec 10 SENW
720957	Indian Spring	Spring	T.19S., R.38E., Sec 27 SENW
720958	Poverty Spring	Spring	T.19S., R.38E., Sec 34 NESE
721452	Chalk Spring	Spring	T.20S., R.39E., Sec 19 NENW
721457	Cherry Spring	Spring	T.20S., R.39E., Sec 18 NWNE
724282	Harris Allotment Fence	Fence	T.20S., R.38E., Sec 22 NWNW
724335	Lake Ridge Spring Pit Res	Reservoir	T.19S., R.38E., Sec 34 SWNE
724739	Heifer Reservoir	Reservoir	T.20S., R.38E., Sec 27 SESE
725065	Cave Canyon Fence	Fence	T.20S., R.38E., Sec 1 SWSE
725097	Chalk Gulch Fence	Fence	T.20S., R.38E., Sec 1 NWNW
725128	Calf Creek Protective Fence	Fence	T.20S., R.38E., Sec 10 SWSW
725254	Curry Canyon 2 Reservoir	Reservoir	T.20S., R.39E., Sec 18 SWSW
725257	Indian Charco Reservoir	Reservoir	T.19S., R.38E., Sec 27 NESW
725258	Lake Ridge Charco Pit	Reservoir	T.19S., R.38E., Sec 34 SENE
725285	Juniper Spring Pit Reservoir	Reservoir	T.19S., R.38E., Sec 28 SENE
725286	Boulder Pit Reservoir	Reservoir	T.20S., R.38E., Sec 4 SWSW
725287	Dishrag Pit Reservoir	Reservoir	T.20S., R.38E., Sec 3 SWSE
725384	Cave Creek Fence	Fence	T.20S., R.38E., Sec 12 NWNE
725875	Lower Forrest Reservoir	Reservoir	T.20S., R.38E., Sec 2 NESW
725906	Burnt Mountain Pit Reservoir	Reservoir	T.19S., R.38E., Sec 33 SENW
726022	Lower Heifer Reservoir	Reservoir	T.20S., R.38E., Sec 26 SWSW
726191	Donna Reservoir	Reservoir	T.20S., R.38E., Sec 22 SWNW
726211	Pojo Reservoir	Reservoir	T.20S., R.38E., Sec 23 NENW

General NFMGMA Decisions
Within the NFMGMA, grazing management will be conducted in accordance with the following mitigating measures which were identified in the Revised NFMGMA EA:

Rangeland Vegetation
Appendix S (Standard Implementation Features and Procedures for Rangeland Improvements) of the SEORMP ROD will be adhered to.

Special Status Plant Species
Special status plant surveys will be conducted prior to all surface disturbing activities and project installations. Project location adjustments necessary to avoid site specific adverse impacts to special status plants will be accommodated.

Water Resources and Riparian/Wetlands and Aquatic Species and Habitats
Project development in riparian/wetland areas will follow SEORMP ROD Appendix O (Best Management Practices) criteria to minimize disturbance and maximize potential for project success. Adequate buffer distances will be implemented to protect riparian areas and stream channels from potential erosional impacts from the construction of fences.

Wildlife and Wildlife Habitat and Special Status Animal Species
BLM will continue to monitor habitat conditions in NFMGMA, and ODFW will continue to monitor sage-grouse population status. Existing rangeland vegetation monitoring may be supplemented with appropriate additional studies in accordance with SEORMP ROD Monitoring Appendix W to document success or failure in meeting NFMGMA resource objectives.

The 70% threshold for grassland habitat in Malheur Resource Area (page *x* Record of Decision) activity plan level wildlife habitat objective for NFMGMA and the SEORMP ROD will significantly limit the amount, type, and location of further fragmentation from BLM initiated land treatments. Less than 25% of the existing shrub-land habitat (excluding grasslands and closed canopy forested land) of the Wyoming, mountain, and basin big sagebrush habitats may appear as grasslands under the NFMGMA terrestrial wildlife objective.

New livestock management fences will be located at least 0.6 miles from sage grouse leks according to BLM management guidelines.

Livestock salting and mineral supplement stations will be placed at least ¼ mile away from sage grouse leks to avoid drawing livestock into centers of sage-grouse breeding activity.

Livestock management fences will be constructed in a way that allows for freedom of movement for elk, mule deer, and pronghorn and minimizes potential for injury or mortality. In accordance with BLM Manual Handbook H-1741-1, interior allotment fences will conform to the following material and spacing requirements; top strand – barbed wire - no higher than 38", second strand – barbed wire at 26", bottom strand – smooth wire at 16".

New fencing will be flagged temporarily to help diminish incidence of wildlife fence collisions.

Wildlife escape ramps will be installed in new and existing livestock water tanks to minimize potential for sage-grouse and other small animal drowning mortalities.

Rangeland/Grazing Use Management
For ease of operation, four days of flexibility in turn-out/gathering would be allowed in each pasture identified in a grazing schedule for a maximum of 8 days. This flexibility would allow for changes in use dates to accommodate for climatic conditions or the reaching of the maximum allowable utilization within a pasture. Move dates outside of the four-day allowance would be considered by BLM staff at the time of the request. Flexibility in livestock move dates will be allowed as long as the adjustments will result in the attainment of SEORMP resource management objectives.

Cultural Resources
Cultural resource surveys will be conducted prior to all surface disturbing activities and project installations. Project location adjustments necessary to avoid site specific adverse impacts to cultural resources will be accommodated.

Monitoring Methods and Adaptive Management in NFMGMA
BLM monitoring, as described in section 8 of the EA and Appendix W of the SEORMP ROD, shall determine if authorized grazing use in NFMGMA results in attainment of the management objectives as described below.

Short-term Performance Evaluations
Monitoring methods shall be in accordance with approved BLM policy and protocols.

Existing monitoring sites will continue to be used to evaluate management. New key monitoring sites will be selected by the IDT in consultation and coordination with affected livestock permittees and the interested public.

Unforeseeable circumstances such as drought, fire, or law enforcement issues which may impede planned grazing activities may cause BLM to redesign a new decision and associated NEPA analysis.

Long-term Performance Evaluation
The proposed grazing system adopted in this decision may undergo periodic performance evaluation by BLM's IDT if performance indicators are consistently not met for NFMGMA. Prior to the 2018 expiration date of your new term grazing permit, a long-term evaluation of grazing system performance will be conducted.

Monitoring methods shall be in accordance with approved BLM policy and protocols.

RATIONALE

Under the direction of the SEORMP, GMA assessments are an administrative mechanism by which BLM will make adjustments to authorized land uses. Based on the NFMGMA rangeland assessment findings of 2000 and 2001, changes in livestock use are needed in NFMGMA grazing allotments in order to resolve certain resource management conflicts. The rationale for this decision is based on the Standards of Rangeland Health and Guidelines for Livestock Management for Public Lands Administered by the Bureau of Land Management in the States of Oregon and Washington for pastures within the Calf Creek Allotment. These determinations were published in 2003 and 2004 and were in Appendix C of the Initial EA No. OR-030-06-007.

Where existing grazing management practices on public lands are significant factors in failing to achieve the standards for rangeland health and conform to the guidelines, BLM is taking action with this final decision as described in the preferred alternative in EA No. OR-030-06-007 to move toward the attainment of Standards.

Methods of achieving the SRH in the uplands of the Calf Creek Allotment includes the following: (1) implementation of a grazing system that provides deferred rotation grazing limiting use during the critical growing season of key perennial herbaceous species, (2) a partial change in the class of livestock from cattle to sheep, which improves livestock distribution and change in dietary preference from grasses to forbs and shrubs, (3) ratification of new upland performance indicators for key upland species, which may contribute to improving upland health when used as management guides, and (4) reconstruction of the North boundary fence in the Cave Creek pasture, which will provide for upland deferment between the two pastures. Pastures for which these methods apply include the following: Stemler Basin, Dishrag, Lake Ridge, Upper Calf Creek, and Chalk Camp.

Methods of achieving the SRH in the riparian areas of the Calf Creek Allotment include the following: (1) implementation of a grazing system that provides 3 of 4 years cool season use in riparian areas, (2) an extended season of use within existing permitted AUMs, which reduces livestock grazing impacts during the hot season of use, (3) reconstruction of spring developments that allows for protection of the spring sources, (4) ratification of riparian performance indicators for riparian vegetation which may contribute to improving riparian health when used as management guides, and (5) construction of a boundary fence near the public/ private boundary in Lower Calf Creek pasture, which will support an extended grazing season with less livestock grazing impacts during the hot season. Cool season use is the most optimal time to graze a pasture with riparian areas as the livestock are more likely to distribute farther away from and the riparian area at this time. Livestock drink less water in the cool season versus the hot season which tends to result in less time that livestock spend on a stream and/ or spring source. The nutritional components of riparian vegetation and upland vegetation is most similar during the cool season versus the hot season which tends to result in less time that livestock spend in a riparian area. Pastures for which these methods apply include the following: Dishrag, Lake Ridge, Lower Calf Creek, Upper Calf Creek, Cave Creek, and Chalk Camp.

AUTHORITY

The authority for this decision is contained in Title 43 of the Code of Federal Regulations (CFR) including and the following laws:

The Taylor Grazing Act
The Federal Land Management Act

4100.0-2 Objectives.
The objectives of these regulations are to promote healthy sustainable rangeland ecosystems; to accelerate restoration and improvement of public rangelands to properly functioning conditions; to promote the orderly use, improvement and development of the public lands; to establish efficient and effective administration of grazing of public rangelands; and to provide for the sustainability of the western livestock industry and communities that are dependent upon productive, healthy public rangelands. These objectives shall be realized in a manner that is consistent with land use plans, multiple use, sustained yield, environmental values, economic and other objectives stated in 43 CFR part 1720, subpart 1725; the Taylor Grazing Act of June 28,

1934, as amended (43 U.S.C. 315, 315a-315r); section 102 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740).

§4100.0-3 Authority

(a) The Taylor Grazing Act of June 28, 1934 as amended (43 U.S.C. 315, 315a through 315r);
(b) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) as amended by the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.);
(c) Executive orders transfer land acquired under the Bankhead-Jones Farm Tenant Act of July 22, 1937, as amended (7 U.S.C. 1012), to the Secretary and authorize administration under the Taylor Grazing Act.
(e) The Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.); and
(f) Public land orders, Executive orders, and agreements authorize the Secretary to administer livestock grazing on specified lands under the Taylor Grazing Act or other authority as specified.

§4100.0-8 Land use plans.

The authorized officer shall manage livestock grazing on public lands under the principle of multiple use and sustained yield, and in accordance with applicable land use plans. Land use plans shall establish allowable resource uses (either singly or in combination), related levels of production or use to be maintained, areas of use, and resource condition goals and objectives to be obtained. The plans also set forth program constraints and general management practices needed to achieve management objectives. Livestock grazing activities and management actions approved by the authorized officer shall be in conformance with the land use plan as defined at 43 CFR 1601.0-5(b).

§4110.2-4 Allotments.

After consultation, cooperation, and coordination with the affected grazing permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public, the authorized officer may designate and adjust grazing allotment boundaries. The authorized officer may combine or divide allotments, through an agreement or by decision, when necessary for the proper and efficient management of public rangelands.

§4110.3 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.

§4120.2 Allotment management plans and resource activity plans.

Allotment management plans or other activity plans intended to serve as the functional equivalent of allotment management plans may be developed by permittees or lessees, other Federal or State resource management agencies, interested citizens, and the Bureau of Land Management. When such plans affecting the administration of grazing allotments are developed, the following provisions apply:

(a) An allotment management plan or other activity plans intended to serve as the functional equivalent of allotment management plans shall be prepared in careful and considered consultation, cooperation, and coordination with affected permittees or lessees, landowners involved, the resource advisory council, any State having lands or responsible for managing resources within the area to be covered by such a plan, and the interested public. The plan shall become effective upon approval by the authorized officer. The plans shall --

(1) Include terms and conditions under §§4130.3, 4130.3-1, 4130.3-2 4130.3-3, and subpart 4180 of this part;

(2) Prescribe the livestock grazing practices necessary to meet specific resource objectives;

(c) The authorized officer shall provide opportunity for public participation in the planning and environmental analysis of proposed plans affecting the administration of grazing and shall give public notice concerning the availability of environmental documents prepared as a part of the development of such plans, prior to implementing the plans. The decision document following the environmental analysis shall be considered the proposed decision for the purposes of subpart 4160 of this part.

(d) A requirement to conform with completed allotment management plans or other applicable activity plans intended to serve as the functional equivalent of allotment management plans shall be incorporated into the terms and conditions of the grazing permit or lease for the allotment.

(e) Allotment management plans or other applicable activity plans intended to serve as the functional equivalent of allotment management plans may be revised or terminated by the authorized officer after consultation, cooperation, and coordination with the affected permittees or lessees, landowners involved, the resource advisory council, any State having lands or responsible for managing resources within the area to be covered by the plan, and the interested public.

§4120.3-1 Conditions for 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 with the Bureau of Land Management or must have an approved range improvement permit.

(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.

§4130.2 Grazing permits or leases.

(a) Grazing permits or leases shall be issued to qualified applicants to authorize use on the public lands and other lands under the administration of the Bureau of Land Management that are designated as available for livestock grazing through land use plans. Permits or leases shall specify the types and levels of use authorized, including livestock grazing, suspended use, and conservation use. These grazing permits and leases shall also specify terms and conditions pursuant to §§4130.3, 4130.3-1, and 4130.3-2.

(b) The authorized officer shall consult, cooperate and coordinate with affected permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public prior to the issuance or renewal of grazing permits and leases.

(c) Grazing permits or leases convey no right, title, or interest held by the United States in any lands or resources.

(d) The term of grazing permits or leases authorizing livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management shall be 10 years.

§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.

§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 term or condition of the permit or lease.

(c) Permits and leases shall incorporate terms and conditions that ensure conformance with subpart 4180 of this part.

§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 range management or assist in the orderly administration of the public rangelands. These may include but are not limited to:

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

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

§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 officer 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.

§4160.3 Final decisions.

(a) In the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice unless otherwise provided in the proposed decision.

§4180.1 Fundamentals of rangeland health.

The authorized officer shall take appropriate action under subparts 4110, 4120, 4130, and 4160 of this part as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management needs to be modified to ensure that the following conditions exist.

(a) Watersheds are in, or are making significant progress toward, properly functioning physical condition, including their upland, riparian-wetland, and aquatic components; soil and plant conditions support infiltration, soil moisture storage, and the release of water that are in balance with climate and landform and maintain or improve water quality, water quantity, and timing and duration of flow.

(b) Ecological processes, including the hydrologic cycle, nutrient cycle, and energy flow, are maintained, or there is significant progress toward their attainment, in order to support healthy biotic populations and communities.

(c) Water quality complies with State water quality standards and achieves, or is making significant progress toward achieving, established BLM management objectives such as meeting wildlife needs.

(d) Habitats are, or are making significant progress toward being, restored or maintained for Federal threatened and endangered species, Federal Proposed, Category 1 and 2 Federal candidate and other special status species.

§4180.2 Standards and guidelines for grazing administration.

(c) The authorized officer shall take appropriate action as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management practices or levels of grazing use on public lands are significant factors in failing to achieve the standards and conform with the guidelines that are made effective under this section. Appropriate action means implementing actions pursuant to subparts 4110, 4120, 4130, and 4160 of this part that will result in significant progress toward fulfillment of the standards and significant progress toward conformance with the guidelines. Practices and activities subject to standards and guidelines include the development of grazing-related portions of activity plans, establishment of terms and conditions of permits, leases and other grazing authorizations, and range improvement activities such as vegetation manipulation, fence construction and development of water.

(e) At a minimum, State or regional guidelines developed under paragraphs (a) and (b) of this section must address the following:

(1) Maintaining or promoting adequate amounts of vegetative ground cover, including

standing plant material and litter, to support infiltration, maintain soil moisture storage, and stabilize soils;
(2) Maintaining or promoting subsurface soil conditions that support permeability rates appropriate to climate and soils;
(3) Maintaining, improving or restoring riparian-wetland functions including energy dissipation, sediment capture, groundwater recharge, and stream bank stability;
(4) Maintaining or promoting stream channel morphology (e.g., gradient, width/depth ratio, channel roughness and sinuosity) and functions appropriate to climate and landform;
(5) Maintaining or promoting the appropriate kinds and amounts of soil organisms, plants and animals to support the hydrologic cycle, nutrient cycle, and energy flow;
(6) Promoting the opportunity for seedling establishment of appropriate plant species when climatic conditions and space allow;
(7) Maintaining, restoring or enhancing water quality to meet management objectives, such as meeting wildlife needs;
(8) Restoring, maintaining or enhancing habitats to assist in the recovery of Federal threatened and endangered species;
(9) Restoring, maintaining or enhancing habitats of Federal Proposed, Category 1 and 2 Federal candidate, and other special status species to promote their conservation;
(10) Maintaining or promoting the physical and biological conditions to sustain native populations and communities;
(11) Emphasizing native species in the support of ecological function;

Southeastern Oregon Resource Management Plan, Record of Decision and Final Environmental Impact Statement, September 2002.

RIGHT OF STAY AND/OR APPEAL

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. A period of 30 days from your receipt of the final decision is provided for filling an appeal and petition for stay of the decision pending final determination on appeal, as provided in 43 CFR § 4.470 and 43 CFR § 4160.4.

Any appeal should state clearly and concisely as to why the final decision is in error. All grounds of error not stated shall be considered waived, and no such waived ground of error may be presented at the hearing unless ordered or permitted by the administrative law judge. Any appeal should be submitted in writing to:

Field Manager
Malheur Resource Area
Vale District Bureau of Land Management
100 Oregon Street
Vale, Oregon 97918

Filing an appeal does not by itself stay the effectiveness of the final BLM decision. The appeal may be accompanied by a petition for a stay of the decision pending final determination on appeal, in accordance with 43 CFR § 4.471 and 4.479. Any request for a stay of the final

decision in accordance with 43 CFR § 4.21 must be filled with the appeal. In accordance with 43 CFR § 4.21 (b) (1), a petition for a stay must show sufficient justification based on the following:

- The relative harm to the parties if the stay is granted or denied,
- The likelihood of the appellant's success on the merits,
- The likelihood of immediate and irreparable harm if the stay is not granted, and
- Whether the public interest favors granting the stay.

Additionally, in accordance with 43 CFR § 4.471(b), within 15 days after filing the appeal and petition for a stay with the authorized officer, the appellant must also serve copies on:

1) all other person(s) named in the Copies sent to: section of this decision; and
2) the appropriate office of the Office of the Solicitor as follows, in accordance with 43 CFR § 4.413(a) and (c):

Office of the Solicitor
US Department of the Interior
Pacific NW Region
500 NE Multnomah, Suite 607
Portland, OR 97213

Finally, in accordance with 43 CFR 4.472(b), 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 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 respond, the person must serve copies on the appellant, the appropriate office of the Office of the Solicitor in accordance with Sec. 4.413(a) and (c), and any other person named in the decision.

Sincerely,

Pat Ryan
Field Manager
Malheur Resource Area

Copies sent to: (by certified mail)

[redacted]

Courtesy copies sent to:

[redacted]

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Vale District Office
100 Oregon Street
Vale, Oregon 97918

IN REPLY REFER TO:
4100, NFMGMA

[redacted]

FEB 01 2008

NOTICE OF THE FIELD MANAGER'S FINAL DECISION

Dear [redacted]:

INTRODUCTION

Subsequent to the approval of revised BLM grazing regulations in 1995, BLM State Directors were assigned the task of developing state level rangeland health standards (Title 43 Code of Federal Regulations [CFR] 4180.2). The process of developing standards and defining standard indicators was conducted in consultation with BLM Resource Advisory Councils (RACs). The purpose for setting standards and identifying their indicators was to provide BLM with a rational basis for determining whether current management is meeting the Fundamentals of Rangeland Health as described under 43 CFR 4180.1.

On August 12, 1997, Interior Secretary Bruce Babbitt approved the Oregon/Washington BLM Standards and Guides for Rangeland Health (SRH). BLM field offices in Oregon/Washington were subsequently directed to conduct assessments and then use that assessment information to craft range health evaluations in relation to the state standards. These evaluations are conducted under an interdisciplinary team (IDT) concept where various resource specialists, representing the biological and physical sciences, are involved in the collection, review, and analysis of available data.

In order to accomplish this assessment and evaluation workload and conform to the need for completing work on a watershed basis, Malheur Resource Area was divided into nine land based administrative units now referred to as Geographic Management Areas (GMAs). Based on multiple resource values and ongoing management issues needing resolution, the North Fork Malheur GMA (NFMGMA) was selected to be the second GMA to be assessed in Malheur Resource Area(MRA).

BLM regulations specify that, "the authorized officer shall take appropriate action as soon as practicable but not later than the start of the next grazing year upon determining, through assessment or monitoring by experienced professionals and interdisciplinary teams, that a standard is not being achieved and that livestock are a significant contributing factor to the failure to achieve the standards and conform with the guidelines".
This decision is the final step in the GMA process, where changes to existing grazing

management practices will be implemented. Issuing this decision will allow for significant progress to be made toward meeting Standards for Rangeland Health in NFMGMA, and is issued in compliance with the Southeastern Oregon Resource Management Plan (SEORMP) and Record of Decision of September 2002.

BACKGROUND

Consultation, cooperation, and coordination with both the grazing permittees and the interested public are critical components of BLM's range health assessment and evaluation process. On numerous occasions, BLM has communicated with both groups concerning range health standards and GMA assessments, by way of mailed written materials, public meetings, and onsite visits within NFMGMA.

In 2000 and 2001, the NFMGMA interdisciplinary team used a variety of information sources and the professional judgment of members and senior staff specialists to conduct upland and riparian health assessments. The best available rangeland vegetation and soils maps were consulted and agency-approved technical references and methodology, including protocols outlined in BLM Manual H-4180-1, "Rangeland Health Standards," were used to arrive at conclusions about range health conditions. These assessments were used to determine if Oregon/Washington BLM's "Standards for Rangeland Health" were being met. The Oregon/Washington Rangeland Health Standards are as follows:

- Standard 1 – Watershed Function – Uplands: upland soils exhibit infiltration and permeability rates, moisture storage, and stability that are appropriate to soil, climate, and landform.
- Standard 2 – Watershed Function --Riparian/wetland areas: riparian-wetland areas are in properly functioning physical condition appropriate to soil, climate, and landform.
- Standard 3 – Ecological Processes –Uplands: healthy, productive, and diverse plant and animal populations and communities appropriate to soil, climate, and landform are supported by ecological processes of nutrient cycling, energy flow, and the hydrologic cycle.
- Standard 4 – Water Quality: surface water and ground water quality, influenced by agency actions, complies with State water quality standards.
- Standard 5 – Native, Threatened and Endangered (T&E), and Locally Important Species: habitats support healthy, productive, and diverse populations and communities of native plants and animals (including special status species and species of local importance) appropriate to soil, climate, and landform.

As a result of the interdisciplinary team assessments within the NFMGMA, upland sites in 45 pastures within 11 allotments did not meet the Standards for Rangeland Health due to current livestock grazing. The assessments that were completed in riparian areas indicated 34 pastures within 11 allotments did not meet the Standards for Rangeland Health due to current livestock grazing.

Scaling down the assessment from the NFMGMA to the Castle Rock allotment the Malheur Resource Area interdisciplinary team discovered that upland sites in 5 of 17 pastures within the allotment did not meet the Standards for Rangeland Health due to current livestock grazing. The

assessments that were completed in riparian areas revealed that riparian areas in 8 of 17 pastures within the allotment did not meet Standards for Rangeland Health due to current livestock grazing.

Scaling down the assessment from the NFMGMA to the Whitley Canyon allotment the Malheur Resource Area interdisciplinary team discovered that upland sites in 2 of 8 pastures within the allotment did not meet the Standards for Rangeland Health due to current livestock grazing. The assessments that were completed in riparian areas revealed that riparian areas in 3 of 8 pastures within the allotment did not meet Standards for Rangeland Health due to current livestock grazing.

The BLM and the NFMGMA grazing permittees initially met in 2002 and 2003 to establish short and long term solutions to areas that were not meeting standards. The short term solution that allowed for progress toward meeting the standards became the interim grazing strategy that some NFMGMA permittees have operated under since the 2002 and 2003 grazing season. In the fall of 2004, the IDT presented the formal findings of the assessments through Summaries and Determinations for the Standards of Rangeland Health to grazing permittees in NFMGMA, and members of the interested public. The long term solutions from the recommendations in the Determination Summaries were used to develop the preferred alternative that was proposed and analyzed in the NFMGMA Revised Environmental Assessment # OR-030-06-007. The preferred alternative described in the EA will allow for attainment of all applicable Vale District BLM objectives found in Revised EA OR-030-06-007 and SEORMP ROD (2002). All of the alternatives that were described and analyzed in the EA were designed by the BLM, in consultation, cooperation and coordination with members of the interested public. Each developed alternative was assessed and analyzed in the EA to determine if management objectives, as described in the SEORMP and Record of Decision, will be met by the actions proposed for the alternatives. The applicable management objectives are consistent with and support the Oregon/Washington Standards for Rangeland Health. Existing grazing management (i.e. that occurring prior to the interim strategy) in most allotments will not meet the standards for rangeland health as described in the No-Action alternative of the EA.

In the summer of 2007, the IDT recommended the adoption of the preferred alternative in the NFMGMA Revised Environmental Assessment # OR-030-06-007; which was sent to you in August with a copy of the Field Manager's Proposed Decision. Following the receipt of the proposed decision, protests were received from you, NFMGMA livestock permittees and other groups. The MRA IDT and I met with you and the majority of the protesters on November 27th, 2007 to discuss the protest points. The protests were reviewed, responded to (Attachment 1), and utilized as a resource in conjunction with information obtained from the November 27th, 2007 meeting in designing the final grazing decision. You and the base property owner were also contacted on December 17th, 2007 when IDT discovered discrepancies within the proposed grazing decision that needed to be addressed with the livestock operator's involvement for the Whitley Canyon Allotment.

GRAZING MANAGEMENT PRACTICES

The evaluation has indicated that livestock grazing use is a causal factor in the failure to meet the upland and riparian rangeland health standard and thus upland and riparian improvement is

necessary within NFMGMA. Because of this determination, the BLM must now adjust the intensity (utilization) and season (timing) of grazing use in order to make substantial progress towards meeting the upland and riparian standards. BLM discussed the rationale for this action in the SEORMP ROD Appendix R "Effects of Intensity and Season of Grazing". BLM proposed actions for NFMGMA will promote that attainment of properly functioning upland and riparian systems and meet resource management objectives by employing the following monitoring methods and performance indicators:

To ensure that the proposed livestock grazing systems allow reproduction and improvement of woody riparian vegetation, a quantifiable key plant performance indicator based on the modified Cole Browse method would be utilized in pastures containing riparian/wetland areas. This performance indicator would be used to identify when excessive livestock browse on woody riparian vegetation is occurring and to trigger an appropriate management response. The permittee would be notified to remove livestock from any pasture if livestock concentration in riparian areas results in excessive use of woody vegetation. Grazing use will be considered excessive when >30% of the available leaders have been nipped or detached from woody riparian plants. This is referred to as livestock "incidence of use". It is estimated on the basis of the number of leaders that have been browsed and not on the percentage of annual growth removed. For example, on a willow plant with 100 stems, the performance indicator will be considered acceptable when fewer than 30 leaders have been clipped by livestock and big game combined. If browse on woody riparian vegetation exceeds this level, cattle would be removed from the pasture.

Riparian herbaceous stubble height measurements are a second tool or performance indicator that would be used to monitor riparian areas. Stubble height measurements will be used to determine the residual vegetation height of key species following a period of grazing. The measurements may be used two ways in conjunction with other monitoring techniques to determine when livestock should be moved from the riparian area. The first use would be during the grazing season to determine when livestock should be moved out of a pasture before excessive riparian damage occurs, and the second use would be at the end of the grazing season to determine whether changes to livestock grazing management are needed the following year. A performance indicator, not a standard, of 4 to 6 inches of stubble height vegetation would be used to indicate that livestock may need to be moved to prevent damage to riparian vegetation or streambanks. If riparian areas are in good condition or are continuing to improve in condition, this performance indicator may be adequate to prevent riparian damage, but other areas may require more residual herbaceous vegetation to protect the streambanks and improve riparian area conditions. The goal of this performance indicator is to provide a trigger to identify when established monitoring techniques should be completed to determine progress toward meeting management objectives in order for the riparian area to move in the desired direction.

The upland vegetation performance indicator that would be used to prevent excessive livestock use on perennial grass, forbs, and shrubs is average actual use based on the Landscape Appearance Method (Attachment 2). The Landscape Appearance Method is the approved protocol in the Vale District Monitoring Plan for annual monitoring of upland vegetation. The permittee would be notified to remove livestock from any pasture if livestock were exceeding the upland vegetation performance indicator for average actual use. Native pastures with upland

concerns, including spring season grazing use (March through June), downward upland trends, and/or within a two-mile radius of a known sage grouse lek, would be required to improve and/or maintain upland condition as noted in the preferred alternative of the Revised North Fork Malheur Geographic Management Area EA # OR-030-06-007. These pastures would be monitored using upland performance indicators of 40% (maximum allowable utilization limit). Pastures that are grazed in the spring season of use would have a performance indicator of 40%, but on a deferred year (i.e. fall/ summer use) the performance indicator would be 50% (maximum allowable utilization limit) provided that they have a upward or static upland trends and are outside of a two-mile radius of a known sage grouse lek.

FINAL DECISION

Therefore, it is my final decision to implement the preferred alternative described in the Revised Environmental Assessment (EA) # OR-030-06-007. This decision includes authorization of your livestock grazing use (operator #3601553) with a term of 10 years beginning in 2008 and expiring in 2018 for the Whitley Canyon Allotment (#10216), Castle Rock (#10211), Butte Tree (#10212), and Ironside Mountain West (#00112) Allotments. Additionally, it is my final decision to ratify new allotment grazing schedules, change the number of livestock, reconstruct 25 spring developments in the Castle Rock Allotment, to implement new riparian and upland performance indicators, and to revoke your grazing authorizations in the Beulah Reservoir (10217) and Agency Mountian (00161) Allotments.

Whitley Canyon Allotment #10216

There are no rangeland improvement projects planned for that portion of the Whitley Canyon Allotment that you are scheduled to use.

Your grazing authorization for the Whitley Canyon Allotment will be modified from your existing term permit, which is as follows:

Allotment	Livestock		Grazing Period		AUMs
	Number	Kind	Begin	End	
10216 Whitley Canyon	107	Cattle	06/01	10/29	531

The original Beulah Reservoir Allotment (MFP, 1979) was divided into 3 allotments in 1988 (i.e. Calf Creek #00162, Agency Mountain #00161, and Beulah Reservoir #10217 Allotments). The SEORMP showed the Beulah Reservoir Allotment contained a pasture named the East MJ Field. During field surveys in 2000, it was determined that this pasture was actually part of the Little Malheur Pasture of the Whitley Canyon Allotment (#10216). In 2002, Hammond Ranch purchased private land associated with the Little Malheur Pasture which you later leased. Sixty Active AUMs were attached to the BLM land within the pasture. A transfer of these 60 AUMs to the Whitley Canyon would be shown in the renewed 10 year permit. As a result of this transfer, you will no longer have a grazing authorization within the Beulah Reservoir Allotment.

Your new grazing authorization, defined by the preferred alternative of the NFMGMA EA (OR-030-06-007), for the Whitely Canyon Allotment will be as follows:

Allotment	Livestock		Grazing Period		AUMs
	Number	Kind	Begin	End	
10216 Whitley Canyon	60	Cattle	05/01	5/31	60
	107	Cattle	06/01	10/29	531

Total Preference AUMs = 591 (591 Active AUMs and 0 Suspended AUMs).

Your pasture rotation, defined by the preferred alternative in Revised EA OR-030-06-007 for the Whitley Canyon Allotment, will be as follows:

Pasture	Year 1[3] 2007	Year 2[4 5] 2008	Year 3[4] 2009	Year 4[3 5] 2010	Year 5[4] 2011	Year 6[4 5] 2012
Burnt Mountain	These pastures would be utilized by operator # 3603118					
Petes Mountain						
West Juniper						
PJ #2						
PJ #1 FFR						
Little Malheur[1]	*6/1-9/30*	*7/1-10/29*	*7/1-10/29*	*6/1-9/30*	*7/1-10/29*	*7/1-10/29*
Use	*465 AUMS*	*465 AUMS*	*465AUMS*	*465AUMS*	*465AUMS*	*465AUMS*
Non Use	*66 AUMS*	*66 AUMS*	*66AUMS*	*66AUMS*	*66AUMS*	*66AUMS*
River & Dogwood[2]	*5/1-5/31*	*Rest*	*5/1-5/31*	*Rest*	*5/1-5/31*	*Rest*
Use	*60 AUMS*	*0 AUMS*	*60 AUMS*	*60 AUMS*	*0 AUMS*	*60 AUMS*
Non Use	*0 AUMS*	*60 AUMS*	*0 AUMS*	*0 AUMS*	*60 AUMS*	*0 AUMS*

[1] Livestock numbers in the Little Malheur pasture would be restricted to no more than 135 head for no more than 465 AUMs of use in any given year while the Whitley Canyon allotment is utilized by separate livestock operators.

[2] Grazing in these two pastures would be in conjunction with the North Rockpile Pasture in the Castle Rock Allotment and would be authorized during these dates as long as conditions in the Biological Opinion for bull trout are met.

[3] No cattle use would occur in years 1 and 4 from 10/1 to 10/29 for an estimated 66 AUMs of Non Use.

[4] No cattle use would occur in years 2, 3, 5, and 6 from 6/1 to 6/30 for an estimated 66 AUMs of Non Use.

[5] No cattle use would occur in years 2, 4, and 6 from 5/1 to 5/31 for an estimated 60 AUMs of Non Use.

Castle Rock Allotment #10211

The rangeland improvement projects (i.e. spring re-developments) described in Appendix D of Revised EA No. OR-030-06-007 will be authorized in accordance with 43 CFR §4120.3-4.

Your grazing authorization for the Castle Rock allotment will be modified from your existing term permit, which is as follows:

Allotment	Livestock		Grazing Period		AUMs
	Number	Kind	Begin	End	
10211 Castle Rock	626	Cattle	04/01	10/31	4380
	62	Cattle	04/01	10/31	436

Total Preference AUMs = 4,816 (4,816 Active AUMs and 0 Suspended AUMs). A term and condition of the existing term permit is that grazing use will be consistent with the Castle Rock Allotment Management Plan (AMP Dec. 3, 1988). Four hundred-thirty six AUMs from 04/01-10/31 are associated with Fenced Federal Range.

During the assessment it was determined that the Angus pasture was within the boundaries of the Castle Rock Allotment and not within the Agency Mountain Allotment. In 2002, Hammond Ranch purchased private land associated with the Angus pasture in the Castle Rock Allotment which you later leased. Twenty active AUMs were attached to the BLM land in the Angus pasture and these AUMs will be transferred from the Agency Mountain Allotment to the Castle Rock Allotment and will be reflected in the renewed 10 year permit. As a result of this transfer, you will no longer have a grazing authorization within the Agency Mountain Allotment.

Your new grazing authorization, defined by the preferred alternative of the NFMGMA EA (OR-030-06-007), for the Castle Rock Allotment will be as follows:

Allotment	Livestock		Grazing Period		AUMs
	Number	Kind	Begin	End	
10211 Castle Rock	603	Cattle	03/20	11/15	4525
	41	Cattle	04/01	11/15	311

Total Preference AUMs = 4,836 (4,836 Active AUMs and 0 Suspended AUMs). Three hundred eleven AUMs from 04/01-11/15 are associated with Fenced Federal Range.

Your pasture rotation, defined by the preferred alternative of the Revised EA OR-030-006-07, for the Castle Rock Allotment will be as follows:

Pasture	Year 1 (2007)	Year 2 (2008)	Year 3 (2009)	Year 4 (2010)	Year 5 (2011)	Year 6 (2012)
Castle Rock	Rest	4/1-6/30	10/1-10/31	Rest	4/1-6/30	10/1-10/31
Clevenger Butte #1	Rest	4/1-6/15	10/1-10/31	Rest	4/1-6/15	10/1-10/31
Clevenger Butte #2	4/1-6/30	7/1-8/31	Rest	4/1-6/30	7/1-8/31	Rest
Duck Pond	Rest	3/20-6/30	10/1-11/15	Rest	3/20-6/30	10/1-11/15
South Rockpile	Rest	3/20-6/30	Rest	3/20-6/30	Rest	3/20-6/30
North Rockpile	3/20-6/15	Rest	3/20-6/15	Rest	3/20-6/15	Rest
House	10/1-11/15	Rest	3/20-6/30	10/1-11/15	Rest	3/20-6/30
Poison Field	Rest	10/1-11/15	4/1-6/15	Rest	10/1-11/15	4/1-6/15
Heifer	4/1-6/30	10/1-10/30	Rest	4/1-6/30	10/1-10/30	Rest
Hat Butte	10/1-10/31	Rest	4/1-6/30	10/1-10/31	Rest	4/1-6/30
Sheep Rock	5/1-6/15	Rest	Rest	5/1-6/15	Rest	Rest
East Rockpile	3/20-5/31	Rest	3/20-5/31	3/20-5/31	Rest	3/20-5/31
Water Gulch FFR						

Water Gulch FFR use will be light/rest in compliance with the USFWS BO.

Butte Tree Allotment #10212

Rangeland improvement projects are not proposed for this allotment. However, through a verbal agreement with the livestock operator, the allotment will be rested every other year for 5 years (beginning in 2009) in order to make progress in meeting Standards 3, 4 and 5. If monitoring shows that the upland conditions are not improving, this allotment would be incorporated into the proposed grazing rotation for the Whitley Canyon Allotment. If upland conditions improve in this allotment it will remain in the Custodial "C" management category with dates and numbers for administrative purposes only.

Your grazing authorization for Butte Tree allotment will not be modified from your existing term permit, which is as follows:

Allotment	Livestock		Grazing Period		AUMs
	Number	Kind	Begin	End	
10212 Butte Tree	69	Cattle	05/01	05/31	69

Total Preference AUMs = 123 (69 Active AUMs and 54 Suspended AUMs).

Ironside Mountain West Allotment #00112

Rangeland improvement projects are not proposed for this allotment. The Willow Creek Riparian Exclosure was recently reconstructed to facilitate meeting Standards 2 and 4. This allotment will remain in the Custodial "C" management category with dates and numbers for administrative purposes only.

Your grazing authorization will not be modified from your existing term permit, which is as follows:

Allotment	Livestock		Grazing Period		AUMs
	Number	Kind	Begin	End	
00112 Ironside Mountain West	124	Cattle	04/01	04/30	124

Total Preference AUMs = 124 (124 Active AUMs and 0 Suspended AUMs).

Grazing use will be in accordance with the following terms and conditions:

- Grazing use in the Castle Rock, Butte Tree, Ironside Mountain West, and Whitley Canyon Allotments shall be in accordance with the above grazing authorizations, grazing schedules, and with this signed decision which incorporates the preferred alternative in the Revised North Fork Malheur Geographic Management Area EA # OR-030-06-007. In emergency related situations such as drought or fire a new decision may dictate grazing use.
- Pastures with riparian resources would be required to improve and/or maintain riparian condition as noted in the preferred alternative of the Revised North Fork Malheur Geographic Management Area EA # OR-030-06-007. These pastures would be monitored using riparian performance indicators identified in the EA. Pastures with riparian resources in the Castle Rock Allotment are Castle Rock, Clevenger Butte #1, Clevenger Butte #2, Duck Pond, Poison, Heifer, Hat Butte, North Rockpile, Water Gulch FFR, and Sheep Rock. Pastures with riparian resources in the Whitley Canyon Allotment are Dogwood, River Field, and Little Malheur.
- Native pastures with upland concerns, including spring season grazing use (March through June), downward upland trends, and within a two-mile radius of a known sage grouse lek, would be required to improve and/or maintain upland condition as noted in the preferred alternative of the Revised North Fork Malheur Geographic Management Area EA # OR-030-06-007. These pastures would be monitored using upland performance indicators identified in the EA. Pastures that meet the above criteria in the Castle Rock Allotment are Castle Rock, House, Sheep Rock, East Rockpile, Duck Pond, Hat Butte, Clevenger Butte #1, Clevenger Butte #2, Poison, and North Rockpile Pastures.

- All other native pastures, i.e. those showing a static or upward trend, deferred use, and located outside of a two-mile radius of a known sage grouse lek, would be required to improve and/or maintain upland condition as noted in the preferred alternative of the Revised North Fork Malheur Geographic Management Area EA # OR-030-06-007. These pastures would be monitored using upland performance indicators identified in the EA. Pastures that meet the above criteria in the Castle Rock Allotment are South Rockpile and Heifer Pastures. Pastures that meet the above criteria in the Whitley Canyon Allotment are Little Malheur, Dogwood, and River Pastures.
- 1,800 active AUMs (600 AUMS annually) which began in 2006 and will remain in effect through 2008, will be placed in voluntary non-use as per Hammond Ranch's letter of agreement dated May 02, 2005 for the Castle Rock Allotment.
- Grazing use within the North Fork of the Malheur River shall be in accordance with the USFWS Biological Opinion for bull trout. Any requested changes in use must have prior approval from the BLM and the USFWS for North Rockpile, River Field, Dogwood, and Water Gulch pastures.
- You shall provide BLM with a completed actual use record within 15 days of the close of the grazing season. The actual use data will be utilized to calculate your grazing bill which will be considered after the fact for the Castle Rock and Whitley Canyon allotments.
- Annual payment of grazing fees is required prior to making grazing use in the Butte Tree and Ironside Mountain West Allotment.
- Upon reaching the maximum allowable performance indicators, livestock will be moved to the next pasture identified in the pasture rotation. If the next pasture is outside of the planned season of use, livestock will be removed from the allotment and will not return until the planned season of use. If the maximum allowable performance indicator is reached in the last pasture scheduled for use prior to the end of the identified use period, livestock will be removed from BLM public lands within the allotment. This annual monitoring requirement may result in shortened use periods for some or all pastures in years of decreased forage production, such as drought years. Additionally, this annual monitoring requirement may necessitate livestock to be removed from the allotment in the spring season of use and not return until the summer season of use.
- Adjustments in livestock numbers or any other changes from your normal grazing schedule must be approved in advance by the authorized officer.
- Salt or supplements shall be placed at least ½ mile away from water/riparian resources and ¼ mile away from sage-grouse leks on public land.
- This permit is subject to modification as necessary to achieve compliance with the Standards for Rangeland Health and Guidelines for Livestock Management (43 CFR 4180).
- For ease of operation, four days of flexibility in turn-out/gathering would be allowed in each pasture identified in a grazing schedule, for a maximum of 8 days.
- Grazing use on BLM lands within the Butte Tree allotment will be rested every other year for 5 years in order to make progress toward meeting Standards 3, 4 and 5. If monitoring shows that the upland conditions are not improving, this allotment would be incorporated into the proposed grazing rotation for the Whitley Canyon Allotment.
- The season of use and numbers shown for Ironside Mountain West and Butte Tree allotments are for administrative purposes only. Seasons and numbers can vary from

year to year and will not be restricted unless damage to public lands occurs. These allotments will remain in the Custodial "C" management category.

Rangeland Improvement Maintenance Responsibility
You will maintain the following rangeland improvement projects described below in accordance with 43 CFR 4120.3-4.

Whitley Canyon Allotment

Rangeland Improvement Number	Project Name	Type	Location
726222	E.R.N.F. RIVER FENCE	Fence	T.17S., R.36E., Sec 26
726205	No Water Reservoir	Reservoirs	T.17S., R.36E., Sec 35
726206	No Water Too Reservoir	Reservoirs	T.17S., R.36E., Sec 35
726196	Fords Reservoir	Reservoirs	T.18S., R.36E., Sec 03

Rangeland Improvement Maintenance Responsibility
You will maintain the following rangeland improvement projects described below in accordance with 43 CFR 4120.3-4.

Castle Rock Allotment

Rangeland Improvement Number	Project Name	Type	Location
720507	Wrinkle Fence	Fence	T.17S., R.36E., Sec 12
720510	Horseflat Spray Prot Fence	Fence	T.18S., R.36E., Sec 01
720521	Goodwin Bully Creek Fence	Fence	T.16S., R.37E., Sec 33
720990	Log Spring	Springs	T.18S., R.37E., Sec 05
720992	Castle Spring	Springs	T.18S., R.37E., Sec 08
720994	Fox Spring	Springs	T.18S., R.37E., Sec 17
721418	Castle Rock Fence	Fence	T.18S., R.37E., Sec 05
721740	Lost Creek Spring	Springs	T.17S., R.37E., Sec 28
721741	Castleview Spring	Springs	T.17S., R.37E., Sec 04
721744	Castle Rock Spring	Springs	T.17S., R.37E., Sec 28
721454	Charcoal Spring	Springs	T.18S., R.37E., Sec 20
721459	Horse Flat Spring	Springs	T.18S., R.37E., Sec 06
721822	Camp Spot Spring	Springs	T.17S., R.37E., Sec 10
722343	Laddie Lake Spring	Springs	T.18S., R.37E., Sec 21

Castle Rock Allotment (contd)

Rangeland Improvement Number	Project Name	Type	Location
722345	Twin Juniper Spring	Springs	T.17S., R.36E., Sec 12
722357	Hilltop Spring	Springs	T.18S., R.37E., Sec 17
724879	Murphy Allotment Fence	Fence	T.18S., R.36E., Sec 22
724893	Clevenger Butte Spring 1	Springs	T.16S., R.37E., Sec 29
724894	Malheur Spring	Springs	T.17S., R.36E., Sec 06
724895	Lost Creek Spring	Springs	T.16S., R.37E., Sec 23
724896	Iris Spring	Springs	T.16S., R.37E., Sec 23
724930	Clevenger Butte Spring 2	Springs	T.16S., R.37E., Sec 32
724957	Scott Boundary Fence	Fence	T.18S., R.37E., Sec 17
724964	Water Gulch Boundary Fence	Fence	T.18S., R.37E., Sec 32
724995	Malheur Spring 2	Springs	T.17S., R.36E., Sec 12
725001	Rockpile Reservoir 1	Reservoirs	T.18S., R.36E., Sec 22
725002	Rockpile Reservoir 2	Reservoirs	T.18S., R.36E., Sec 35
725003	Rockpile Reservoir 3	Reservoirs	T.19S., R.36E., Sec 01
725082	River Field Fence	Fence	T.17S., R.37E., Sec 07
725083	Heifer Field Fence	Fence	T.16S., R.37E., Sec 22
725124	Harney Spring	Springs	T.18S., R.36E., Sec 06
725269	Horse Flat Reservoir Excl	Fence	T.18S., R.37E., Sec 17
725351	Rock Pile Division Fence	Fence	T.18S., R.36E., Sec 22
725399	Shale Spring	Springs	T.17S., R.37E., Sec 06
725666	WSA Spring	Springs	T.18S., R.37E., Sec 08
725667	Horse Flat Reservoir #2	Reservoirs	T.18S., R.37E., Sec 17
726023	Greenbank Reservoir	Reservoirs	T.16S., R.37E., Sec 21
726195	Windy Hole Reservoir	Reservoir	T.19S., R.36E., Sec 1 SENW
TBA	TBA	Spring	T.17S., R.37E., Sec 27 NWNE
TBA	TBA	Spring	T.16S., R.37E., Sec 20 SESE
TBA	TBA	Spring/Res	T.17S., R.37E., Sec 29 SESE
TBA	TBA	Spring/Res	T.17S., R.37E., Sec 29

Rangeland Improvement Maintenance Responsibility
You will maintain the following rangeland improvement projects described below in accordance with 43 CFR 4120.3-4.

Butte Tree Allotment

Rangeland Improvement Number	Project Name	Type	Location
720536	Happy Canyon Reservoir	Reservoir	T.17S., R.36E., Sec 15
720538	Schlupe Reservoir	Reservoir	T.17S., R.36E., Sec 15

General NFMGMA Decisions
Within the NFMGMA, grazing management will be conducted in accordance with the following mitigating measures which were identified in the Revised NFMGMA EA:

Rangeland Vegetation
Appendix S (Standard Implementation Features and Procedures for Rangeland Improvements) of the SEORMP ROD will be adhered to.

Special Status Plant Species
Special status plant surveys will be conducted prior to all surface disturbing activities and project installations. Project location adjustments necessary to avoid site specific adverse impacts to special status plants will be accommodated.

Water Resources and Riparian/Wetlands and Aquatic Species and Habitats
Project development in riparian/wetland areas will follow SEORMP ROD Appendix O (Best Management Practices) criteria to minimize disturbance and maximize potential for project success. Adequate buffer distances will be implemented to protect riparian areas and stream channels from potential erosional impacts from the construction of fences.

Wildlife and Wildlife Habitat and Special Status Animal Species
BLM will continue to monitor habitat conditions in NFMGMA, and ODFW will continue to monitor sage-grouse population status. Existing rangeland vegetation monitoring may be supplemented with appropriate additional studies in accordance with SEORMP ROD Monitoring Appendix W to document success or failure in meeting NFMGMA resource objectives.

The 70% threshold for grassland habitat in Malheur Resource Area (page *x* Record of Decision) activity plan level wildlife habitat objective for NFMGMA and the SEORMP ROD will significantly limit the amount, type, and location of further fragmentation from BLM initiated land treatments. Less than 25% of the existing shrub-land habitat (excluding grasslands and closed canopy forested land) of the Wyoming, mountain, and basin big sagebrush habitats may appear as grasslands under the NFMGMA terrestrial wildlife objective.

New livestock management fences will be located at least 0.6 miles from sage grouse leks according to BLM management guidelines.

Livestock salting and mineral supplement stations will be placed at least ¼ mile away from sage grouse leks to avoid drawing livestock into centers of sage-grouse breeding activity.

Livestock management fences will be constructed in a way that allows for freedom of movement for elk, mule deer, and pronghorn and minimizes potential for injury or mortality. In accordance with BLM Manual Handbook H-1741-1, interior allotment fences will conform to the following material and spacing requirements; top strand – barbed wire - no higher than 38", second strand – barbed wire at 26", bottom strand – smooth wire at 16".

New fencing will be flagged temporarily to help diminish incidence of wildlife fence collisions.

Wildlife escape ramps will be installed in new and existing livestock water tanks to minimize potential for sage-grouse and other small animal drowning mortalities.

Rangeland/Grazing Use Management

For ease of operation, four days of flexibility in turn-out/gathering would be allowed in each pasture identified in a grazing schedule for a maximum of 8 days. This flexibility would allow for changes in use dates to accommodate for climatic conditions or the reaching of the maximum allowable utilization within a pasture. Move dates outside of the four-day allowance would be considered by BLM staff at the time of the request. Flexibility in livestock move dates will be allowed as long as the adjustments will result in the attainment of SEORMP resource management objectives.

Wilderness Study Areas

Impacts to WSAs will be mitigated by adherence to the BLM Wilderness Interim Management Policy. Careful selection of construction materials and methods (such as installation of easy panels and use of all green metal fence posts) and judicious placement intended to maximize vegetative and topographic screening will be practiced.

Cultural Resources

Cultural resource surveys will be conducted prior to all surface disturbing activities and project installations. Project location adjustments necessary to avoid site specific adverse impacts to cultural resources will be accommodated.

Monitoring Methods and Adaptive Management in NFMGMA

BLM monitoring, as described in section 8 of the EA and Appendix W of the SEORMP ROD, shall determine if authorized grazing use in NFMGMA results in attainment of the management objectives as described below.

Short-term Performance Evaluations

Monitoring methods shall be in accordance with approved BLM policy and protocols.

Existing monitoring sites will continue to be used to evaluate management. New key monitoring sites will be selected by the IDT in consultation and coordination with affected livestock permittees and the interested public.

Unforeseeable circumstances such as drought, fire, or law enforcement issues which may impede planned grazing activities may cause BLM to issue a new decision and associated NEPA analysis.

Long-term Performance Evaluation

The proposed grazing system adopted in this decision may undergo periodic performance evaluation by BLM's IDT if performance indicators are consistently not met for NFMGMA. Prior to the 2018 expiration date of your new term grazing permit, a long-term evaluation of grazing system performance will be conducted.

Monitoring methods shall be in accordance with approved BLM policy and protocols.

RATIONALE

Under the direction of the SEORMP, GMA activity planning is an administrative mechanism by which the BLM will make adjustments to authorized land uses. Based on the NFMGMA rangeland assessment findings of 2000 and 2001, changes in livestock use are needed in NFMGMA grazing allotments in order to resolve certain resource management conflicts. The rationale for this decision is based on the Standards of Rangeland Health and Guidelines for Livestock Management for Public Lands Administered by the Bureau of Land Management in the States of Oregon and Washington for pastures within the Whitley Canyon, Castle Rock, Butte Tree, and Ironside Mountain West Allotments. These determinations were published in 2003 and 2004 and were in Appendix C of the Initial NFMGMA EA No. OR-030-06-007.

Where existing grazing management practices on public lands are significant factors in failing to achieve the standards for rangeland health and conform to the guidelines, the BLM is taking action with this final decision as described in the preferred alternative in Revised NFMGMA EA No. OR-030-06-007 to move toward the attainment of standards.

Whitley Canyon Allotment

Methods of achieving the SRH in the uplands of the Whitley Canyon Allotment includes the following: (1) implementation of a grazing system that provides rest rotation and deferred rotation grazing, which limits use during the critical growing season of key perennial herbaceous species, (2) project construction to redistribute upland use within the vegetation community that did not meet SRH, and (3) ratification of new upland performance indicators for key upland species, which may contribute to improving upland health when used as management guides.

Methods of achieving the SRH in the riparian areas of the Whitley Canyon Allotment include the following: (1) implementation of a grazing system that provides cool season use and rest in riparian areas where possible, (2) reconstruction of spring developments that allows for protection of the spring sources, and (3) ratification of riparian performance indicators for riparian vegetation which may contribute to improving riparian health when used as management guides. Pastures for which these methods apply include the following: Dogwood, Little Malheur, and River Field.

The grazing schedule for the Whitley Canyon Allotment was developed in consultation with Oxbow Ranch Malheur Division beginning in 2001. In 2002 Hammond Ranches became involved with the Whitley Canyon Allotment as a result of a livestock grazing permit transfer.

The BLM met with Hammond Ranches and their consultant to coordinate the livestock grazing schedule for the first edition of EA-OR-030-006-07. Another meeting occurred in the fall of 2006 to coordinate requested changes to the schedule of the Whitley Canyon Allotment for the revised edition of EA-OR-030-006-07. During the final editing process for the revised edition of EA-OR-030-006-07, Hammond Ranches expressed interest in splitting the base property supporting the grazing authorization in Whitley Canyon Allotment. Their intent was to lease the two portions of base property separately and allow different applicants to apply for BLM grazing permits. Their desire was to have Little Malheur, River, and Dogwood Pastures become a part of the Castle Rock Allotment.

Previous analysis of the Whitley Canyon Allotment indicated that some of the pastures were at or near maximum allowable carrying capacity and that to shift grazing intensity (AUMs/acre) or increase AUMs above a planned grazing schedule amount may cause the pasture to not meet the Standards and Guidelines for Livestock Management. Based on this analysis, the BLM determined that the 2007 proposal was not analyzed in EA-OR-030-006-07. If the pastures in the Whitley Canyon Allotment are grazed as a single allotment (as analyzed in revised EA-OR-030-006-07), the Non-Use for the Little Malheur Pasture in years 1 through 6 would no longer be necessary assuming all other resource objectives (including the Biological Opinion for bull trout) are met.

Castle Rock Allotment

Methods of achieving the SRH in the uplands of the Castle Rock Allotment includes the following: (1) implementation of a grazing system that provides rest rotation grazing, limiting use during the critical growing season of key perennial herbaceous species, (2) a three year voluntary reduction in use initiated in 2006 (600 AUMs per year), and (3) ratification of new upland performance indicators for key upland species which may contribute to improving upland health when used as management guides. Pastures for which these methods apply include the following: Castle Rock, House, Sheep Rock, East Rockpile, Duck Pond, Hat Butte, Clevenger Butte #1, Clevenger Butte #2, Poison, and North Rockpile.

Methods of achieving the SRH in the riparian areas of the Castle Rock Allotment include the following: (1) implementation of a grazing system that provides 2 out of 3 years cool season use in riparian areas, (2) three year voluntary non-use initiated in 2006 (600 AUMs temporary voluntary non-use per year), (3) reconstruction of spring developments that allows for protection of the spring sources, and (4) ratification of new riparian performance indicators for key upland species, which may contribute to improving upland health when used as management guides. The three year voluntary reduction in use for the Castle Rock allotment will result in 600 AUMS per year from 2006-2008 to be spread across Sheep Rock, Clevenger Butte #1, Clevenger Butte #2, and Heifer pastures. Cool season use is the most optimal time to graze a pasture with riparian areas as the livestock are more likely to distribute farther away from the riparian area at this time. Livestock drink less water in the cool season versus the hot season which tends to result in less time that livestock spend on a stream and/ or spring source. The nutritional components of riparian vegetation and upland vegetation is most similar during the cool season versus the hot season which tends to result in less time that livestock spend in a riparian area. Pastures for which these methods apply include the following: Castle Rock, Clevenger Butte #1, Clevenger Butte #2, Duck Pond, Poison, Heifer, Hat Butte, and Sheep Rock.

Butte Tree Allotment
Methods of achieving SRH on BLM lands within this allotment include rest from livestock use every other year in order to make progress toward meeting Standards 3, 4, and 5. Furthermore, through the adaptive management process as described in the Revised NFMGMA EA-OR-030-06-007, this allotment will be put into a livestock rotation with other pastures within the Whitley Canyon Allotment if upland performance indicators are not met.

Ironside Mountan West Allotment
It was determined that current livestock grazing practices were a factor for not meeting Standards 2, 3, 4, and 5 in this allotment during the original assessment. However, an inspection of the allotment in 2003 showed significant improvement in making progress toward meeting the standards. In addition, prior to 2004 a small exclosure was re-constructed to protect a riparian area within the allotment.

AUTHORITY

The authority for this decision is contained in Title 43 of the Code of Federal Regulations (CFR) including and the following laws:
The Taylor Grazing Act
The Federal Land Management Act

4100.0-2 Objectives.
The objectives of these regulations are to promote healthy sustainable rangeland ecosystems; to accelerate restoration and improvement of public rangelands to properly functioning conditions; to promote the orderly use, improvement and development of the public lands; to establish efficient and effective administration of grazing of public rangelands; and to provide for the sustainability of the western livestock industry and communities that are dependent upon productive, healthy public rangelands. These objectives shall be realized in a manner that is consistent with land use plans, multiple use, sustained yield, environmental values, economic and other objectives stated in 43 CFR part 1720, subpart 1725; the Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315, 315a-315r); section 102 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740).

§4100.0-3 Authority.
(a) The Taylor Grazing Act of June 28, 1934 as amended (43 U.S.C. 315, 315a through 315r);
(b) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) as amended by the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.);
(c) Executive orders transfer land acquired under the Bankhead-Jones Farm Tenant Act of July 22, 1937, as amended (7 U.S.C. 1012), to the Secretary and authorize administration under the Taylor Grazing Act.
(e) The Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.); and
(f) Public land orders, Executive orders, and agreements authorize the Secretary to administer livestock grazing on specified lands under the Taylor Grazing Act or other authority as specified.

§4100.0-8 Land use plans.
The authorized officer shall manage livestock grazing on public lands under the principle of multiple use and sustained yield, and in accordance with applicable land use plans. Land use plans shall establish allowable resource uses (either singly or in combination), related levels of production or use to be maintained, areas of use, and resource condition goals and objectives to be obtained. The plans also set forth program constraints and general management practices needed to achieve management objectives. Livestock grazing activities and management actions approved by the authorized officer shall be in conformance with the land use plan as defined at 43 CFR 1601.0-5(b).
§4110.2-4 Allotments.
After consultation, cooperation, and coordination with the affected grazing permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public, the authorized officer may designate and adjust grazing allotment boundaries. The authorized officer may combine or divide allotments, through an agreement or by decision, when necessary for the proper and efficient management of public rangelands.

§4110.3 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.

§4120.2 Allotment management plans and resource activity plans.
Allotment management plans or other activity plans intended to serve as the functional equivalent of allotment management plans may be developed by permittees or lessees, other Federal or State resource management agencies, interested citizens, and the Bureau of Land Management. When such plans affecting the administration of grazing allotments are developed, the following provisions apply:

(a) An allotment management plan or other activity plans intended to serve as the functional equivalent of allotment management plans shall be prepared in careful and considered consultation, cooperation, and coordination with affected permittees or lessees, landowners involved, the resource advisory council, any State having lands or responsible for managing resources within the area to be covered by such a plan, and the interested public. The plan shall become effective upon approval by the authorized officer. The plans shall --
(1) Include terms and conditions under §§4130.3, 4130.3-1, 4130.3-2 4130.3-3, and subpart 4180 of this part;
(2) Prescribe the livestock grazing practices necessary to meet specific resource objectives;

(c) The authorized officer shall provide opportunity for public participation in the planning and environmental analysis of proposed plans affecting the administration of grazing and shall give public notice concerning the availability of environmental documents prepared as a part of the development of such plans, prior to implementing the plans. The decision document following the environmental analysis shall be considered the proposed decision for the purposes of subpart 4160 of this part.

(d) A requirement to conform with completed allotment management plans or other applicable activity plans intended to serve as the functional equivalent of allotment management plans shall be incorporated into the terms and conditions of the grazing permit or lease for the allotment.

(e) Allotment management plans or other applicable activity plans intended to serve as the functional equivalent of allotment management plans may be revised or terminated by the authorized officer after consultation, cooperation, and coordination with the affected permittees or lessees, landowners involved, the resource advisory council, any State having lands or responsible for managing resources within the area to be covered by the plan, and the interested public.

§4120.3-1 Conditions for 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 with the Bureau of Land Management or must have an approved range improvement permit.

(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.

§4130.2 Grazing permits or leases.

(a) Grazing permits or leases shall be issued to qualified applicants to authorize use on the public lands and other lands under the administration of the Bureau of Land Management that are designated as available for livestock grazing through land use plans. Permits or leases shall specify the types and levels of use authorized, including livestock grazing, suspended use, and conservation use. These grazing permits and leases shall also specify terms and conditions pursuant to §§4130.3, 4130.3-1, and 4130.3-2.

(b) The authorized officer shall consult, cooperate and coordinate with affected permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public prior to the issuance or renewal of grazing permits and leases.

(c) Grazing permits or leases convey no right, title, or interest held by the United States in any lands or resources.

(d) The term of grazing permits or leases authorizing livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management shall be 10 years.

§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.

§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 term or condition of the permit or lease.

(c) Permits and leases shall incorporate terms and conditions that ensure conformance with subpart 4180 of this part.

§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 range management or assist in the orderly administration of the public rangelands. These may include but are not limited to:

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

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

§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 officer 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.

§4160.3 Final decisions.

(a) In the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice unless otherwise provided in the proposed decision.

§4180.1 Fundamentals of rangeland health.
The authorized officer shall take appropriate action under subparts 4110, 4120, 4130, and 4160 of this part as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management needs to be modified to ensure that the following conditions exist.

(a) Watersheds are in, or are making significant progress toward, properly functioning physical condition, including their upland, riparian-wetland, and aquatic components; soil and plant conditions support infiltration, soil moisture storage, and the release of water that are in balance with climate and landform and maintain or improve water quality, water quantity, and timing and duration of flow.

(b) Ecological processes, including the hydrologic cycle, nutrient cycle, and energy flow, are maintained, or there is significant progress toward their attainment, in order to support healthy biotic populations and communities.

(c) Water quality complies with State water quality standards and achieves, or is making significant progress toward achieving, established BLM management objectives such as meeting wildlife needs.

(d) Habitats are, or are making significant progress toward being, restored or maintained for Federal threatened and endangered species, Federal Proposed, Category 1 and 2 Federal candidate and other special status species.

§4180.2 Standards and guidelines for grazing administration.

(c) The authorized officer shall take appropriate action as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management practices or levels of grazing use on public lands are significant factors in failing to achieve the standards and conform with the guidelines that are made effective under this section. Appropriate action means implementing actions pursuant to subparts 4110, 4120, 4130, and 4160 of this part that will result in significant progress toward fulfillment of the standards and significant progress toward conformance with the guidelines. Practices and activities subject to standards and guidelines include the development of grazing-related portions of activity plans, establishment of terms and conditions of permits, leases and other grazing authorizations, and range improvement activities such as vegetation manipulation, fence construction and development of water.

(e) At a minimum, State or regional guidelines developed under paragraphs (a) and (b) of this section must address the following:

(1) Maintaining or promoting adequate amounts of vegetative ground cover, including standing plant material and litter, to support infiltration, maintain soil moisture storage, and stabilize soils;

(2) Maintaining or promoting subsurface soil conditions that support permeability rates appropriate to climate and soils;

(3) Maintaining, improving or restoring riparian-wetland functions including energy dissipation, sediment capture, groundwater recharge, and stream bank stability;

(4) Maintaining or promoting stream channel morphology (e.g., gradient, width/depth ratio, channel roughness and sinuosity) and functions appropriate to climate and landform;

(5) Maintaining or promoting the appropriate kinds and amounts of soil organisms, plants and animals to support the hydrologic cycle, nutrient cycle, and energy flow;

(6) Promoting the opportunity for seedling establishment of appropriate plant species when climatic conditions and space allow;

(7) Maintaining, restoring or enhancing water quality to meet management objectives, such as meeting wildlife needs;

(8) Restoring, maintaining or enhancing habitats to assist in the recovery of Federal threatened and endangered species;

(9) Restoring, maintaining or enhancing habitats of Federal Proposed, Category 1 and 2 Federal candidate, and other special status species to promote their conservation;
(10) Maintaining or promoting the physical and biological conditions to sustain native populations and communities;
(11) Emphasizing native species in the support of ecological function;

Southeastern Oregon Resource Management Plan, Record of Decision and Final Environmental Impact Statement, September 2002.

RIGHT OF STAY AND/OR APPEAL

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. A period of 30 days from your receipt of the final decision is provided for filling an appeal and petition for stay of the decision pending final determination on appeal, as provided in 43 CFR § 4.470 and 43 CFR § 4160.4.

Any appeal should state clearly and concisely as to why the final decision is in error. All grounds of error not stated shall be considered waived, and no such waived ground of error may be presented at the hearing unless ordered or permitted by the administrative law judge. Any appeal should be submitted in writing to:

Field Manager
Malheur Resource Area
Vale District Bureau of Land Management
100 Oregon Street
Vale, Oregon 97918

Filing an appeal does not by itself stay the effectiveness of the final BLM decision. The appeal may be accompanied by a petition for a stay of the decision pending final determination on appeal, in accordance with 43 CFR § 4.471 and 4.479. Any request for a stay of the final decision in accordance with 43 CFR § 4.21 must be filled with the appeal. In accordance with 43 CFR § 4.21 (b) (1), a petition for a stay must show sufficient justification based on the following:

- The relative harm to the parties if the stay is granted or denied,
- The likelihood of the appellant's success on the merits,
- The likelihood of immediate and irreparable harm if the stay is not granted, and
- Whether the public interest favors granting the stay.

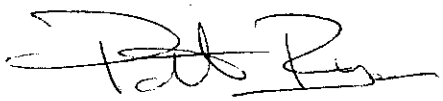
Additionally, in accordance with 43 CFR § 4.471(b), within 15 days after filing the appeal and petition for a stay with the authorized officer, the appellant must also serve copies on:
1) all other person(s) named in the Copies sent to: section of this decision; and

2) the appropriate office of the Office of the Solicitor as follows, in accordance with 43 CFR § 4.413(a) and (c):

Office of the Solicitor
US Department of the Interior
Pacific NW Region
500 NE Multnomah, Suite 607
Portland, OR 97213

Finally, in accordance with 43 CFR 4.472(b), 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 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 respond, the person must serve copies on the appellant, the appropriate office of the Office of the Solicitor in accordance with Sec. 4.413(a) and (c), and any other person named in the decision.

Sincerely,



Pat Ryan
Field Manager
Malheur Resource Area

Copies sent to: (by certified mail)

[redacted]

Courtesy copies sent to:

[redacted]

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Vale District Office
100 Oregon Street
Vale, Oregon 97918

IN REPLY REFER TO
4100, NFMGMA

[redacted]

FEB 0 1 2008

NOTICE OF THE FIELD MANAGER'S FINAL DECISION

Dear [redacted]:

INTRODUCTION

Subsequent to the approval of revised BLM grazing regulations in 1995, BLM State Directors were assigned the task of developing state level rangeland health standards (Title 43 Code of Federal Regulations [CFR] 4180.2). The process of developing standards and defining standard indicators was conducted in consultation with BLM Resource Advisory Councils (RACs). The purpose for setting standards and identifying their indicators was to provide BLM with a rational basis for determining whether current management is meeting the Fundamentals of Rangeland Health as described under 43 CFR 4180.1.

On August 12, 1997, Interior Secretary Bruce Babbitt approved the Oregon/Washington BLM Standards and Guidelines for Rangeland Health (SRH). BLM field offices in Oregon/Washington were subsequently directed to conduct assessments and then use that assessment information to craft range health evaluations in relation to the state standards. These evaluations are conducted under an interdisciplinary team (IDT) concept where various resource specialists, representing the biological and physical sciences, are involved in the collection, review and analysis of available data.

In order to accomplish this assessment and evaluation workload and conform to the need for completing work on a watershed basis, Malheur Resource Area was divided into nine land based administrative units now referred to as Geographic Management Areas (GMAs). Based on multiple resource values and ongoing management issues needing resolution, the North Fork Malheur GMA (NFMGMA) was selected to be the second GMA to be assessed in Malheur Resource Area.

BLM regulations specify that "the authorized officer shall take appropriate action as soon as practicable but not later than the start of the next grazing year upon determining, through assessment or monitoring by experienced professionals and interdisciplinary teams, that a standard is not being achieved and that livestock are a significant contributing factor to the failure to achieve the standards and conform with the guidelines".

This decision is the final step in the GMA process, where changes to existing grazing management practices will be implemented. Issuing this decision will allow for significant

progress to be made toward meeting Standards for Rangeland Health in NFMGMA, and is issued in compliance with the Southeastern Oregon Resource Management Plan (SEORMP) and Record of Decision of September 2002.

BACKGROUND

Consultation, cooperation, and coordination with both grazing permittees and the interested public are critical components of BLM's range health assessment and evaluation process. On numerous occasions, BLM has communicated with both groups on range health standards and GMA assessments, by way of mailed written materials, public meetings, and onsite visits within NFMGMA.

In 2000 and 2001, the NFMGMA interdisciplinary team used a variety of information sources and the professional judgment of members and senior staff specialists to conduct upland and riparian health assessments. The best available rangeland vegetation and soils maps were consulted and agency-approved technical references and methodology, including protocols outlined in BLM Manual H-4180-1, "Rangeland Health Standards", were used to arrive at conclusions about range health conditions. These assessments were used to determine if Oregon/Washington BLM's "Standards for Rangeland Health" were being met. The Oregon/Washington Rangeland Health Standards are as follows:

- Standard 1 – Watershed Function – Uplands: upland soils exhibit infiltration and permeability rates, moisture storage, and stability that are appropriate to soil, climate, and landform.
- Standard 2 – Watershed Function --Riparian/wetland areas: riparian-wetland areas are in properly functioning physical condition appropriate to soil, climate, and landform.
- Standard 3 – Ecological Processes –Uplands: healthy, productive and diverse plant and animal populations and communities appropriate to soil, climate, and landform are supported by ecological processes of nutrient cycling, energy flow, and the hydrologic cycle.
- Standard 4 – Water Quality: surface water and ground water quality, influenced by agency actions, complies with State water quality standards.
- Standard 5 – Native, Threatened and Endangered (T&E), and Locally Important Species: habitats support healthy, productive, and diverse populations and communities of native plants and animals (including special status species and species of local importance) appropriate to soil, climate, and landform.

As a result of the interdisciplinary team assessments within the NFMGMA, upland sites in 45 pastures within 11 allotments did not meet the Standards for Rangeland Health due to current livestock grazing. The assessments that were completed in riparian areas indicated 34 pastures within 11 allotments did not meet the Standards for Rangeland Health due to current livestock grazing.

Scaling down the assessment from the NFMGMA to the Calf Creek Allotment, 6 of 18 pastures within the allotment did not meet the Standards for Rangeland Health for upland areas due to current livestock grazing. The assessments that were completed in riparian areas revealed that 6

of 18 pastures within the allotment did not meet Standards for Rangeland Health due to current livestock grazing.

Scaling down the assessment from the NFMGMA to the Beulah Reservoir Allotment, 10 of 18 pastures within the allotment did not meet the Standards for Rangeland Health for upland areas due to current livestock grazing. The assessments that were completed in riparian areas revealed that 4 of 18 pastures within the allotment did not meet Standards for Rangeland Health due to current livestock grazing.

The BLM and the NFMGMA grazing permittees initially met in 2002 and 2003 to establish short and long term solutions to areas that were not meeting standards. The short term solution that allowed for progress toward meeting the standards became the interim grazing strategy that some NFMGMA permittees have operated under since the 2002 and 2003 grazing season. In the fall of 2004, the IDT presented the formal findings of the assessments through Summaries and Determinations for the Standards of Rangeland Health to grazing permittees in NFMGMA, and members of the interested public. The long term solutions from the recommendations in the Determination Summaries were used to develop the preferred alternative that was proposed and analyzed in the NFMGMA Revised Environmental Assessment # OR-030-06-007. The other alternatives that were described and analyzed in this document were crafted by the BLM, in consultation, cooperation and coordination with members of the interested public. Each developed alternative was assessed and analyzed in the EA to determine if management objectives, as described in the SEORMP and Record of Decision, will be met by the actions proposed for the alternatives. The preferred alternative described in the EA will allow for attainment of all applicable Vale District BLM objectives found in Revised EA OR-030-06-007 and SEORMP ROD (2002). The applicable management objectives are consistent with and support the Oregon/Washington Standards for Rangeland Health. Existing grazing management (i.e. that occurring prior to the interim strategy) in most allotments will not meet the standards for rangeland health as described in the No-Action alternative of the EA.

In the summer of 2007, the IDT recommended the adoption of preferred alternative in the NFMGMA Revised Environmental Assessment # OR-030-06-007, which was sent to you in August with a copy of the Field Manager's Proposed Decision. Following the receipt of the proposed decision, protests were received from you, livestock permittees, and other groups. The MRA IDT and I met with the majority of the protesters on November 27th, 2007 to discuss the protest points. The protests were reviewed, responded to (Attachment 1), and utilized as a resource in conjunction with information obtained from the November 27th, 2007 meeting in designing the final grazing decision.

GRAZING MANAGEMENT PRACTICES

The evaluation has indicated that livestock grazing use is a causal factor in the failure to meet the upland and riparian rangeland health standard and thus upland and riparian improvement is necessary within NFMGMA. Because of this determination, BLM must now adjust the intensity (utilization) and season (timing) of grazing use in order to make substantial progress towards meeting the upland and riparian standards. BLM discussed the rationale for this action in the SEORMP ROD Appendix R "Effects of Intensity and Season of Grazing". BLM proposed actions for NFMGMA will promote that attainment of properly functioning upland and riparian

systems and meet resource management objectives by employing the following monitoring methods and performance indicators.

To ensure that the proposed livestock grazing systems allow reproduction and improvement of woody riparian vegetation, a quantifiable key plant performance indicator based on the modified Cole Browse method would be utilized in pastures containing riparian/wetland areas. This performance indicator would be used to identify when excessive livestock browse on woody riparian vegetation is occurring and to trigger an appropriate management response. The permittee would be notified to remove livestock from any pasture if livestock concentration in riparian areas results in excessive use of woody vegetation. Grazing use will be considered excessive when >30% of the available leaders have been nipped or detached from woody riparian plants. This is referred to as livestock "incidence of use". It is estimated on the basis of the number of leaders that have been browsed and not on the percentage of annual growth removed. For example, on a willow plant with 100 stems, the performance indicator will be considered acceptable when fewer than 30 leaders have been clipped by livestock and big game combined. If browse on woody riparian vegetation exceeds this level, cattle would be removed from the pasture.

Riparian herbaceous stubble height measurements are a second tool or performance indicator that would be used to monitor riparian areas. Stubble height measurements will be used to determine the residual vegetation height of key species following a period of grazing. The measurements may be used two ways in conjunction with other monitoring techniques to determine when livestock should be moved from the riparian area. The first use would be during the grazing season to determine when livestock should be moved out of a pasture before excessive riparian damage occurs, and the second use would be at the end of the grazing season to determine whether changes to livestock grazing management are needed the following year. A performance indicator, not a standard, of 4 to 6 inches of stubble height vegetation would be used to indicate that livestock may need to be moved to prevent damage to riparian vegetation or streambanks. If riparian areas are in good condition or are continuing to improve in condition, this performance indicator may be adequate to prevent riparian damage, but other areas may require more residual herbaceous vegetation to protect the streambanks and improve riparian area conditions. The goal of this performance indicator is to provide a trigger to identify when established monitoring techniques should be completed to determine progress toward meeting management objectives in order for the riparian area to move in the desired direction.

The upland vegetation performance indicator that would be used to prevent excessive livestock use on perennial grass, forbs, and shrubs is average actual use based on the Landscape Appearance Method (Attachment 2). The Landscape Appearance Method is the approved protocol in the Vale District Monitoring Plan for annual monitoring of upland vegetation. The permittee would be notified to remove livestock from any pasture if livestock were exceeding the upland vegetation performance indicator for average actual use. Native pastures with upland concerns, including spring season grazing use (March through June), downward upland trends, and/ or within a two-mile radius of a known sage grouse lek, would be required to improve and/or maintain upland condition as noted in the preferred alternative of the North Fork Malheur Geographic Management Area EA # OR-030-06-007. These pastures would be monitored using upland performance indicators of 40% (maximum allowable utilization). Pastures that are

grazed in the spring season of use would have a performance indicator of 40% (maximum allowable utilization), but on a deferred year (i.e. fall/ summer use) the performance indicator would be 50% (maximum allowable utilization) provided that they have a upward or static upland trends and are outside of a two-mile radius of a known sage grouse lek.

FINAL DECISION

Therefore, it is my final decision to implement the preferred alternative described in the Revised Environmental Assessment (EA) # OR-030-06-007. This decision includes authorization of your livestock grazing use (operator #3603154) with a term of 10 years beginning in 2008 and expiring in 2018 for the Calf Creek (#00612) and Beulah Reservoir (#10217) Allotments. Additionally, it is my final decision to ratify new allotment grazing schedules, change the number of livestock, and to implement new riparian and upland performance indicators.

Calf Creek Allotment

The rangeland improvement projects (i.e. spring re-developments) described in Appendix D of Revised EA No. OR-030-06-007 will be authorized in accordance with 43 CFR §4120.3-4.

In addition, Lower Heifer Reservoir, Lowest Heifer Reservoir, Superstition Reservoir, and Burnt Mountain Pit Reservoir will be abandoned and reclaimed by the BLM.

Your grazing authorization will be modified from your old term permit, which is as follows:

Allotment	Livestock		Grazing Period		AUMs
	Number	Kind	Begin	End	
00162 Calf Creek	72	Cattle	03/01	10/31	579

Your new grazing authorization will be modified from your current term permit and is shown below:

Allotment	Livestock		Grazing Period		Type Use	AUMs
	Number	Kind	Begin	End		
00162 Calf Creek	650	Sheep	03/15	06/01	Active	338
	24	Cattle	03/15	3/31	Active	13
	45	Cattle	04/01	09/01	Active	228

Total Preference AUMs = 579 (579 Active AUMs and 0 Suspended AUMs).

Your standard grazing authorization and pasture rotation, which is defined in the preferred alternative of the Revised EA OR-030-006-07, for the Castle Rock Allotment will be as follows:

Pasture	Year 1 (08)	Year 2 (09)	Year 3 (10)	Year 4 (07,11)
Stemler Basin	*3/26-5/1 (158AUM)*	4/1-6/1 (545AUM)	11/2-12/1 (274AUM) *4/1-4/25 (107AUM)*	11/2-12/1 (274AUM) *4/16-6/1 (201AUM)*
Dishrag	8/1-9/1, 10/1-12/1 (719AUM) *3/15-3/25,5/15-6/1 (124AUM)*	6/2-9/1 (704AUM) *5/16-6/1 (73AUM)*	6/11-9/1 (603AUM) *3/15-3/31 (71AUM)*	4/1-6/1 (620AUM)
Cave Creek	5/1-6/1 (173AUM)	4/1-4/22 (117AUM)	5/21-6/10 (100AUM)	7/1-7/15 (140AUM)
Lake Ridge	6/1-8/1 (562AUM) *5/2-5/14 (56AUM)*	10/1-11/1 (293AUM) *4/26-5/15 (86AUM)*	4/1-5/20 (488AUM)	7/16-9/1 (233AUM) *3/15-4/15 (137AUM)*
Lower Calf Creek Private	3/15-3/31 (70AUM)	3/15-3/31 (70AUM)	3/15-3/31 (70AUM)	3/15-3/31 (70AUM)
Lower Calf Creek BLM	Rest	Rest	4/1-5/1 46AUM *5/21-6/1 (51AUM)*	6/1-6/14 (130AUM)
Upper Calf Creek	5/1-6/1 (166AUM)	*3/15-3/27 (57AUM)*	5/21-6/10 (124AUM)	6/15-7/1 (170AUM)
Chalk Camp	4/1-5/1 (331AUM)	11/2-12/1 (274AUM) *3/28-4/25 (124AUM)*	10/1-11/1 (293AUM) *4/26-5/20 (109AUM)*	10/1-11/1 (293AUM)
Grasshopper	FFR	FFR	FFR	FFR
Totals	**2336**	**2336**	**2336**	**2263**

Italicized text indicates sheep use.

Beulah Reservoir Allotment

The rangeland improvement projects (i.e. spring re-developments) described in Appendix D of Revised EA No. OR-030-06-007 will be authorized in accordance with 43 CFR §4120.3-4.

Your grazing authorization will be modified from your old term permit, which is as follows:

Allotment	Livestock		Grazing Period		AUMs
	Number	Kind	Begin	End	
10217 Beulah Reservoir	87	Cattle	03/01	10/31	702

Your new grazing authorization which is defined in the preferred alternative of the Revised NFMGMA EA (OR-030-06-007), for the Beulah Reservoir Allotment will be as follows:

Allotment	Livestock		Grazing Period		AUMs
	Number	Kind	Begin	End	
10217 Beulah	91	Cattle	03/15	10/31	686
	16	Cattle	03/15	04/15	16

Total Preference AUMs = 702 (702 Active AUMs and 0 Suspended AUMs). 16 AUMs of cattle use from 4/01 to 4/30 will be for Fenced Federal Range.

Your standard grazing schedule, which is defined in the preferred alternative of the Revised EA OR-030-006-07, for the Beulah Reservoir Allotment will be as follows:

PASTURE	Year 1	Year 2	Year 3	Year 4
Big Seeding[1]	5/11-6/1 66AUM	4/15-5/01 59AUM	3/14-4/18 121AUM	Same as Yr. 1
Antelope[1]	6/18-10/5 329AUM	6/1-10/3 374AUM	5/15-9/1 329AUM	Same as Yr. 1
Scab[1]	3/14-4/21 135AUM	5/1-5/20 57AUM	4/19-5/14 87AUM	Same as Yr. 1
McClellan[1]	4/22-5/10 62AUM	3/20-4/14 90AUM	10/15-12/15 65AUM	Same as Yr. 1
Little Seeding[1]	FFR	FFR	FFR	Same as Yr. 1
Moonshine[2]	3/20-5/1 (80AUM)	3/20-5/1 (80AUM)	3/20-5/1 (80AUM)	3/20-5/1 (80AUM)

[1]Fenced Federal Range and your private lands will be used in conjunction with this grazing schedule.
[2]Moonshine pasture would be shared operator #3603431. Each permittee may utilize no more than 80 AUMs each.

Grazing use will be in accordance with the following terms and conditions:

- Grazing use in the Calf Creek and Beulah Reservoir Allotments shall be in accordance with the above grazing schedules, grazing authorizations, and with this signed decision which incorporates the preferred alternative in the North Fork Malheur Geographic Management Area EA # OR-030-06-007. In emergency related situations such as drought or fire a new decision may dictate grazing use.
- Pastures with riparian resources would be required to improve and/or maintain riparian condition as noted in the preferred alternative of the North Fork Malheur Geographic Management Area EA # OR-030-06-007. These pastures would be monitored using riparian performance indicators identified in the EA. Pastures with riparian resources in the Calf Creek Allotment are Dishrag, Lake Ridge, Lower Calf Creek, Upper Calf Creek, Cave Creek, and Chalk Camp. Pastures with riparian resources in the Beulah Reservoir Allotment are Moonshine, Jack Creek, Burnt Field, Bennet, Big Seeding, and Scab.
- Native pastures with upland concerns, including spring season grazing use (March through June), downward upland trends, and within a two-mile radius of a known sage grouse lek, would be required to improve and/or maintain upland condition as noted in the preferred alternative of the North Fork Malheur Geographic Management Area EA #

OR-030-06-007. These pastures would be monitored using upland performance indicators identified in the EA. Pastures that meet the above criteria in the Calf Creek Allotment are Stemler Basin, Dishrag, Lake Ridge, Upper Calf Creek, and Chalk Camp. Pastures that meet the above criteria in the Beulah Reservoir Allotment are Lower Poverty, Moonshine, Jack Creek, Big Seeding, Scab, Little Seeding, and Antelope.

- All other native pastures, i.e. those showing a static or upward trend, deferred use, and located outside of a two-mile radius of a known sage grouse lek, would be required to improve and/or maintain upland condition as noted in the preferred alternative of the North Fork Malheur Geographic Management Area EA # OR-030-06-007. These pastures would be monitored using upland performance indicators identified in the EA. Pastures that meet the above criteria in the Calf Creek Allotment are Cave Creek and Lower Calf Creek. Pastures that meet the above criteria in the Beulah Reservoir Allotment are Burnt Field, McClellan, Bennet, Upper Poverty, North Homestead, Mud Springs, and West MJ.
- Upon reaching the maximum allowable performance indicators, livestock will be moved to the next pasture identified in the pasture rotation. If the next pasture is outside of the planned season of use livestock will be removed from the allotment and will not return until the planned season of use. If the maximum allowable performance indicator is reached in the last pasture scheduled for use prior to the end of the identified use period, livestock will be removed from BLM public lands within the allotment. This annual monitoring requirement may result in shortened use periods for some or all pastures in years of decreased forage production, such as drought. Additionally, this annual monitoring requirement may necessitate livestock to be removed from the allotment in the spring season of use and not return until the summer season of use.
- You shall provide BLM with a completed actual use record within 15 days of the close of the grazing season.
- Annual payment of grazing fees is required prior to making grazing use in the Calf Creek and Beulah Reservoir Allotments.
- Adjustments in livestock numbers or any other changes from your normal grazing schedule must be approved in advance by the authorized officer.
- Salt or supplements shall be placed at least ½ mile away from water/riparian resources and ¼ mile away from sage-grouse leks on public land.
- This permit is subject to modification as necessary to achieve compliance with the Standards for Rangeland Health and Guidelines for Livestock Management (43 CFR 4180).
- For ease of operation, four days of flexibility in turn-out/gathering would be allowed in each pasture identified in a grazing schedule for a maximum of 8 days.

Rangeland Improvement Maintenance Responsibility

You will maintain the following rangeland improvement projects described below in accordance with 43 CFR 4120.3.

Calf Creek Allotment

Rangeland Improvement Number	Project Name	Type	Location
5057	Stemler Ridge Temp Fence	Fence	T.20S., R.38E., Sec 22
5059	Gehrman Fence	Fence	T.20S., R.38E., Sec 30
720165	Calf Creek Water Hole	Reservoir	T.20S., R.38E., Sec 18
720736	Boulder Spring 1	Spring	T.20S., R.38E., Sec 4 SWSW
720941	Juniper Tree Spring	Spring	T.19S., R.38E., Sec 28 SENE
720952	Boulder Spring 2	Spring	T.20S., R.38E., Sec 2 NWSW
720957	Indian Spring	Spring	T.19S., R.38E., Sec 27 SENW
720958	Poverty Spring	Spring	T.19S., R.38E., Sec 34 NESE
721259	Grasshopper Flat Fence	Fence	T.19S., R.38E. Sec 32 NWNE
721773	Beulah Creek Reservoir	Reservoir	T.20S., R.38E., Sec 8 SWSE
724725	Burnt Mountain Reservoir	Reservoir	T.19S., R.38E., Sec 33 SENW
725010	Ben Jones Fence	Fence	T.19S., R.38E., Sec 34 NENE
725097	Chalk Gulch Fence	Fence	T.20S., R.38E., Sec 1 NWNW
725285	Juniper Spring Pit Reservoir	Reservoir	T.19S., R.38E., Sec 28 SENE
725286	Boulder Pit Reservoir	Reservoir	T.20S., R.38E., Sec 4 SWSW
725287	Dishrag Pit Reservoir	Reservoir	T.20S., R.38E., Sec 3 SWSE
725384	Cave Creek Fence	Fence	T.20S., R.38E., Sec 12 NWNE
725875	Lower Forrest Reservoir	Reservoir	T.20S., R.38E., Sec 2 NESW
725906	Burnt Mountain Pit Reservoir	Reservoir	T.19S., R.38E., Sec 33 SENW
726022	Lower Heifer Reservoir	Reservoir	T.20S., R.38E., Sec 26 SWSW
726191	Donna Reservoir	Reservoir	T.20S., R.38E., Sec 22 SWNW
726211	Pojo Reservoir	Reservoir	T.20S., R.38E., Sec 23 NENW

Rangeland Improvement Maintenance Responsibility
You will maintain the following rangeland improvement projects described below in accordance with 43 CFR 4120.3-4.

Beulah Reservoir Allotment

Rangeland Improvement Number	Project Name	Type	Location
2322	Jack Spring	Spring	T.19S., R.37E., Sec 35 NWSE
720134	Beulah Seeding Prot Fence	Fence	T.19S., R.37E., Sec 32 SENE
721080	Joyce Allotment Fence	Fence	T.19S., R.37E., Sec 28 SWNW
721623	Curry Ridge Division Fence	Fence	T.19S., R.37E., Sec 35 SENE
724254	Crickett Spring	Spring	T.19S., R.37E., Sec 14 SWSW
724270	Agency Ridge Protective Fence	Fence	T.19S., R.37E., Sec 33 NESW
724861	Sheep Allotment Bound Fence	Fence	T.18S., R.36E., Sec 30 NWSW
725125	Moonshine Spring	Spring	T.20S., R.37E., Sec 2 NWNW
725840	McClellen Division Fence	Fence	T.20S., R.37E., Sec 4 NESW

General NFMGMA Decisions
Within the NFMGMA, grazing management will be conducted in accordance with the following mitigating measures which were identified in the Revised EA:

Rangeland Vegetation
Appendix S of the SEORMP ROD (Standard Implementation Features and Procedures for Rangeland Improvements) will be adhered to.

Special Status Plant Species
Special status plant surveys will be conducted prior to all surface disturbing activities and project installations. Project location adjustments necessary to avoid site specific adverse impacts to special status plants will be accommodated.

Water Resources and Riparian/Wetlands and Aquatic Species and Habitats
Project development in riparian/wetland areas will follow SEORMP ROD Appendix O (Best Management Practices) criteria to minimize disturbance and maximize potential for project success. Adequate buffer distances will be implemented to protect riparian areas and stream channels from potential erosional impacts from the construction of fences.

Wildlife and Wildlife Habitat and Special Status Animal Species
BLM will continue to monitor habitat conditions in NFMGMA, and ODFW will continue to monitor sage-grouse population status. Existing rangeland vegetation monitoring may be supplemented with appropriate additional studies in accordance with SEORMP ROD Monitoring Appendix W to document success or failure in meeting NFMGMA resource objectives.

The activity plan level wildlife habitat objective for NFMGMA and the SEORMP ROD 70% threshold for grassland habitat in Malheur Resource Area (page *x* Record of Decision) will significantly limit the amount, type, and location of further fragmentation from BLM initiated land treatments. Less than 25% of the existing shrub-land habitat (excluding grasslands and closed canopy forested land) of the Wyoming, mountain, and basin big sagebrush habitats may appear as grasslands under the NFMGMA terrestrial wildlife objective.

New livestock management fences will be located at least 0.6 miles from sage grouse leks according to BLM management guidelines.

Livestock salting and mineral supplement stations will be placed at least ¼ mile from sage grouse leks to avoid drawing livestock into centers of sage-grouse breeding activity.

Livestock management fences will be constructed in a way that allows for freedom of movement for elk, mule deer, and pronghorn and minimizes potential for injury or mortality. In accordance with BLM Manual Handbook H-1741-1, interior allotment fences will conform to the following material and spacing requirements; top strand – barbed wire - no higher than 38", second strand – barbed wire at 26", bottom strand – smooth wire at 16".

New fencing will be flagged temporarily to help diminish incidence of wildlife fence collisions.

Wildlife escape ramps will be installed in new and existing livestock water tanks to minimize potential for sage-grouse and other small animal drowning mortalities.

Rangeland/Grazing Use Management

For ease of operation, four days of flexibility in turn-out/gathering would be allowed in each pasture identified in a grazing schedule for a maximum of 8 days. This flexibility would allow for changes in use dates to accommodate for climatic conditions or the reaching of the maximum allowable utilization within a pasture. Move dates outside of the four-day allowance would be considered by BLM staff at the time of the request. Flexibility in livestock move dates will be allowed as long as the adjustments will result in the attainment of SEORMP resource management objectives.

Cultural Resources

Cultural resource surveys will be conducted prior to all surface disturbing activities and project installations. Project location adjustments necessary to avoid site specific adverse impacts to cultural resources will be accommodated.

Monitoring Methods and Adaptive Management in NFMGMA

BLM monitoring, as described in section 8 of the EA and Appendix W of the SEORMP ROD, shall determine if authorized grazing use in NFMGMA results in attainment of the management objectives as described below.

Short-term Performance Evaluations
Monitoring methods shall be in accordance with approved BLM policy and protocols.

Existing monitoring sites will continue to be used to evaluate management. New key monitoring sites will be selected by the IDT in consultation and coordination with affected livestock permittees and the interested public.

Unforeseeable circumstances such as drought, fire, or law enforcement issues which may confound planned grazing activities may cause BLM to craft a new decision and associated NEPA analysis.

Long-term Performance Evaluation
The grazing system adopted in this decision may undergo periodic performance evaluation by BLMs IDT if performance indicators are continuously not met for NFMGMA. Prior to the 2018 expiration date of your new term grazing permit, a long-term evaluation of grazing system performance will be conducted.

Monitoring methods shall be in accordance with approved BLM policy and protocols.

RATIONALE

Under the direction of the SEORMP, GMA assessments are an administrative mechanism by which BLM will make adjustments to authorized land uses. Based on the NFMGMA rangeland assessment findings of 2000 and 2001, changes in livestock use are needed in NFMGMA grazing allotments in order to resolve certain resource management conflicts. The rationale for this decision is based on the Standards of Rangeland Health and Guidelines for Livestock Management for Public Lands Administered by the Bureau of Land Management in the States of Oregon and Washington for pastures within the Calf Creek and Beulah Reservoir Allotments. These determinations were published in 2003 and 2004 and were in Appendix C of the Initial EA No. OR-030-06-007.

Where existing grazing management practices on public lands are significant factors in failing to achieve the standards for rangeland health and conform to the guidelines, BLM is taking action with this final decision as described in the preferred alternative in EA No. OR-030-06-007 to move toward the attainment of Standards.

Calf Creek Allotment
Methods of achieving the SRH in the uplands of the Calf Creek Allotment includes the following: (1) implementation of a grazing system that provides deferred rotation grazing limiting use during the critical growing season of key perennial herbaceous species, (2) a partial change in the class of livestock from cattle to sheep, which improves livestock distribution and change in dietary preference from grasses to forbs and shrubs, (3) ratification of new upland performance indicators for key upland species, which may contribute to improving upland health when used as management guides, and (4) construction of the North boundary fence in the Cave Creek pasture, which will provide for upland deferment between the two pastures. Pastures for which these methods apply include the following: Stemler Basin, Dishrag, Lake Ridge, Upper Calf Creek, and Chalk Camp.

Methods of achieving the SRH in the riparian areas of the Calf Creek Allotment include the following: (1) implementation of a grazing system that provides 3 of 4 years cool season use in riparian areas, (2) an extended season of use within existing permitted AUMs, which reduces livestock grazing impacts during the hot season of use, (3) reconstruction of spring developments that allows for protection of the spring sources, (4) ratification of riparian performance indicators for riparian vegetation which may contribute to improving riparian health when used as management guides, and (5) construction of a boundary fence near the public/ private boundary in Lower Calf Creek pasture, which will support an extended grazing season with less livestock grazing impacts during the hot season. . Cool season use is the most optimal time to graze a pasture with riparian areas as the livestock are more likely to distribute farther away from and the riparian area at this time. Livestock drink less water in the cool season versus the hot season which tends to result in less time that livestock spend on a stream and/ or spring source. The nutritional components of riparian vegetation and upland vegetation is most similar during the cool season versus the hot season which tends to result in less time that livestock spend in a riparian area. Pastures for which these methods apply include the following: Dishrag, Lake Ridge, Lower Calf Creek, Upper Calf Creek, Cave Creek, and Chalk Camp.

Beulah Reservoir Allotment

Methods of achieving the SRH in the uplands of the Beulah Reservoir Allotment includes the following: (1) implementation of a grazing system that provides deferred rotation grazing limiting use during the critical growing season of key perennial herbaceous species and (2) ratification of new upland performance indicators for key upland species, which may contribute to improving upland health when used as management guides. Pastures for which these methods apply include the following: Lower Poverty, Jack Creek, North Homestead, Bennett, Antelope, Moonshine, Scab, Burnt Field, Big Seeding, Little Seeding, and McClellan.

Methods of achieving the SRH in the riparian areas of the Beulah Reservoir Allotment include the following: (1) implementation of a grazing system that provides cool season use in riparian areas, (2) reconstruction of spring developments that allows for protection of the spring sources, (3) ratification of riparian performance indicators for riparian vegetation which may contribute to improving riparian health when used as management guides. Pastures for which these methods apply include the following: Moonshine, Burnt Field, Scab, and Upper Poverty.

AUTHORITY

The authority for this decision is contained in Title 43 of the Code of Federal Regulations (CFR) including and the following laws:

The Taylor Grazing Act
The Federal Land Management Act

4100.0-2 Objectives.

The objectives of these regulations are to promote healthy sustainable rangeland ecosystems; to accelerate restoration and improvement of public rangelands to properly functioning conditions; to promote the orderly use, improvement and development of the public lands; to establish efficient and effective administration of grazing of public rangelands; and to provide for the sustainability of the western livestock industry and communities that are dependent upon

productive, healthy public rangelands. These objectives shall be realized in a manner that is consistent with land use plans, multiple use, sustained yield, environmental values, economic and other objectives stated in 43 CFR part 1720, subpart 1725; the Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315, 315a-315r); section 102 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740).

§4100.0-3 Authority.

(a) The Taylor Grazing Act of June 28, 1934 as amended (43 U.S.C. 315, 315a through 315r);
(b) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) as amended by the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.);
(c) Executive orders transfer land acquired under the Bankhead-Jones Farm Tenant Act of July 22, 1937, as amended (7 U.S.C. 1012), to the Secretary and authorize administration under the Taylor Grazing Act.
(e) The Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.); and
(f) Public land orders, Executive orders, and agreements authorize the Secretary to administer livestock grazing on specified lands under the Taylor Grazing Act or other authority as specified.

§4100.0-8 Land use plans.

The authorized officer shall manage livestock grazing on public lands under the principle of multiple use and sustained yield, and in accordance with applicable land use plans. Land use plans shall establish allowable resource uses (either singly or in combination), related levels of production or use to be maintained, areas of use, and resource condition goals and objectives to be obtained. The plans also set forth program constraints and general management practices needed to achieve management objectives. Livestock grazing activities and management actions approved by the authorized officer shall be in conformance with the land use plan as defined at 43 CFR 1601.0-5(b).

§4110.2-4 Allotments.

After consultation, cooperation, and coordination with the affected grazing permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public, the authorized officer may designate and adjust grazing allotment boundaries. The authorized officer may combine or divide allotments, through an agreement or by decision, when necessary for the proper and efficient management of public rangelands.

§4110.3 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.

§4120.2 Allotment management plans and resource activity plans.

Allotment management plans or other activity plans intended to serve as the functional equivalent of allotment management plans may be developed by permittees or lessees, other

Federal or State resource management agencies, interested citizens, and the Bureau of Land Management. When such plans affecting the administration of grazing allotments are developed, the following provisions apply:

(a) An allotment management plan or other activity plans intended to serve as the functional equivalent of allotment management plans shall be prepared in careful and considered consultation, cooperation, and coordination with affected permittees or lessees, landowners involved, the resource advisory council, any State having lands or responsible for managing resources within the area to be covered by such a plan, and the interested public. The plan shall become effective upon approval by the authorized officer. The plans shall --

(1) Include terms and conditions under §§4130.3, 4130.3-1, 4130.3-2 4130.3-3, and subpart 4180 of this part;

(2) Prescribe the livestock grazing practices necessary to meet specific resource objectives;

(c) The authorized officer shall provide opportunity for public participation in the planning and environmental analysis of proposed plans affecting the administration of grazing and shall give public notice concerning the availability of environmental documents prepared as a part of the development of such plans, prior to implementing the plans. The decision document following the environmental analysis shall be considered the proposed decision for the purposes of subpart 4160 of this part.

(d) A requirement to conform with completed allotment management plans or other applicable activity plans intended to serve as the functional equivalent of allotment management plans shall be incorporated into the terms and conditions of the grazing permit or lease for the allotment.

(e) Allotment management plans or other applicable activity plans intended to serve as the functional equivalent of allotment management plans may be revised or terminated by the authorized officer after consultation, cooperation, and coordination with the affected permittees or lessees, landowners involved, the resource advisory council, any State having lands or responsible for managing resources within the area to be covered by the plan, and the interested public.

§4120.3-1 Conditions for 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 with the Bureau of Land Management or must have an approved range improvement permit.

(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.

§4130.2 Grazing permits or leases.

(a) Grazing permits or leases shall be issued to qualified applicants to authorize use on the public lands and other lands under the administration of the Bureau of Land Management that are designated as available for livestock grazing through land use plans. Permits or leases shall specify the types and levels of use authorized, including livestock grazing, suspended use, and conservation use. These grazing permits and leases shall also specify terms and conditions pursuant to §§4130.3, 4130.3-1, and 4130.3-2.

(b) The authorized officer shall consult, cooperate and coordinate with affected permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public prior to the issuance or renewal of grazing permits and leases.

(c) Grazing permits or leases convey no right, title, or interest held by the United States in any lands or resources.

(d) The term of grazing permits or leases authorizing livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management shall be 10 years.

§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.

§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 term or condition of the permit or lease.

(c) Permits and leases shall incorporate terms and conditions that ensure conformance with subpart 4180 of this part.

§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 range management or assist in the orderly administration of the public rangelands. These may include but are not limited to:

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

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

§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 officer 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.

§4160.3 Final decisions.

(a) In the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice unless otherwise provided in the proposed decision.

§4180.1 Fundamentals of rangeland health.

The authorized officer shall take appropriate action under subparts 4110, 4120, 4130, and 4160 of this part as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management needs to be modified to ensure that the following conditions exist.

(a) Watersheds are in, or are making significant progress toward, properly functioning physical condition, including their upland, riparian-wetland, and aquatic components; soil and plant conditions support infiltration, soil moisture storage, and the release of water that are in balance with climate and landform and maintain or improve water quality, water quantity, and timing and duration of flow.

(b) Ecological processes, including the hydrologic cycle, nutrient cycle, and energy flow, are maintained, or there is significant progress toward their attainment, in order to support healthy biotic populations and communities.

(c) Water quality complies with State water quality standards and achieves, or is making significant progress toward achieving, established BLM management objectives such as meeting wildlife needs.

(d) Habitats are, or are making significant progress toward being, restored or maintained for Federal threatened and endangered species, Federal Proposed, Category 1 and 2 Federal candidate and other special status species.

§4180.2 Standards and guidelines for grazing administration.

(c) The authorized officer shall take appropriate action as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management practices or levels of grazing use on public lands are significant factors in failing to achieve the standards and conform with the guidelines that are made effective under this section. Appropriate action means implementing actions pursuant to subparts 4110, 4120, 4130, and 4160 of this part that will result in significant progress toward fulfillment of the standards and significant progress toward conformance with the guidelines. Practices and activities subject to standards and guidelines include the development of grazing-related portions of activity plans, establishment of terms and conditions of permits, leases and other grazing authorizations, and range improvement activities such as vegetation manipulation, fence construction and development of water.

(e) At a minimum, State or regional guidelines developed under paragraphs (a) and (b) of this section must address the following:

(1) Maintaining or promoting adequate amounts of vegetative ground cover, including standing plant material and litter, to support infiltration, maintain soil moisture storage, and stabilize soils;

(2) Maintaining or promoting subsurface soil conditions that support permeability rates appropriate to climate and soils;

(3) Maintaining, improving or restoring riparian-wetland functions including energy dissipation, sediment capture, groundwater recharge, and stream bank stability;

(4) Maintaining or promoting stream channel morphology (e.g., gradient, width/depth ratio, channel roughness and sinuosity) and functions appropriate to climate and landform;

(5) Maintaining or promoting the appropriate kinds and amounts of soil organisms, plants and animals to support the hydrologic cycle, nutrient cycle, and energy flow;

(6) Promoting the opportunity for seedling establishment of appropriate plant species when climatic conditions and space allow;

(7) Maintaining, restoring or enhancing water quality to meet management objectives, such as meeting wildlife needs;

(8) Restoring, maintaining or enhancing habitats to assist in the recovery of Federal threatened and endangered species;

(9) Restoring, maintaining or enhancing habitats of Federal Proposed, Category 1 and 2 Federal candidate, and other special status species to promote their conservation;

(10) Maintaining or promoting the physical and biological conditions to sustain native populations and communities;

(11) Emphasizing native species in the support of ecological function;

Southeastern Oregon Resource Management Plan, Record of Decision and Final Environmental Impact Statement, September 2002.

RIGHT OF STAY AND/OR APPEAL

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. A period of 30 days from your receipt of the final decision is provided for filling an appeal and petition for stay of the decision pending final determination on appeal, as provided in 43 CFR § 4.470 and 43 CFR § 4160.4.

Any appeal should state clearly and concisely as to why the final decision is in error. All grounds of error not stated shall be considered waived, and no such waived ground of error may be presented at the hearing unless ordered or permitted by the administrative law judge. Any appeal should be submitted in writing to:

Field Manager
Malheur Resource Area
Vale District Bureau of Land Management
100 Oregon Street
Vale, Oregon 97918

Filing an appeal does not by itself stay the effectiveness of the final BLM decision. The appeal may be accompanied by a petition for a stay of the decision pending final determination on appeal, in accordance with 43 CFR § 4.471 and 4.479. Any request for a stay of the final decision in accordance with 43 CFR § 4.21 must be filled with the appeal. In accordance with 43 CFR § 4.21 (b) (1), a petition for a stay must show sufficient justification based on the following:

- The relative harm to the parties if the stay is granted or denied,
- The likelihood of the appellant's success on the merits,
- The likelihood of immediate and irreparable harm if the stay is not granted, and
- Whether the public interest favors granting the stay.

Additionally, in accordance with 43 CFR § 4.471(b), within 15 days after filing the appeal and petition for a stay with the authorized officer, the appellant must also serve copies on:
1) all other person(s) named in the Copies sent to: section of this decision; and
2) the appropriate office of the Office of the Solicitor as follows, in accordance with 43 CFR § 4.413(a) and (c):

Office of the Solicitor
US Department of the Interior
Pacific NW Region
500 NE Multnomah, Suite 607
Portland, OR 97213

Finally, in accordance with 43 CFR 4.472(b), 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 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 respond, the person must serve copies on the appellant, the appropriate office of the Office of the Solicitor in accordance with Sec. 4.413(a) and (c), and any other person named in the decision.

Sincerely,

Pat Ryan
Field Manager
Malheur Resource Area

Copies sent to: (by certified mail)

[redacted]

Courtesy copies sent to:

[redacted]

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Vale District Office
100 Oregon Street
Vale, Oregon 97918

IN REPLY REFER TO:
4100, NFMGMA

FEB 0 1 2008

[redacted]

NOTICE OF THE FIELD MANAGER'S FINAL DECISION

Dear [redacted]:

INTRODUCTION

Subsequent to the approval of revised BLM grazing regulations in 1995, BLM State Directors were assigned the task of developing state level rangeland health standards (Title 43 Code of Federal Regulations [CFR] 4180.2). The process of developing standards and defining standard indicators was conducted in consultation with BLM Resource Advisory Councils (RACs). The purpose for setting standards and identifying their indicators was to provide BLM with a rational basis for determining whether current management is meeting the Fundamentals of Rangeland Health as described under 43 CFR 4180.1.

On August 12, 1997, Interior Secretary Bruce Babbitt approved the Oregon/Washington BLM Standards and Guides for Rangeland Health (SRH). BLM field offices in Oregon/Washington were subsequently directed to conduct assessments and then use that assessment information to craft range health evaluations in relation to the state standards. These evaluations are conducted under an interdisciplinary team (IDT) concept where various resource specialists, representing the biological and physical sciences, are involved in the collection, review and analysis of available data.

In order to accomplish this assessment and evaluation workload and conform to the need for completing work on a watershed basis, Malheur Resource Area was divided into nine land based administrative units now referred to as Geographic Management Areas (GMAs). Based on multiple resource values and ongoing management issues needing resolution, the North Fork Malheur GMA (NFMGMA) was selected to be the second GMA to be assessed in Malheur Resource Area.

BLM regulations specify that "the authorized officer shall take appropriate action as soon as practicable but not later than the start of the next grazing year upon determining, through assessment or monitoring by experienced professionals and interdisciplinary teams, that a standard is not being achieved and that livestock are a significant contributing factor to the failure to achieve the standards and conform with the guidelines" (43 CFR 4180).

This decision is the final step in the GMA process, where changes to existing grazing

management practices will be implemented. Issuing this decision will allow for significant progress to be made toward meeting Standards for Rangeland Health in NFMGMA, and is issued in compliance with the Southeastern Oregon Resource Management Plan (SEORMP) and Record of Decision of September 2002.

BACKGROUND

Consultation, cooperation, and coordination with both grazing permittees and the interested public are critical components of BLM's range health assessment and evaluation process. On numerous occasions, BLM has communicated with both groups on range health standards and GMA assessments, by way of mailed written materials, public meetings, and onsite visits within NFMGMA.

In 2000 and 2001, the NFMGMA interdisciplinary team used a variety of information sources and the professional judgment of members and senior staff specialists to conduct upland and riparian health assessments. The best available rangeland vegetation and soils maps were consulted and agency-approved technical references and methodology, including protocols outlined in BLM Manual H-4180-1, "Rangeland Health Standards", were used to arrive at conclusions about range health conditions. These assessments were used to determine if Oregon/Washington BLM's "Standards for Rangeland Health" were being met. The Oregon/Washington Rangeland Health Standards are as follows:

- Standard 1 – Watershed Function – Uplands: upland soils exhibit infiltration and permeability rates, moisture storage, and stability that are appropriate to soil, climate, and landform.
- Standard 2 – Watershed Function --Riparian/wetland areas: riparian-wetland areas are in properly functioning physical condition appropriate to soil, climate, and landform.
- Standard 3 – Ecological Processes –Uplands: healthy, productive and diverse plant and animal populations and communities appropriate to soil, climate, and landform are supported by ecological processes of nutrient cycling, energy flow, and the hydrologic cycle.
- Standard 4 – Water Quality: surface water and ground water quality, influenced by agency actions, complies with State water quality standards.
- Standard 5 – Native, Threatened and Endangered (T&E), and Locally Important Species: habitats support healthy, productive, and diverse populations and communities of native plants and animals (including special status species and species of local importance) appropriate to soil, climate, and landform.

As a result of the interdisciplinary team assessments within the NFMGMA, upland sites in 45 pastures within 11 allotments did not meet the Standards for Rangeland Health due to current livestock grazing. The assessments that were completed in riparian areas indicated 34 pastures within 11 allotments did not meet the Standards for Rangeland Health due to current livestock grazing.

Scaling down the assessment from the NFMGMA to the Whitley Canyon allotment the Malheur Resource Area interdisciplinary team discovered that upland sites in 2 of 8 pastures within the allotment did not meet the Standards for Rangeland Health due to current livestock grazing. The

assessments that were completed in riparian areas revealed that riparian areas in 3 of 8 pastures within the allotment did not meet Standards for Rangeland Health due to current livestock grazing.

The BLM and the NFMGMA grazing permittees initially met in 2002 and 2003 to establish short and long term solutions to areas that were not meeting standards. The short term solution that allowed for progress toward meeting the standards became the interim grazing strategy that some NFMGMA permittees have operated under since the 2002 and 2003 grazing season. In the fall of 2004, the IDT presented the formal findings of the assessments through Summaries and Determinations for the Standards of Rangeland Health to grazing permittees in NFMGMA, and members of the interested public. The long term solutions from the recommendations in the Determination Summaries were used to develop the preferred alternative that was proposed and analyzed in the attached NFMGMA Revised Environmental Assessment # OR-030-06-007. The other alternatives that were described and analyzed in this document were crafted by the BLM, in consultation, cooperation and coordination with members of the interested public. Each developed alternative was assessed and analyzed in the EA to determine if management objectives, as described in the SEORMP and Record of Decision, will be met by the actions proposed for the alternatives. The preferred alternative described in the EA will allow for attainment of all applicable Vale District BLM objectives found in Revised EA OR-030-06-007 and SEORMP ROD (2002). The applicable management objectives are consistent with and support the Oregon/Washington Standards for Rangeland Health. Existing grazing management (i.e. that occurring prior to the interim strategy) in most allotments will not meet the standards for rangeland health as described in the No-Action alternative of the EA.

In the summer of 2007, the IDT recommended the adoption of preferred alternative in the NFMGMA Revised Environmental Assessment # OR-030-06-007, which was sent to you in August with a copy of the Field Manager's Proposed Decision. Following the receipt of the proposed decision, protests were received from you, NFMGMA livestock permittees and other groups. The MRA IDT and I also met with the majority of the protesters on November 27th, 2007 to discuss the protest points. The protests were reviewed, responded to (Attachment 1), and utilized as a resource in conjunction with information obtained from the November 27th, 2007 meeting in designing the final grazing decision. Monte Siegner (who protested the proposed grazing decision) and the base property lien holder were also contacted on December 21st, 2007 and December 17th, respectively, when the MRA IDT discovered discrepancies within the proposed grazing decision that needed to be addressed with the livestock operators involvement for the Whitley Canyon Allotment.

GRAZING MANAGEMENT PRACTICES

The evaluation has indicated that livestock grazing use is a causal factor in the failure to meet the upland and riparian rangeland health standard and thus upland and riparian improvement is necessary within NFMGMA. Because of this determination, BLM must now adjust the intensity (utilization) and season (timing) of grazing use in order to make substantial progress towards meeting the upland and riparian standards. BLM discussed the rationale for this action in the SEORMP ROD Appendix R "Effects of Intensity and Season of Grazing". BLM proposed actions for NFMGMA will promote that attainment of properly functioning upland and riparian systems and meet resource management objectives by employing the following monitoring

methods and performance indicators:
To ensure that the proposed livestock grazing systems allow reproduction and improvement of woody riparian vegetation, a quantifiable key plant performance indicator based on the modified Cole Browse method would be utilized in pastures containing riparian/wetland areas. This performance indicator would be used to identify when excessive livestock browse on woody riparian vegetation is occurring and to trigger an appropriate management response. The permittee would be notified to remove livestock from any pasture if livestock concentration in riparian areas results in excessive use of woody vegetation. Grazing use will be considered excessive when >30% of the available leaders have been nipped or detached from woody riparian plants. This is referred to as livestock "incidence of use". It is estimated on the basis of the number of leaders that have been browsed and not on the percentage of annual growth removed. For example, on a willow plant with 100 stems, the performance indicator will be considered acceptable when fewer than 30 leaders have been clipped by livestock and big game combined. If browse on woody riparian vegetation exceeds this level, cattle would be removed from the pasture.

Riparian herbaceous stubble height measurements are a second tool or performance indicator that would be used to monitor riparian areas. Stubble height measurements will be used to determine the residual vegetation height of key species following a period of grazing. The measurements may be used two ways in conjunction with other monitoring techniques to determine when livestock should be moved from the riparian area. The first use would be during the grazing season to determine when livestock should be moved out of a pasture before excessive riparian damage occurs, and the second use would be at the end of the grazing season to determine whether changes to livestock grazing management are needed the following year. A performance indicator, not a standard, of 4 to 6 inches of stubble height vegetation would be used to indicate that livestock may need to be moved to prevent damage to riparian vegetation or streambanks. If riparian areas are in good condition or are continuing to improve in condition, this performance indicator may be adequate to prevent riparian damage, but other areas may require more residual herbaceous vegetation to protect the streambanks and improve riparian area conditions. The goal of this performance indicator is to provide a trigger to identify when established monitoring techniques should be completed to determine progress toward meeting management objectives in order for the riparian area to move in the desired direction.

The upland vegetation performance indicator that would be used to prevent excessive livestock use on perennial grass, forbs, and shrubs is average actual use based on the Landscape Appearance Method (Attachment 2). The Landscape Appearance Method is the approved protocol in the Vale District Monitoring Plan for annual monitoring of upland vegetation. The permittee would be notified to remove livestock from any pasture if livestock were exceeding the upland vegetation performance indicator for average actual use. Native pastures with upland concerns, including spring season grazing use (March through June), downward upland trends, and/ or within a two-mile radius of a known sage grouse lek, would be required to improve and/or maintain upland condition as noted in the preferred alternative of the North Fork Malheur Geographic Management Area EA # OR-030-06-007. These pastures would be monitored using upland performance indicators of 40% (maximum allowable utilization limit). Pastures that are grazed in the spring season of use would have a performance indicator of 40% (maximum allowable utilization limit), but on a deferred year (i.e. fall/ summer use) the performance

indicator would be 50% (maximum allowable utilization limit) provided that they have a upward or static upland trends and are outside of a two-mile radius of a known sage grouse lek.

FINAL DECISION

Therefore, it is my final decision to implement the preferred alternative described in the Revised Environmental Assessment (EA) # OR-030-06-007. This decision includes authorization of your livestock grazing use with a term of 10 years beginning in 2008 and expiring in 2018 for the Whitley Canyon Allotment (# 10216) in your grazing permit for operator number 3601545. Additionally, it is my final decision to ratify your new allotment grazing schedules, ratify the riparian and upland performance indicators with a term of 10 years beginning in 2008 and expiring in 2018, and change the PJ #2 pasture from fenced federal range (FFR) to a BLM managed pasture.

Whitley Canyon Allotment #10216

The rangeland improvement projects (well and pipeline, spring redevelopments, and reservoir reconstruction) described in Appendix D of Revised EA No. OR-030-06-007 will be constructed and maintained in accordance with 43 CFR §4120.3-4.

Your grazing authorization will not be modified from your existing term permit, which is as follows:

Allotment	Livestock		Grazing Period		AUMs
	Number	Kind	Begin	End	
10216 Whitley Canyon	337	Cattle	04/01	6/30	1008
	295	Cattle	08/07	10/31	834
	3	Cattle	04/01	04/30	3

Total Preference AUMs = 1,845 (1,845 Active AUMs and 0 Suspended AUMs). Three AUMs from 04/01-04/30 are associated with Fenced Federal Range.

This final decision will implement the preferred alternative where PJ #2 Pasture is no longer managed as Fenced Federal Range, but will be managed as part of the allotment grazing schedule as it is predominately BLM (63%).

Your pasture rotation, which is defined in the preferred alternative in Revised EA OR-030-06-007 for the Whitley Canyon Allotment, will be as follows:

Pasture	Year 1 2008	Year 2 2009	Year 3 2010
Burnt Mountain	8/07–10/31	8/07-10/31	4/1-6/30
Petes Mountain	Rest	4/1-6/30	10/1-10/31
West Juniper[1]	4/1-5/30	8/07-10/31	8/07-10/31
Non Use	6/1-6/30 (337AUMs)		
PJ #2	8/07-10/31	4/1-6/30	8/07-10/31
PJ #1 FFR	Not BLM Managed		
Little Malheur River Dogwood	These pastures would be utilized by operator # 3601553		

[1]No cattle use would occur in year 1 from 6/1 to 6/30 for an estimated 337 AUMs of Non Use while the allotment is ran by two separate grazing operations.

Grazing use will be in accordance with the following terms and conditions:

- Grazing use in the Whitley Canyon Allotment shall be in accordance with the above grazing schedule and the signature of this decision which incorporates the preferred alternative in the North Fork Malheur Geographic Management Area EA # OR-030-06-007. In emergency related situations such as drought or fire a new decision may dictate grazing use.
- Pastures with riparian resources would be required to improve and/or maintain riparian condition as noted in the preferred alternative of the North Fork Malheur Geographic Management Area EA # OR-030-06-007. These pastures would be monitored using riparian performance indicators identified in the EA. Pastures with riparian resources in the Whitley Canyon Allotment are Pete's Mountain and Burnt Mountain.
- Native pastures with upland concerns, including spring season grazing use (March through June), downward upland trends, and within a two-mile radius of a known sage grouse lek, would be required to improve and/or maintain upland condition as noted in the preferred alternative of the North Fork Malheur Geographic Management Area EA # OR-030-06-007. These pastures would be monitored using upland performance indicators identified in the EA. The pasture that meets the above criteria in the Whitley Canyon Allotment is Pete's Mountain Pasture.
- All other native pastures, i.e. those showing a static or upward trend, deferred use, and located outside of a two-mile radius of a known sage grouse lek, would be required to improve and/or maintain upland condition as noted in the preferred alternative of the North Fork Malheur Geographic Management Area EA # OR-030-06-007. Pastures that meet the above criteria in the Whitley Canyon Allotment are Burnt Mountain, PJ#2, and West Juniper Pastures.
- 828 active AUMs (276 active AUMs per year, which began in 2006 and will remain in effect through 2008) will be placed in voluntary non-use as per Hammond Ranch's letter dated May 16, 2006 for the Whitley Canyon Allotment.

- You shall provide BLM with a completed actual use record within 15 days of the close of the grazing season. The actual use data will be utilized to calculate your grazing bill which will be considered after the fact.
- Upon reaching the maximum allowable performance indicators, livestock will be moved to the next pasture identified in the pasture rotation. If the next pasture is outside of the planned season of use livestock will be removed from the allotment and will not return until the planned season of use. If the maximum allowable performance indicator is reached in the last pasture scheduled for use prior to the end of the identified use period, livestock will be removed from BLM public lands within the allotment. This annual monitoring requirement may result in shortened use periods for some or all pastures in years of decreased forage production, such as drought. Additionally, this annual monitoring requirement may necessitate livestock to be removed from the allotment in the spring season of use and not return until the summer season of use.
- Adjustments in livestock numbers or any other changes from your normal grazing schedule must be approved in advance by the authorized officer.
- Salt or supplements shall be placed at least ½ mile away from water sources and ¼ mile away from sage-grouse leks on public land.
- This permit is subject to modification as necessary to achieve compliance with the Standards for Rangeland Health and Guidelines for Livestock Management (43 CFR 4180).
- For ease of operation, four days of flexibility in turn-out/gathering would be allowed in each pasture identified in a grazing schedule for a maximum of 8 days.

Rangeland Improvement Maintenance Responsibility

You will maintain the following rangeland improvement projects described below in accordance with 43 CFR 4120.3-4.

Whitley Canyon Allotment

Rangeland Improvement Number	Project Name	Type	Location
720118	Curry Reservoir	Reservoirs	T.20S., R.37E., Sec 01
720165	Calf Creek Waterhole	Reservoirs	T.20S., R.38E., Sec 18
720847	Stemler Ridge Division Fence	Fence	T.20S., R.37E., Sec 13
720943	Grasshopper Flat Spring	Spring	T.20S., R.38E., Sec 18
721056	Drinkwater Highway Fence	Fence	T.21S., R.37E., Sec 07
721158	Juniper Tree Reservoir	Reservoirs	T.20S., R.37E., Sec 23
721469	Chitsy Spring	Springs	T.20S., R.37E., Sec 32
724106	Kingbury Gulch Fence	Fence	T.21S., R.37E., Sec 08
724230	Barrel Spring	Spring	T.19S., R.38E., Sec 31
724301	Pete's Mountain Div Fence	Fence	T.20S., R.37E., Sec 27

Whitley Canyon Allotment (contd)

Rangeland Improvement Number	Project Name	Type	Location
724728	Barrel Reservoir	Reservoirs	T.19S., R.38E., Sec 31
725094	Parallel Fence	Fence	T.21S., R.37E., Sec 02
725122	Two Rivers Allotment Fence	Fence	T.18S., R.36E., Sec 02
725141	West Juniper Fence	Fence	T.20S., R.37E., Sec 23
725256	Lower Juniper Reservoir	Reservoir	T.20S., R.37E., Sec 26
725388	Petes Mountain Reservoir	Reservoir	T.20S., R.37E., Sec 34
725449	Petes Mountain #2 Reservoir	Reservoir	T.20S., R.37E., Sec 34
726160	Petes Mountain #1 Reservoir	Reservoir	T.20S., R.37E., Sec 28
726192	Leon Reservoir	Reservoirs	T.19S., R.37E., Sec 36

It is expected that livestock grazing in the Whitley Canyon Allotment authorized by this decision, and outlined above, will be fully achievable once the Decision Record has been implemented.

The well, pipeline and troughs, and reservoir reconstruction that has been proposed in the preferred alternative of the Revised EA was designed to allow the Pete's Mountain Pasture in the Whitley Canyon Allotment to make significant progress toward attainment of the Standards (1, 2, 3, 4, and 5) that were not met. This will be accomplished by constructing new and reconstructing existing rangeland improvement projects that will allow for improvement of upland and riparian communities.

General NFMGMA Decisions
Within the NFMGMA, grazing management will be conducted in accordance with the following mitigating measures which were identified in the Revised EA:

Rangeland Vegetation
Appendix S of the SEORMP ROD (Standard Implementation Features and Procedures for Rangeland Improvements) will be adhered to.

Special Status Plant Species
Special status plant surveys will be conducted prior to all surface disturbing activities and project installations. Project location adjustments necessary to avoid site specific adverse impacts to special status plants will be accommodated.

Water Resources and Riparian/Wetlands and Aquatic Species and Habitats
Project development in riparian/wetland areas will follow SEORMP ROD Appendix O (Best Management Practices) criteria to minimize disturbance and maximize potential for project success. Adequate buffer distances will be implemented to protect riparian areas and stream channels from potential erosional impacts from construction of fences.

Wildlife and Wildlife Habitat and Special Status Animal Species

BLM will continue to monitor habitat conditions in NFMGMA, and Oregon Department of Fish and Wildlife will continue to monitor sage-grouse population status. Existing rangeland vegetation monitoring may be supplemented with appropriate additional studies in accordance with SEORMP ROD Monitoring Appendix W to document success or failure in meeting NFMGMA resource objectives.

The activity plan level wildlife habitat objective for NFMGMA and the SEORMP ROD 70% threshold for grassland habitat in Malheur Resource Area (page *x* Record of Decision) will significantly limit the amount, type, and location of further fragmentation from BLM initiated land treatments. Less than 25% of the existing shrub-land habitat (excluding grasslands and closed canopy forested land) of the Wyoming, mountain, and basin big sagebrush habitats may appear as grasslands under the NFMGMA terrestrial wildlife objective.

New livestock management fences will be located at least 0.6 miles from sage grouse leks according to BLM management guidelines.

Livestock salting and mineral supplement stations will be placed at least ¼ mile from sage grouse leks to avoid drawing livestock into centers of sage-grouse breeding activity.

Livestock management fences will be constructed in a way that allows for freedom of movement for elk, mule deer, and pronghorn and minimizes potential for injury or mortality. In accordance with BLM Manual Handbook H-1741-1, interior allotment fences will conform to the following material and spacing requirements; top strand – barbed wire - no higher than 38", second strand – barbed wire at 26", bottom strand – smooth wire at 16".

New fencing will be flagged temporarily to help diminish incidence of wildlife fence collisions.

Wildlife escape ramps will be installed by the BLM in new and existing livestock water tanks to minimize potential for sage-grouse and other small animal drowning mortalities.

Rangeland/Grazing Use Management

For ease of operation, four days of flexibility in turn-out/gathering would be allowed in each pasture identified in a grazing schedule for a maximum of 8 days. This flexibility would allow for changes in use dates to accommodate for climatic conditions or the reaching of the maximum allowable utilization within a pasture. Move dates outside of the four-day allowance would be considered by BLM staff at the time of the request. Flexibility in livestock move dates will be allowed as long as the adjustments will result in the attainment of SEORMP resource management objectives.

Cultural Resources

Cultural resource surveys will be conducted prior to all surface disturbing activities and project installations. Project location adjustments necessary to avoid site specific adverse impacts to cultural resources will be accommodated.

Monitoring Methods and Adaptive Management in NFMGMA
BLM monitoring, as described in section 8 of the EA and Appendix W of the SEORMP ROD, shall determine if authorized grazing use in NFMGMA results in attainment of the management objectives as described below.

Short-term Performance Evaluations
Monitoring methods shall be in accordance with approved BLM policy and protocols.

Existing monitoring sites will continue to be used to evaluate management. New key monitoring sites will be selected by the IDT in consultation and coordination with affected livestock permittees and the interested public.

Unforeseeable circumstances such as drought, fire, or law enforcement issues which may confound planned grazing activities may cause BLM to construct a new decision and associated NEPA analysis.

Long-term Performance Evaluation
The proposed grazing system adopted in this decision may undergo periodic performance evaluation by BLMs IDT if performance indicators are consistently not met for NFMGMA. Prior to the 2018 expiration date of your new term grazing permit, a long-term evaluation of grazing system performance will be conducted.

Monitoring methods shall be in accordance with approved BLM policy and protocols.

RATIONALE

Under the direction of the SEORMP, GMA activity planning is an administrative mechanism by which BLM will make adjustments to authorized land uses. Based on the NFMGMA rangeland assessment findings of 2000 and 2001, changes in livestock use are needed in NFMGMA grazing allotments in order to resolve certain resource management conflicts. The rationale for this decision is based on the Standards of Rangeland Health and Guidelines for Livestock Management for Public Lands Administered by the Bureau of Land Management in the States of Oregon and Washington for pastures within the Whitley Canyon Allotment. These determinations were published in 2003 and 2004 and were in Appendix C of the Initial EA No. OR-030-06-007.

Where existing grazing management practices on public lands are significant factors in failing to achieve the standards for rangeland health and conform to the guidelines, BLM is taking action with this final decision as described in the preferred alternative in Revised EA No. OR-030-06-007 to move toward the attainment of Standards.

Whitley Canyon Allotment
Methods of achieving the SRH in the uplands of the Whitley Canyon Allotment includes the following: (1) implementation of a grazing system that provides rest rotation and deferred rotation grazing, which limits use during the critical growing season of key perennial herbaceous species, (2) a three year reduction in use by agreement initiated in 2006 (828 AUMs temporary voluntary non-use), (3) well, pipeline, and reservoir reconstruction to reduce use by improving

grazing distribution within the vegetation community that did not meet SRH, and (4) ratification of new upland performance indicators for key upland species, which may contribute to improving upland health when used as management guides. Pastures for which these methods apply include the following: Pete's Mountain.

Methods of achieving the SRH in the riparian areas of the Whitley Canyon Allotment include the following: (1) implementation of a grazing system that provides cool season use and rest in riparian areas, (2) a three year reduction in use by agreement (276 AUMs per year of temporary voluntary non-use initiated in 2006), (3) reconstruction of spring developments that allows for protection of the spring sources, (4) ratification of riparian performance indicators for riparian vegetation which may contribute to improving riparian health when used as management guides. The three year voluntary reduction in use for the Whitley Canyon allotment will result in 276 AUMS per year from 2006-2008 to be spread across Burnt Mountain, PJ #2, and West Juniper pastures. Cool season use is the most optimal time to graze a pasture with riparian areas as the livestock are more likely to distribute farther away from the riparian area at this time. Livestock drink less water in the cool season versus the hot season which tends to result in less time that livestock spend on a stream and/ or spring source. The nutritional components of riparian vegetation and upland vegetation is most similar during the cool season versus the hot season which tends to result in less time that livestock spend in a riparian area. Pastures for which these methods apply include the following: Pete's Mountain and Burnt Mountain.

The grazing schedule for the Whitley Canyon Allotment was developed in consultation with Oxbow Ranch Malheur Division beginning in 2001. In 2002 Hammond Ranches became involved with the Whitley Canyon Allotment as a result of a livestock grazing permit transfer. The BLM met with Hammond Ranches and their consultant to coordinate the livestock grazing schedule for the first edition of EA-OR-030-006-07. Another meeting occurred in the fall of 2006 to coordinate requested changes to the schedule of the Whitley Canyon Allotment for the revised edition of EA-OR-030-006-07. During the final editing process for the revised edition of EA-OR-030-006-07, Hammond Ranches expressed interest in splitting the base property supporting the grazing authorization in Whitley Canyon Allotment. Their intent was to lease the two portions of base property separately and allow different applicants to apply for BLM grazing permits. Their desire was to have Little Malheur, River, and Dogwood Pastures become a part of the Castle Rock Allotment.

Previous analysis of the Whitley Canyon Allotment indicated that some of the pastures were at or near maximum allowable carrying capacity and that to shift grazing intensity (AUMS/acre) or increase AUMS above a planned grazing schedule amount may cause the pasture to not meet the Standards and Guidelines for Livestock Management. Based on this analysis, the BLM determined that the 2007 proposal was not analyzed in EA-OR-030-006-07.

If the pastures in the Whitley Canyon Allotment are grazed as a single allotment (as analyzed in revised EA-OR-030-006-07), the Non-Use for the Little Malheur Pasture in years 1 through 6 would no longer be necessary assuming all other resource objectives (including the Biological Opinion for bull trout) are met.

AUTHORITY

The authority for this decision is contained in Title 43 of the Code of Federal Regulations (CFR) including and the following laws:

The Taylor Grazing Act
The Federal Land Management Act

4100.0-2 Objectives.

The objectives of these regulations are to promote healthy sustainable rangeland ecosystems; to accelerate restoration and improvement of public rangelands to properly functioning conditions; to promote the orderly use, improvement and development of the public lands; to establish efficient and effective administration of grazing of public rangelands; and to provide for the sustainability of the western livestock industry and communities that are dependent upon productive, healthy public rangelands. These objectives shall be realized in a manner that is consistent with land use plans, multiple use, sustained yield, environmental values, economic and other objectives stated in 43 CFR part 1720, subpart 1725; the Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315, 315a-315r); section 102 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740).

§4100.0-3 Authority.

(a) The Taylor Grazing Act of June 28, 1934 as amended (43 U.S.C. 315, 315a through 315r);
(b) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) as amended by the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.);
(c) Executive orders transfer land acquired under the Bankhead-Jones Farm Tenant Act of July 22, 1937, as amended (7 U.S.C. 1012), to the Secretary and authorize administration under the Taylor Grazing Act.
(e) The Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.); and
(f) Public land orders, Executive orders, and agreements authorize the Secretary to administer livestock grazing on specified lands under the Taylor Grazing Act or other authority as specified.

§4100.0-8 Land use plans.

The authorized officer shall manage livestock grazing on public lands under the principle of multiple use and sustained yield, and in accordance with applicable land use plans. Land use plans shall establish allowable resource uses (either singly or in combination), related levels of production or use to be maintained, areas of use, and resource condition goals and objectives to be obtained. The plans also set forth program constraints and general management practices needed to achieve management objectives. Livestock grazing activities and management actions approved by the authorized officer shall be in conformance with the land use plan as defined at 43 CFR 1601.0-5(b).

§4110.2-4 Allotments.

After consultation, cooperation, and coordination with the affected grazing permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public, the authorized officer may designate and adjust grazing allotment boundaries. The authorized officer may combine or divide allotments, through an agreement or by decision, when necessary for the proper and efficient management of public rangelands.

§4110.3 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.

§4120.2 Allotment management plans and resource activity plans.
Allotment management plans or other activity plans intended to serve as the functional equivalent of allotment management plans may be developed by permittees or lessees, other Federal or State resource management agencies, interested citizens, and the Bureau of Land Management. When such plans affecting the administration of grazing allotments are developed, the following provisions apply:

(a) An allotment management plan or other activity plans intended to serve as the functional equivalent of allotment management plans shall be prepared in careful and considered consultation, cooperation, and coordination with affected permittees or lessees, landowners involved, the resource advisory council, any State having lands or responsible for managing resources within the area to be covered by such a plan, and the interested public. The plan shall become effective upon approval by the authorized officer. The plans shall --
  (1) Include terms and conditions under §§4130.3, 4130.3-1, 4130.3-2 4130.3-3, and subpart 4180 of this part;
  (2) Prescribe the livestock grazing practices necessary to meet specific resource objectives;

(c) The authorized officer shall provide opportunity for public participation in the planning and environmental analysis of proposed plans affecting the administration of grazing and shall give public notice concerning the availability of environmental documents prepared as a part of the development of such plans, prior to implementing the plans. The decision document following the environmental analysis shall be considered the proposed decision for the purposes of subpart 4160 of this part.

(d) A requirement to conform with completed allotment management plans or other applicable activity plans intended to serve as the functional equivalent of allotment management plans shall be incorporated into the terms and conditions of the grazing permit or lease for the allotment.

(e) Allotment management plans or other applicable activity plans intended to serve as the functional equivalent of allotment management plans may be revised or terminated by the authorized officer after consultation, cooperation, and coordination with the affected permittees or lessees, landowners involved, the resource advisory council, any State having lands or responsible for managing resources within the area to be covered by the plan, and the interested public.

§4120.3-1 Conditions for 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 with the Bureau of Land Management or must have an approved range

improvement permit.

(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.

§4130.2 Grazing permits or leases.

(a) Grazing permits or leases shall be issued to qualified applicants to authorize use on the public lands and other lands under the administration of the Bureau of Land Management that are designated as available for livestock grazing through land use plans. Permits or leases shall specify the types and levels of use authorized, including livestock grazing, suspended use, and conservation use. These grazing permits and leases shall also specify terms and conditions pursuant to §§4130.3, 4130.3-1, and 4130.3-2.

(b) The authorized officer shall consult, cooperate and coordinate with affected permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public prior to the issuance or renewal of grazing permits and leases.

(c) Grazing permits or leases convey no right, title, or interest held by the United States in any lands or resources.

(d) The term of grazing permits or leases authorizing livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management shall be 10 years.

§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.

§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 term or condition of the permit or lease.

(c) Permits and leases shall incorporate terms and conditions that ensure conformance with subpart 4180 of this part.

§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 range management or assist in the orderly administration of the public rangelands. These may include but are not limited to:

(a) The class of livestock that will graze on an allotment;
(c) Authorization to use, and directions for placement of supplemental feed, including salt, for improved livestock and rangeland management on the public lands;

§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 officer 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.

§4160.3 Final decisions.
(a) In the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice unless otherwise provided in the proposed decision.

§4180.1 Fundamentals of rangeland health.
The authorized officer shall take appropriate action under subparts 4110, 4120, 4130, and 4160 of this part as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management needs to be modified to ensure that the following conditions exist.
(a) Watersheds are in, or are making significant progress toward, properly functioning physical condition, including their upland, riparian-wetland, and aquatic components; soil and plant conditions support infiltration, soil moisture storage, and the release of water that are in balance with climate and landform and maintain or improve water quality, water quantity, and timing and duration of flow.
(b) Ecological processes, including the hydrologic cycle, nutrient cycle, and energy flow, are maintained, or there is significant progress toward their attainment, in order to support healthy biotic populations and communities.
(c) Water quality complies with State water quality standards and achieves, or is making significant progress toward achieving, established BLM management objectives such as meeting wildlife needs.
(d) Habitats are, or are making significant progress toward being, restored or maintained for Federal threatened and endangered species, Federal Proposed, Category 1 and 2 Federal candidate and other special status species.

§4180.2 Standards and guidelines for grazing administration.
(c) The authorized officer shall take appropriate action as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management practices or levels of grazing use on public lands are significant factors in failing to achieve

the standards and conform with the guidelines that are made effective under this section. Appropriate action means implementing actions pursuant to subparts 4110, 4120, 4130, and 4160 of this part that will result in significant progress toward fulfillment of the standards and significant progress toward conformance with the guidelines. Practices and activities subject to standards and guidelines include the development of grazing-related portions of activity plans, establishment of terms and conditions of permits, leases and other grazing authorizations, and range improvement activities such as vegetation manipulation, fence construction and development of water.

(e) At a minimum, State or regional guidelines developed under paragraphs (a) and (b) of this section must address the following:

(1) Maintaining or promoting adequate amounts of vegetative ground cover, including standing plant material and litter, to support infiltration, maintain soil moisture storage, and stabilize soils;

(2) Maintaining or promoting subsurface soil conditions that support permeability rates appropriate to climate and soils;

(3) Maintaining, improving or restoring riparian-wetland functions including energy dissipation, sediment capture, groundwater recharge, and stream bank stability;

(4) Maintaining or promoting stream channel morphology (e.g., gradient, width/depth ratio, channel roughness and sinuosity) and functions appropriate to climate and landform;

(5) Maintaining or promoting the appropriate kinds and amounts of soil organisms, plants and animals to support the hydrologic cycle, nutrient cycle, and energy flow;

(6) Promoting the opportunity for seedling establishment of appropriate plant species when climatic conditions and space allow;

(7) Maintaining, restoring or enhancing water quality to meet management objectives, such as meeting wildlife needs;

(8) Restoring, maintaining or enhancing habitats to assist in the recovery of Federal threatened and endangered species;

(9) Restoring, maintaining or enhancing habitats of Federal Proposed, Category 1 and 2 Federal candidate, and other special status species to promote their conservation;

(10) Maintaining or promoting the physical and biological conditions to sustain native populations and communities;

(11) Emphasizing native species in the support of ecological function;

Southeastern Oregon Resource Management Plan, Record of Decision and Final Environmental Impact Statement, September 2002.

RIGHT OF STAY AND/OR APPEAL

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. A period of 30 days from your receipt of the final decision is provided for filling an appeal and petition for stay of the decision pending final determination on appeal, as provided in 43 CFR § 4.470 and 43 CFR § 4160.4.

Any appeal should state clearly and concisely as to why the final decision is in error. All grounds of error not stated shall be considered waived, and no such waived ground of error may be presented at the hearing unless ordered or permitted by the administrative law judge.

Any appeal should be submitted in writing to:

Field Manager
Malheur Resource Area
Vale District Bureau of Land Management
100 Oregon Street
Vale, Oregon 97918

Filing an appeal does not by itself stay the effectiveness of the final BLM decision. The appeal may be accompanied by a petition for a stay of the decision pending final determination on appeal, in accordance with 43 CFR § 4.471 and 4.479. Any request for a stay of the final decision in accordance with 43 CFR 4.21 must be filled with the appeal. In accordance with 43 CFR 4.21 (b) (1), a petition for a stay must show sufficient justification based on the following:

- The relative harm to the parties if the stay is granted or denied,
- The likelihood of the appellant's success on the merits,
- The likelihood of immediate and irreparable harm if the stay is not granted, and
- Whether the public interest favors granting the stay.

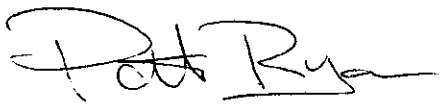
Additionally, in accordance with 43 CFR § 4.471(b), within 15 days after filing the appeal and petition for a stay with the authorized officer, the appellant must also serve copies on:

1) all other person(s) named in the Copies sent to: section of this decision; and
2) the appropriate office of the Office of the Solicitor as follows, in accordance with 43 CFR § 4.413(a) and (c):

Office of the Solicitor
US Department of the Interior
Pacific NW Region
500 NE Multnomah, Suite 607
Portland, OR 97213

Finally, in accordance with 43 CFR 4.472(b), 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 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 respond, the person must serve copies on the appellant, the appropriate office of the Office of the Solicitor in accordance with Sec. 4.413(a) and (c), and any other person named in the decision.

Sincerely,



Pat Ryan
Field Manager
Malheur Resource Area

Copies sent to: (by certified mail)

[redacted]

Courtesy copies sent to:

[redacted]

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Vale District Office
100 Oregon Street
Vale, Oregon 97918

IN REPLY REFER TO:
4100, NFMGMA

[redacted]

FEB 01 2008

NOTICE OF THE FIELD MANAGER'S FINAL DECISION

Dear [redacted]:

INTRODUCTION

Subsequent to the approval of revised BLM grazing regulations in 1995, BLM State Directors were assigned the task of developing state level rangeland health standards (Title 43 Code of Federal Regulations [CFR] 4180.2). The process of developing standards and defining standard indicators was conducted in consultation with BLM Resource Advisory Councils (RACs). The purpose for setting standards and identifying their indicators was to provide BLM with a rational basis for determining whether current management is meeting the Fundamentals of Rangeland Health as described under 43 CFR 4180.1.

On August 12, 1997, Interior Secretary Bruce Babbitt approved the Oregon/Washington BLM Standards and Guidelines for Rangeland Health (SRH). BLM field offices in Oregon/Washington were subsequently directed to conduct assessments and then use that assessment information to craft range health evaluations in relation to the state standards. These evaluations are conducted under an interdisciplinary team (IDT) concept where various resource specialists, representing the biological and physical sciences, are involved in the collection, review and analysis of available data.

In order to accomplish this assessment and evaluation workload and conform to the need for completing work on a watershed basis, Malheur Resource Area was divided into nine land based administrative units now referred to as Geographic Management Areas (GMAs). Based on multiple resource values and ongoing management issues needing resolution, the North Fork Malheur GMA (NFMGMA) was selected to be the second GMA to be assessed in Malheur Resource Area.

BLM regulations specify that "the authorized officer shall take appropriate action as soon as practicable but not later than the start of the next grazing year upon determining, through assessment or monitoring by experienced professionals and interdisciplinary teams, that a standard is not being achieved and that livestock are a significant contributing factor to the failure to achieve the standards and conform with the guidelines" (43 CFR 4180).

This decision is the final step in the GMA process, where changes to existing grazing management practices will be implemented. Issuing this decision will allow for significant

progress to be made toward meeting Standards for Rangeland Health in NFMGMA, and is issued in compliance with the Southeastern Oregon Resource Management Plan (SEORMP) and Record of Decision of September 2002.

BACKGROUND

Consultation, cooperation, and coordination with both grazing permittees and the interested public are critical components of BLM's range health assessment and evaluation process. On numerous occasions, BLM has communicated with both groups on range health standards and GMA assessments, by way of mailed written materials, public meetings, and onsite visits within NFMGMA.

In 2000 and 2001, the NFMGMA interdisciplinary team used a variety of information sources and the professional judgment of members and senior staff specialists to conduct upland and riparian health assessments. The best available rangeland vegetation and soils maps were consulted and agency-approved technical references and methodology, including protocols outlined in BLM Manual H-4180-1, "Rangeland Health Standards", were used to arrive at conclusions about range health conditions. These assessments were used to determine if Oregon/Washington BLM's "Standards for Rangeland Health" were being met. The Oregon/Washington Rangeland Health Standards are as follows:

- Standard 1 – Watershed Function – Uplands: upland soils exhibit infiltration and permeability rates, moisture storage, and stability that are appropriate to soil, climate, and landform.
- Standard 2 – Watershed Function --Riparian/wetland areas: riparian-wetland areas are in properly functioning physical condition appropriate to soil, climate, and landform.
- Standard 3 – Ecological Processes –Uplands: healthy, productive and diverse plant and animal populations and communities appropriate to soil, climate, and landform are supported by ecological processes of nutrient cycling, energy flow, and the hydrologic cycle.
- Standard 4 – Water Quality: surface water and ground water quality, influenced by agency actions, complies with State water quality standards.
- Standard 5 – Native, Threatened and Endangered (T&E), and Locally Important Species: habitats support healthy, productive, and diverse populations and communities of native plants and animals (including special status species and species of local importance) appropriate to soil, climate, and landform.

As a result of the interdisciplinary team assessments within the NFMGMA, upland sites in 45 pastures within 11 allotments did not meet the Standards for Rangeland Health due to current livestock grazing. The assessments that were completed in riparian areas indicated 34 pastures within 11 allotments did not meet the Standards for Rangeland Health due to current livestock grazing.

Scaling down the assessment from the NFMGMA to the Malheur River allotment the Malheur Resource Area interdisciplinary team discovered that upland sites in 1 of 2 pastures within the allotment did not meet the Standards for Rangeland Health due to current livestock grazing. The assessments that were completed in riparian areas revealed that riparian areas in 1 of 2 pastures

within the allotment did not meet Standards for Rangeland Health due to current livestock grazing.

The BLM and the NFMGMA grazing permittees initially met in 2002 and 2003 to establish short and long term solutions to areas that were not meeting standards. The short term solution that allowed for progress toward meeting the standards became the interim grazing strategy that some NFMGMA permittees have operated under since the 2002 and 2003 grazing season. In the fall of 2004, the IDT presented the formal findings of the assessments through Summaries and Determinations for the Standards of Rangeland Health to grazing permittees in NFMGMA, and members of the interested public. The long term solutions from the recommendations in the Determination Summaries were used to develop the preferred alternative that was proposed and analyzed in the attached NFMGMA Revised Environmental Assessment # OR-030-06-007. The preferred alternative described in the EA will allow for attainment of all applicable Vale District BLM objectives found in Revised EA OR-030-06-007 and SEORMP ROD (2002). All of the alternatives that were described and analyzed in this document were designed by the BLM, in consultation, cooperation and coordination with members of the interested public. Each developed alternative was assessed and analyzed in the EA to determine if management objectives, as described in the SEORMP and Record of Decision, will be met by the actions proposed for the alternatives. The applicable management objectives are consistent with and support the Oregon/Washington Standards for Rangeland Health. Existing grazing management (i.e. that occurring prior to the interim strategy) in most allotments will not meet the standards for rangeland health as described in the No-Action alternative of the EA.

In the summer of 2007, the IDT recommended the adoption of the preferred alternative in the NFMGMA Revised Environmental Assessment # OR-030-06-007; which was sent to you in August with a copy of the Field Managers Proposed Decision. Following the receipt of the proposed decision, a clarification letter was received from you. This letter was reviewed and utilized as a resource in conjunction with information obtained from a December, 1st 2007 phone conversation with you in designing the final grazing decision.

GRAZING MANAGEMENT PRACTICES

The evaluation has indicated that livestock grazing use is a causal factor in the failure to meet the upland and riparian rangeland health standard and thus upland and riparian improvement is necessary within NFMGMA. Because of this determination, the BLM must now adjust the intensity (utilization) and season (timing) of grazing use in order to make substantial progress towards meeting the upland and riparian standards. BLM discussed the rationale for this action in the SEORMP ROD Appendix R "Effects of Intensity and Season of Grazing". BLM proposed actions for NFMGMA will promote that attainment of properly functioning upland and riparian systems and meet resource management objectives by employing the following monitoring methods and performance indicators:

To ensure that the proposed livestock grazing systems allow reproduction and improvement of woody riparian vegetation, a quantifiable key plant performance indicator based on the modified Cole Browse method would be utilized in pastures containing riparian/wetland areas. This performance indicator would be used to identify when excessive livestock browse on woody

riparian vegetation is occurring and to trigger an appropriate management response. The permittee would be notified to remove livestock from any pasture if livestock concentration in riparian areas results in excessive use of woody vegetation. Grazing use will be considered excessive when >30% of the available leaders have been nipped or detached from woody riparian plants. This is referred to as livestock "incidence of use". It is estimated on the basis of the number of leaders that have been browsed and not on the percentage of annual growth removed. For example, on a willow plant with 100 stems, the performance indicator will be considered acceptable when fewer than 30 leaders have been clipped by livestock and big game combined. If browse on woody riparian vegetation exceeds this level, cattle would be removed from the pasture.

Riparian herbaceous stubble height measurements are a second tool or performance indicator that would be used to monitor riparian areas. Stubble height measurements will be used to determine the residual vegetation height of key species following a period of grazing. The measurements may be used two ways in conjunction with other monitoring techniques to determine when livestock should be moved from the riparian area. The first use would be during the grazing season to determine when livestock should be moved out of a pasture before excessive riparian damage occurs, and the second use would be at the end of the grazing season to determine whether changes to livestock grazing management are needed the following year. A performance indicator, not a standard, of 4 to 6 inches of stubble height vegetation would be used to indicate that livestock may need to be moved to prevent damage to riparian vegetation or streambanks. If riparian areas are in good condition or are continuing to improve in condition, this performance indicator may be adequate to prevent riparian damage, but other areas may require more residual herbaceous vegetation to protect the streambanks and improve riparian area conditions. The goal of this performance indicator is to provide a trigger to identify when established monitoring techniques should be completed to determine progress toward meeting management objectives in order for the riparian area to move in the desired direction.

The upland vegetation performance indicator that would be used to prevent excessive livestock use on perennial grass, forbs, and shrubs is average actual use based on the Landscape Appearance Method (Attachment 2). The Landscape Appearance Method is the approved protocol in the Vale District Monitoring Plan for annual monitoring of upland vegetation. The permittee would be notified to remove livestock from any pasture if livestock were exceeding the upland vegetation performance indicator for average actual use. Native pastures with upland concerns, including spring season grazing use (March through June), downward upland trends, and/or within a two-mile radius of a known sage grouse lek, would be required to improve and/or maintain upland condition as noted in the preferred alternative of the Revised North Fork Malheur Geographic Management Area EA # OR-030-06-007. These pastures would be monitored using upland performance indicators of 40% (maximum allowable utilization limit). Pastures that are grazed in the spring season of use would have a performance indicator of 40% (maximum allowable utilization limit), but on a deferred year (i.e. fall/ summer use) the performance indicator would be 50% (maximum allowable utilization limit) provided that they have a upward or static upland trends and are outside of a two-mile radius of a known sage grouse lek.

FINAL DECISION

Therefore, it is my Final decision to implement the preferred alternative described in the Revised Environmental Assessment (EA) # OR-030-06-007. This decision includes authorization of your livestock grazing use on the Malheur River Allotment # 10219 in your grazing permit for operator number 3603121 with a term of 10 years beginning in 2008 and expiring in 2018. This decision will maintain the Malheur River Allotment in the Custodial category. This type of management also includes conditions which state numbers and seasons of use are not defined, so long as unnecessary or undue damage to public land resources does not occur.

Malheur River Allotment #10219

The rangeland improvement projects (i.e. fence and spring reconstruction) described in Appendix D of Revised EA No. OR-030-06-007 will be constructed and maintained in accordance with 43 CFR §4120.3-4. A riparian pasture fence would be lengthened to better enhance riparian resources in the allotment (approximately 0.5 miles). Two existing springs would be redeveloped to rehabilitate resource damage that resulted from poorly designed existing rangeland improvement projects. These rangeland improvement projects will be constructed in the Malheur River Allotment to facilitate livestock grazing authorized by your new term grazing permit. Your grazing use will occur in the Malheur River and the Upper & Lower Little Malheur Riparian Pastures which are located in T. 17 S., R. 36 E., Section(s)1, 2, 11, & 12.

Your grazing authorization will not be modified from your existing term permit, which is as follows:

Allotment	Livestock		Grazing Period		AUMs
	Number	Kind	Begin	End	
10219 Malheur River	42	Cattle	09/01	09/30	42

Total Preference AUMs = 129 (42 Active AUMs and 87 Suspended AUMs).

Other terms and conditions of your new term grazing permit will be:

- Grazing use will occur in the Malheur River and the Little Malheur Riparian Pasture (formerly known as the Little Malheur River Stream Exclosure) which are located in T. 17 S., R. 36 E., Section(s)1, 2, 11, & 12.
- The season of use and numbers shown are for administrative purposes only within the Malheur River Pasture. Seasons and numbers can vary from year to year and will not be restricted unless damage to public lands occurs within the Malheur River Pasture.
- Pastures with riparian resources would be required to improve and/or maintain riparian condition as noted in the preferred alternative of the Revised North Fork Malheur Geographic Management Area EA # OR-030-06-007. These pastures would be monitored using riparian performance indicators identified in the EA.
- Native pastures with upland concerns, including spring season grazing use (March through June), downward upland trends, and within a two-mile radius of a known sage grouse lek, would be required to improve and/or maintain upland condition as noted in the preferred alternative of the Revised North Fork Malheur Geographic Management Area EA # OR-030-06-007.
- All other native pastures, i.e. those showing a static or upward trend, deferred use, and located outside of a two-mile radius of a known sage grouse lek, would be required to

improve and/or maintain upland condition as noted in the preferred alternative of the North Fork Malheur Geographic Management Area EA # OR-030-06-007. These pastures would be monitored using upland performance indicators identified in the EA.

- The Upper and Lower Little Malheur Riparian Pastures will be required to maintain at least 80% of the bank as stable.
- The Lower Little Malheur Riparian Pastures will be grazed every other even year for a maximum one week period in May with no more than 42 head of cattle (2010, 2014, 2018...).
- The Upper Little Malheur Riparian Pastures will be grazed every other even year for a maximum one week period in May with no more than 42 head of cattle (2008, 2012, 2016...).
- Annual payment of grazing fees is required prior to making grazing use in the Malheur River Allotment.
- Grazing schedules for custodial allotments would remain as authorized in conjunction with private land so long as North Fork Malheur GMA management objectives continue to be met.
- Salt or supplements shall be placed at least ½ mile away from water sources and ¼ mile away from sage-grouse leks on public land.
- This permit is subject to modification as necessary to achieve compliance with the Standards for Rangeland Health and Guidelines for Livestock Management (43 CFR 4180).
- Grazing use in the Malheur River Allotment shall be in accordance with the signature of this decision which incorporates the preferred alternative in the North Fork Malheur Geographic Management Area EA # OR-030-06-007.

It is expected that livestock grazing in the Malheur River Allotment planned by this final decision, and outlined above, will be fully achievable once this decision has been completed.

Rangeland Improvement Maintenance Responsibility

You will maintain the following rangeland improvement projects describe below in accordance with 43 CFR 4120.3-4.

Malheur River Allotment

Rangeland Improvement Number	Project Name	Type	Location
750523	Rooster Comb Fence	Fence	T.17S., R.36E., Sec 11 NESE
721456	Juniper Spring	Spring	T.17S., R.36E., Sec 02 SESE
725295	L M Riparian Fence	Fence	T.17S., R.36E., Sec 01 NWNE

General NFMGMA Decisions

Within the NFMGMA, grazing management will be implemented in accordance with the following mitigating measures which were identified in the EA:

Rangeland Vegetation
Appendix S of the SEORMP ROD (Standard Implementation Features and Procedures for Rangeland Improvements) will be adhered to.

Special Status Plant Species
Special status plant surveys will be conducted prior to all surface disturbing activities and project installations. Project location adjustments necessary to avoid site specific adverse impacts to special status plants will be accommodated.

Water Resources and Riparian/Wetlands and Aquatic Species and Habitats
Project development in riparian/wetland areas will follow SEORMP ROD Appendix O (Best Management Practices) criteria to minimize disturbance and maximize potential for project success. Adequate buffer distances will be implemented to protect riparian areas and stream channels from potential erosional impacts resulting from construction of rangeland improvements.

Wildlife and Wildlife Habitat and Special Status Animal Species
BLM will continue to monitor habitat conditions in NFMGMA, and Oregon Department of Fish and Wildlife will continue to monitor sage-grouse population status. Existing rangeland vegetation monitoring will be supplemented with appropriate additional studies in accordance with SEORMP ROD Monitoring Appendix W to document success or failure in meeting NFMGMA resource objectives.

New livestock management fences will be located at least 0.6 miles from sage grouse leks according to BLM management guidelines.

Livestock salting and mineral supplement stations will be placed at least ¼ mile from sage grouse leks to avoid drawing livestock into centers of sage-grouse breeding activity.

Livestock management fences will be constructed in a way that allows for freedom of movement for elk, mule deer, and pronghorn and minimizes potential for injury or mortality. In accordance with BLM Manual Handbook H-1741-1, interior allotment fences will conform to the following material and spacing requirements; top strand – barbed wire - no higher than 38", second strand – barbed wire at 26", bottom strand – smooth wire at 16".

New fencing will be flagged temporarily to help diminish incidence of wildlife fence collisions.

Wildlife escape ramps will be installed in new and existing livestock water tanks to minimize potential for sage-grouse and other small animal drowning mortalities.

Cultural Resources
Cultural resource surveys will be conducted prior to all surface disturbing activities and project installations. Project location adjustments necessary to avoid site specific adverse impacts to cultural resources will be accommodated.

Monitoring Methods and Adaptive Management in NFMGMA
BLM monitoring, as described in section 8 of the EA and Appendix W of the SEORMP ROD, may determine if authorized grazing use in NFMGMA results in attainment of the management objectives as described below.

Short-term Performance Evaluations
Monitoring methods shall be in accordance with approved BLM protocols identified in Appendix W of the SEORMP ROD.

Existing monitoring sites will continue to be used to evaluate management. New key monitoring sites will be selected by the IDT with the full knowledge of affected livestock permittees and interested publics.

Long-term Performance Evaluation
A long-term performance evaluation of this grazing system and its effects on resources shall be completed by the IDT prior to the 2018 expiration date of your new term grazing permit. Monitoring methods shall be in accordance with approved BLM protocols identified in Appendix W of the SEORMP ROD.

RATIONALE

Under the direction of the SEORMP, GMA assessments are an administrative mechanism by which the BLM will make adjustments to authorized land uses. Based on the NFMGMA rangeland assessment findings of 2000 and 2001, changes in livestock use are needed in NFMGMA grazing allotments in order to resolve certain resource management conflicts. The rationale for this decision is based on the Standards of Rangeland Health and Guidelines for Livestock Management for Public Lands Administered by the Bureau of Land Management in the States of Oregon and Washington for pastures within the Malheur River Allotment. These determinations were published in 2003 and 2004 and were in Appendix C of the Initial NFMGMA EA No. OR-030-06-007.

Where existing grazing management practices on public lands are significant factors in failing to achieve the standards for rangeland health and conform to the guidelines, the BLM is taking action with this final decision as described in the preferred alternative in Revised NFMGMA EA No. OR-030-06-007 to move toward the attainment of SRH.

Malheur River Allotment (#10219)

The RMP Extension fence and subsequent development of a new grazing schedule for the Upper and Lower Little Malheur Riparian Pastures are designed to make significant progress toward attainment of the standards that were not met in portions of the Malheur River pasture (i.e. Standards 2, 3, 4, and 5). As noted in the Revised NFMGMA EA No. OR-030-06-007 that segment of the Little Malheur River within this allotment had a downward riparian trend and failure to meet the SRH for riparian areas due to livestock grazing. The new fence will enable the livestock operator to keep livestock off of that lower segment of the Little Malheur River in order for it to improve riparian trend like the upper segment within this allotment. The proposed grazing system will allow the two riparian areas to be grazed in the cool season once every four

years, which will allow the riparian areas to improve in condition. Cool season use is the most optimal time to graze a pasture with riparian areas as the livestock are more likely to distribute farther away from the riparian area at this time. Livestock drink less water in the cool season versus the hot season which tends to result in less time that livestock spend on a stream and/ or spring source. The nutritional components of riparian vegetation and upland vegetation is most similar during the cool season versus the hot season which tends to result in less time that livestock spend in a riparian area. The two spring reconstruction projects proposed in the preferred alternative of the EA were also designed to make significant progress toward attainment of the standards as they will improve livestock distribution within the allotment.

AUTHORITY

The authority for this decision is contained in Title 43 of the Code of Federal Regulations (CFR) including and the following laws:
The Taylor Grazing Act
The Federal Land Management Act

4100.0-2 Objectives.
The objectives of these regulations are to promote healthy sustainable rangeland ecosystems; to accelerate restoration and improvement of public rangelands to properly functioning conditions; to promote the orderly use, improvement and development of the public lands; to establish efficient and effective administration of grazing of public rangelands; and to provide for the sustainability of the western livestock industry and communities that are dependent upon productive, healthy public rangelands. These objectives shall be realized in a manner that is consistent with land use plans, multiple use, sustained yield, environmental values, economic and other objectives stated in 43 CFR part 1720, subpart 1725; the Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315, 315a-315r); section 102 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740).

§4100.0-3 Authority.
(a) The Taylor Grazing Act of June 28, 1934 as amended (43 U.S.C. 315, 315a through 315r);
(b) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) as amended by the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.);
(c) Executive orders transfer land acquired under the Bankhead-Jones Farm Tenant Act of July 22, 1937, as amended (7 U.S.C. 1012), to the Secretary and authorize administration under the Taylor Grazing Act.
(e) The Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.); and
(f) Public land orders, Executive orders, and agreements authorize the Secretary to administer livestock grazing on specified lands under the Taylor Grazing Act or other authority as specified.

§4100.0-8 Land use plans.
The authorized officer shall manage livestock grazing on public lands under the principle of multiple use and sustained yield, and in accordance with applicable land use plans. Land use plans shall establish allowable resource uses (either singly or in combination), related levels of production or use to be maintained, areas of use, and resource condition goals and objectives to be obtained. The plans also set forth program constraints and general management practices

needed to achieve management objectives. Livestock grazing activities and management actions approved by the authorized officer shall be in conformance with the land use plan as defined at 43 CFR 1601.0-5(b).

§4110.2-4 Allotments.
After consultation, cooperation, and coordination with the affected grazing permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public, the authorized officer may designate and adjust grazing allotment boundaries. The authorized officer may combine or divide allotments, through an agreement or by decision, when necessary for the proper and efficient management of public rangelands.

§4110.3 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.

§4120.2 Allotment management plans and resource activity plans.
Allotment management plans or other activity plans intended to serve as the functional equivalent of allotment management plans may be developed by permittees or lessees, other Federal or State resource management agencies, interested citizens, and the Bureau of Land Management. When such plans affecting the administration of grazing allotments are developed, the following provisions apply:

(a) An allotment management plan or other activity plans intended to serve as the functional equivalent of allotment management plans shall be prepared in careful and considered consultation, cooperation, and coordination with affected permittees or lessees, landowners involved, the resource advisory council, any State having lands or responsible for managing resources within the area to be covered by such a plan, and the interested public. The plan shall become effective upon approval by the authorized officer. The plans shall --
  (1) Include terms and conditions under §§4130.3, 4130.3-1, 4130.3-2 4130.3-3, and subpart 4180 of this part;
  (2) Prescribe the livestock grazing practices necessary to meet specific resource objectives;

(c) The authorized officer shall provide opportunity for public participation in the planning and environmental analysis of proposed plans affecting the administration of grazing and shall give public notice concerning the availability of environmental documents prepared as a part of the development of such plans, prior to implementing the plans. The decision document following the environmental analysis shall be considered the proposed decision for the purposes of subpart 4160 of this part.

(d) A requirement to conform with completed allotment management plans or other applicable activity plans intended to serve as the functional equivalent of allotment management plans shall be incorporated into the terms and conditions of the grazing permit or lease for the allotment.

(e) Allotment management plans or other applicable activity plans intended to serve as the functional equivalent of allotment management plans may be revised or terminated by the

authorized officer after consultation, cooperation, and coordination with the affected permittees or lessees, landowners involved, the resource advisory council, any State having lands or responsible for managing resources within the area to be covered by the plan, and the interested public.

§4120.3-1 Conditions for 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 with the Bureau of Land Management or must have an approved range improvement permit.

(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.

§4130.2 Grazing permits or leases.

(a) Grazing permits or leases shall be issued to qualified applicants to authorize use on the public lands and other lands under the administration of the Bureau of Land Management that are designated as available for livestock grazing through land use plans. Permits or leases shall specify the types and levels of use authorized, including livestock grazing, suspended use, and conservation use. These grazing permits and leases shall also specify terms and conditions pursuant to §§4130.3, 4130.3-1, and 4130.3-2.

(b) The authorized officer shall consult, cooperate and coordinate with affected permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public prior to the issuance or renewal of grazing permits and leases.

(c) Grazing permits or leases convey no right, title, or interest held by the United States in any lands or resources.

(d) The term of grazing permits or leases authorizing livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management shall be 10 years.

§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.

§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 term or condition of the permit or lease.

(c) Permits and leases shall incorporate terms and conditions that ensure conformance with subpart 4180 of this part.

§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 range management or assist in the orderly administration of the public rangelands. These may include but are not limited to:

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

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

§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 officer 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.

§4160.3 Final decisions.

(a) In the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice unless otherwise provided in the proposed decision.

§4180.1 Fundamentals of rangeland health.

The authorized officer shall take appropriate action under subparts 4110, 4120, 4130, and 4160 of this part as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management needs to be modified to ensure that the following conditions exist.

(a) Watersheds are in, or are making significant progress toward, properly functioning physical condition, including their upland, riparian-wetland, and aquatic components; soil and plant conditions support infiltration, soil moisture storage, and the release of water that are in balance with climate and landform and maintain or improve water quality, water quantity, and timing and duration of flow.

(b) Ecological processes, including the hydrologic cycle, nutrient cycle, and energy flow, are

maintained, or there is significant progress toward their attainment, in order to support healthy biotic populations and communities.

(c) Water quality complies with State water quality standards and achieves, or is making significant progress toward achieving, established BLM management objectives such as meeting wildlife needs.

(d) Habitats are, or are making significant progress toward being, restored or maintained for Federal threatened and endangered species, Federal Proposed, Category 1 and 2 Federal candidate and other special status species.

§4180.2 Standards and guidelines for grazing administration.

(c) The authorized officer shall take appropriate action as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management practices or levels of grazing use on public lands are significant factors in failing to achieve the standards and conform with the guidelines that are made effective under this section. Appropriate action means implementing actions pursuant to subparts 4110, 4120, 4130, and 4160 of this part that will result in significant progress toward fulfillment of the standards and significant progress toward conformance with the guidelines. Practices and activities subject to standards and guidelines include the development of grazing-related portions of activity plans, establishment of terms and conditions of permits, leases and other grazing authorizations, and range improvement activities such as vegetation manipulation, fence construction and development of water.

(e) At a minimum, State or regional guidelines developed under paragraphs (a) and (b) of this section must address the following:

(1) Maintaining or promoting adequate amounts of vegetative ground cover, including standing plant material and litter, to support infiltration, maintain soil moisture storage, and stabilize soils;

(2) Maintaining or promoting subsurface soil conditions that support permeability rates appropriate to climate and soils;

(3) Maintaining, improving or restoring riparian-wetland functions including energy dissipation, sediment capture, groundwater recharge, and stream bank stability;

(4) Maintaining or promoting stream channel morphology (e.g., gradient, width/depth ratio, channel roughness and sinuosity) and functions appropriate to climate and landform;

(5) Maintaining or promoting the appropriate kinds and amounts of soil organisms, plants and animals to support the hydrologic cycle, nutrient cycle, and energy flow;

(6) Promoting the opportunity for seedling establishment of appropriate plant species when climatic conditions and space allow;

(7) Maintaining, restoring or enhancing water quality to meet management objectives, such as meeting wildlife needs;

(8) Restoring, maintaining or enhancing habitats to assist in the recovery of Federal threatened and endangered species;

(9) Restoring, maintaining or enhancing habitats of Federal Proposed, Category 1 and 2 Federal candidate, and other special status species to promote their conservation;

(10) Maintaining or promoting the physical and biological conditions to sustain native populations and communities;

(11) Emphasizing native species in the support of ecological function;

Southeastern Oregon Resource Management Plan, Record of Decision and Final Environmental Impact Statement, September 2002.

RIGHT OF STAY AND/OR APPEAL

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. A period of 30 days from your receipt of the final decision is provided for filling an appeal and petition for stay of the decision pending final determination on appeal, as provided in 43 CFR § 4.470 and 43 CFR § 4160.4.

Any appeal should state clearly and concisely as to why the final decision is in error. All grounds of error not stated shall be considered waived, and no such waived ground of error may be presented at the hearing unless ordered or permitted by the administrative law judge. Any appeal should be submitted in writing to:

Field Manager
Malheur Resource Area
Vale District Bureau of Land Management
100 Oregon Street
Vale, Oregon 97918

Filing an appeal does not by itself stay the effectiveness of the final BLM decision. The appeal may be accompanied by a petition for a stay of the decision pending final determination on appeal, in accordance with 43 CFR § 4.471 and 4.479. Any request for a stay of the final decision in accordance with 43 CFR § 4.21 must be filled with the appeal. In accordance with 43 CFR § 4.21 (b) (1), a petition for a stay must show sufficient justification based on the following:

- The relative harm to the parties if the stay is granted or denied,
- The likelihood of the appellant's success on the merits,
- The likelihood of immediate and irreparable harm if the stay is not granted, and
- Whether the public interest favors granting the stay.

Additionally, in accordance with 43 CFR § 4.471(b), within 15 days after filing the appeal and petition for a stay with the authorized officer, the appellant must also serve copies on:
1) all other person(s) named in the Copies sent to: section of this decision; and
2) the appropriate office of the Office of the Solicitor as follows, in accordance with 43 CFR § 4.413(a) and (c):

Office of the Solicitor
US Department of the Interior
Pacific NW Region
500 NE Multnomah, Suite 607
Portland, OR 97213

Finally, in accordance with 43 CFR 4.472(b), 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 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 respond, the person must serve copies on the appellant, the appropriate office of the Office of the Solicitor in accordance with Sec. 4.413(a) and (c), and any other person named in the decision.

Sincerely,

Pat Ryan
Field Manager
Malheur Resource Area

Copies sent to: (by certified mail)

[redacted]

Courtesy copies sent to:

[redacted]

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Vale District Office
100 Oregon Street
Vale, Oregon 97918

IN REPLY REFER TO:
4100, NFMGMA

FEB 0 1 2008

[redacted]

NOTICE OF THE FIELD MANAGER'S FINAL DECISION

Dear [redacted]:

INTRODUCTION

Subsequent to the approval of revised BLM grazing regulations in 1995, BLM State Directors were assigned the task of developing state level rangeland health standards (Title 43 Code of Federal Regulations [CFR] 4180.2). The process of developing standards and defining standard indicators was conducted in consultation with BLM Resource Advisory Councils (RACs). The purpose for setting standards and identifying their indicators was to provide BLM with a rational basis for determining whether current management is meeting the Fundamentals of Rangeland Health as described under 43 CFR 4180.1.

On August 12, 1997, Interior Secretary Bruce Babbitt approved the Oregon/Washington BLM Standards and Guidelines for Rangeland Health (SRH). BLM field offices in Oregon/Washington were subsequently directed to conduct assessments and then use that assessment information to craft range health evaluations in relation to the state standards. These evaluations are conducted under an interdisciplinary team (IDT) concept where various resource specialists, representing the biological and physical sciences, are involved in the collection, review and analysis of available data.

In order to accomplish this assessment and evaluation workload and conform to the need for completing work on a watershed basis, Malheur Resource Area was divided into nine land based administrative units now referred to as Geographic Management Areas (GMAs). Based on multiple resource values and ongoing management issues needing resolution, the North Fork Malheur GMA (NFMGMA) was selected to be the second GMA to be assessed in Malheur Resource Area.

BLM regulations specify that "the authorized officer shall take appropriate action as soon as practicable but not later than the start of the next grazing year upon determining, through assessment or monitoring by experienced professionals and interdisciplinary teams, that a standard is not being achieved and that livestock are a significant contributing factor to the failure to achieve the standards and conform with the guidelines".

This decision is the final step in the GMA process, where changes to existing grazing management practices will be implemented. Issuing this decision will allow for significant

progress to be made toward meeting Standards for Rangeland Health in NFMGMA, and is issued in compliance with the Southeastern Oregon Resource Management Plan (SEORMP) and Record of Decision of September 2002.

BACKGROUND

Consultation, cooperation, and coordination with both grazing permittees and the interested public are critical components of BLM's range health assessment and evaluation process. On numerous occasions, BLM has communicated with both groups on range health standards and GMA assessments, by way of mailed written materials, public meetings, and onsite visits within NFMGMA.

In 2000 and 2001, the NFMGMA interdisciplinary team used a variety of information sources and the professional judgment of members and senior staff specialists to conduct upland and riparian health assessments. The best available rangeland vegetation and soils maps were consulted and agency-approved technical references and methodology, including protocols outlined in BLM Manual H-4180-1, "Rangeland Health Standards", were used to arrive at conclusions about range health conditions. These assessments were used to determine if Oregon/Washington BLM's "Standards for Rangeland Health" were being met. The Oregon/Washington Rangeland Health Standards are as follows:

- Standard 1 – Watershed Function – Uplands: upland soils exhibit infiltration and permeability rates, moisture storage, and stability that are appropriate to soil, climate, and landform.
- Standard 2 – Watershed Function --Riparian/wetland areas: riparian-wetland areas are in properly functioning physical condition appropriate to soil, climate, and landform.
- Standard 3 – Ecological Processes –Uplands: healthy, productive and diverse plant and animal populations and communities appropriate to soil, climate, and landform are supported by ecological processes of nutrient cycling, energy flow, and the hydrologic cycle.
- Standard 4 – Water Quality: surface water and ground water quality, influenced by agency actions, complies with State water quality standards.
- Standard 5 – Native, Threatened and Endangered (T&E), and Locally Important Species: habitats support healthy, productive, and diverse populations and communities of native plants and animals (including special status species and species of local importance) appropriate to soil, climate, and landform.

As a result of the interdisciplinary team assessments within the NFMGMA, upland sites in 45 pastures within 11 allotments did not meet the Standards for Rangeland Health due to current livestock grazing. The assessments that were completed in riparian areas indicated 34 pastures within 11 allotments did not meet the Standards for Rangeland Health due to current livestock grazing.

Scaling down the assessment from the NFMGMA to the Beulah Reservoir Allotment, 10 of 18 pastures within the allotment did not meet the Standards for Rangeland Health for upland areas due to current livestock grazing. The assessments that were completed in riparian areas revealed

that 4 of 18 pastures within the allotment did not meet Standards for Rangeland Health due to current livestock grazing.

The BLM and the NFMGMA grazing permittees initially met in 2002 and 2003 to establish short and long term solutions to areas that were not meeting standards. The short term solution that allowed for progress toward meeting the standards became the interim grazing strategy that some NFMGMA permittees have operated under since the 2002 and 2003 grazing season. In the fall of 2004, the IDT presented the formal findings of the assessments through Summaries and Determinations for the Standards of Rangeland Health to grazing permittees in NFMGMA, and members of the interested public. The long term solutions from the recommendations in the Determination Summaries were used to develop the preferred alternative that was proposed and analyzed in the NFMGMA Revised Environmental Assessment # OR-030-06-007. The preferred alternative described in the EA will allow for attainment of all applicable Vale District BLM objectives found in EA OR-030-06-007 and SEORMP ROD (2002). All alternatives that were described and analyzed in this document were designed by the BLM, in consultation, cooperation and coordination with members of the interested public. Each developed alternative was assessed and analyzed in the EA to determine if management objectives, as described in the SEORMP and Record of Decision, will be met by the actions proposed for the alternatives. The applicable management objectives are consistent with and support the Oregon/Washington Standards for Rangeland Health. Existing grazing management (i.e. that occurring prior to the interim strategy) in most allotments will not meet the standards for rangeland health as described in the No-Action alternative of the EA.

In the summer of 2007, the IDT recommended the adoption of the preferred alternative in the NFMGMA Revised Environmental Assessment # OR-030-06-007; which was sent to you in August with a copy of the Field Manager's Proposed Decision. Following the receipt of the proposed decision, protests were received from you, NFMGMA livestock permittees and other groups. The MRA IDT and I also met with the majority of the protesters on November, 27th 2007 to discuss the protest points. The protests were reviewed, responded to (Attachment 1), and utilized as a resource in conjunction with information obtained from the November, 27th 2007 meeting in designing the final grazing decision.

GRAZING MANAGEMENT PRACTICES

The evaluation has indicated that livestock grazing use is a causal factor in the failure to meet the upland and riparian rangeland health standard and thus upland and riparian improvement is necessary within NFMGMA. Because of this determination, the BLM must now adjust the intensity (utilization) and season (timing) of grazing use in order to make substantial progress towards meeting the upland and riparian standards. BLM discussed the rationale for this action in the SEORMP ROD Appendix R "Effects of Intensity and Season of Grazing". BLM proposed actions for NFMGMA will promote that attainment of properly functioning upland and riparian systems and meet resource management objectives by employing the following monitoring methods and performance indicators:

To ensure that the proposed livestock grazing systems allow reproduction and improvement of woody riparian vegetation, a quantifiable key plant performance indicator based on the modified

Cole Browse method would be utilized in pastures containing riparian/wetland areas. This performance indicator would be used to identify when excessive livestock browse on woody riparian vegetation is occurring and to trigger an appropriate management response. The permittee would be notified to remove livestock from any pasture if livestock concentration in riparian areas results in excessive use of woody vegetation. Grazing use will be considered excessive when >30% of the available leaders have been nipped or detached from woody riparian plants. This is referred to as livestock "incidence of use". It is estimated on the basis of the number of leaders that have been browsed and not on the percentage of annual growth removed. For example, on a willow plant with 100 stems, the performance indicator will be considered acceptable when fewer than 30 leaders have been clipped by livestock and big game combined. If browse on woody riparian vegetation exceeds this level, cattle would be removed from the pasture.

Riparian herbaceous stubble height measurements are a second tool or performance indicator that would be used to monitor riparian areas. Stubble height measurements will be used to determine the residual vegetation height of key species following a period of grazing. The measurements may be used two ways in conjunction with other monitoring techniques to determine when livestock should be moved from the riparian area. The first use would be during the grazing season to determine when livestock should be moved out of a pasture before excessive riparian damage occurs, and the second use would be at the end of the grazing season to determine whether changes to livestock grazing management are needed the following year. A performance indicator, not a standard, of 4 to 6 inches of stubble height vegetation would be used to indicate that livestock may need to be moved to prevent damage to riparian vegetation or streambanks. If riparian areas are in good condition or are continuing to improve in condition, this performance indicator may be adequate to prevent riparian damage, but other areas may require more residual herbaceous vegetation to protect the streambanks and improve riparian area conditions. The goal of this performance indicator is to provide a trigger to identify when established monitoring techniques should be completed to determine progress toward meeting management objectives in order for the riparian area to move in the desired direction.

The upland vegetation performance indicator that would be used to prevent excessive livestock use on perennial grass, forbs, and shrubs is average actual use based on the Landscape Appearance Method (Attachment 2). The Landscape Appearance Method is the approved protocol in the Vale District Monitoring Plan for annual monitoring of upland vegetation. The permittee would be notified to remove livestock from any pasture if livestock were exceeding the upland vegetation performance indicator for average actual use. Native pastures with upland concerns, including spring season grazing use (March through June), downward upland trends, and/or within a two-mile radius of a known sage grouse lek, would be required to improve and/or maintain upland condition as noted in the preferred alternative of the Revised North Fork Malheur Geographic Management Area EA # OR-030-06-007. These pastures would be monitored using upland performance indicators of 40% (maximum allowable utilization). Pastures that are grazed in the spring season of use would have a performance indicator of 40% (maximum allowable utilization), but on a deferred year (i.e. fall/ summer use) the performance indicator would be 50% (maximum allowable utilization) provided that they have a upward or static upland trends and are outside of a two-mile radius of a known sage grouse lek.

FINAL DECISION

Therefore, it is my final decision to implement the preferred alternative described in the Revised Environmental Assessment (EA) # OR-030-06-007. This decision includes authorization of your livestock grazing use for operator (#3603431) with a term of 10 years beginning in 2008 and expiring in 2018 for the Beulah Reservoir Allotment (#10217). Additionally, it is my final decision to ratify new allotment grazing schedules, change the number of livestock, and to implement new riparian and upland performance indicators.

Beulah Reservoir Allotment

The rangeland improvement projects (i.e. spring re-developments and fence construction) described in Appendix D of Revised EA No. OR-030-06-007 will be authorized in accordance with 43 CFR §4120.3-4.

Your grazing authorization for the Beulah Reservoir Allotment will be modified from your existing term permit, which is as follows:

Allotment	Livestock		Grazing Period		AUMs
	Number	Kind	Begin	End	
10217 Beulah Reservoir	152	Cattle	3/01	10/30	1220

Your new grazing authorization, defined in the preferred alternative of the Revised NFMGMA EA (OR-030-06-007), for the Beulah Reservoir Allotment will be as follows:

Allotment	Livestock		Grazing Period		AUMs
	Number	Kind	Begin	End	
10217 Beulah Reservoir	218	Cattle	03/15	06/21	710
	180	Sheep	03/15	06/10	101
	21	Cattle	03/20	05/01	30
	6	Cattle	04/01	4/30	6
	30	Sheep	04/01	4/30	6
	21	Cattle	09/01	9/30	21
	202	Cattle	10/01	11/21	346

Total Preference AUMs = 1,220 (1,220 Active AUMs and 0 Suspended AUMs). 6 AUMs of cattle use from 4/01 to 4/30 will be for Fenced Federal Range. 6 AUMS of sheep use from 4/01 to 4/30 will be for Fenced Federal Range.

Your pasture rotation, which is defined in the preferred alternative of the Revised NFMGMA EA, for the Beulah Reservoir Allotment will be as follows:

PASTURE	**Year 1 (2007)**	**Year 2 (2008)**	**Year 3 (2009)**	**Year 4 (2010)**
Moonshine[1]	3/20-5/1 (80AUM)	3/20-5/1 (30AUM) *3/20-5/1* *Sheep(50AUM)*	3/20-5/1 (80AUM)	3/20-5/1 (30AUM) *3/20-5/1* *Sheep(50AUM)*
Jack Creek	3/15-4/7 (172AUM) *3/15-4/7* *Sheep(50)*	3/15-4/15 (222AUM)	4/21-5/21 (223AUM) *4/21-5/21* *Sheep(50)*	3/15-4/14 (222AUM)
Upper Poverty	4/7-5/1 (118AUM)	9/1-10/7 (91AUM)	3/20-4/20 (129AUM)	5/1-5/21 (150AUM)
Lower Poverty	5/1-5/15 (69AUM)	10/7-11/4 (69AUM)	3/20-4/20 (100AUM)	4/14-5/1 (115AUM)
Burnt Field	5/1-6/1 (58AUM)	4/15-4/21 (50AUM)	Trailing (20AUM)	Trailing (20AUM)
Bennett	Trailing (20AUM)	Trailing (20AUM)	5/21-6/1 (79AUM)	10/1-11/1 (53AUM)
North East Homestead	9/14-11/1 (242AUM)	4/21-5/21 (215AUM)	6/1-6/21 (143 AUM)	10/1-11/1 (105AUM)
North West Homestead	6/8-6/21 (117AUM)	5/21-6/10 (143AUM)	9/1-10/1 (92AUM)	10/1-11/1 (158AUM)
West MJ	5/15-6/7 (191AUM) *5/15-6/7* *Sheep (50AUM)*	10/1-11/21 (256AUM)	10/1-11/7 (240AUM)	5/21-6/14 (169AUM) *5/1-6/10* *Sheep(50AUM)*
Mud Springs	6/1-6/21 (38AUM)	5/1-6/1 (22 AUM) *5/1-6/1* *Sheep(36AUM)*	*5/21-6/21 Sheep* *(50 AUM)*	9/1-10/1 (67AUM)
FFR pastures	13AUM	12AUM	12AUM	12AUM
Total AUMS	1220	1220	1220	1220

Italicized text indicates sheep use by Tony Joyce.

[1]Moonshine Pasture would be shared with operator #3603154. Each permittee utilizes no more than 80 AUMs each.

Other terms and conditions of your new term grazing permit will be:

- Grazing use in the Beulah Reservoir Allotment shall be in accordance with the above grazing schedule and with this signed decision which incorporates the preferred alternative in the North Fork Malheur Geographic Management Area Revised EA # OR-

030-06-007. In emergency related situations such as drought or fire a new decision may dictate grazing use.

- Pastures with riparian resources would be required to improve and/or maintain riparian condition as noted in the preferred alternative of the North Fork Malheur Geographic Management Area Revised EA # OR-030-06-007. These pastures would be monitored using riparian performance indicators identified in the EA. Pastures with riparian resources in the Beulah Reservoir Allotment are Moonshine, Jack Creek, Burnt Field, Bennet, Big Seeding, and Scab.
- Native pastures with upland concerns, including spring season grazing use (March through June), downward upland trends, and within a two-mile radius of a known sage grouse lek, would be required to improve and/or maintain upland condition as noted in the preferred alternative of the North Fork Malheur Geographic Management Area Revised EA # OR-030-06-007. These pastures would be monitored using upland performance indicators identified in the EA. Pastures that meet the above criteria in the Beulah Reservoir Allotment are Lower Poverty, Moonshine, Jack Creek, Big Seeding, Scab, Little Seeding, and Antelope.
- All other native pastures, i.e. those showing a static or upward trend, deferred use, and located outside of a two-mile radius of a known sage grouse lek, would be required to improve and/or maintain upland condition as noted in the preferred alternative of the North Fork Malheur Geographic Management Area Revised EA # OR-030-06-007. Pastures that meet the above criteria in the Beulah Reservoir Allotment are Burnt Field, McClellan, Bennet, Upper Poverty, North Homestead, Mud Springs, and West MJ.
- Upon reaching the maximum allowable performance indicators, livestock will be moved to the next pasture identified in the pasture rotation. If the next pasture is outside of the planned season of use livestock will be removed from the allotment and will not return until the planned season of use. If the maximum allowable performance indicator is reached in the last pasture scheduled for use prior to the end of the identified use period, livestock will be removed from BLM public lands within the allotment. This annual monitoring requirement may result in shortened use periods for some or all pastures in years of decreased forage production, such as drought. Additionally, this annual monitoring requirement may necessitate livestock to be removed from the allotment in the spring season of use and not return until the summer season of use.
- You shall provide BLM with a completed actual use record within 15 days of the close of the grazing season.
- Annual payment of grazing fees is required prior to making grazing use in the Beulah Reservoir Allotment.
- Adjustments in livestock numbers or any other changes from your normal grazing schedule must be approved in advance by the authorized officer.
- Salt or supplements shall be placed at least ½ mile away from water/riparian resources and ¼ mile away from sage-grouse leks on public land.
- This permit is subject to modification as necessary to achieve compliance with the Standards for Rangeland Health and Guidelines for Livestock Management (43 CFR 4180).
- In Year 3, 10 days of flexibility would be added to the Lower Poverty Pasture and 15 days of flexibility would be added to Upper Poverty Pasture due to potential snow conditions.

- For ease of operation, four days of flexibility in turn-out/gathering would be allowed in each pasture identified in a grazing schedule for a maximum of 8 days.

Rangeland Improvement Maintenance Responsibility
You will maintain the following rangeland improvement projects described below in accordance with 43 CFR 4120.3-4.

Beulah Reservoir Allot

Range Improvement Number	Project Name	Type**	Location
2322	Jack Spring	Spring	T.19S., R.37E., Sec 35 NWSE
2325	Upper Thorn Spring	Spring	T.19S., R.37E., Sec 26 SWNE
2341	Morley Reservoir	Reservoir	T.19S., R.37E., Sec 24 NWNW
720867	Joyce Allotment Fence	Fence	T.17S., R.36E., Sec 31 NENE
721737	T J Spring	Spring	T.19S., R.37E., Sec 35 SWNE
721738	Poverty Flat Spring	Spring	T.19S., R.38E., Sec 19 NWNE
724244	Thomas Joyce Fence	Fence	T.19S., R.37E., Sec 26 NWSW
724247	T P Joyce Allotment Fence	Fence	T.19S., R.38E., Sec 19 NWNE
724281	Grasshopper Spring	Spring	T.19S., R.38E., Sec 30 NENE
724882	Joyce North Fork Fence	Fence	T.17S., R.36E., Sec 32 NESE
725125	Moonshine Spring	Spring	T.20S., R.37E., Sec 2 NWNW
725840	McClellen Division Fence	Fence	T.20S., R.37E., Sec 4 NESW
726212	Hump Pit Reservoir	Reservoir	T.19S., R.38E. Sec 30 LOT 3
721080	Joyce Allotment Fence	Fence	T.19S., R.37E., Sec 28 SWNW
721623	Curry Ridge Division Fence	Fence	T.19S., R.37E., Sec 35 SENE

General NFMGMA Decisions
Within the NFMGMA, grazing management will be conducted in accordance with the following mitigating measures which were identified in the Revised EA:

Rangeland Vegetation
Appendix S of the SEORMP ROD (Standard Implementation Features and Procedures for Rangeland Improvements) will be adhered to.

Special Status Plant Species
Special status plant surveys will be conducted prior to all surface disturbing activities and project installations. Project location adjustments necessary to avoid site specific adverse impacts to special status plants will be accommodated.

Water Resources and Riparian/Wetlands and Aquatic Species and Habitats
Project development in riparian/wetland areas will follow SEORMP ROD Appendix O (Best Management Practices) criteria to minimize disturbance and maximize potential for project success. Adequate buffer distances will be implemented to protect riparian areas and stream channels from potential erosional impacts of land treatments and construction of fences.

Wildlife and Wildlife Habitat and Special Status Animal Species
BLM will continue to monitor habitat conditions in NFMGMA, and Oregon Department of Fish and Wildlife will continue to monitor sage-grouse population status. Existing rangeland vegetation monitoring will be supplemented with appropriate additional studies in accordance with SEORMP ROD Monitoring Appendix W to document success or failure in meeting NFMGMA resource objectives.

The activity plan level wildlife habitat objective for NFMGMA and the SEORMP ROD 70% threshold for grassland habitat in Malheur Resource Area (page *x* Record of Decision) will significantly limit the amount, type, and location of further fragmentation from BLM initiated land treatments. Less than 25% of the existing shrub-land habitat (excluding grasslands and closed canopy forested land) of the Wyoming, mountain, and basin big sagebrush habitats may appear as grasslands under the NFMGMA terrestrial wildlife objective.

Livestock salting and mineral supplement stations will be placed at least ¼ mile from sage grouse leks to avoid drawing livestock into centers of sage-grouse breeding activity.

Livestock management fences will be constructed in a way that allows for freedom of movement for elk, mule deer, and pronghorn and minimizes potential for injury or mortality. In accordance with BLM Manual Handbook H-1741-1, interior allotment fences will conform to the following material and spacing requirements; top strand – barbed wire - no higher than 38", second strand – barbed wire at 26", bottom strand – smooth wire at 16".

New fencing will be flagged temporarily to help diminish incidence of wildlife fence collisions.

Wildlife escape ramps will be installed in new and existing livestock water tanks to minimize potential for sage-grouse and other small animal drowning mortalities.

Rangeland/Grazing Use Management
For ease of operation, four days of flexibility in turn-out/gathering would be allowed in each pasture identified in a grazing schedule for a maximum of 8 days. This flexibility would allow for changes in use dates to accommodate for climatic conditions or the reaching of the maximum allowable utilization within a pasture. Move dates outside of the four-day allowance would be considered by BLM staff at the time of the request. Flexibility in livestock move dates will be allowed as long as the adjustments will result in the attainment of SEORMP resource management objectives.

Cultural Resources
Cultural resource surveys will be conducted prior to all surface disturbing activities and project installations. Project location adjustments necessary to avoid site specific adverse impacts to

cultural resources will be accommodated.

Monitoring Methods and Adaptive Management in NFMGMA
BLM monitoring, as described in section 8 of the EA and Appendix W of the SEORMP ROD, shall determine if authorized grazing use in NFMGMA results in attainment of the management objectives as described below.

Short-term Performance Evaluations
Monitoring methods shall be in accordance with approved BLM policy and protocols.

Existing monitoring sites will continue to be used to evaluate management. New key monitoring sites will be selected by the IDT in consultation and coordination with affected livestock permittees and the interested public.

Unforeseeable circumstances such as drought, fire, or law enforcement issues which may confound planned grazing activities may cause BLM to craft a new decision and associated NEPA analysis.

Long-term Performance Evaluation
The grazing system adopted in this decision may undergo periodic performance evaluation by BLMs IDT if performance indicators are consistently not met for NFMGMA. Prior to the 2018 expiration date of your new term grazing permit, a long-term evaluation of grazing system performance will be conducted.

Monitoring methods shall be in accordance with approved BLM policy and protocols.

RATIONALE

Under the direction of the SEORMP, GMA assessments are an administrative mechanism by which BLM will make adjustments to authorized land uses. Based on the NFMGMA rangeland assessment findings of 2000 and 2001, changes in livestock use are needed in NFMGMA grazing allotments in order to resolve certain resource management conflicts. The rationale for this decision is based on the Standards of Rangeland Health and Guidelines for Livestock Management for Public Lands Administered by the Bureau of Land Management in the States of Oregon and Washington for pastures within the Beulah Reservoir Allotment. These determinations were published in 2003 and 2004 and were in Appendix C of Revised EA No. OR-030-06-007.

Where existing grazing management practices on public lands are significant factors in failing to achieve the standards for rangeland health and conform to the guidelines, BLM is taking action with this final decision as described in the preferred alternative in EA No. OR-030-06-007 in order to progress toward the attainment and conformance with the standards and guidelines for rangeland health.

Methods of achieving the SRH in the uplands of the Beulah Reservoir Allotment includes the following: (1) implementation of a grazing system that provides deferred rotation grazing limiting use during the critical growing season of key perennial herbaceous species, (2) a partial

change in the class of livestock from cattle to sheep, which improves livestock distribution and change in dietary preference from grasses to forbs and shrubs, (3) ratification of new upland performance indicators for key upland species, which may contribute to improving upland health when used as management guides, (4) construction of a fence between Jack Creek and Upper & Lower Poverty Pastures to facilitate the grazing schedules, and (5) construction of a division fence in North Homestead to improve livestock distribution and allow for upland deferment. Pastures for which these methods apply include the following: Lower Poverty, Jack Creek, North Homestead, Bennett, Antelope, Moonshine, Scab, Burnt Field, Big Seeding, Little Seeding, and McClellan.

Methods of achieving the SRH in the riparian areas of the Beulah Reservoir Allotment include the following: (1) implementation of a grazing system that provides cool season use in riparian areas, (2) a partial change in the class of livestock that reduces cattle use during the hot season, (3) reconstruction of spring developments that allows for protection of the spring sources, and (4) ratification of riparian performance indicators for riparian vegetation which may contribute to improving riparian health when used as management guides. Cool season use is the most optimal time to graze a pasture with riparian areas as the livestock are more likely to distribute farther away from and the riparian area at this time. Livestock drink less water in the cool season versus the hot season which tends to result in less time that livestock spend on a stream and/ or spring source. The nutritional components of riparian vegetation and upland vegetation is most similar during the cool season versus the hot season which tends to result in less time that livestock spend in a riparian area. Pastures for which these methods apply include the following: Moonshine, Burnt Field, Scab, and Upper Poverty.

AUTHORITY

The authority for this decision is contained in Title 43 of the Code of Federal Regulations (CFR) including and the following laws:
The Taylor Grazing Act
The Federal Land Management Act

4100.0-2 Objectives.
The objectives of these regulations are to promote healthy sustainable rangeland ecosystems; to accelerate restoration and improvement of public rangelands to properly functioning conditions; to promote the orderly use, improvement and development of the public lands; to establish efficient and effective administration of grazing of public rangelands; and to provide for the sustainability of the western livestock industry and communities that are dependent upon productive, healthy public rangelands. These objectives shall be realized in a manner that is consistent with land use plans, multiple use, sustained yield, environmental values, economic and other objectives stated in 43 CFR part 1720, subpart 1725; the Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315, 315a-315r); section 102 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740).

§4100.0-3 Authority.
(a) The Taylor Grazing Act of June 28, 1934 as amended (43 U.S.C. 315, 315a through 315r);
(b) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) as amended by the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.);

(c) Executive orders transfer land acquired under the Bankhead-Jones Farm Tenant Act of July 22, 1937, as amended (7 U.S.C. 1012), to the Secretary and authorize administration under the Taylor Grazing Act.
(e) The Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.); and
(f) Public land orders, Executive orders, and agreements authorize the Secretary to administer livestock grazing on specified lands under the Taylor Grazing Act or other authority as specified.

§4100.0-8 Land use plans.
The authorized officer shall manage livestock grazing on public lands under the principle of multiple use and sustained yield, and in accordance with applicable land use plans. Land use plans shall establish allowable resource uses (either singly or in combination), related levels of production or use to be maintained, areas of use, and resource condition goals and objectives to be obtained. The plans also set forth program constraints and general management practices needed to achieve management objectives. Livestock grazing activities and management actions approved by the authorized officer shall be in conformance with the land use plan as defined at 43 CFR 1601.0-5(b).

§4110.2-4 Allotments.
After consultation, cooperation, and coordination with the affected grazing permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public, the authorized officer may designate and adjust grazing allotment boundaries. The authorized officer may combine or divide allotments, through an agreement or by decision, when necessary for the proper and efficient management of public rangelands.

§4110.3 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.

§4120.2 Allotment management plans and resource activity plans.
Allotment management plans or other activity plans intended to serve as the functional equivalent of allotment management plans may be developed by permittees or lessees, other Federal or State resource management agencies, interested citizens, and the Bureau of Land Management. When such plans affecting the administration of grazing allotments are developed, the following provisions apply:
(a) An allotment management plan or other activity plans intended to serve as the functional equivalent of allotment management plans shall be prepared in careful and considered consultation, cooperation, and coordination with affected permittees or lessees, landowners involved, the resource advisory council, any State having lands or responsible for managing resources within the area to be covered by such a plan, and the interested public. The plan shall become effective upon approval by the authorized officer. The plans shall --
(1) Include terms and conditions under §§4130.3, 4130.3-1, 4130.3-2 4130.3-3, and subpart

4180 of this part;

(2) Prescribe the livestock grazing practices necessary to meet specific resource objectives;

(c) The authorized officer shall provide opportunity for public participation in the planning and environmental analysis of proposed plans affecting the administration of grazing and shall give public notice concerning the availability of environmental documents prepared as a part of the development of such plans, prior to implementing the plans. The decision document following the environmental analysis shall be considered the proposed decision for the purposes of subpart 4160 of this part.

(d) A requirement to conform with completed allotment management plans or other applicable activity plans intended to serve as the functional equivalent of allotment management plans shall be incorporated into the terms and conditions of the grazing permit or lease for the allotment.

(e) Allotment management plans or other applicable activity plans intended to serve as the functional equivalent of allotment management plans may be revised or terminated by the authorized officer after consultation, cooperation, and coordination with the affected permittees or lessees, landowners involved, the resource advisory council, any State having lands or responsible for managing resources within the area to be covered by the plan, and the interested public.

§4120.3-1 Conditions for 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 with the Bureau of Land Management or must have an approved range improvement permit.

(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.

§4130.2 Grazing permits or leases.

(a) Grazing permits or leases shall be issued to qualified applicants to authorize use on the public lands and other lands under the administration of the Bureau of Land Management that are designated as available for livestock grazing through land use plans. Permits or leases shall specify the types and levels of use authorized, including livestock grazing, suspended use, and conservation use. These grazing permits and leases shall also specify terms and conditions pursuant to §§4130.3, 4130.3-1, and 4130.3-2.

(b) The authorized officer shall consult, cooperate and coordinate with affected permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public prior to the issuance or renewal of grazing permits and leases.
(c) Grazing permits or leases convey no right, title, or interest held by the United States in any lands or resources.
(d) The term of grazing permits or leases authorizing livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management shall be 10 years.

§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.
§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 term or condition of the permit or lease.
(c) Permits and leases shall incorporate terms and conditions that ensure conformance with subpart 4180 of this part.

§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 range management or assist in the orderly administration of the public rangelands. These may include but are not limited to:
(a) The class of livestock that will graze on an allotment;
(c) Authorization to use, and directions for placement of supplemental feed, including salt, for improved livestock and rangeland management on the public lands;

§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 officer 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.

§4160.3 Final decisions.

(a) In the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice unless otherwise provided in the proposed decision.

§4180.1 Fundamentals of rangeland health.

The authorized officer shall take appropriate action under subparts 4110, 4120, 4130, and 4160 of this part as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management needs to be modified to ensure that the following conditions exist.

(a) Watersheds are in, or are making significant progress toward, properly functioning physical condition, including their upland, riparian-wetland, and aquatic components; soil and plant conditions support infiltration, soil moisture storage, and the release of water that are in balance with climate and landform and maintain or improve water quality, water quantity, and timing and duration of flow.

(b) Ecological processes, including the hydrologic cycle, nutrient cycle, and energy flow, are maintained, or there is significant progress toward their attainment, in order to support healthy biotic populations and communities.

(c) Water quality complies with State water quality standards and achieves, or is making significant progress toward achieving, established BLM management objectives such as meeting wildlife needs.

(d) Habitats are, or are making significant progress toward being, restored or maintained for Federal threatened and endangered species, Federal Proposed, Category 1 and 2 Federal candidate and other special status species.

§4180.2 Standards and guidelines for grazing administration.

(c) The authorized officer shall take appropriate action as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management practices or levels of grazing use on public lands are significant factors in failing to achieve the standards and conform with the guidelines that are made effective under this section. Appropriate action means implementing actions pursuant to subparts 4110, 4120, 4130, and 4160 of this part that will result in significant progress toward fulfillment of the standards and significant progress toward conformance with the guidelines. Practices and activities subject to standards and guidelines include the development of grazing-related portions of activity plans, establishment of terms and conditions of permits, leases and other grazing authorizations, and range improvement activities such as vegetation manipulation, fence construction and development of water.

(e) At a minimum, State or regional guidelines developed under paragraphs (a) and (b) of this section must address the following:

(1) Maintaining or promoting adequate amounts of vegetative ground cover, including standing plant material and litter, to support infiltration, maintain soil moisture storage, and stabilize soils;

(2) Maintaining or promoting subsurface soil conditions that support permeability rates appropriate to climate and soils;

(3) Maintaining, improving or restoring riparian-wetland functions including energy dissipation, sediment capture, groundwater recharge, and stream bank stability;

(4) Maintaining or promoting stream channel morphology (e.g., gradient, width/depth ratio, channel roughness and sinuosity) and functions appropriate to climate and landform;
(5) Maintaining or promoting the appropriate kinds and amounts of soil organisms, plants and animals to support the hydrologic cycle, nutrient cycle, and energy flow;
(6) Promoting the opportunity for seedling establishment of appropriate plant species when climatic conditions and space allow;
(7) Maintaining, restoring or enhancing water quality to meet management objectives, such as meeting wildlife needs;
(8) Restoring, maintaining or enhancing habitats to assist in the recovery of Federal threatened and endangered species;
(9) Restoring, maintaining or enhancing habitats of Federal Proposed, Category 1 and 2 Federal candidate, and other special status species to promote their conservation;
(10) Maintaining or promoting the physical and biological conditions to sustain native populations and communities;
(11) Emphasizing native species in the support of ecological function;

Southeastern Oregon Resource Management Plan, Record of Decision and Final Environmental Impact Statement, September 2002.

RIGHT OF STAY AND/OR APPEAL

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. A period of 30 days from your receipt of the final decision is provided for filling an appeal and petition for stay of the decision pending final determination on appeal, as provided in 43 CFR § 4.470 and 43 CFR § 4160.4.

Any appeal should state clearly and concisely as to why the final decision is in error. All grounds of error not stated shall be considered waived, and no such waived ground of error may be presented at the hearing unless ordered or permitted by the administrative law judge. Any appeal should be submitted in writing to:

Field Manager
Malheur Resource Area
Vale District Bureau of Land Management
100 Oregon Street
Vale, Oregon 97918

Filing an appeal does not by itself stay the effectiveness of the final BLM decision. The appeal may be accompanied by a petition for a stay of the decision pending final determination on appeal, in accordance with 43 CFR § 4.471 and 4.479. Any request for a stay of the final decision in accordance with 43 CFR § 4.21 must be filled with the appeal. In accordance with 43 CFR § 4.21 (b) (1), a petition for a stay must show sufficient justification based on the following:

- The relative harm to the parties if the stay is granted or denied,
- The likelihood of the appellant's success on the merits,
- The likelihood of immediate and irreparable harm if the stay is not granted, and

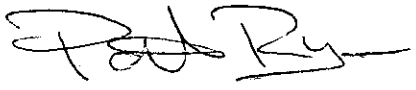
- Whether the public interest favors granting the stay.

Additionally, in accordance with 43 CFR § 4.471(b), within 15 days after filing the appeal and petition for a stay with the authorized officer, the appellant must also serve copies on:
1) all other person(s) named in the Copies sent to: section of this decision; and
2) the appropriate office of the Office of the Solicitor as follows, in accordance with 43 CFR § 4.413(a) and (c):

Office of the Solicitor
US Department of the Interior
Pacific NW Region
500 NE Multnomah, Suite 607
Portland, OR 97213

Finally, in accordance with 43 CFR 4.472(b), 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 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 respond, the person must serve copies on the appellant, the appropriate office of the Office of the Solicitor in accordance with Sec. 4.413(a) and (c), and any other person named in the decision.

Sincerely,



Pat Ryan
Field Manager
Malheur Resource Area

Copies sent to: (by certified mail)

[redacted]

Courtesy copies sent to:

[redacted]

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Vale District Office
100 Oregon Street
Vale, Oregon 97918

IN REPLY REFER TO:
4100, NFMGMA

[redacted]

FEB 0 1 2008

NOTICE OF THE FIELD MANAGER'S FINAL DECISION

Dear [redacted]

INTRODUCTION

Subsequent to the approval of revised BLM grazing regulations in 1995, BLM State Directors were assigned the task of developing state level rangeland health standards (Title 43 Code of Federal Regulations [CFR] 4180.2). The process of developing standards and defining standard indicators was conducted in consultation with BLM Resource Advisory Councils (RACs). The purpose for setting standards and identifying their indicators was to provide BLM with a rational basis for determining whether current management is meeting the Fundamentals of Rangeland Health as described under 43 CFR 4180.1.

On August 12, 1997, Interior Secretary Bruce Babbitt approved the Oregon/Washington BLM Standards and Guidelines for Rangeland Health (SRH). BLM field offices in Oregon/Washington were subsequently directed to conduct assessments and then use that assessment information to craft range health evaluations in relation to the state standards. These evaluations are conducted under an interdisciplinary team (IDT) concept where various resource specialists, representing the biological and physical sciences, are involved in the collection, review and analysis of available data.

In order to accomplish this assessment and evaluation workload and conform to the need for completing work on a watershed basis, Malheur Resource Area was divided into nine land based administrative units now referred to as Geographic Management Areas (GMAs). Based on multiple resource values and ongoing management issues needing resolution, the North Fork Malheur GMA (NFMGMA) was selected to be the second GMA to be assessed in Malheur Resource Area.

BLM regulations specify that "the authorized officer shall take appropriate action as soon as practicable but not later than the start of the next grazing year upon determining, through assessment or monitoring by experienced professionals and interdisciplinary teams, that a standard is not being achieved and that livestock are a significant contributing factor to the failure to achieve the standards and conform with the guidelines".

This decision is the final step in the GMA process, where changes to existing grazing management practices will be implemented. Issuing this decision will allow for significant

progress to be made toward meeting Standards for Rangeland Health in NFMGMA, and is issued in compliance with the Southeastern Oregon Resource Management Plan (SEORMP) and Record of Decision of September 2002.

BACKGROUND

Consultation, cooperation, and coordination with both grazing permittees and the interested public are critical components of BLM's range health assessment and evaluation process. On numerous occasions, BLM has communicated with both groups on range health standards and GMA assessments, by way of mailed written materials, public meetings, and onsite visits within NFMGMA.

In 2000 and 2001, the NFMGMA interdisciplinary team used a variety of information sources and the professional judgment of members and senior staff specialists to conduct upland and riparian health assessments. The best available rangeland vegetation and soils maps were consulted and agency-approved technical references and methodology, including protocols outlined in BLM Manual H-4180-1, "Rangeland Health Standards", were used to arrive at conclusions about range health conditions. These assessments were used to determine if Oregon/Washington BLM's "Standards for Rangeland Health" were being met. The Oregon/Washington Rangeland Health Standards are as follows:

- Standard 1 – Watershed Function - Uplands: upland soils exhibit infiltration and permeability rates, moisture storage, and stability that are appropriate to soil, climate, and landform.
- Standard 2 – Watershed Function - Riparian/wetland areas: riparian-wetland areas are in properly functioning physical condition appropriate to soil, climate, and landform.
- Standard 3 – Ecological Processes - Uplands: healthy, productive and diverse plant and animal populations and communities appropriate to soil, climate, and landform are supported by ecological processes of nutrient cycling, energy flow, and the hydrologic cycle.
- Standard 4 – Water Quality: surface water and ground water quality, influenced by agency actions, complies with State water quality standards.
- Standard 5 – Native, Threatened and Endangered (T&E), and Locally Important Species: habitats support healthy, productive, and diverse populations and communities of native plants and animals (including special status species and species of local importance) appropriate to soil, climate, and landform.

As a result of the interdisciplinary team assessments within the NFMGMA, upland sites in 45 pastures within 11 allotments did not meet the Standards for Rangeland Health due to current livestock grazing. The assessments that were completed in riparian areas indicated 34 pastures within 11 allotments did not meet the Standards for Rangeland Health due to current livestock grazing.

Scaling down the assessment from the NFMGMA to Allotment #6, Juniper Gulch pasture did not meet the Standards 2 and 5 for Rangeland Health due to current livestock grazing in riparian areas.

The BLM and the NFMGMA grazing permittees initially met in 2002 and 2003 to establish short and long term solutions to areas that were not meeting standards. The short term solution that allowed for progress toward meeting the standards became the interim grazing strategy that some NFMGMA permittees have operated under since the 2002 and 2003 grazing season. In the fall of 2004, the IDT presented the formal findings of the assessments through Summaries and Determinations for the Standards of Rangeland Health to grazing permittees in NFMGMA, and members of the interested public. The long term solutions from the recommendations in the Determination Summaries were used to develop the preferred alternative that was proposed and analyzed in the Revised NFMGMA Environmental Assessment # OR-030-06-007. The preferred alternative described in the EA will allow for attainment of all applicable Vale District BLM objectives found in Revised EA OR-030-06-007 and SEORMP ROD (2002). All alternatives that were described and analyzed in the EA were designed by the BLM in consultation, cooperation and coordination with members of the interested public. Each developed alternative was assessed and analyzed in the EA to determine if management objectives, as described in the SEORMP and Record of Decision, will be met by the actions proposed for the alternatives. The applicable management objectives are consistent with and support the Oregon/Washington Standards for Rangeland Health. Existing grazing management (i.e. that occurring prior to the interim strategy) in most allotments will not meet the standards for rangeland health as described in the No-Action alternative of the EA.

In the summer of 2007, the IDT recommended the adoption of the preferred alternative in the NFMGMA Revised Environmental Assessment # OR-030-06-007; which was sent to you in August with a copy of the Field Manager's Proposed Decision. Following the receipt of the proposed decision, protests were received from you, NFMGMA livestock permittees and other groups. The MRA IDT and I met with the majority of the protesters on November, 27th 2007 to discuss the protest points. The protests were reviewed, responded to (Attachment 1), and utilized as a resource in conjunction with information obtained from the November, 27th 2007 meeting in designing the final grazing decision.

GRAZING MANAGEMENT PRACTICES

The evaluation has indicated that livestock grazing use is a causal factor in the failure to meet the upland and riparian rangeland health standard and thus upland and riparian improvement is necessary within NFMGMA. Because of this determination, the BLM must now adjust the intensity (utilization) and season (timing) of grazing use in order to make substantial progress towards meeting the upland and riparian standards. BLM discussed the rationale for this action in the SEORMP ROD Appendix R "Effects of Intensity and Season of Grazing." BLM proposed actions for NFMGMA will promote that attainment of properly functioning upland and riparian systems and meet resource management objectives by employing the following monitoring methods and performance indicators:

To ensure that the proposed livestock grazing systems allow reproduction and improvement of woody riparian vegetation, a quantifiable key plant performance indicator based on the modified Cole Browse method would be utilized in pastures containing riparian/wetland areas. This performance indicator would be used to identify when excessive livestock browse on woody riparian vegetation is occurring and to trigger an appropriate management response. The

permittee would be notified to remove livestock from any pasture if livestock concentration in riparian areas results in excessive use of woody vegetation. Grazing use will be considered excessive when >30% of the available leaders have been nipped or detached from woody riparian plants. This is referred to as livestock "incidence of use". It is estimated on the basis of the number of leaders that have been browsed and not on the percentage of annual growth removed. For example, on a willow plant with 100 stems, the performance indicator will be considered acceptable when fewer than 30 leaders have been clipped by livestock and big game combined. If browse on woody riparian vegetation exceeds this level, cattle would be removed from the pasture.

Riparian herbaceous stubble height measurements are a second tool or performance indicator that would be used to monitor riparian areas. Stubble height measurements will be used to determine the residual vegetation height of key species following a period of grazing. The measurements may be used two ways in conjunction with other monitoring techniques to determine when livestock should be moved from the riparian area. The first use would be during the grazing season to determine when livestock should be moved out of a pasture before excessive riparian damage occurs, and the second use would be at the end of the grazing season to determine whether changes to livestock grazing management are needed the following year. A performance indicator, not a standard, of 4 to 6 inches of stubble height vegetation would be used to indicate that livestock may need to be moved to prevent damage to riparian vegetation or streambanks. If riparian areas are in good condition or are continuing to improve in condition, this performance indicator may be adequate to prevent riparian damage, but other areas may require more residual herbaceous vegetation to protect the streambanks and improve riparian area conditions. The goal of this performance indicator is to provide a trigger to identify when established monitoring techniques should be completed to determine progress toward meeting management objectives in order for the riparian area to move in the desired direction.

The upland vegetation performance indicator that would be used to prevent excessive livestock use on perennial grass, forbs, and shrubs is average actual use based on the Landscape Appearance Method (Attachment 2). The Landscape Appearance Method is the approved protocol in the Vale District Monitoring Plan for annual monitoring of upland vegetation. The permittee would be notified to remove livestock from any pasture if livestock were exceeding the upland vegetation performance indicator for average actual use. Native pastures with upland concerns, including spring season grazing use (March through June), downward upland trends, and/or within a two-mile radius of a known sage grouse lek, would be required to improve and/or maintain upland condition as noted in the preferred alternative of the North Fork Malheur Geographic Management Area EA # OR-030-06-007. These pastures would be monitored using upland performance indicators of 40% (maximum allowable utilization). Pastures that are grazed in the spring season of use would have a performance indicator of 40% (maximum allowable utilization), but on a deferred year (i.e. fall/ summer use) the performance indicator would be 50% (maximum allowable utilization) provided that they have a upward or static upland trends and are outside of a two-mile radius of a known sage grouse lek.

FINAL DECISION

Therefore, it is my final decision to implement the preferred alternative described in the Revised Environmental Assessment (EA) # OR-030-06-007. This decision includes authorization of your livestock grazing use (operator {#3603151}) with a term of 10 years beginning in 2008 and expiring in 2018 for Allotment #6 (#10204). Additionally, it is my final decision to ratify new allotment grazing schedules, change the number of livestock, change the season of use, and to implement new riparian and upland performance indicators.

The rangeland improvement projects (i.e. spring re-developments) described in Appendix D of Revised EA No. OR-030-06-007 will be authorized in accordance with 43 CFR §4120.3-4. The well project in Juniper Gulch pasture will not occur, the pipeline will be located in Currey Canyon, the pipeline will be supplied from a well on private land, and will be authorized in accordance with 43 CFR §4120.3-4.

Your grazing authorization for the Allotment #6 will be modified from your existing term permit, which is as follows:

Allotment	Livestock		Grazing Period		AUMs
	Number	Kind	Begin	End	
10204 Allotment #6	430	Cattle	8/15	11/07	1202

Total Preference AUMs = 1540 (1201 Active AUMs and 339 Suspended AUMs).

Your new grazing authorization which is defined in the preferred alternative of the Revised NFMGMA EA (OR-030-06-007), for Allotment #6 will be as follows:

Allotment	Livestock		Grazing Period		AUMs
	Number	Kind	Begin	End	
10204 Allotment #6	240	Cattle	10/01	03/01	1201

Total Preference AUMs = 1540 (1201 Active AUMs and 339 Suspended AUMs).

Grazing use will be in accordance with the following terms and conditions:

- Grazing use in the Allotment #6 shall be in accordance with the above grazing schedule and this decision which incorporates the preferred alternative in the North Fork Malheur Geographic Management Area Revised EA # OR-030-06-007. In emergency related situations such as drought or fire a new decision may dictate grazing use.
- Pastures with riparian resources would be required to improve and/or maintain riparian condition as noted in the preferred alternative of the North Fork Malheur Geographic Management Area EA # OR-030-06-007. These pastures would be monitored using riparian performance indicators identified in the EA. Pastures with riparian resources in Allotment #6 are Juniper Gulch Pasture.
- Native pastures that are showing a static or upward trend, deferred use, and located outside of a two-mile radius of a known sage grouse lek, would be required to improve and/or maintain upland condition as noted in the preferred alternative of the North Fork Malheur Geographic Management Area EA # OR-030-06-007. These pastures would be monitored using upland performance indicators identified in the EA. Pastures that meet the above criteria in Allotment #6 are Juniper Gulch pasture.
- Upon reaching the maximum allowable performance indicators, livestock will be moved to the next pasture identified in the pasture rotation. If the maximum allowable

performance indicator is reached in the last pasture scheduled for use prior to the end of the identified use period, livestock will be removed from BLM public lands within the allotment. This annual monitoring requirement may result in shortened use periods for some or all pastures in years of decreased forage production, such as drought.

- Adjustments in livestock numbers or any other changes from your normal grazing schedule must be approved in advance by the authorized officer.
- You shall provide BLM with a completed actual use record within 15 days of the close of the grazing season. The actual use data will be utilized to calculate your grazing bill which will be considered after the fact for the Castle Rock and Whitley Canyon allotments.
- Salt or supplements shall be placed at least ½ mile away from water/riparian resources and ¼ mile away from sage-grouse leks on public land.
- This permit is subject to modification as necessary to achieve compliance with the Standards for Rangeland Health and Guidelines for Livestock Management (43 CFR 4180).
- For ease of operation, four days of flexibility in turn-out/gathering would be allowed in each pasture identified in a grazing schedule for a maximum of 8 days.

Rangeland Improvement Maintenance Responsibility

You will maintain the following rangeland improvement projects described below in accordance with 43 CFR 4120.3-4.

Allotment #6

Rangeland Improvement Number	Project Name	Type	Location
720399	Pete Joyce Reservoir	Reservoir	T.20S., R.38E., Sec 29 NWSE
720646	Currey Canyon Reservoir	Reservoir	T.21S., R.38E., Sec 05 NWNE
720747	Red Willow Spring	Spring	T.20S., R.38E., Sec 33 NESE
720748	Horseshoe Bend Spring	Spring	T.20S., R.38E., Sec 33 SWSE
720823	Stemler Ridge Reservoir	Reservoir	T.20S., R.38E., Sec 19 SWNE
720847	Stemler Ridge Division Fence	Fence	T.20S., R.37E. Sec 13 NWSE
721282	Adobe Reservoir	Reservoir	T.20S., R.38E., Sec 29 NENW
721774	Dugout Reservoir	Reservoir	T.20S., R.37E., Sec 25 NESE
724280	Horseshoe Bend Reservoir	Reservoir	T.20S., R.38E., Sec 33 NWNW
725141	West Juniper Fence	Fence	T.20S., R.37E., Sec 23 SESE
726098	Malheur River Stream Excl	Fence	T.21S., R.38E., Sec 03 SW

General NFMGMA Decisions
Within the NFMGMA, grazing management will be conducted in accordance with the following mitigating measures which were identified in the Revised EA:

Rangeland Vegetation
Appendix S of the SEORMP ROD (Standard Implementation Features and Procedures for Rangeland Improvements) will be adhered to.

Special Status Plant Species
Special status plant surveys will be conducted prior to all surface disturbing activities and project installations. Project location adjustments necessary to avoid site specific adverse impacts to special status plants will be accommodated.

Water Resources and Riparian/Wetlands and Aquatic Species and Habitats
Project development in riparian/wetland areas will follow SEORMP ROD Appendix O (Best Management Practices) criteria to minimize disturbance and maximize potential for project success. Adequate buffer distances will be implemented to protect riparian areas and stream channels from potential erosional impacts from the construction of fences.

Wildlife and Wildlife Habitat and Special Status Animal Species
BLM will continue to monitor habitat conditions in NFMGMA, and Oregon Department of Fish and Wildlife will continue to monitor sage-grouse population status. Existing rangeland vegetation monitoring will be supplemented with appropriate additional studies in accordance with SEORMP ROD Monitoring Appendix W to document success or failure in meeting NFMGMA resource objectives.

New livestock management fences will be located at least 0.6 miles from sage grouse leks according to BLM management guidelines.

Livestock salting and mineral supplement stations will be placed at least ¼ mile from sage grouse leks to avoid drawing livestock into centers of sage-grouse breeding activity.

Livestock management fences will be constructed in a way that allows for freedom of movement for elk, mule deer, and pronghorn and minimizes potential for injury or mortality. In accordance with BLM Manual Handbook H-1741-1, interior allotment fences will conform to the following material and spacing requirements; top strand – barbed wire - no higher than 38", second strand – barbed wire at 26", bottom strand – smooth wire at 16".

New fencing will be flagged temporarily to help diminish incidence of wildlife fence collisions.

Wildlife escape ramps will be installed in new and existing livestock water tanks to minimize potential for sage-grouse and other small animal drowning mortalities.

Rangeland/Grazing Use Management
For ease of operation, four days of flexibility in turn-out/gathering would be allowed in each pasture identified in a grazing schedule for a maximum of 8 days. This flexibility would allow for changes in use dates to accommodate for climatic conditions or the reaching of the maximum allowable utilization within a pasture. Move dates outside of the four-day allowance would be considered by BLM staff at the time of the request. Flexibility in livestock move dates will be allowed as long as the adjustments will result in the attainment of SEORMP resource management objectives.

Cultural Resources
Cultural resource surveys will be conducted prior to all surface disturbing activities and project installations. Project location adjustments necessary to avoid site specific adverse impacts to cultural resources will be accommodated.

Monitoring Methods and Adaptive Management in NFMGMA
BLM monitoring, as described in section 8 of the EA and Appendix W of the SEORMP ROD, shall determine if authorized grazing use in NFMGMA results in attainment of the management objectives as described below.

Short-term Performance Evaluations
Monitoring methods shall be in accordance with approved BLM policy and protocols.

Existing monitoring sites will continue to be used to evaluate management. New key monitoring sites will be selected by the IDT in consultation and coordination with affected livestock permittees and the interested public.

Unforeseeable circumstances such as drought, fire, or law enforcement issues which may confound planned grazing activities may cause BLM to design a new decision and associated NEPA analysis.

Long-term Performance Evaluation
The proposed grazing system adopted in this decision may undergo periodic performance evaluation by BLMs IDT if performance indicators are consistently not met for NFMGMA. Prior to the 2018 expiration date of your new term grazing permit, a long-term evaluation of grazing system performance will be conducted.

Monitoring methods shall be in accordance with approved BLM policy and protocols.

RATIONALE

Under the direction of the SEORMP, GMA assessments are an administrative mechanism by which BLM will make adjustments to authorized land uses. Based on the NFMGMA rangeland assessment findings of 2000 and 2001, changes in livestock use are needed in NFMGMA grazing allotments in order to resolve certain resource management conflicts. The rationale for this decision is based on the Standards of Rangeland Health and Guidelines for Livestock Management for Public Lands Administered by the Bureau of Land Management in the States of

Oregon and Washington for pastures within Allotment #6. These determinations were published in 2003 and 2004 and were in Appendix C of Initial EA No. OR-030-06-007.

Where existing grazing management practices on public lands are significant factors in failing to achieve the standards for rangeland health and conform to the guidelines, BLM is taking action with this final decision as described in the preferred alternative in Revised EA No. OR-030-06-007 to move toward the attainment of Standards.

Methods of maintaining the SRH in the uplands of Allotment # 6 include the following: (1) implementation of a grazing system that provides winter grazing which eliminates use during the critical growing season of key perennial herbaceous species, (2) ratification of new upland performance indicators for key upland species, which may contribute to improving upland health when used as management guides, and (3) implementation of livestock water development projects (pipeline) to support the change in season of use.

Methods of achieving the SRH in the riparian areas of Allotment # 6 include the following: (1) implementation of a grazing system that provides cool season use in riparian areas, (2) reconstruction of spring developments that allows for protection of the spring sources, fencing spring sources and relocating livestock watering troughs outside of the riparian area, (3) ratification of riparian performance indicators for riparian vegetation which may contribute to improving riparian health when used as management guides, (4) changing livestock grazing season of use, and (5) following herbaceous riparian utilization guidelines.

Winter (late season) use is one of the most optimal time to graze a pasture with riparian areas as the livestock are more likely to distribute farther away from and the riparian area at this time. Livestock drink less water in the winter versus the hot season (summer/ early fall) which tends to result in less time that livestock spend on a stream and/ or spring source. The nutritional components of riparian vegetation and upland vegetation is most similar during the winter versus the hot season which tends to result in less time that livestock spend in a riparian area. The change to late season use every year is anticipated to improve both the upland and riparian resources. If the utilization limit on bitterbrush is exceeded within the scheduled use period, the grazing permittee would be required to remove all livestock from the allotment.

AUTHORITY

The authority for this decision is contained in the following laws and Title 43 of the Code of Federal Regulations (CFR) as noted below:
The Taylor Grazing Act
The Federal Land Management Act

4100.0-2 Objectives.
The objectives of these regulations are to promote healthy sustainable rangeland ecosystems; to accelerate restoration and improvement of public rangelands to properly functioning conditions; to promote the orderly use, improvement and development of the public lands; to establish efficient and effective administration of grazing of public rangelands; and to provide for the sustainability of the western livestock industry and communities that are dependent upon productive, healthy public rangelands. These objectives shall be realized in a manner that is

consistent with land use plans, multiple use, sustained yield, environmental values, economic and other objectives stated in 43 CFR part 1720, subpart 1725; the Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315, 315a-315r); section 102 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740).

§4100.0-3 Authority.

(a) The Taylor Grazing Act of June 28, 1934 as amended (43 U.S.C. 315, 315a through 315r);
(b) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) as amended by the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.);
(c) Executive orders transfer land acquired under the Bankhead-Jones Farm Tenant Act of July 22, 1937, as amended (7 U.S.C. 1012), to the Secretary and authorize administration under the Taylor Grazing Act.
(e) The Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.); and
(f) Public land orders, Executive orders, and agreements authorize the Secretary to administer livestock grazing on specified lands under the Taylor Grazing Act or other authority as specified.

§4100.0-8 Land use plans.

The authorized officer shall manage livestock grazing on public lands under the principle of multiple use and sustained yield, and in accordance with applicable land use plans. Land use plans shall establish allowable resource uses (either singly or in combination), related levels of production or use to be maintained, areas of use, and resource condition goals and objectives to be obtained. The plans also set forth program constraints and general management practices needed to achieve management objectives. Livestock grazing activities and management actions approved by the authorized officer shall be in conformance with the land use plan as defined at 43 CFR 1601.0-5(b).

§4110.2-4 Allotments.

After consultation, cooperation, and coordination with the affected grazing permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public, the authorized officer may designate and adjust grazing allotment boundaries. The authorized officer may combine or divide allotments, through an agreement or by decision, when necessary for the proper and efficient management of public rangelands.

§4110.3 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.

§4120.2 Allotment management plans and resource activity plans.

Allotment management plans or other activity plans intended to serve as the functional equivalent of allotment management plans may be developed by permittees or lessees, other Federal or State resource management agencies, interested citizens, and the Bureau of Land

Management. When such plans affecting the administration of grazing allotments are developed, the following provisions apply:

(a) An allotment management plan or other activity plans intended to serve as the functional equivalent of allotment management plans shall be prepared in careful and considered consultation, cooperation, and coordination with affected permittees or lessees, landowners involved, the resource advisory council, any State having lands or responsible for managing resources within the area to be covered by such a plan, and the interested public. The plan shall become effective upon approval by the authorized officer. The plans shall --

(1) Include terms and conditions under §§4130.3, 4130.3-1, 4130.3-2 4130.3-3, and subpart 4180 of this part;

(2) Prescribe the livestock grazing practices necessary to meet specific resource objectives;

(c) The authorized officer shall provide opportunity for public participation in the planning and environmental analysis of proposed plans affecting the administration of grazing and shall give public notice concerning the availability of environmental documents prepared as a part of the development of such plans, prior to implementing the plans. The decision document following the environmental analysis shall be considered the proposed decision for the purposes of subpart 4160 of this part.

(d) A requirement to conform with completed allotment management plans or other applicable activity plans intended to serve as the functional equivalent of allotment management plans shall be incorporated into the terms and conditions of the grazing permit or lease for the allotment.

(e) Allotment management plans or other applicable activity plans intended to serve as the functional equivalent of allotment management plans may be revised or terminated by the authorized officer after consultation, cooperation, and coordination with the affected permittees or lessees, landowners involved, the resource advisory council, any State having lands or responsible for managing resources within the area to be covered by the plan, and the interested public.

§4120.3-1 Conditions for 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 with the Bureau of Land Management or must have an approved range improvement permit.

(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.

§4130.2 Grazing permits or leases.

(a) Grazing permits or leases shall be issued to qualified applicants to authorize use on the public lands and other lands under the administration of the Bureau of Land Management that are designated as available for livestock grazing through land use plans. Permits or leases shall specify the types and levels of use authorized, including livestock grazing, suspended use, and conservation use. These grazing permits and leases shall also specify terms and conditions pursuant to §§4130.3, 4130.3-1, and 4130.3-2.

(b) The authorized officer shall consult, cooperate and coordinate with affected permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public prior to the issuance or renewal of grazing permits and leases.

(c) Grazing permits or leases convey no right, title, or interest held by the United States in any lands or resources.

(d) The term of grazing permits or leases authorizing livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management shall be 10 years.

§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.

§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 term or condition of the permit or lease.

(c) Permits and leases shall incorporate terms and conditions that ensure conformance with subpart 4180 of this part.

§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 range management or assist in the orderly administration of the public rangelands. These may include but are not limited to:

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

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

§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 officer 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.

§4160.3 Final decisions.

(a) In the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice unless otherwise provided in the proposed decision.

§4180.1 Fundamentals of rangeland health.

The authorized officer shall take appropriate action under subparts 4110, 4120, 4130, and 4160 of this part as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management needs to be modified to ensure that the following conditions exist.

(a) Watersheds are in, or are making significant progress toward, properly functioning physical condition, including their upland, riparian-wetland, and aquatic components; soil and plant conditions support infiltration, soil moisture storage, and the release of water that are in balance with climate and landform and maintain or improve water quality, water quantity, and timing and duration of flow.

(b) Ecological processes, including the hydrologic cycle, nutrient cycle, and energy flow, are maintained, or there is significant progress toward their attainment, in order to support healthy biotic populations and communities.

(c) Water quality complies with State water quality standards and achieves, or is making significant progress toward achieving, established BLM management objectives such as meeting wildlife needs.

(d) Habitats are, or are making significant progress toward being, restored or maintained for Federal threatened and endangered species, Federal Proposed, Category 1 and 2 Federal candidate and other special status species.

§4180.2 Standards and guidelines for grazing administration.

(c) The authorized officer shall take appropriate action as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management practices or levels of grazing use on public lands are significant factors in failing to achieve the standards and conform with the guidelines that are made effective under this section. Appropriate action means implementing actions pursuant to subparts 4110, 4120, 4130, and 4160 of this part that will result in significant progress toward fulfillment of the standards and significant progress toward conformance with the guidelines. Practices and activities subject to standards and guidelines include the development of grazing-related portions of activity plans, establishment of terms and conditions of permits, leases and other grazing authorizations, and range improvement activities such as vegetation manipulation, fence construction and development of water.

(e) At a minimum, State or regional guidelines developed under paragraphs (a) and (b) of this section must address the following:

(1) Maintaining or promoting adequate amounts of vegetative ground cover, including standing plant material and litter, to support infiltration, maintain soil moisture storage,

and stabilize soils;
(2) Maintaining or promoting subsurface soil conditions that support permeability rates appropriate to climate and soils;
(3) Maintaining, improving or restoring riparian-wetland functions including energy dissipation, sediment capture, groundwater recharge, and stream bank stability;
(4) Maintaining or promoting stream channel morphology (e.g., gradient, width/depth ratio, channel roughness and sinuosity) and functions appropriate to climate and landform;
(5) Maintaining or promoting the appropriate kinds and amounts of soil organisms, plants and animals to support the hydrologic cycle, nutrient cycle, and energy flow;
(6) Promoting the opportunity for seedling establishment of appropriate plant species when climatic conditions and space allow;
(7) Maintaining, restoring or enhancing water quality to meet management objectives, such as meeting wildlife needs;
(8) Restoring, maintaining or enhancing habitats to assist in the recovery of Federal threatened and endangered species;
(9) Restoring, maintaining or enhancing habitats of Federal Proposed, Category 1 and 2 Federal candidate, and other special status species to promote their conservation;
(10) Maintaining or promoting the physical and biological conditions to sustain native populations and communities;
(11) Emphasizing native species in the support of ecological function;

Southeastern Oregon Resource Management Plan, Record of Decision and Final Environmental Impact Statement, September 2002.

RIGHT OF STAY AND/OR APPEAL

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. A period of 30 days from your receipt of the final decision is provided for filling an appeal and petition for stay of the decision pending final determination on appeal, as provided in 43 CFR § 4.470 and 43 CFR § 4160.4.

Any appeal should state clearly and concisely as to why the final decision is in error. All grounds of error not stated shall be considered waived and no such waived ground of error may be presented at the hearing unless ordered or permitted by the administrative law judge. Any appeal should be submitted in writing to:

Field Manager
Malheur Resource Area
Vale District Bureau of Land Management
100 Oregon Strect
Vale, Oregon 97918

Filing an appeal does not by itself stay the effectiveness of the final BLM decision. The appeal may be accompanied by a petition for a stay of the decision pending final determination on

appeal, in accordance with 43 CFR § 4.471 and 4.479. Any request for a stay of the final decision in accordance with 43 CFR 4.21 must be filled with the appeal. In accordance with 43 CFR 4.21 (b) (1), a petition for a stay must show sufficient justification based on the following:

- The relative harm to the parties if the stay is granted or denied,
- The likelihood of the appellant's success on the merits,
- The likelihood of immediate and irreparable harm if the stay is not granted, and
- Whether the public interest favors granting the stay.

Additionally, in accordance with 43 CFR § 4.471(b), within 15 days after filing the appeal and petition for a stay with the authorized officer, the appellant must also serve copies on:
1) all other person(s) named in the Copies sent to: section of this decision; and
2) the appropriate office of the Office of the Solicitor as follows, in accordance with 43 CFR § 4.413(a) and (c):

Office of the Solicitor
US Department of the Interior
Pacific NW Region
500 NE Multnomah, Suite 607
Portland, OR 97213

Finally, in accordance with 43 CFR 4.472(b), 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 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 respond, the person must serve copies on the appellant, the appropriate office of the Office of the Solicitor in accordance with Sec. 4.413(a) and (c), and any other person named in the decision.

Sincerely,

Pat Ryan
Field Manager
Malheur Resource Area

Copies sent to: (by certified mail)

[redacted]

Courtesy copies sent to:

[redacted]

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Vale District Office
100 Oregon Street
Vale, Oregon 97918

IN REPLY REFER TO:
4100, NFMGMA

FEB 0 1 2008

[redacted]

NOTICE OF THE FIELD MANAGER'S FINAL DECISION

Dear [redacted]

INTRODUCTION

Subsequent to the approval of revised BLM grazing regulations in 1995, BLM State Directors were assigned the task of developing state level rangeland health standards (Title 43 Code of Federal Regulations [CFR] 4180.2). The process of developing standards and defining standard indicators was conducted in consultation with BLM Resource Advisory Councils (RACs). The purpose for setting standards and identifying their indicators was to provide BLM with a rational basis for determining whether current management is meeting the Fundamentals of Rangeland Health as described under 43 CFR 4180.1.

On August 12, 1997, Interior Secretary Bruce Babbitt approved the Oregon/Washington BLM Standards and Guides for Rangeland Health (SRH). BLM field offices in Oregon/Washington were subsequently directed to conduct assessments and then use that assessment information to craft range health evaluations in relation to the state standards. These evaluations are conducted under an interdisciplinary team (IDT) concept where various resource specialists, representing the biological and physical sciences, are involved in the collection, review and analysis of available data.

In order to accomplish this assessment and evaluation workload and conform to the need for completing work on a watershed basis, Malheur Resource Area was divided into nine land based administrative units now referred to as Geographic Management Areas (GMAs). Based on multiple resource values and ongoing management issues needing resolution, the North Fork Malheur GMA (NFMGMA) was selected to be the second GMA to be assessed in Malheur Resource Area.

BLM regulations specify that "the authorized officer shall take appropriate action as soon as practicable but not later than the start of the next grazing year upon determining, through assessment or monitoring by experienced professionals and interdisciplinary teams, that a standard is not being achieved and that livestock are a significant contributing factor to the failure to achieve the standards and conform with the guidelines" (43 CFR 4180).

This decision is the final step in the GMA process, where changes to existing grazing management practices will be implemented. Issuing this decision will allow for significant

progress to be made toward meeting Standards for Rangeland Health in NFMGMA, and is issued in compliance with the Southeastern Oregon Resource Management Plan (SEORMP) and Record of Decision of September 2002.

BACKGROUND

Consultation, cooperation, and coordination with both grazing permittees and the interested public are critical components of BLM's range health assessment and evaluation process. On numerous occasions, BLM has communicated with both groups on range health standards and GMA assessments, by way of mailed written materials, public meetings, and onsite visits within NFMGMA.

In 2000 and 2001, the NFMGMA interdisciplinary team used a variety of information sources and the professional judgment of members and senior staff specialists to conduct upland and riparian health assessments. The best available rangeland vegetation and soils maps were consulted and agency-approved technical references and methodology, including protocols outlined in BLM Manual H-4180-1, "Rangeland Health Standards", were used to arrive at conclusions about range health conditions. These assessments were used to determine if Oregon/Washington BLM's "Standards for Rangeland Health" were being met. The Oregon/Washington Rangeland Health Standards are as follows:

- Standard 1 – Watershed Function – Uplands: upland soils exhibit infiltration and permeability rates, moisture storage, and stability that are appropriate to soil, climate, and landform.
- Standard 2 – Watershed Function --Riparian/wetland areas: riparian-wetland areas are in properly functioning physical condition appropriate to soil, climate, and landform.
- Standard 3 – Ecological Processes –Uplands: healthy, productive and diverse plant and animal populations and communities appropriate to soil, climate, and landform are supported by ecological processes of nutrient cycling, energy flow, and the hydrologic cycle.
- Standard 4 – Water Quality: surface water and ground water quality, influenced by agency actions, complies with State water quality standards.
- Standard 5 – Native, Threatened and Endangered (T&E), and Locally Important Species: habitats support healthy, productive, and diverse populations and communities of native plants and animals (including special status species and species of local importance) appropriate to soil, climate, and landform.

As a result of the interdisciplinary team assessments within the NFMGMA, upland sites in 45 pastures within 11 allotments did not meet the Standards for Rangeland Health due to current livestock grazing. The assessments that were completed in riparian areas indicated 34 pastures within 11 allotments did not meet the Standards for Rangeland Health due to current livestock grazing.

Scaling down the assessment from the NFMGMA to the DeArmond-Murphy Allotment, 1 of 24 pastures within the allotment did not meet the upland Standards for Rangeland Health due to current livestock grazing. The assessments that were completed in riparian areas revealed that

riparian areas in 6 of 24 pastures within the allotment did not meet Standards for Rangeland Health due to current livestock grazing.

The BLM and the NFMGMA grazing permittees initially met in 2002 and 2003 to establish short and long term solutions to areas that were not meeting standards. The short term solution that allowed for movement toward meeting the standards became the interim grazing strategy that some NFMGMA permittees have operated under since the 2002 and 2003 grazing season. In the fall of 2004, the IDT presented the formal findings of the assessments through Determination Summaries for the Standards of Rangeland Health to grazing permittees in NFMGMA, and members of the interested public. The long term solutions from the recommendations in the Determination Summaries were used to develop the preferred alternative that was proposed and analyzed in the Revised NFMGMA Environmental Assessment # OR-030-06-007. The preferred alternative described in the EA will allow for attainment of all applicable Vale District BLM management objectives. All alternatives that were described and analyzed in this document were designed by the BLM, in consultation, cooperation and coordination with members of the interested public. Each developed alternative was assessed and analyzed in the EA to determine if management objectives, as described in the SEORMP and Record of Decision, will be met by the actions proposed for the alternatives. The applicable management objectives are consistent with and support the Oregon/Washington Standards for Rangeland Health. Existing grazing management (i.e. that occurring prior to the interim strategy) will not meet the standards for rangeland health as described in the No-Action alternative of the EA.

In the summer of 2007, the IDT recommended the adoption of the preferred alternative in the NFMGMA Revised Environmental Assessment # OR-030-06-007, which was sent to you in August with a copy of the Field Manager's Proposed Decision. Following the receipt of the proposed decision, protests were received from you, NFMGMA livestock permittees and other groups. The MRA IDT and I met with the majority of the protesters on November, 27th 2007 to discuss the protest points. The protests were reviewed, responded to (Attachment 1), and utilized as a resource in conjunction with information obtained from the November, 27th 2007 meeting in designing the final grazing decision.

GRAZING MANAGEMENT PRACTICES

The evaluation has indicated that livestock grazing use is a causal factor in the failure to meet the upland and riparian rangeland health standard and thus upland and riparian improvement is necessary within NFMGMA. Because of this determination, the BLM must now adjust the intensity (utilization) and season (timing) of grazing use in order to make substantial progress towards meeting the upland and riparian standards. BLM discussed the rationale for this action in the SEORMP ROD Appendix R "Effects of Intensity and Season of Grazing". BLM proposed actions for NFMGMA will promote that attainment of properly functioning upland and riparian systems and meet resource management objectives by employing the following monitoring methods and performance indicators.

To ensure that the proposed livestock grazing systems allow reproduction and improvement of woody riparian vegetation, a quantifiable key plant performance indicator based on the modified Cole Browse method would be utilized in pastures containing riparian/wetland areas. This performance indicator would be used to identify when excessive livestock browse on woody

riparian vegetation is occurring and to trigger an appropriate management response. The permittee would be notified to remove livestock from any pasture if livestock concentration in riparian areas results in excessive use of woody vegetation. Grazing use will be considered excessive when >30% of the available leaders have been nipped or detached from woody riparian plants. This is referred to as livestock "incidence of use". It is estimated on the basis of the number of leaders that have been browsed and not on the percentage of annual growth removed. For example, on a willow plant with 100 stems, the performance indicator will be considered acceptable when fewer than 30 leaders have been clipped by livestock and big game combined. If browse on woody riparian vegetation exceeds this level, cattle would be removed from the pasture.

Riparian herbaceous stubble height measurements are a second tool or performance indicator that would be used to monitor riparian areas. Stubble height measurements will be used to determine the residual vegetation height of key species following a period of grazing. The measurements may be used two ways in conjunction with other monitoring techniques to determine when livestock should be moved from the riparian area. The first use would be during the grazing season to determine when livestock should be moved out of a pasture before excessive riparian damage occurs, and the second use would be at the end of the grazing season to determine whether changes to livestock grazing management are needed the following year. A performance indicator, not a standard, of 4 to 6 inches of stubble height vegetation would be used to indicate that livestock may need to be moved to prevent damage to riparian vegetation or stream banks. If riparian areas are in good condition or are continuing to improve in condition, this performance indicator may be adequate to prevent riparian damage, but other areas may require more residual herbaceous vegetation to protect the stream banks and improve riparian area conditions. The goal of this performance indicator is to provide a trigger to identify when established monitoring techniques should be completed to determine progress toward meeting management objectives in order for the riparian area to move in the desired direction.

The upland vegetation performance indicator that would be used to prevent excessive livestock use on perennial grass, forbs, and shrubs is average actual use based on the Landscape Appearance Method (Attachment 2). The Landscape Appearance Method is the approved protocol in the Vale District Monitoring Plan for annual monitoring of upland vegetation. The permittee would be notified to remove livestock from any pasture if livestock were exceeding the upland vegetation performance indicator for average actual use. Native pastures with upland concerns, including spring season grazing use (March through June), downward upland trends, and/ or within a two-mile radius of a known sage grouse lek, would be required to improve and/or maintain upland condition as noted in the preferred alternative of the North Fork Malheur Geographic Management Area EA # OR-030-06-007. These pastures would be monitored using upland performance indicators of 40% (maximum allowable utilization). Pastures that are grazed in the spring season of use would have a performance indicator of 40% (maximum allowable utilization), but on a deferred year (i.e. fall/ summer use) the performance indicator would be 50% (maximum allowable utilization) provided that they have an upward or static upland trends and are outside of a two-mile radius of a known sage grouse lek.

FINAL DECISION

Therefore, it is my final decision to implement the preferred alternative described in the Revised Environmental Assessment (EA) # OR-030-06-007. This decision includes authorization of your livestock grazing use with a term of 10 years beginning in 2008 and expiring in 2018 on the following allotment and under the following operator numbers: DeArmond-Murphy Allotment #10206 operator number 3603102; Ring Butte Allotment (#10208) and Bridge Creek West Allotment (#00109) operator number 3603103; and Lockhart Mountain Allotment (#00224) operator number 3603128. Additionally, it is my final decision to ratify new allotment grazing schedules, change the number of livestock, and to implement new riparian and upland performance indicators. Each allotment is described in detail below.

DeArmond-Murphy Allotment #10206

The rangeland improvement projects (i.e. spring re-developments and fences) described in Appendix D of Revised EA No. OR-030-06-007 will be authorized in accordance with 43 CFR §4120.3-4.

Your grazing authorization for the DeArmond-Murphy Allotment will be modified from your existing term permit, which is as follows:

Allotment	Livestock		Grazing Period		AUMs
	Number	Kind	Begin	End	
10206 DeArmond-Murphy	865	Cattle	04/01	10/31	6086
	421	Cattle	11/01	11/30	415

Total Preference AUMs = 6,503 (6,503 Active AUMs and 0 Suspended AUMs). A term and condition of the existing term permit is that grazing use will be consistent with the Dearmond-Murphy Allotment Management Plan (AMP, March 13, 1986). Four-hundred and fifteen AUMs from 11/01-11/30 are associated with Fenced Federal Range.

Your new grazing authorization which is defined in the preferred alternative of the NFMGMA EA (OR-030-06-007), for the DeArmond-Murphy Allotment will be as follows:

Allotment	Livestock		Grazing Period		AUMs
	Number	Kind	Begin	End	
10206 DeArmond-Murphy	158	Cattle	03/15	3/31	88
	862	Cattle	04/01	10/31	6065
	350	Cattle	11/01	11/30	350

Three-hundred and fifty AUMs from 11/01-11/30 are associated with Fenced Federal Range. Total Preference AUMs = 6,503 (6,503 Active AUMs and 0 Suspended AUMs.

Your pasture rotation, which is defined in the preferred alternative of the Revised EA OR-030-006-07, for the DeArmond-Murphy Allotment will be as follows:

Pasture	Year 1	Year 2
Mahogany Mtn.	6/1-7/15	Rest
Pole Gulch	4/1-5/31	Rest
Castle Rock	7/15-10/31	7/15-10/31
Jerry Canyon*	Rest	6/1-8/1
Upper Beulah Seeding	Rest	4/15-5/25
Lower Beulah Seeding*	3/15-4/20	3/15-4/20
Hunter Mountain	4/1-5/31	Rest
Hunter Creek	Rest	4/1-5/31
Morton	Rest	5/10-7/15
Butler	Rest	5/10-7/15
Murphy Reservoir	Rest	4/1-5/10
West Bendire	Rest	4/1-5/10
East Bendire	Rest	4/1-5/10
West Munker	4/1-5/31	Rest
North Munker	Rest	6/1-7/15
South Munker	6/1-7/15	Rest
Earp FFR	FFR	FFR
Hayfield FFR	FFR	FFR
South Earp FFR	FFR	FFR
Middle Earp FFR	FFR	FFR
Homestead FFR	FFR	FFR
School Section FFR	FFR	FFR
Emmigrant Hill FFR	FFR	FFR
Agency Valley FFR	FFR	FFR
Lost Creek FFR	FFR	FFR
Upper Warm Spring Creek FFR	FFR	FFR
Warm Spring Creek. FFR	FFR	FFR

* New Pasture.

Ring Butte Allotment #10208

Rangeland improvement projects are not proposed for this allotment. This allotment will remain in the custodial "C" management category. The rangeland improvement known as CCC Spring described in Categorical Exclusion (CE) #OR-030-04-29, was constructed in the West Ring pasture to facilitate meeting Standards 2 and 4.

Your grazing authorization will not be modified from your existing term permit, which is as follows:

Allotment	Livestock		Grazing Period		AUMs
	Number	Kind	Begin	End	
10208 Ring Butte	32	Cattle	04/01	04/30	32

Total Preference AUMs = 105 (32Active AUMs and 73 Suspended AUMs).

Bridge Creek West Allotment #00109

Rangeland improvement projects are not proposed for this allotment. This allotment will remain in the custodial "C" management category. The rangeland improvement known as Toot Cabin Spring described in Categorical Exclusion (CE) #OR-030-04-28, was constructed in the West Ring pasture to facilitate meeting Standards 2 and 4.

Your grazing authorization will not be modified from your existing term permit, which is as follows:

Allotment	Livestock		Grazing Period		AUMs
	Number	Kind	Begin	End	
00109 Bridge Creek West	4	Cattle	04/01	04/30	4

Total Preference AUMs = 4 (4 Active AUMs and 0 Suspended AUMs).

Lockhart Mountain Allotment #00224

Rangeland improvement projects are not proposed for this allotment. This allotment will remain in the custodial "C" management category.

Your grazing authorization will be modified from your existing term permit, which is as follows:

Allotment	Livestock		Grazing Period		AUMs
	Number	Kind	Begin	End	
00224 Lockhart Mountain	214	Cattle	04/01	04/30	214

Total Preference AUMs = 214 (214 Active AUMs and 0 Suspended AUMs).

Your new grazing authorization will be modified from your current term permit and is shown below:

Allotment	Livestock		Grazing Period		AUMs
	Number	Kind	Begin	End	
00224 Lockhart Mountain	136	Cattle	04/01	04/30	134
00224 Lockhart Mountain	10	Cattle	10/01	06/01	80

Total Preference AUMs = 214 (214 Active AUMs and 0 Suspended AUMs). The Six-forty Pasture as referenced on line 02 for Lockhart Mountain Allotment will be authorized for grazing use from 10/01 to 6/01.

Grazing use will be in accordance with the following terms and conditions:

- Grazing use in the DeArmond- Murphy, Ring Butte, Bridge Creek West, and Lockhart Mountain Allotments shall be in accordance with the above grazing schedules, grazing rotations, and this decision which incorporates the preferred alternative in the Revised North Fork Malheur Geographic Management Area EA # OR-030-06-007. In emergency related situations such as drought or fire a new decision may dictate grazing use.
- Pastures with riparian resources would be required to improve and/or maintain riparian condition as noted in the preferred alternative of the North Fork Malheur Geographic Management Area EA # OR-030-06-007. These pastures would be monitored using riparian performance indicators identified in the EA. Pastures with riparian resources in the DeArmond-Murphy Allotment are Jerry Canyon, North Earp FFR, Murphy, Hunter Mountain, West Bendire, East Bendire, Morton, and South Munker. The Six-forty

Pasture in the Lockhart Mountain Allotment as referenced on line 02 for Lockhart Mountain Allotment will be authorized for grazing use from 10/01 to 6/01 in order to enhance riparian resources.

- Native pastures with upland concerns, including spring season grazing use (March through June), downward upland trends, and within a two-mile radius of a known sage grouse lek, would be required to improve and/or maintain upland condition as noted in the preferred alternative of the North Fork Malheur Geographic Management Area EA # OR-030-06-007. These pastures would be monitored using upland performance indicators identified in the EA. Pastures that meet the above criteria in the DeArmond-Murphy Allotment are North Earp FFR, School Section, Butler, Mahogany Mountain, Pole Gulch, Jerry Canyon, Upper Beulah Seeding, Lower Beulah Seeding, Hunter Mountain, Hunter Creek, Morton, Murphy Reservoir, West Bendire, East Bendire, West Munker, East Munker, and South Munker.
- All other native pastures, i.e. those showing a static or upward trend, deferred use, and located outside of a two-mile radius of a known sage grouse lek, would be required to improve and/or maintain upland condition as noted in the preferred alternative of the North Fork Malheur Geographic Management Area EA # OR-030-06-007. These pastures would be monitored using upland performance indicators identified in the EA. Pastures that meet the above criteria in the DeArmond-Murphy Allotment are Castle Rock.
- 1, 476 active AUMs were placed in voluntary non-use status in the DeArmond-Murphy Allotment for 2006 and 1,503 active AUMs were placed in voluntary non-use status for 2007. Voluntary non-use (1,503 active AUMs) will remain in effect during the 2008 and 2009 grazing season in order to make progress towards meeting the SRH.
- You shall provide BLM with a completed actual use record within 15 days of the close of the grazing season. The actual use data will be utilized to calculate your grazing bill which will be considered after the fact for the DeArmond-Murphy Allotment.
- Annual payment of grazing fees is required prior to making grazing use in the Ring Butte, Bridge Creek West, and Lockhart Mountain Allotments.
- Upon reaching the maximum allowable performance indicators, livestock will be moved to the next pasture identified in the pasture rotation. If the next pasture is outside of the planned season of use livestock will be removed from the allotment and will not return until the planned season of use. If the maximum allowable performance indicator is reached in the last pasture scheduled for use prior to the end of the identified use period, livestock will be removed from BLM public lands within the allotment. This annual monitoring requirement may result in shortened use periods for some or all pastures in years of decreased forage production, such as drought years. Additionally, this annual monitoring requirement may necessitate livestock to be removed from the allotment in the spring season of use and not return until the summer season of use.
- Adjustments in livestock numbers or any other changes from your normal grazing schedule must be approved in advance by the authorized officer.
- Salt or supplements shall be placed at least ½ mile away from water/riparian resources and ¼ mile away from sage-grouse leks on public land.
- This permit is subject to modification as necessary to achieve compliance with the Standards for Rangeland Health and Guidelines for Livestock Management (43 CFR 4180).

- For ease of operation, four days of flexibility in turn-out/gathering would be allowed in each pasture identified in a grazing schedule for a maximum of 8 days.
- The season of use and numbers shown for Ring Butte, Bridge Creek West, and Lockhart Mountain Allotments are for administrative purposes only. Seasons and numbers can vary from year to year and will not be restricted unless damage to public lands occurs.

Rangeland Improvement Maintenance Responsibility

You will maintain the following rangeland improvement projects described below in accordance with 43 CFR 4120.3-4.

DeArmond-Murphy Allotment

Rangeland Improvement Number	Project Name	Type	Location
720190	Murphy Reservoir	Reservoir	T.18S., R.38E., Sec 19 NWSE
720472	Jerry Creek Fence	Fence	T.17S., R37E., Sec.28 NESW
720571	Upper Morton Spring	Spring	T.18S., R38E., Sec.27 SESE
720576	Munkers Allotment Fence	Fence	T.19S., R38E., Sec.22 NWNW
720648	Butler-Munker Fence	Fence	T.18S., R38E., Sec.31 NWNW
720862	School Section Table Res	Reservoir	T.18S., R38E., Sec.20 NESE
720864	Goldy Reservoir	Reservoir	T.18S., R38E., Sec.22 SESW
720866	Juniper Gulch Reservoir	Reservoir	T.18S., R38E., Sec.21 NWSE
720870	Munkers Reservoir	Reservoir	T.19S., R38E., Sec.02 SWSW
720953	Rodeo Spring	Spring	T.19S., R38E., Sec.28 SESW
720971	Pole Gulch Drift Fence	Fence	T.19S., R38E., Sec.17 NWNE
720975	Pole Gulch Allotment Fence	Fence	T.19S., R38E., Sec.28 SENE
721001	Hunter Spring	Spring	T.18S., R37E., Sec.15 SWNW
721003	Mouse Spring	Spring	T.17S., R37E., Sec.15 NESW
721007	Lower Morton Spring	Spring	T.18S., R38E., Sec.23 SWSW
721381	Emigrant Mountain Div Fence	Fence	T.18S., R38E., Sec.29 NWNE
721383	Hunter Field Division Fence	Fence	T.18S., R38E., Sec.17 NWNW
721458	Green Spot Spring	Spring	T.18S., R37E., Sec.34 SENE
721464	Rattlesnake Spring	Spring	T.18S., R38E., Sec.34 SWSE
721562	Beulah Seeding Protect Fence	Fence	T.18S., R37E., Sec.15 SWSW
721716	Castle Rock 3-way Strm Excl	Fence	T.18S., R37E., Sec.22 NENW
721739	Wilson Spring	Spring	T.18S., R38E., Sec.07 NESE
721743	Hunter Mountain Spring	Spring	T.18S., R38E., Sec.07 NWNW
721769	Irish Spring	Spring	T.17S., R37E., Sec.21 SESW
722060	Hunter Spring Wildlife Devel.	Fence	T.18S., R37E., Sec.15 SWNW

DeArmond-Murphy Allotment (contd.)

Rangeland Improvement Number	Project Name	Type	Location
724063	Beulah Seeding Pipeline	Pipeline	T.18S., R37E., Sec.34 SENE
724070	Reds Spring	Spring	T.19S., R38E., Sec.22 NESW
724273	Lake Ridge Reservoir	Reservoir	T.19S., R38E., Sec.22 NESE
724761	Butler Fence	Fence	T.18S., R38E., Sec.15 SESW
724987	Bendire Creek Division Fence	Fence	T.18S., R38E., Sec.17 NWNW
725079	Table Fence	Fence	T.18S., R38E., Sec.14 NESE
725080	Upper Warm Spring Fence	Fence	T.19S., R38E., Sec.09 NESE
725270	Jerry Canyon Spring	Spring	T.18S., R37E., Sec.03 NESW
725271	Hunter Creek Spring 1	Spring	T.18S., R37E., Sec.03 NENE
725272	Hunter Creek Spring 2	Spring	T.17S., R37E., Sec.34 NESW
725273	Hunter Creek Spring 3	Spring	T.17S., R37E., Sec.22 NWNE
725280	Mahogany Pit Reservoir	Reservoir	T.19S., R38E., Sec.20 NESE
725329	Ed Spring	Spring	T.18S., R38E., Sec.23 NWNW
725331	C C Spring	Spring	T.18S., R37E., Sec.14 NWNE
725584	Munkers Division Fence	Fence	T.19S., R38E., Sec.10 NWNW
725585	Bills Reservoir	Reservoir	T.18S., R38E., Sec.33 NENE
725604	Digger Reservoir	Reservoir	T.18S., R38E., Sec.35 SWSW
725662	Harvey Reservoir	Reservoir	T.19S., R38E., Sec.08 NENW
725663	Bogart Reservoir	Reservoir	T.19S., R38E., Sec.08 NESW
725671	Duke Spring	Spring	T.19S., R37E., Sec.12 NWSE
725765	Butler Reservoir 1	Reservoir	T.18S., R38E., Sec.22 SWNW
725766	Butler Reservoir 2	Reservoir	T.18S., R38E., Sec.22 NWNE
725910	Fritz Reservoir	Reservoir	T.19S., R38E., Sec.05 NWSW
725954	Kristen Reservoir	Reservoir	T.17S., R37E., Sec.21 NWNE
725964	Ponderosa 1 Reservoir	Reservoir	T.17S., R37E., Sec.33 NWSW
725966	Little Mouse Reservoir	Reservoir	T.17S., R37E., Sec.15
725967	Blazers Reservoir	Reservoir	T.18S., R38E., Sec.28
725968	D May Reservoir	Reservoir	T.18S., R38E., Sec.27 SWNW
726015	Chris Reservoir	Reservoir	T.17S., R38E., Sec.29 NESW
726024	Ponderosa 2 Reservoir	Reservoir	T.17S., R37E., Sec.33 NESE
726024	Ponderosa #2 Reservoir	Reservoir	T.17S., R37E., Sec.33 NESE
726032	Rock Face Reservoir	Reservoir	T.18S., R38E., Sec.34 NWNW
726043	Lower Juniper Gulch Res	Reservoir	T.18S., R38E., Sec.29 NWSE

DeArmond-Murphy Allotment (contd.)

Rangeland Improvement Number	Project Name	Type	Location
726164	Elway Reservoir	Reservoir	T.19S., R37E., Sec.01 NESW
726166	Bama Reservoir	Reservoir	T.18S., R37E., Sec.26 SWNW
726193	Dead Cow Reservoir	Reservoir	T.19S., R38E., Sec.08 NESE
726213	Big Buck Pit	Reservoir	T.19S., R38E., Sec.03 NWSE
726214	Four Point Pit Reservoir	Reservoir	T.19S., R38E., Sec.03 SWSE
726215	Bateman Reservoir	Reservoir	T.18S., R37E., Sec.14 SWNW
726238	Pigweed Reservoir	Reservoir	T.19S., R38E., Sec.08 NESE
765285	Juniper Pit Reservoir	Reservoir	T.19S., R38E., Sec.28 SENE
766014	Basin Reservoir	Reservoir	T.18S., R38E., Sec.9 SWSE

Rangeland Improvement Maintenance Responsibility
You will maintain the following rangeland improvement projects described below in accordance with 43 CFR 4120.3-4.

Ring Butte Allotment

Rangeland Improvement Number	Project Name	Type	Location
1631	CCC Spring	Spring	T.16S., R.36E., Sec 12 NWSW

Rangeland Improvement Maintenance Responsibility
You will maintain the following rangeland improvement projects described below in accordance with 43 CFR 4120.3-4.

Bridge Creek West Allotment

Rangeland Improvement Number	Project Name	Type	Location
1632	Toot Cabin Spring	Spring	T.15S., R.37E., Sec 28 NESE

General NFMGMA Decisions
Within the NFMGMA, grazing management will be conducted in accordance with the following mitigating measures which were identified in the Revised NFMGMA EA:

Rangeland Vegetation
Appendix S of the SEORMP ROD (Standard Implementation Features and Procedures for Rangeland Improvements) will be adhered to.

Special Status Plant Species
Special status plant surveys will be conducted prior to all surface disturbing activities and project installations. Project location adjustments necessary to avoid site specific adverse impacts to special status plants will be accommodated.

Water Resources and Riparian/Wetlands and Aquatic Species and Habitats
Project development in riparian/wetland areas will follow SEORMP ROD Appendix O (Best Management Practices) criteria to minimize disturbance and maximize potential for project success. Adequate buffer distances will be implemented to protect riparian areas and stream channels from potential erosional impacts from the construction of fences.

Wildlife and Wildlife Habitat and Special Status Animal Species
BLM will continue to monitor habitat conditions in NFMGMA, and Oregon Department of Fish Wildlife will continue to monitor sage-grouse population status. Existing rangeland vegetation monitoring will be supplemented with appropriate additional studies in accordance with SEORMP ROD Monitoring Appendix W to document success or failure in meeting NFMGMA resource objectives.

The 70% threshold for grassland habitat in Malheur Resource Area (page *x* Record of Decision) activity plan level wildlife habitat objective for NFMGMA and the SEORMP ROD will significantly limit the amount, type, and location of further fragmentation from BLM initiated land treatments. Less than 25% of the existing shrub-land habitat (excluding grasslands and closed canopy forested land) of the Wyoming, mountain, and basin big sagebrush habitats may appear as grasslands under the NFMGMA terrestrial wildlife objective.

New livestock management fences will be located at least 0.6 miles from sage grouse leks according to BLM management guidelines.

Livestock salting and mineral supplement stations will be placed at least ¼ mile from sage grouse leks to avoid drawing livestock into centers of sage-grouse breeding activity.

Livestock management fences will be constructed in a way that allows for freedom of movement for elk, mule deer, and pronghorn and minimizes potential for injury or mortality. In accordance with BLM Manual Handbook H-1741-1, interior allotment fences will conform to the following material and spacing requirements; top strand – barbed wire - no higher than 38", second strand – barbed wire at 26", bottom strand – smooth wire at 16".

New fencing will be flagged temporarily to help diminish incidence of wildlife fence collisions.

Wildlife escape ramps will be installed in new and existing livestock water tanks to minimize potential for sage-grouse and other small animal drowning mortalities.

Rangeland/Grazing Use Management
For ease of operation, four days of flexibility in turn-out/gathering would be allowed in each pasture identified in a grazing schedule for a maximum of 8 days. This flexibility would allow for changes in use dates to accommodate for climatic conditions or the reaching of the maximum

allowable utilization within a pasture. Move dates outside of the four-day allowance would be considered by BLM staff at the time of the request. Flexibility in livestock move dates will be allowed as long as the adjustments will result in the attainment of SEORMP resource management objectives.

Wilderness Study Areas
Impacts to WSAs will be mitigated by adherence to the BLM Wilderness Interim Management Policy. Careful selection of construction materials and methods (such as installation of easy panels and use of all green metal fence posts) and judicious placement intended to maximize vegetative and topographic screening will be practiced.

Cultural Resources
Cultural resource surveys will be conducted prior to all surface disturbing activities and project installations. Project location adjustments necessary to avoid site-specific adverse impacts to cultural resources will be accommodated.

Monitoring Methods and Adaptive Management in NFMGMA
BLM monitoring, as described in Section 8 of the EA and Appendix W of the SEORMP ROD, may determine if authorized grazing use in NFMGMA results in attainment of the management objectives as described below.

Short-term Performance Evaluations
Monitoring methods shall be in accordance with approved BLM policy and protocols.

Existing monitoring sites will continue to be used to evaluate management. New key monitoring sites will be selected by the IDT in consultation and coordination with affected livestock permittees and the interested public.

Unforeseeable circumstances such as drought, fire, or law enforcement issues which may impede planned grazing activities may cause BLM to design a new decision and associated NEPA analysis.

Long-term Performance Evaluation
The proposed grazing system adopted in this decision may undergo periodic performance evaluation by BLM's IDT if performance indicators are consistently not met for NFMGMA. Prior to the 2018 expiration date of your new term grazing permit, a long-term evaluation of grazing system performance will be conducted.

Monitoring methods shall be in accordance with approved BLM policy and protocols.

RATIONALE

Under the direction of the SEORMP, GMA assessments are an administrative mechanism by which BLM will make adjustments to authorized land uses. Based on the NFMGMA rangeland assessment findings of 2000 and 2001, changes in livestock use are needed in NFMGMA grazing allotments in order to resolve certain resource management conflicts. The rationale for

this decision is based on the Standards of Rangeland Health and Guidelines for Livestock Management for Public Lands Administered by the Bureau of Land Management in the States of Oregon and Washington for pastures within the DeArmond-Murphy, Ring Butte, Bridge Creek West, and Lockhart Mountain Allotments. These determinations were published in 2003 and 2004 and were in Appendix C of the Initial NFMGMA EA No. OR-030-06-007.

Where existing grazing management practices on public lands are significant factors in failing to achieve the standards for rangeland health and conform to the guidelines, BLM is taking action with this final decision as described in the preferred alternative in Revised EA No. OR-030-06-007 to progress toward the attainment of SRH.

DeArmond-Murphy Allotment

Methods of achieving the SRH in the Beulah Seeding Pasture for upland resources of the DeArmond-Murphy Allotment include the following: (1) implementation of a grazing system that provides rest rotation grazing and limited use during the critical growing season of key perennial herbaceous species, (2) livestock operator's voluntary four year reduction in use (1,476 active AUMs in 2006, 1,503 active AUMs in 2007 and 2009, and 1,503 active AUMs in 2008), (3) construction of approximately 1 mile of new pasture division fence in the Beulah seeding and 600 acre medusahead treatment, to facilitate perennial grass establishment and maintenance via the medusahead treatment and (4) ratification of new upland performance indicators for key upland species, which may contribute to improving upland health when used as management guides. The four year reduction in use by agreement for the DeArmond-Murphy allotment will result in approximately 214 less cattle on the allotment from 4/1 to 10/31. Pastures for which these methods apply include the following: North Earp FFR, School Section, Butler, Mahogany Mountain, Pole Gulch, Jerry Canyon, Upper Beulah Seeding, Lower Beulah Seeding, Hunter Mountain, Hunter Creek, Morton, Murphy Reservoir, West Bendire, East Bendire, West Munker, East Munker, and South Munker in the Castle Rock Allotment and the six-forty Pasture in the Lockhart Mountain Allotment.

Methods of achieving the SRH in the riparian areas of the DeArmond-Murphy Allotment include the following: (1) implementation of a grazing system that provides cool season use and rest in riparian areas, (2) a livestock operator's voluntary four year reduction in use (1,476 active AUMs in 2006, 1,503 active AUMs in 2007 and 2009, and 1,503 active AUMs in 2008), (3) reconstruction of spring developments that allows for protection of the spring sources, (4) construction of approximately 4.2 miles of new fencing to remove most of the riparian areas from the Castle Rock pasture by creating the Jerry Canyon pasture, and (4) ratification of riparian performance indicators for riparian vegetation which may contribute to improving riparian health when used as management guides. Cool season use is the most optimal time to graze a pasture with riparian areas as the livestock are more likely to distribute farther away from and the riparian area at this time. Livestock drink less water in the cool season versus the hot season which tends to result in less time that livestock spend on a stream and/ or spring source. The nutritional components of riparian vegetation and upland vegetation is most similar during the cool season versus the hot season which tends to result in less time that livestock spend in a riparian area. Pastures for which these methods apply include the following: Jerry Canyon, North Earp FFR, Murphy, Hunter Mountain, West Bendire, East Bendire, Morton, and South Munker.

Ring Butte Allotment (#10208)
Methods of achieving SRH in the Ring Butte Allotment (West Ring Pasture) include a riparian exclosure project previously authorized under CE OR-030-04-29.

Bridge Creek Allotment(#00109)
Methods of achieving SRH in the Bridge Creek allotment include a spring exclosure fence and reconstruction project previously authorized under CE OR-030-04-28.

Lockhart Mountain Allotment(#00224)
Methods of achieving SRH on BLM lands within this allotment include a cool season livestock grazing period for the Sixty-Forty pasture to make progress toward meeting Standards 2 and 4.

AUTHORITY

The authority for this decision is contained in Title 43 of the Code of Federal Regulations (CFR) including and the following laws:
The Taylor Grazing Act
The Federal Land Management Act

4100.0-2 Objectives.
The objectives of these regulations are to promote healthy sustainable rangeland ecosystems; to accelerate restoration and improvement of public rangelands to properly functioning conditions; to promote the orderly use, improvement and development of the public lands; to establish efficient and effective administration of grazing of public rangelands; and to provide for the sustainability of the western livestock industry and communities that are dependent upon productive, healthy public rangelands. These objectives shall be realized in a manner that is consistent with land use plans, multiple use, sustained yield, environmental values, economic and other objectives stated in 43 CFR part 1720, subpart 1725; the Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315, 315a-315r); section 102 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740).

§4100.0-3 Authority.
(a) The Taylor Grazing Act of June 28, 1934 as amended (43 U.S.C. 315, 315a through 315r);
(b) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) as amended by the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.);
(c) Executive orders transfer land acquired under the Bankhead-Jones Farm Tenant Act of July 22, 1937, as amended (7 U.S.C. 1012), to the Secretary and authorize administration under the Taylor Grazing Act.
(e) The Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.); and
(f) Public land orders, Executive orders, and agreements authorize the Secretary to administer livestock grazing on specified lands under the Taylor Grazing Act or other authority as specified.

§4100.0-8 Land use plans.
The authorized officer shall manage livestock grazing on public lands under the principle of multiple use and sustained yield, and in accordance with applicable land use plans. Land use

plans shall establish allowable resource uses (either singly or in combination), related levels of production or use to be maintained, areas of use, and resource condition goals and objectives to be obtained. The plans also set forth program constraints and general management practices needed to achieve management objectives. Livestock grazing activities and management actions approved by the authorized officer shall be in conformance with the land use plan as defined at 43 CFR 1601.0-5(b).

§4110.2-4 Allotments.
After consultation, cooperation, and coordination with the affected grazing permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public, the authorized officer may designate and adjust grazing allotment boundaries. The authorized officer may combine or divide allotments, through an agreement or by decision, when necessary for the proper and efficient management of public rangelands.

§4110.3 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.

§4120.2 Allotment management plans and resource activity plans.
Allotment management plans or other activity plans intended to serve as the functional equivalent of allotment management plans may be developed by permittees or lessees, other Federal or State resource management agencies, interested citizens, and the Bureau of Land Management. When such plans affecting the administration of grazing allotments are developed, the following provisions apply:

(a) An allotment management plan or other activity plans intended to serve as the functional equivalent of allotment management plans shall be prepared in careful and considered consultation, cooperation, and coordination with affected permittees or lessees, landowners involved, the resource advisory council, any State having lands or responsible for managing resources within the area to be covered by such a plan, and the interested public. The plan shall become effective upon approval by the authorized officer. The plans shall --
  (1) Include terms and conditions under §§4130.3, 4130.3-1, 4130.3-2 4130.3-3, and subpart 4180 of this part;
  (2) Prescribe the livestock grazing practices necessary to meet specific resource objectives;

(c) The authorized officer shall provide opportunity for public participation in the planning and environmental analysis of proposed plans affecting the administration of grazing and shall give public notice concerning the availability of environmental documents prepared as a part of the development of such plans, prior to implementing the plans. The decision document following the environmental analysis shall be considered the proposed decision for the purposes of subpart 4160 of this part.

(d) A requirement to conform with completed allotment management plans or other applicable activity plans intended to serve as the functional equivalent of allotment management plans shall be incorporated into the terms and conditions of the grazing permit or lease for the

allotment.

(e) Allotment management plans or other applicable activity plans intended to serve as the functional equivalent of allotment management plans may be revised or terminated by the authorized officer after consultation, cooperation, and coordination with the affected permittees or lessees, landowners involved, the resource advisory council, any State having lands or responsible for managing resources within the area to be covered by the plan, and the interested public.

§4120.3-1 Conditions for 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 with the Bureau of Land Management or must have an approved range improvement permit.

(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.

§4130.2 Grazing permits or leases.

(a) Grazing permits or leases shall be issued to qualified applicants to authorize use on the public lands and other lands under the administration of the Bureau of Land Management that are designated as available for livestock grazing through land use plans. Permits or leases shall specify the types and levels of use authorized, including livestock grazing, suspended use, and conservation use. These grazing permits and leases shall also specify terms and conditions pursuant to §§4130.3, 4130.3-1, and 4130.3-2.

(b) The authorized officer shall consult, cooperate and coordinate with affected permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public prior to the issuance or renewal of grazing permits and leases.

(c) Grazing permits or leases convey no right, title, or interest held by the United States in any lands or resources.

(d) The term of grazing permits or leases authorizing livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management shall be 10 years.

§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.

§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 term or condition of the permit or lease.

(c) Permits and leases shall incorporate terms and conditions that ensure conformance with subpart 4180 of this part.

§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 range management or assist in the orderly administration of the public rangelands. These may include but are not limited to:

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

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

§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 officer 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.

§4160.3 Final decisions.

(a) In the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice unless otherwise provided in the proposed decision.

§4180.1 Fundamentals of rangeland health.

The authorized officer shall take appropriate action under subparts 4110, 4120, 4130, and 4160 of this part as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management needs to be modified to ensure that the following conditions exist.

(a) Watersheds are in, or are making significant progress toward, properly functioning physical condition, including their upland, riparian-wetland, and aquatic components; soil and plant conditions support infiltration, soil moisture storage, and the release of water that are in balance with climate and landform and maintain or improve water quality, water quantity, and timing and duration of flow.

(b) Ecological processes, including the hydrologic cycle, nutrient cycle, and energy flow, are maintained, or there is significant progress toward their attainment, in order to support healthy biotic populations and communities.
(c) Water quality complies with State water quality standards and achieves, or is making significant progress toward achieving, established BLM management objectives such as meeting wildlife needs.
(d) Habitats are, or are making significant progress toward being, restored or maintained for Federal threatened and endangered species, Federal Proposed, Category 1 and 2 Federal candidate and other special status species.

§4180.2 Standards and guidelines for grazing administration.

(c) The authorized officer shall take appropriate action as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management practices or levels of grazing use on public lands are significant factors in failing to achieve the standards and conform with the guidelines that are made effective under this section. Appropriate action means implementing actions pursuant to subparts 4110, 4120, 4130, and 4160 of this part that will result in significant progress toward fulfillment of the standards and significant progress toward conformance with the guidelines. Practices and activities subject to standards and guidelines include the development of grazing-related portions of activity plans, establishment of terms and conditions of permits, leases and other grazing authorizations, and range improvement activities such as vegetation manipulation, fence construction and development of water.

(e) At a minimum, State or regional guidelines developed under paragraphs (a) and (b) of this section must address the following:

(1) Maintaining or promoting adequate amounts of vegetative ground cover, including standing plant material and litter, to support infiltration, maintain soil moisture storage, and stabilize soils;
(2) Maintaining or promoting subsurface soil conditions that support permeability rates appropriate to climate and soils;
(3) Maintaining, improving or restoring riparian-wetland functions including energy dissipation, sediment capture, groundwater recharge, and stream bank stability;
(4) Maintaining or promoting stream channel morphology (e.g., gradient, width/depth ratio, channel roughness and sinuosity) and functions appropriate to climate and landform;
(5) Maintaining or promoting the appropriate kinds and amounts of soil organisms, plants and animals to support the hydrologic cycle, nutrient cycle, and energy flow;
(6) Promoting the opportunity for seedling establishment of appropriate plant species when climatic conditions and space allow;
(7) Maintaining, restoring or enhancing water quality to meet management objectives, such as meeting wildlife needs;
(8) Restoring, maintaining or enhancing habitats to assist in the recovery of Federal threatened and endangered species;
(9) Restoring, maintaining or enhancing habitats of Federal Proposed, Category 1 and 2 Federal candidate, and other special status species to promote their conservation;
(10) Maintaining or promoting the physical and biological conditions to sustain native populations and communities;
(11) Emphasizing native species in the support of ecological function;

Southeastern Oregon Resource Management Plan, Record of Decision and Final Environmental Impact Statement, September 2002.

RIGHT OF APPEAL

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. A period of 30 days from your receipt of the proposed decision is provided for filling an appeal and petition for stay of the decision pending final determination on appeal, as provided in 43 CFR § 4.470 and 43 CFR § 4160.4.

Any appeal should state clearly and concisely as to why the final decision is in error. All grounds of error not stated shall be considered waived, and no such waived ground of error may be presented at the hearing unless ordered or permitted by the administrative law judge. Any appeal should be submitted in writing to:

Field Manager
Malheur Resource Area
Vale District Bureau of Land Management
100 Oregon Street
Vale, Oregon 97918

Filing an appeal does not by itself stay the effectiveness of the final BLM decision. The appeal may be accompanied by a petition for a stay of the decision pending final determination on appeal, in accordance with 43 CFR § 4.471 and 4.479. Any request for a stay of the final decision in accordance with 43 CFR 4.21 must be filled with the appeal. In accordance with 43 CFR 4.21 (b) (1), a petition for a stay must show sufficient justification based on the following:

- The relative harm to the parties if the stay is granted or denied,
- The likelihood of the appellant's success on the merits,
- The likelihood of immediate and irreparable harm if the stay is not granted, and
- Whether the public interest favors granting the stay.

Additionally, in accordance with 43 CFR § 4.471(b), within 15 days after filing the appeal and petition for a stay with the authorized officer, the appellant must also serve copies on:
1) all other person(s) named in the Copies sent to: section of this decision; and
2) the appropriate office of the Office of the Solicitor as follows, in accordance with 43 CFR § 4.413(a) and (c):

Office of the Solicitor
US Department of the Interior
Pacific NW Region
500 NE Multnomah, Suite 607
Portland, OR 97213

Finally, in accordance with 43 CFR 4.472(b), 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 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 respond, the person must serve copies on the appellant, the appropriate office of the Office of the Solicitor in accordance with Sec. 4.413(a) and (c), and any other person named in the decision.

Sincerely,

Pat Ryan
Field Manager
Malheur Resource Area

Copies sent to: (by certified mail)

[redacted]

Courtesy copies sent to:

[redacted]

Attachment 1

January 30, 2008
Protest Point responses subsequent to NFMGMA Public Meeting on November 27, 2007

Protest Point 1

Protesters argue that North Fork Malheur Geographic Management Area (NFMGMA) grazing decisions do not comply with the Resource Management Plan (RMP) direction to provide domestic sources of "minerals, food, and fiber from the public lands" and the decision will not provide for a "sustained level of grazing directed by the SEORMP" In addition, protesters believe BLM's decision "cannot casually ignore the economic burden the EA project will place on permittees".

Protest Response 1

1. Proposed BLM grazing systems and adherence to utilization performance indicators would be expected to protect, improve, and sustain rangeland vegetation consistent with Federal Rangeland Health regulations. Existing rangeland monitoring studies and utilization data showed that current grazing use would not sustain key forage plants over the long term without some adjustment. BLM believes its decisions would in fact promote a sustained level of use without causing injury to the public rangeland.

   The potential for upward or downward grazing adjustments as proposed for NFMGMA was discussed and analyzed in the Rangeland / Grazing Use and Human Uses and Values (e.g. socioeconomics) sections of the Proposed Southeastern Oregon Resource Management Plan and Final Environmental Impact Statement (PSEORMP and FEIS) as stated below.

   - The affected environment narrative in PSEORMP FEIS Volume 1, "Human Uses and Values", pages 109-118, disclosed that permittees within the planning area are dependent upon public land for about 23% of their livestock forage needs in Malheur County. The planning area has been described as an area of "low economic resiliency" and changes "in the timing and amount of permitted grazing does affect individual permittees". BLM is aware of that permittees are dependent upon public land forage.

   - The Record of Decision (ROD) page xxii BLM showed that the total 420,584 AUMs initially allocated under the proposed Resource Management Plan (RMP) alternative could change by a factor plus or minus 10% (plus or minus 42,058 AUMs) over the life of the plan. Until rangeland health evaluations are completed, there was no way for BLM to project where livestock Animal Unit Month (AUM) increases or decreases may be warranted.

   - As of fall 2007, no Vale BLM AUM reductions or increases have been authorized as a result of grazing permit renewal activities. Thus, NFMGMA AUM-related decisions are well within the scope of impacts addressed in the FEIS.

   - The economic impact analysis in PSEORMP FEIS Volume 1, page 638 "Human Uses and Values" showed that a 10% AUM decrease would reduce calf and cattle sales by an estimated $802,000, or about 2.3% of the Malheur County economy. Thus, BLM has already considered and analyzed potential negative economic impacts to livestock permittees. Again, the SEORMP FEIS document could not predict where such a reduction may be necessary because BLM action would is dependent upon completion of a rangeland health assessment and grazing allotment evaluation conducted by an interdisciplinary team of professionals.

2. BLM proposed actions affecting NFMGMA Permittees and grazing allotments would protect natural values and allow grazing use (commodity production) to proceed in a manner consistent with the PSEORMP FEIS and (ROD). The 1976 Federal Land Policy and Land Management Act (FLPMA) and the 2002 ROD do not rank livestock (commodity) production needs and preferences above requirements to protect resource values from grazing impacts and developments necessary to administer livestock grazing.

Protesters have correctly cited land use plan direction to provide domestic sources of "minerals, food, and fiber from the public lands". However, they do not mention concurrent management direction compelling BLM to protect and improve natural values affected by grazing use. PSEORMP FEIS and ROD references supporting this position are as follows:

- The PSEORMP-FEIS preferred action alternative theme directs Malheur and Jordan Resource Areas to practice multiple-use land management with results that will "protect and improve natural values while providing for commodity production." (PSEORMP FEIS, Vol. 1, vii).

- Page v of the ROD states that the Proposed Resource Management Plan alternative would allow for "a high level of natural resource protection and improvement in ecological conditions while providing for commodity production."

- The ROD page iii Decision Summary states BLM will "Provide for a sustained level of grazing consistent with other resource objectives and public land use allocations"

Grazing decisions for NFMGMA were made in light of the need to protect and improve natural values. BLM cannot and has not proposed grazing permit actions that would overemphasize commodity production or protection of natural values. Instead, BLM decisions for NFMGMA were crafted in a way intended to meet land use plan objectives and promote "multiple use and sustained yield" as directed in Title 1 of the FLPMA. No changes in authorized levels of grazing use were identified in the proposed decisions beyond those in a number of short term agreements with permittees for voluntary non-use. Most of these agreements were implemented as interim measures to meet S&Gs. No change in authorized levels of grazing use are included in the final decisions issued other than implementation of those voluntary agreements.

3. Because of the nature of original permitted livestock forage and changes in federal laws, federal rangeland health regulations, and BLM policies subsequent to passage of the 1934 Taylor Grazing Act (TGA), it is reasonable and justifiable that BLM managers may need to adjust permitted grazing use as proposed for NFMGMA. We explain the reasons below.

The Origin of Livestock AUMs and the Need for the TGA - Original permitted livestock use was granted by the federal government to bonafide livestock operators who owned base properties (private land) before passage of the TGA. Public land livestock forage, or "demand", was not initially granted to permittees on the basis of information commonly applied in modern rangeland science. Instead, forage needed by permittees was simply negotiated on the basis of factors such as late 1800's grazing practices and base property forage production capabilities. As Harold Heady and James Bartolome stated on pages 64-65 of "The Vale Rangeland Rehabilitation Program : The Desert Repaired in Southeastern Oregon" (1977), "demanded forage or permitted numbers stem from the historical granting of permits which was largely determined through negotiations and not by measurement of the capacity of the land".

Clearly, as the federal government eliminated itinerant (uncontrolled and un-regulated) grazing use and began its orderly administration of public rangeland under authority of the TGA, original permitted grazing use was merely a reasonable and appropriate starting point for meeting the needs of an industry whose economic survival was dependent upon public land forage. Prior to passage of the TGA, itinerant livestock grazing use practices and improper timing and intensity of livestock grazing use did cause injury to the public rangeland. Until passage of the TGA, grazing use was not orderly and livestock industry practices were not based upon sound principles of rangeland management.

The History of BLM Range Surveys and Monitoring as a Means of Determining Livestock Carrying Capacity - Until the late 1950s, Heady and Bartolome reported that "the (grazing) advisory board on the Vale District in effect regulated permitted animal numbers". Vale District forage provided in AUMs increased from 255,900 in 1935 to 412,618 in 1936 and continued to increase, reaching a maximum of 504,024 in 1955. As the negotiations between ranchers and the government over control and administration of the public rangeland intensified, BLM began to conduct range surveys in the late 1950's for the purpose of calculating the livestock carrying capacity. These initial surveys included plant clipping and weighing studies that recorded pounds of forage actually produced on the public land. The first district-wide grazing

capacity estimate of 285,000 forage units, or AUMs, was made final in 1961. An AUM is defined as 800 pounds[1] of air-dry forage; an amount necessary to sustain one cow and a calf for one month.

AUMs were first "adjudicated", or apportioned legally to permittees in Vale District, in conformance with 1961 range surveys. According to Heady and Bartolome, the late 1950's BLM surveys showed that the rangeland was "over-obligated to the point that proper use of some areas on the Vale District would require 50 percent cuts in permitted use". This survey finding and its potential economic consequences to permittees ultimately resulted in the "The Vale Rangeland Rehabilitation Program", or Vale Project; which was a series of management actions taken over an 11 year period costing $10 million federal dollars. Based upon these initial 1961 range survey findings, some livestock AUMs were no longer available as permitted use and they were placed into what has been termed "suspended" status. Suspended AUMs remain part of some BLM grazing permits to this day because the forage granted before 1961 is simply not there, in some cases, and granting those forage units to permittees would cause injury to the public rangeland contrary to the Taylor Grazing Act.

During the late 1970's, Vale District conducted a second set of range surveys that remain in use today as the best available information. This information includes the "Ironside" range survey for land north of the Malheur River and the "Southern Malheur" range survey for land south of the Malheur River. For each of these surveys, trained BLM professionals examined rangeland vegetation for the purpose of determining the public land livestock carrying capacity. The late 1970's surveys were challenged by the livestock industry because, it was argued, "one-time" surveys would potentially be inaccurate due to drought conditions or other factors. In response, BLM agreed to delay any immediate AUM adjustments based on one-time surveys and chose instead to make future AUM adjustments on the basis of rangeland monitoring studies conducted over a span of several years.

In summary, the Bureau's ongoing rangeland health standards assessment, monitoring, and evaluation process should be viewed as the most current effort to determine proper livestock use levels which began for BLM in 1961. The grazing decisions associated with this effort are based on a combination of long-term quantitative monitoring study data, assessment findings, and professional judgment. For the NFMGMA, BLM is now taking grazing permit renewal actions required to "stop injury to the public grazing lands", as stated in the TGA, and meet "rangeland health standards", as stated in the current land use plan and 4180 grazing regulations.

Changes in Federal Laws, Regulations, and Policies - Original permitted livestock use was granted in an era before establishment of certain federal laws, federal regulations, and BLM policies that were needed to protect natural resources such as threatened or endangered species, wild horses, riparian areas, fisheries, wildlife forage and cover, Wild and Scenic Rivers, Wilderness Study Areas, Areas of Critical Environmental Concern, special status plants, and special status animals. Simply stated, the existing management climate for public land administration has changed dramatically since the passage of the TGA. For example, the federal Endangered Species Act (ESA) was not passed into law until 1973 and now its regulatory requirements must be factored into the calculation of permitted grazing use. When the TGA was passed into law, the federal government intended to eventually transfer public land into private ownership and public involvement in environmental issues was nearly non-existent. Today, public involvement has become quite substantial and the FLPMA mandates that public land will remain in federal ownership and managed under the principles of multiple-use.

Protest Point 2

Protesters disagree with how BLM would implement adaptive management as discussed in the PSEORMP FEIS and ROD. Adaptive management occurs within certain defined management boundaries and it does not allow grazing proposals that would fail to meet SEORMP management objectives and rangeland health regulations.

[1] It is worth noting that the average size and weight of cattle has increased considerably since the original adjudication of AUMs. In light of this livestock size and weight increase, AUMs harvested today likely result in more livestock forage consumption and comparatively higher levels of grazing use impacts.

Protest Response 2 -

1. The SEORMP was crafted as an adaptive, outcome-based land use planning document. It reflects the science and management practices promoted in the Interior Columbia Basin Ecosystem Management Project (ICBEMP) Final EIS (USDA and USDI 2000). Although ICBEMP final decisions were never adopted by BLM or the U.S. Forest Service, OR/WA BLM did accept the ICBEMP science and ecosystem-based management principles including adaptive management.

   Adaptive management allows BLM to authorize grazing use where there may be some uncertainty in outcome. However, the agency may make annual or other periodic grazing use adjustments on the basis of monitoring data before unnecessary degradation to public land occurs. For example, if actual use, utilization, or other performance indicators show that management objectives are not likely be met under the revised permitted grazing use, BLM may re-initiate grazing use discussions with permittees and make further grazing management adjustments. This mechanism is a critical part of the SEORMP adaptive management process and it is supported in the public land 4180 grazing regulations which require BLM field managers to take management action before the start of the next grazing season when it is determined that current grazing use is not meeting rangeland health standards. For allotments within the analysis area, future permit adjustments may be made in accordance with the grazing regulations without further NEPA analysis as long as the change considered has already been analyzed and is found capable of meeting management objectives as analyzed.

2. BLM proposed actions and impacts are considered to be consistent with the SEORMP and S&Gs when they conform to the Desired Range of Future Conditions (ROD page 4), can meet stated resource management objectives (ROD pages 28-108), and result in environmental impacts similar to those already disclosed in Chapter 4 (Environmental Consequences pages 387-659) of the PSEORMP FEIS (2001). The EA has stated that all these criteria will be met under the BLM proposed action

3. Chapter 4 in the PSEORMP FEIS describes impacts and outcomes BLM expected on public lands, including the analysis area for NFMGMA. The FEIS characterized types of impacts expected from management action rather than site specific impacts on each acre of public land considered. Management assumptions throughout Chapter 4 of the PSEORMP FEIS describe anticipated impacts and management outcomes such as:

   - Emphasis on native species in seed mixes would result in 75% of the acreage seeded receiving a native seed mixture, while 25% would receive a nonnative seed mixture. Availability of native seed may affect BLM's ability to emphasize seeding of native species to this degree. (PSEORMP FEIS 429)

   - About 50% of additional herbaceous production would be allocated to commodities (such as livestock production) so long as objectives can be met, while 50% would be allocated to other values. (PSEORMP FEIS 570)

   - About 300 miles of new fence would be constructed over the life of the plan to restrict or exclude livestock. (PSEORMP FEIS 570)

Protest Point 3

Protesters have cited what they believe are numerous flaws and misinterpretations related to BLM monitoring. Protesters are incorrect in stating that BLM must weigh the height and weight of plants to determine livestock carrying capacity.

Protest Response 3

1. BLM has described its rangeland monitoring methods in Appendix W of the PSEORMP FEIS and on pages W1-W8 of the ROD. This appendix includes Interagency Technical References "4400-3 Utilization Studies and Residual Measurements" and "4400-4 Sampling Vegetation Attributes". BLM managers have broad discretion in selecting appropriate rangeland monitoring and assessment methods.

   Vale BLM applies the "landscape appearance" livestock grazing utilization method because it is an effective and efficient for characterizing large land areas, and it is approved as an interagency technique. Further, the information provided is comparable with existing long-term studies established decades ago.

Protester arguments that BLM must clip and weigh is simply not true and the data provided by clipping and weighing has weaknesses as all studies do. Existing studies have great value in terms of their photographic information and quantitative data continuity. Perhaps even more importantly for these protests, rangeland monitoring plot data are only one of several important performance indicators used in grazing impact analyses. Quantitative rangeland trend studies used to make rangeland health determinations and grazing decisions (e.g. three foot by three foot photo trend plots and one hundred foot line intercept trend plots) are used in combination with other information such as livestock actual use, livestock season of use, and utilization.

2. Protesters believe that BLM did not use quantitative information for the evaluation and grazing decisions. But BLM used both quantitative (trend plot data and livestock utilization data) and qualitative information to make its rangeland health determinations and grazing decisions.

3. Protesters have referred to rangeland health assessment as a form of monitoring and it is not. For the purposes of grazing permit renewal, assessment data and monitoring data are two separate but related pieces of information. Assessments are a one-time interdisciplinary examination of rangeland plant communities which consider indicators of upland or riparian community health. BLM combines assessment data with monitoring and other information before crafting grazing permit decisions.

4. BLM has explicitly stated its standard monitoring methodologies in Appendix W of the SEORMP ROD and therefore their application is not arbitrary or capricious. The monitoring techniques used by Vale District are consistent with those identified in agency policy, manual handbooks, and technical references. Periodic staff field coordination exercises ensure that the methods are being applied as properly and as consistently as possible.

5. According to the 1988 BLM National Environmental Policy (NEPA) Handbook, (Chapter VI – Monitoring, page VI-3, Development of a Monitoring Plan, field managers have a "great deal of discretion" in choosing the type and level of monitoring deemed necessary. The Handbook further states that; "the responsible manager has discretion in scheduling monitoring activities, determining monitoring approaches or methodologies, and establishing monitoring standards".

Protest Point 4

Protesters argue that the BLM application of professional judgment is arbitrary and capricious.

Protest Response 4

Application of informed professional opinion to evaluate rangeland condition and trend is well within the agency purview. BLM technical references and the 4180 Rangeland Health Standards Handbook (2001) provide numerous citations granting the exercise of professional judgment when interpreting quantitative and qualitative rangeland information. These citations are listed as bullets below.

Informed professional opinion based on college education, government training, and field experience has been used by BLM staff and managers for decades. In BLM's evaluation of cause-and-effect relationships between grazing use and rangeland condition, the agency routinely seeks the views of others prior to formulating management alternatives and rendering grazing decisions. Discussions with permittees and others took place for the evaluation and EA. However, after all the data are considered, differences in interpretation may occur and it is up to trained professional natural resource staff to draw management conclusions for rangeland health determinations and grazing decisions and provide appropriate recommendations.

- Application of professional judgment is clearly implied in the agency guidance for rangeland health work. See BLM Manual H-4180-1 Rangeland Health Standards, Chapter III, page 16, D. Make a Determination. As BLM interdisciplinary staff considers their best available information, two principle questions leading to a rangeland health determination are to be answered; (1) **Is it more likely than not** that existing grazing management practices or levels of grazing use are significant factors in failing to achieve the Standards or conform to the guidelines? and (2) **Is it more likely than not** that existing grazing management needs to be modified to ensure that the Fundamentals of rangeland health are met, or making significant progress toward being met?

- Throughout BLM Technical Reference 1734-6 "Interpreting Indicators of Rangeland Health" the authors encourage field staff to consider the "preponderance of evidence" in arriving at rangeland health assessment findings. This supports the notion that a professional and informed thought process is to be applied by BLM interdisciplinary staff and any others that would use the manual protocols.

- According to the Proposed Southeastern Oregon Resource Management Plan and Final Environmental Impact Statement, Volume 1, page vii, "Adaptive management applies current information and professional judgment to develop activity plans that will most likely meet objectives and desired future conditions of the plan".

- According to the OR/WA BLM Rangeland Monitoring Handbook H-1734-2 (1988), professional judgment is considered an "integral part" of most OR/WA BLM monitoring. In fact, the guidance goes so far as to say that; "In areas where conflicts, controversy, improvement potential, risks, and other factors are minimal, professional judgment alone, or in conjunction with photographs, may be adequate for some monitoring elements."

- According to BLM Manual H-4400-1 Rangeland Monitoring and Evaluation, Chapter 4, page 4, E. Professional Judgment, "Evaluations should be as objective as possible, yet the evaluator must recognize that much of the information is not precise. Professional judgment must be exercised throughout the evaluation process. It does not negate the need for quantitative data, but rather supplements monitoring information."

Protest Point 5

Protesters disapprove of the "landscape appearance" livestock grazing utilization method used by Vale BLM. They argue that BLM is directed to conduct statistical sampling methods by the SEORMP ROD and interagency livestock utilization technical references.

Protest Response 5

1. Interagency Technical Reference 1734-3 Utilization Studies and Residual Measurements (1996) and 1734-4 Sampling Vegetation Attributes (1996), both begin with statements that they are intended to provide consistent, uniform, and standard studies that are economical, repeatable, statistically reliable, and technically adequate. Vale BLM conducts many of these recommended study methodologies, including the landscape appearance method, in order to be consistent and technically adequate (see attached excerpt from 1734-3, Attachment 2).

   Neither of the 1996 Interagency Technical References (1734-3 Utilization Studies and Residual Measurements and 1734-4 Sampling Vegetation Attributes) compel BLM to use a specific or statistically rigorous sampling method. Further, BLM grazing regulations do not direct BLM to use any particular livestock grazing utilization method. The fact that statistical methods are a technical reference option does not compel agency managers to use them, especially when it is not practical or economically feasible to do so. The Secretary of Interior has delegated the responsibility for such choices to BLM authorized officers (e.g. Field Managers).

   Protesters have offered "random sample" utilization data and grass production (clipping) data they believe more accurately represent livestock utilization. In light of BLM data derived from livestock grazing utilization routes, trend plots, and other related information it uses to examine livestock stocking rates, BLM disagrees that clipping and weighing information is the best available data. The Bureau has considered the information provided by protesters, but is not compelled by regulation or policy to accept it. There are two main reasons why BLM does not acknowledge protester information as the best available data:

   - Livestock do not graze randomly and that is the reason why BLM utilization studies are not established or conducted randomly. Cattle typically seek out and repeatedly use the most easily accessible rangeland in relatively close proximity to water sources. Existing BLM studies and utilization routes acknowledge these factors and protester data does not.

- The location of protester rangeland utilization data has never been revealed to BLM and the Bureau is not compelled by policy or regulation to accept or verify contractor-provided information. Protester utilization data provided to BLM is so much lower than utilization route data acquired by BLM that it is simply of questionable value. Protester utilization data was gathered in a manner inconsistent with the overall monitoring strategy chosen by Vale BLM, as described above, which likely accounts for the discrepancies.

BLM conducts its primary mission of managing multiple uses on public lands by interdisciplinary review and evaluation. BLM never has been and it never will be a true research agency. Rangeland trend plot and utilization locations are not intended to be "research" sites subject to statistical rigor. Instead, they are chosen deliberately (not randomly) by professionals familiar with BLM grazing allotments and pastures. Trend studies and livestock utilization routes are intended to function in "key areas" expected to show plant cover change in response to grazing use and other disturbance. This "applied science" approach to rangeland management and monitoring in "key areas" is distinctly different from "research science" investigations which include various treatments, multiple replications, random samples, and other appropriate criteria. Where research quality data are needed and the costs are warranted, contractual agreements may be made between BLM and entities such as the US Geological Survey, qualified private contractors, or various western Universities.

Vale District managers have never directed field staff to conduct statistically-based rangeland monitoring or inventory studies. Due to the sheer geographic extent and variability of public land considered, rangeland studies are not designed to meet statistical rigor. For example, in Jordan Resource Area alone, there are 49 BLM grazing allotments comprised of 250 pastures spanning over 2,587,000 acres of public land. Research quality studies over such a vast area would be highly impractical and prohibitively expensive.

2. The basis for statistical rangeland sampling requires the existence of modern ecological site inventory (ESI) data from upland and riparian habitats (personal communication, February, 2007, Mike Karl, BLM Inventory and Monitoring Specialist, National Science and Technology Center, Denver, Colorado). Because current [2]ESI data does not exist for the NFMGMA, the very basis for true range-site research sampling is not available. This point coincidently raises questions as to the accuracy of clipping and weighing studies that have been conducted by NFMGMA range consultants.

   ESI work has been initiated for Vale District as of 2007 starting with the Soldier Creek GMA and it is not yet available for NFMGMA.

3. Respected Utah State University rangeland ecologist Neil West (retired) has provided his insight on the topic of statistics and monitoring which supports BLM arguments.

   "I see no hope that traditional means of monitoring, via point sampling on the ground, will be able to accomplish those needs at all scales in space and time, especially when landscape and regional perspectives are required. There are simply not enough adequately trained people and that approach would not be affordable, even if the necessary professionals existed". *Accounting for rangeland resources over entire landscapes*" (1999), pages 726 to 736, Proceedings of the VI International Rangeland Congress.

   As part of its commitment to interagency collaboration, BLM is helping to fund remote sensing rangeland research in cooperation with the US Department of Agriculture to address the type of concern expressed by Mr. West. Information pertaining to that effort may be found at the following web-site: http://www.ars.usda.gov/research/projects/projects.htm?ACCN_NO=408596. Even with remote sensing, an

[2] The best available Vale District range-site information resides within the BLM Oregon Automated Ecological Site Information System, or OAESIS database. This data set provides a good general description of range-sites in Malheur and Jordan Resource Areas. However, OAESIS data has its limitations. First, modern ESI data, of the sort being gathered in Soldier Creek GMA, is based on Order 3 soil surveys and the existing data are based on an order 4 survey. Order 4 surveys are much less detailed and accurate than Order 3 soil surveys. Second, modern ESI soils and vegetation data must be first examined and "correlated" by professional USDI Natural Resource Conservation Service staff before they are finalized and suitable for publication. Existing OAESIS soils information has not been "correlated" by NRCS professionals. The point is, while it is true that Vale BLM does possess rangeland ecological information, it is not of a quality that conforms to current government standards and therefore it has limited application for site-scale rangeland management analysis.

appropriate intensity of ground-truthing is required to ensure that satellite or other aerial imagery is interpreted properly.

Protest Point 6

Protesters argument that the Bureau's application of light grazing utilization (>20% to 40%) is "arbitrary, lacks sound management principles and, also, lacks common sense" is simply a matter of rangeland consultant opinion that ignores direction provided in the SEORMP and ongoing grazing management occurring elsewhere within the Vale District.

Protest Response 6

1. BLM proposed light grazing utilization in the first edition of the NFMGMA EA and permittees provided no negative comments at that time. Now during the proposed grazing decision period, the subject of light use and its impacts on permittees is being raised. Protesters claim that BLM has been arbitrary and capricious in selecting light grazing use as a means to help meet resource management objectives. BLM proposed actions are not arbitrary or capricious for two reasons: 1) permittees were informed about light use during the entire grazing system negotiation process and 2) the PSEORMP FEIS and ROD addressed light use specifically as explained below in items 2 and 3.

2. On ROD page R-2 (Effects of Intensity and Season of Grazing Use) BLM stated grazing system studies identified a general ability to meet objectives, including productivity of primary forage plants with moderate stocking rates. This section goes on to state that "Within semi-arid, desert, and coniferous forest rangelands, plant communities most common in the southeast Oregon planning area, research was consistent in showing that moderate grazing involved about 35 to 45 percent use of forage.(Holechek, J.L., H. Gomez, F. Molinar, and D. Gault. 1999. Grazing studies: What we've learned. Rangelands 21(2): 12-16. This level of use, referred to as "conservative" by Professor Jerry Holechek, approximates BLM's light utilization category of >20% to 40%.

   The Holechek et al. paper offers convincing evidence showing that conservative stocking offers significant advantages in terms of forage production, livestock production, and financial returns which are all important elements of sustainable livestock operations. Professor Holechek and other range scientists who advocate conservative stocking challenge the "conventional wisdom" that 50% percent represents a moderate stocking rate, arguing that while this guideline works well in southern pine forests, humid grasslands, and annual grasslands, it results in deterioration in the semiarid grasslands, desert, and high elevation forest ranges. In order to see improvement on most rangelands, Professor Holecheck proposes a 30 to 35% utilization rate, although some authors have recommended even lower levels in arid and semiarid western rangelands, such as those within the NFMGMA, to account for livestock trampling, wildlife consumption, and weathering which often leads to actual utilization at levels higher than intended.

   In conclusion, we offer the following relative to the topic of stocking rates. BLM range and wildlife staff is not persuaded that the published principles of conservative stocking have merit because they are simply aligned with some predisposed bias about livestock grazing or scientific grazing studies in remote locations. Rather, years of field observations, utilization studies and trend plot readings on the public land in Malheur County validate what Professor Holecheck has described in his publications. Experience and observation, or professional judgment, have lead senior staff to conclude that (1) light grazing use does appear to result in maintenance and/or improvement of quality native rangeland conditions and (2) average grazing use at 50% or more during the active growing season has typically resulted in key forage grass decline.

3. Protest meeting discussions about the University of Arizona, Cooperative Extension paper "Principles of Obtaining and Interpreting Utilization Data on Southwest Rangelands" (2005) lead the audience to believe BLM use of utilization information is improper and misguided. The information presented was misleading and taken out of proper context for several reasons but we list just a few as follows:
   - Page 1, paragraph 2 of the paper brought into the discussion states "Scharneccia (1999) concluded that the utilization concept is fundamentally flawed and should be discarded, **although he offered no practical alternative to it**".
   - Page 1 states "This discussion is not intended to justify or support utilization guidelines". But page 10 Conclusions (9) states "Some adjustment to livestock numbers and duration of use, based on seasonal utilization may be necessary, for stewardship of the resources when evaluated in

conjunction with other factors". BLM agrees with this stewardship statement and has proposed to take action in NFMGMA based on a variety of factors as stated in other parts of this protest response.

- Page 10 Conclusions (1) states that "Utilization is a useful tool in rangeland management decision making, but utilization guidelines should not be used as management objectives". BLM has not identified utilization as an objective for NFMGMA. Instead, BLM has proposed to use key forage plant utilization by livestock as a grazing system performance indicator during the active growing season so as to avoid grazing impact injury during the growing season. When performance indicator grazing levels are met, there is a high likelihood that the ROD Rangeland Vegetation management objective to "Restore, protect, and enhance the diversity and distribution of desirable vegetation communities" would be met.

4. In Chapter 2 of the PSEORMP FEIS (page 68-69) BLM stated the following in relation to light grazing use and conservation of wildlife habitats;

"Readers should refer to Appendix F for a series of habitat descriptions that would be expected to meet wildlife needs in a multiple use management environment."

"A variety of factors are recognized as having influence on wildlife populations such as predation, disease, parasites, hunting, natural cycles, and weather. However, in the rangeland dominated setting which constitutes most of the planning area, the most controllable and influential impact on wildlife habitat is livestock grazing and the facilities associated with the administration of livestock grazing (mainly fencing and water development).

"It is important to note that for most animal species and habitats, there are no peer reviewed guidelines of livestock utilization that could potentially be used for designing wildlife objectives in grazing allotment management plans. In light of this, BLM considers grazing use to be consistent with multiple use and broadly-based protection of wildlife habitat values when (1) native ranges are predominantly grazed at light stocking levels (20 to 40 percent or less), and (2) grazing systems incorporate periods of year-long rest or growing season deferment."

On ROD page F-1 BLM stated "Appendix F has been included here to provide more descriptions of habitat characteristics important to wildlife that will be incorporated into activity plans and evaluated in both the short and long term". Livestock utilization is specifically noted as an important Appendix F management consideration in section F-3, "Grazing use Considerations for Upland Habitats".

On ROD page F-3 BLM stated that in order to meet native rangeland wildlife management objectives, livestock utilization should result in the following kinds of rangeland conditions which are consistent with light use as described in the "Landscape Appearance" utilization methodology;

> "Native range should be grazed in such a way that a patchy appearance comprised of lightly to moderately grazed and un-grazed areas are prevalent throughout most of the pasture. The rangeland may be topped, skimmed, or grazed substantially in patches. In so doing, a combination of seasonally important habitat values important to wildlife will be present including grazed (conditioned) forage plants and areas with high quality cover and structure (un-grazed or slightly grazed vegetation)."
>
> "Livestock grazing described as a thorough search (heavy trampling, limited standing herbaceous cover, and uniformly grazed key forage plants) is limited to areas near watering facilities such as troughs and reservoirs. Heavy utilization patterns do not dominate the appearance of the landscape and vegetation structure at the end of the growing season. Most young plants are undamaged subsequent to grazing use and low value herbaceous plants are left un-grazed."

5. The topic of light grazing utilization has been recently addressed in an Idaho BLM rangeland management lawsuit involving grazing permit renewal. Failure to consider light grazing use as a management option where standards were not being met due to grazing was one of several factors causing the Interior Board of Land Appeals (IBLA) to remand a BLM grazing permit decision. See September 28, 2007 United States Department of the Interior, Office of Hearings and Appeals, ID-096-04-014 & ID-096-04-009 which describes BLM actions in the BLM Boise District "Nickel Creek Allotment".

6. The Jordan Resource Area Field Manager of Vale District has applied a light grazing use performance indicator for renewed grazing permits in the Louse Canyon GMA. Reference to conservative grazing use as promoted by Professor Holecheck was used as a conservation measure to protect high quality rangeland included in the Louse Canyon GMA environmental assessment (revised EA OR-030-13, March 2005).

7. Light grazing use is a grazing permit performance indicator for four valuable high elevation pastures supporting Lahontan cutthroat trout within the 15 Mile Community Allotment and Whitehorse Butte Allotment of the Trout Creek GMA.

Protest Point 7

Protesters argue that BLM has misapplied monitoring and assessment information for grazing permit decisions; their opinions are inaccurate for many reasons

Protest Response 7

NFMGMA protesters have inaccurately described the function and definitions of assessment, monitoring, and inventory information as applied by BLM. For clarification, the steps identified below explain how BLM proceeds in the grazing permit renewal process from scoping through grazing decisions and how various information is used to craft grazing decisions.

1. ***Scoping and Consultation*** –Before Vale BLM initiates field work to accomplish the assessment, monitoring, and evaluation process BLM provides an overview of Oregon/Washington Standards for Rangeland Health and Guidelines for Livestock Grazing Management. BLM conformance to 4180 grazing regulations is explained at that time. The Bureau explains how and why this process is necessary and invites permittees and other interested publics to provide in writing a list of their concerns they believe should be addressed in concert with grazing permit renewal. This step is known as scoping and the principal purpose is early identification of site specific resource concerns, the identification of unique or sensitive features in the project planning area, and the identification of issues and concerns specific to the evaluation area that should be considered.

2. ***Assessment*** – Vale BLM examines rangeland health conditions by assessing upland and riparian indicators according to agency handbook guidance and interagency publications such as Technical Reference 1734-6 "Interpreting Indicators of Rangeland Health" and Technical Reference 1737-9 and 1737-15 "Riparian Area Management". For upland assessment purposes, BLM uses the best available range survey data and soils information to help decide where rangeland health assessment data should be collected. BLM defines upland assessment in Technical Reference 1734-6 as; "The process of estimating or judging the value or functional status of ecological processes (e.g. rangeland health) in a location at a moment in time". Upland assessment is therefore not a monitoring method where periodic and repeated visits are made to an appointed location[3] over the long term. Page 1 of the most recent Technical reference 1734-6 states that the assessment protocol is not to be used to monitor land or determine trend and we have complied with this direction.

   For riparian management purposes, BLM indicated on page 21of Technical Reference 1737-15 that the logical sequence for incorporating information is to first assess proper functioning condition (Step 3) and then monitor (Step 7). Clearly, BLM has not suggested that riparian assessment is the same as riparian monitoring in its technical references.

   Protesters have also erroneously suggested BLM must conduct statistical sampling involving clipping and weighing plants to monitor livestock utilization. BLM has already established methods for estimating livestock utilization over extensive areas along utilization routes. Protester complaints about BLM livestock utilization method weaknesses are simply a matter of rangeland consultant opinion. Clipping and weighing studies designed to estimate forage production are an element of BLM ecological site inventory and not typical utilization studies. Clipping and weighing studies suggested by protesters would be very labor

[3] BLM included upland and riparian assessment as an element of ROD Appendix W "Monitoring" which is a typographical error that should be corrected in the next land use plan update. The fact is Vale BLM does not use assessment data as a monitoring tool. Instead, assessment data are used to help determine where appropriate monitoring studies should be placed in order to determine trend and if land use plan management objectives are being met. In spite of this ROD printing error, BLM has never considered assessment data and monitoring data as synonymous and this topic was discussed on many occasions in the NFGMA grazing permit renewal deliberations.

intensive and costly to both permittees or BLM when projected out to the scale that would be needed for all Vale District grazing allotments and pastures. The best quality rangeland production information BLM acquires (e.g. Ecological Site Inventory) is currently costing Vale BLM $1.6 million per million acres of land.

As part of the upland health assessment process, BLM actually measures plant cover with trained and experienced staff by way of one hundred foot line intercept transects. This exercise is repeated until field staff is eventually able to estimate grass, forb, and shrub cover in other locations. This allows BLM to accelerate the assessment process. BLM does not normally assess each and every plant community within a pasture. Instead, dominant vegetation communities available for livestock grazing use are considered. Upland plant cover at assessment locations is therefore derived from a combination of actual field measurements and estimates. Riparian areas are assessed by trained staff to determine if riparian and wetland areas are currently in proper functioning condition in a manner very similar to upland assessment.

Based on field observations, causal factors related to existing riparian or upland health may be noted. However, causal factors such as grazing use may not be identified in many cases until after the evaluation step described below in section 3 has been completed. If a standards assessment indicates to the field manager (authorized officer) that the rangeland is failing to achieve standards or that management practices do not conform to the guidelines, then the authorized officer will use monitoring data to identify the significant factors that contribute to failing to achieve the standards or to conform to the guidelines.

3. ***Monitoring*** –BLM reads existing rangeland trend monitoring plots to find out if key upland forage plants have increased in diameter (evidence of upward trend), decreased in diameter (evidence of downward trend), or remained unchanged (evidence of static trend or trend not apparent) since the last trend plot reading. Upland trend plot monitoring data collected by BLM is quantitative and not qualitative. The results are expressed in terms of total feet of key grass basal diameter as measured by a 100 foot line intercept. Rangeland monitoring information is ultimately used as part of the field manager's rationale for determinations as described in section 5 below. Monitoring continues to occur after the final grazing decision as a way to determine if management objectives for rangeland vegetation are being attained.

   Resource information obtained by BLM from efforts such as rangeland trend plot readings, riparian trend plot readings, riparian stubble height measurements, and upland livestock utilization levels are all considered grazing system performance indicators. As BLM monitors performance indicators directly influenced by livestock grazing use, professional staff is then able to determine on an ongoing basis if permitted grazing is likely to meet resource objectives stated in the ROD. Performance indicators should not be confused with Oregon / Washington standards, indicators of rangeland health, or ROD resource management plan objectives.

4. ***Evaluation*** - BLM field staff and managers meet and examine all available information such as assessment findings, quantitative rangeland trend plot readings, livestock actual use dates, livestock utilization data, climatic information, and opinions, observations, or studies provided by permittees. Staff and managers spend several weeks examining and discussing available information to craft the evaluation. The evaluation describes the relationship between implemented grazing use and management practices with rangeland health standards and land use plan objectives.

5. ***Determination*** – Based on the evaluation findings, BLM field managers make a determination that current livestock grazing either is or is not a significant causal factor in any failure to meet rangeland health standards. The reason or reasons for failure to meet one or more standards are clearly identified by BLM staff and shared with grazing permittees and other interested publics. Reasons for failure to meet one or more of the standards will not always and necessarily be implicated with current livestock grazing use. For example, a pasture or location within a pasture may fail one or more standards for reasons such as; (1) invasive plant influences (2) plant functional and structural group departure from expected conditions caused by historical grazing use (3) geographic extent of wildfire or prescribed fire impacts or (4) natural landform limitations.

   Before Field Managers sign final determinations, "preliminary" determinations are shared with permittees and the interested public. This allows BLM to explain why and where standards are not being met before the evaluation is published and it provides one more comment or error identification opportunity for permittees or other interested publics. The intent of this exercise is to provide enough information so that

there are no surprises in the final evaluation. After a determination has been signed by the authorized officer, and grazing is considered a significant causal factor in failure to meet standards, BLM must then take action which will result in significant progress towards the attainment of rangeland health standards in a way consistent with the guidelines for livestock grazing management. By federal regulation, BLM action must occur before the beginning of the next grazing season.

6. ***Environmental Assessment*** – Based on the evaluation findings and recommendations, BLM describes the existing environment grazed by permittee livestock and then examines a range of alternatives for grazing permit renewal including continuation of current management and two or three other options including the BLM preferred alternative. Options to remedy standards failure due to livestock use are described and analyzed. Based upon the analysis, BLM may conclude that an Environmental Impact Statement (EIS) is not necessary by declaring a Finding of No Significant Impact, or FONSI. Finally, the preferred alternative, or proposed action, will influence the terms and conditions that will be applied to renewed grazing permits. BLM may, and usually does, reissue its initial EA as a revised EA in order to correct errors or incorporate final adjustments to analyses.

7. ***Proposed Grazing Decision*** – BLM issues proposed grazing permit terms and conditions based on the EA that are necessary to meet the; (1) Oregon / Washington Standards for Rangeland Health and Guidelines for Livestock Grazing Management and (2) multiple use management objectives contained in the SEORMP Record of Decision. Proposed decisions may be protested.

8. ***Final Grazing Decision*** – In the absence of any protest of the proposed decision, it becomes a final decision. Should any protests of a proposed decision be received, the authorized officer will issue a final decision based on all information available, including information provided in the protest. A period is provided for appeal and stay of a final decision for hearing before an administrative law judge.

Protest Point 8

Permittees protested the fact that BLM would not allow an extra 2 weeks to review economic impacts to the individual permittees.

Protest Response 8

The above referenced letter is not a decision which can be protested.

The "decision" you reference above was in fact a letter that documented my adherence to the regulations in providing the permittees and interested public 15 days to file a protest of any Notice of the Field Manager's Proposed Decision issued to renew 10-year grazing permits within the NFMGMA. According to 43 CFR 4160.2 Protests, "Any applicant, permittee, lessee or other interested public may protest the proposed decision under §4160.1 of this title in person or in writing to the authorized officer within 15 days after receipt of such decision."

Protest Point 9

Permittees protested the BLM Finding of No Significant Impact (FONSI) on certain issues related to beneficial and adverse effects and controversy.

Protest Response 9

A Finding of No Significant Impact (FONSI) cannot be protested, but may be appealed if you believe that Significant (as defined in 40 CFR 1508) effects on the human environment are likely as a result of implementation of the preferred alternative (Alternative II, EA# OR030-006-007). This in mind, it is important to note that if the FONSI was issued in error, and significant impacts can be anticipated due to implementation, then they must be fully analyzed in an Environmental Impact Statement pursuant to 43 CFR 1600. The SEORMP FEIS analyzed a range of livestock grazing allocations (the assumed consequences if the alternatives were implemented analyzed a change from a 20% decrease in AUMs to up to a 10% increase in AUMs across all alternatives) and the SEORMP ROD (2002) allows for -/+ 10% change in AUMs over the life of the plan. The NFMGMA proposed decisions identified no change in available AUMs, as long as terms and conditions were adhered to in order to meet management objectives of the plan and the SEORMP. Even in Alternative III the temporary suspension of AUMs would only equate to a 3.5% decrease in AUMs over the SEORMP planning area (Malheur and Jordan Resource Areas combined), which is well within that approved in the SEORMP ROD. The Field Manager maintains that

consistent with the analysis and FONSI, no significant impacts are anticipated and therefore, preparation of an EIS is not required.

Protest Point 10

Protesters argue that BLM did not use interagency technical references properly and that the agency should have "weighed" the livestock carrying capacity.

Protest Response 10

BLM did look at livestock carrying capacity, utilization, actual use, trend data, photo plots, rangeland health assessments, climatic data, and Oregon Automated Ecological Site Inventory System (OAESIS)(vegetation condition surveys completed 1979-1980) data consistent with TR 1734-3 and the SEORMP. Appendix G in the Draft EA reported actual use and utilization as well as the current situation for the stocking rate (acres/AUM) based upon approved methods identified in the interagency technical reference (TR 1734-3, pp. 119-125). TR 1734-3 on page 1 specifically notes: "Utilization data and residual measurements should not be used alone to determine stocking rates. Adjustment in stocking rates should also include trend data, climatic information, actual use data, and other information."

The preponderance of evidence reported in the standards for rangeland health assessments and the determinations showed a departure from expected conditions, upon comparison to ecological site descriptions and/or reference areas. This, coupled with downward trends in many pastures, average actual use reported in some native pastures in the 3-6 acre per AUM range (professional judgment of some senior rangeland management specialists suggest that in blue bunch wheatgrass sites, grazing use below 10 acre per AUM may cause ecological damage), and a desire to maintain livestock grazing use *consistent with resource values*, suggests that either reduced use and/or the application of management constraints (terms and conditions of the permit) would be prudent to provide for the management, protection, development, and enhancement of the public lands. Even though crop-year adjusted production in many cases reflected less use than was available, on-the-ground resource conditions warranted changes be made in authorized grazing use in order to be consistent with the regulations (43 CFR 4180) and the SEORMP.

Protest Point 11

The proposed decision arbitrarily selected the changes in grazing management without site-specific information and enough data to support a level of certainty that confidence can be placed in the decision to make the management changes in a way that will produce an upward response and not in fact cause the sites to decline. The agency must address the issue in order to avoid making an arbitrary decision.

Protest Response 11

The NFMGMA EIS analyzed three alternatives and included three additional alternatives considered but eliminated from further analysis. In addition to the identification of the existing environment at various scales for resources affected by actions identified in the alternatives, including site specific information, analysis for each of the three alternatives considered the site specific and larger scale consequences of implementing actions identified. The proposed decisions and now the final decisions, which are the actions identified in alternative 2 of the EA, crafted changes in grazing management based upon consultation, coordination, and cooperation with the many permittees (over 47 meetings, training courses, and field tours with permittees, not including many phone conversations and written correspondence), on-the-ground SRH field assessments, actual use data submitted by the permittees (in many cases annual data from 1978 to 2005), short and long-term line-intercept trend data, photo plots, PFC assessments, upland utilization monitoring data (collected utilizing agency and authorized officer-approved techniques), climatic data, wildlife population data, the best available soils and vegetation information, all coupled with senior staff experience and professional judgment, consistent with the direction of the SEORMP ROD. The proposed decision is supported by an extensive administrative record which provided the rationale for actions that are consistent with law, policy, and guidance. The process utilized leads the authorized officer to a reasonable conclusion which is neither arbitrary nor capricious.

Protest Point 12

It is unreasonable to modify grazing schedules to the extent that livestock would have to be removed from an allotment if utilization limits are met on one pasture and the next pasture in the rotation is outside of the planned season of use. Protesters argue that BLM has no basis for making this decision.

Protest Response 12

Within a "season of use," certain impacts are anticipated on the various resources present. The grazing systems proposed in the NFMGMA plan are reliant on limitations to seasons, intensity, duration, and frequency of use across and within years of a grazing system so that staff could effectively analyze the impacts on existing resource values. Appendix R of the SEORMP ROD provides guidance for the development of grazing schedules. For example, if a pasture is scheduled for spring use and the maximum utilization is reached 10 days before the expected end date, and the next pasture in the rotation is also scheduled for spring use, then movement to the next pasture would likely be authorized if appropriately requested by the permittee due to the likelihood of regrowth and similar to expected impacts on resources. However, in the event that a spring use pasture is utilized to the maximum allowable level and the next pasture in the rotation is scheduled for deferment until after the growing season, movement to the next pasture would likely not be authorized because the impacts would be different than expected, would not allow for regrowth (or regrowth would be limited, dependant upon the year), and would not allow for conditions expected to provide progress toward meeting objectives identified in the plan.

While some uncertainty exists due to climatic conditions as to the exact dates scheduled, seasons of use are important indicators of expected impacts, and are therefore not arbitrarily assigned. Date-specific use is certainly not new to public lands grazing, as the regulations specify that permits issued by 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" (43 CFR 4130.1a). The proposed decisions simply restrict use to improve and/or maintain resource values while identifying where flexibility either exists, or is lacking in the grazing operation.

It is important to note that by focusing attention on utilization levels allows us to best gage the impacts that occur to primary forage plants as the growing season progresses. This is especially important during periods of sustained drought when forage plants are stressed and available production is much reduced.

Protest Point 13

Protesters disagreed with the BLM requirement to have stubble height performance standards in riparian areas.

Protest Response 13

Riparian stubble height measurements are a monitoring tool (performance indicator) that would be used to assist monitoring riparian areas; they are not guidelines. The term guidelines as used in the EA document is defined in the 1997 Standards for Rangeland Health and Guidelines for Livestock Grazing Management as offering guidance in achieving plan goals, meeting standards for rangeland health and fulfilling the fundamentals of rangeland health.

In the proposed decisions, the narrative states measurement would occur from one day to two weeks after livestock are removed. This was erroneously stated since the Final EA states that measurement of the stubble height needs to be used both while livestock are in the pasture and at the end of the growing season. An example of how to use the stubble height measurements while livestock are in a pasture is when livestock are grazing during the hot season, both permittees and agency professionals are be able to use stubble heights on the riparian species to determine if livestock are beginning to concentrate in the riparian areas. There are several impacts to both livestock and the resources that occur when grazing begins to occur below the four inch stubble height. Hall and Bryant, in their 1995 technical report referenced in interagency Technical Reference 1737-20 noted that cattle use of vegetation below a 3-inch stubble height requires more time and effort to obtain sufficient fill. This becomes a crucial element in livestock management where more energy is needed to gain pounds on calves. When grazing of riparian herbaceous vegetation occurs below approximately four inches in a majority of Malheur Resource Area riparian areas, browse on woody species begins to occur and stream bank trampling increases (University of Idaho Study Report, 2004; Clary and Leininger, 2000; Hall and Bryant, 1995). This concentration also begins to affect other resources including water quality, aquatic habitats, and flood controls (SEORMP).

BLM did not arbitrarily choose 4-6 inches as the stubble height monitoring tool, or performance indicator. This range was chosen because it has been recommended by several different sources as a starting point and been used in many places on the district historically.

1) This range was agreed upon during the mediation process for the Bully Creek Geographic Management Area which is adjacent to the North Fork Malheur GMA. Those attending included Vale BLM staff, Bully Creek GMA permittees, and Wayne Elmore, National Riparian Service Team lead. The mediation process used Mr. Elmore's expertise to come to an agreement on monitoring techniques in the Bully Creek watershed area.
2) This similar discussion was reiterated in the University of Idaho Stubble Height Study Report, 2004, "Based on limited research, Clary and Leininger (2000) proposed a 10 cm (4 in) residual stubble height as a "starting point for improved riparian grazing management." However, they acknowledged that, in some instances, 7 cm (2.75 in) may provide adequate riparian protection and that in other instances 15 to 20 cm (6 to 8 in) may be required to limit stream bank trampling or to reduce willow browsing."
3) These references combined with Malheur Resource Area riparian trend assessments, professional judgment of staff, and field observations have reinforced that the range suits many of the riparian areas in the North Fork Malheur GMA. In fact, there are several riparian areas in this GMA that probably require slightly higher stubble heights due to the steep topography and flashy storm systems that occur.
4) Vale BLM and United States Fish and Wildlife (USFWS) use this range in the Biological Opinion for bull trout on the North Fork Malheur River in the NFMGMA in combination with long-term riparian trend studies to determine if aquatic habitats for bull trout are being properly protected and improving.

Protest Point 14

Protesters argue that BLM technical references do not suggest use of 4-6 inch stubble height for riparian vegetation management.

Protest Response 14

TR-1737-9 and TR 1737-11 are technical manuals about how to conduct riparian area assessments, not how to manage riparian areas. For management of riparian areas, Vale BLM refers to Technical Manual TR-1737-20 "Grazing Management Process and Strategies for Riparian Area Management". This technical manual discusses the use of residual vegetation (stubble height) (pg 21-22) in proper riparian management. Utilization is also discussed, although "measurement of stubble height (residual vegetation) is often more straightforward and easier to interpret than utilization data". On page 43, this technical manual has an example of a 4-inch stubble height requirement on a tributary of the North Fork Malheur River upstream of Vale BLM. This stubble height requirement is used with "off-stream watering, in most pastures, and some herding" during hot season use to facilitate proper use of the riparian areas.

Protest Point 15

Protesters argue that BLM should have followed up with "quantification of the resources that directly measure the impacts from livestock grazing" according to EPA protocols and BLM did not consider "site specific water quality data".

Protest Response 15

In lieu of available water temperature data, the Environmental Protection Agency (EPA) recognizes shading as a water temperature best management practice and "surrogate" for Total Maximum Daily Load (TMDL) purposes. See 40 CFR 130.2(i). Protesters are incorrect in stating that the SEORMP requires acquisition of water temperature data. In addition, the BLM Southeastern Oregon Resource Advisory Committee has endorsed and approved BLM use of vegetation as an indicator for riparian considerations in Oregon / Washington Standards.

Water quality yielded by a watershed is determined by physical and chemical properties of the geology and soils unique to the watershed, the prevailing climate and weather patterns, current resource conditions, current land uses, and quality of management of those uses. Assessments of upland rangelands for Rangeland Health Standards 1 and 3, and riparian area assessments for Standard 2, have direct relevance to evaluation of Standard 4 (Water Quality).

For streams that lack specific water quality data, the Interdisciplinary Team evaluated pertinent data from all sources available, including information gathered for Standards 1, 2, and 3, to make a final determination for the assessment of the water quality standard.

Excerpted from the NFMGMA EA:
Because available site-specific water quality data were limited for NFMGMA, assessing Rangeland Health Standard 4 (Water Quality) was completed through evaluation of pertinent data from the following sources:
1. Water body status, whether the stream is on the State 303(d) list (State of Oregon 2003)
2. Limitations on beneficial uses identified for the stream's river basin
3. Existing water quality data
4. Existing supporting data, such as range monitoring data, soil surveys, slope steepness, and aerial photography
5. Assessments for Rangeland Health Standards 1 (Watershed Function –Uplands)
6. Standard 2 (Watershed Function –Riparian), and Standard 3 (Ecological Processes)
7. Drainage patterns
8. Land ownership within watersheds

Protest Point 16

A permittee in the DeArmond-Murphy allotment expressed concern about 3 years of voluntary non-use and subsequent analysis of the impacts to rangeland.

Protest Response 16
Voluntary non-use of 1,579 active AUMs in odd years and 1,763 AUMs in even years was derived from calculating carrying capacity based on average actual use and utilization for the past 20 years in each pasture. These figures gave the average carrying capacity for the proposed grazing rotation sequence in even and odd years. However, the voluntary 1,500 AUMs you have agreed to take for a three-year period (2007-2010) should meet the goals and objectives for the pastures within the allotment. It is agreed Butler Ranches and the BLM would review the results of non-use to determine if these measures are satisfactory or if additional changes need to be implemented in the future.

Protest Point 17

Protesters argue that BLM needs to amend its land use plan in order to accommodate changes proposed by BLM for NFGMA.

Protest Response 17
The existing land use plan fully incorporated and is consistent with the Oregon/Washington standards and guides. A land use plan amendment, as identified in the 4180 Rangeland Health Standards manual, is not necessary for actions proposed for NFMGMA since implementation of the Oregon/Washington Standards for Rangeland Health and Guidelines for Livestock Management was a part of management actions of the SEORMP ROD. In addition, the objectives for Rangeland/Grazing Use in the SEORMP ROD is to, "Provide for a sustained level of livestock grazing consistent with other resource management objectives and public land use allocations." The actions identified in alternative 2 of the EA, the proposed decisions, and now in the final decisions is in conformance with and consistent with the SEORMP ROD, the land use plan for Malheur Resource Area.

Protest Point 18

Protesters argue that 21% to 40% livestock utilization might not be capable of meeting a wildlife objective.

Protest Response 18
The protestors are directed to the SEORMP ROD Appendix F page F-3 where a discussion of utilization levels is presented as it relates to quality of wildlife habitats. The FEIS clearly stated that light grazing use in native range is preferred as a means of promoting wildlife habitat conservation. The protestors are also directed to Protest Response 6. One instance where a 50% - 60% livestock utilization level may be beneficial to meet wildlife habitat objectives would be in a rank stand of crested wheatgrass; e.g. where there are wolf plants and a need for quality forage.

Protest Point 19

Concerning the pasture rotation for Whitley Canyon Allotment on page 4, I am protesting the season of use on the Little Malheur Pasture. I propose to use the Little Malheur Pasture in the following rotation: 2008 3/20-5/1, 2009 5/1-6/15, 2010 8/15-11/31. This will be more convenient for our ranch, and since it will only be used 1 out of 3 years during the growing season, I believe it will benefit the pasture.

Protest Response 19

BLM met with Hammond Ranches, Whitley Canyon Allotment permittee prior to summer 2007, on numerous occasions during the NEPA process. BLM consulted, cooperated, and coordinated with Hammond Ranches during these meetings to incorporate Hammond Ranches' requests into the EA. During the final editing stages of the revised EA, Hammond Ranches transferred the Whitley Canyon Allotment to two separate livestock operators. The grazing system you have proposed was not analyzed in either edition of EA-OR-030-006-007 as the proposal was submitted after analysis in the revised EA was completed. Analysis of this proposal would require the compilation an Addendum to the EA.

Protest Point 20

Since Three Valley Ranches own the Whitley Canyon Permit and the Castle Rock Permit, the owners strongly recommend the following statement as a term and condition in the above referenced document:

> ***"At the time Siegner's Riverside Ranch lease of Whitley Canyon Allotment expires or is terminated, the permit reverts back to control of Three Valley Ranches. At this time the Little Malheur River Pasture, River Pasture, and Dogwood Pasture, also with the assigned AUMs would again become part of the grazing system proposed for the Whitley Canyon Allotment."***

Protest Response 20

Public land within the borders of the Whitley Canyon Allotment is attached to base property that is owned by Three Valley Ranches and currently leased to Siegner's Riverside Ranch and [redacted]

According to CFR 4110.2-3 (3)(b) *Transfer of grazing preference, The transferee shall accept the terms and conditions of the terminating grazing permit or lease with such modifications as he may request which are approved by the authorized officer or with such modifications as may be required by the authorized officer.*

Based on the above regulations the transferee (person controlling the base property) may request modifications from the authorized officer following a transfer, however it is at the discretion of the authorized officer to deny or grant the modifications based upon resource objectives. Thus the BLM will not add the above language to your grazing permit.

Protest Point 21

The Butte Tree Allotment has been a Fenced Federal Range (FFR) consisting of 1,300 acres of private land and 617 acres of BLM land. The total of 1,917 acres is 68% private land and 32% BLM. According to the above sited conditions, the BLM is dictating how private land owner must use land that belongs exclusively to the owner. Additionally, the Butte Tree Allotment is a separate allotment and does not belong in the Whitley Canyon Allotment. If the Butte Tree Allotment belongs in any allotment it would be the Castle Rock Allotment.

Protest Response 21

Butte Tree Allotment (10212) has been managed as a custodial allotment, as summarized in the Southeastern Oregon Resource Management Plan (Appendix E, page 100). As a custodial allotment with significant private land managed in conjunction with public domain, BLM does not define the season of use and livestock numbers so long as damage to public land does not occur. During the evaluation/assessment of management practices in North Fork Malheur Geographic Management Area, the rangeland health standards for Ecological Process, Water Quality and

Native Species were not met in most of the Allotment. Current livestock grazing was identified as a cause; affecting the soil stability by reducing litter and affecting soil productivity and increasing erosion, causing a shift in the plant composition towards species favoring disturbed sites, plus juniper and cheatgrass invasions.

Failure to meet rangeland health standards on public land due to current livestock management practices is reason to no longer manage Butte Tree Allotment as a custodial allotment. The proposed action is to implement appropriate actions to make progress toward meeting standards, in accordance with 43 CFR 4180 regulations, by incorporating Butte Tree Allotment as a managed pasture of Whitley Canyon Allotment. With this proposed action, BLM would define how public land in Butte Tree Allotment will be managed and not dictating how private land will be managed. The owner of private land always has the option to manage lands that belong exclusively to the owner as they choose and BLM has not and will not attempt to manage private land.

During discussions with the permittee in this allotment from 2002 – 2004, the Permittee indicated that it would be best to include this allotment with the Whitley Canyon Allotment for management purposes. This proposal was what was analyzed for the Final EA.

Protest Point 22

Siegner's Riverside Ranch, along with Three Valley Ranches proposes the following gazing system for River and Dogwood Pastures:

Pasture	*Year 1*	*Year 2*	*Year 3*
River	*6/1-6/30*	*Rest*	*7/1-7/20*
Dogwood	*6/1-6/30*	*Rest*	*7/1-7/20*

Protest Response 22

Both of the pastures are located along the North Fork Malheur River and managed under provisions included in the Biological Opinion for bull trout. Changing the grazing system on this river corridor would require additional consultation with US Fish and Wildlife Service. The Biological Opinion is due to be renewed in 2008; therefore, permittees will be able to be involved in discussions with BLM and USFWS during this process. While considering management proposals for the river corridor, it is important to remember that Endangered Species Act legal requirements are stringent and any flexibility allowed must first meet the conservation and recovery needs of bull trout.

Currently the BLM's proposed grazing rotation for Dogwood and River pastures in the Whitley Canyon Allotment as noted in the second edition of EA-OR-030-006-007 is listed below:

Pasture	Year 1(2007)	Year 2(2008)	Year 3(2009)
River	Rest	5/1-5/30	Rest
Dogwood	Rest	5/1-5/30	Rest

The footnote in the EA is unclear so it will be rewritten in errata to say:
Grazing in these two pastures would occur the same year as grazing occurs in N. Rockpile in the Castle Rock Allotment (depending on year grazing system is implemented, coordinate implementation of grazing sequence with previous use). Grazing in these pastures would be allowed during these dates as long as conditions in the BO are met. Grazing in these pastures will be designated annually in the Final Yearly Reports.

Protest Point 23

It appears to me that implementation of the grazing schedule is going to occur before the needed projects are completed.

Protest Response 23

Implementation of the grazing schedules may occur before all of the projects are completed. In Appendix E of the revised EA-OR-030-006-007 on page 212, a project implementation timeline is presented.

Protest Point 24

I question whether or not that PJ#2 field would be able to support 337 Cattle from 4/1 to 6/30 or 295 Cattle from 8/07 to 10/31 there are not many acres and it is very steep.

Protest Response 24

It is important to note that in Year 1 PJ#2 is scheduled for livestock use at the same time as Burnt Mountain and that in Year 3 PJ#2 is scheduled for livestock use at the same time as Pete's Mountain, thus it would be up to the livestock operator to make their own decision within the established timeframes as to the exact number of AUMs to be utilized within each of the two pastures. The only restriction is that number of AUMs utilized stays at or below 1008 in the spring and at or below 834 in the summer/ fall provided that upland and riparian performance indicators are met within the two pastures.

Protest Point 25

The salting requirement does not bother me other than the fact that sage grouse leks may not be recognizable or identifiable. Will this be done?

Protest Response 25

In Section 7 Maps of the revised EA-OR-030-006-007 on Map 8- Fish Bearing Streams and Special Status Species the location of sage grouse leks are presented. Contact BLM personnel to further clarify locations of leks when needed.

Protest Point 26

I note that a permittee is required to maintain rangeland improvements, yet he is required to get a permit to do so. It would seem to me if the permittee signs his grazing permit requiring maintenance he has been authorized and encouraged do the maintenance. Another permit requirement would mean delays or even failure to get the necessary maintenance done.

Protest Response 26

During the transfer process on 4/14/07 you signed Form 4120-8 Assignment of Range Improvements. This Form is your permit in accordance with 43 CFR 4120.3; however this decision adds Two Rivers Fence, Ford Reservoir, Grasshopper Flat Spring, Currey Ridge Fence, and Grasshopper Flat Fence to your permit.

Protest Point 27

I protest sealing three existing reservoirs, Stemler Ridge, Adobe, and Dugout, waiting to see if they fail then drilling a well and putting in 1.1 miles of pipeline after two grazing seasons. Currently Allotment # 6 is being used during the winter. Reservoirs without live water have no winter use application due to ice. I propose constructing 1.5 miles of pipeline from an existing stock well on private land to the Currey Canyon Reservoir.

Protest Response 27

The new route of the proposed Currey Canyon Pipeline will be accepted as it is well within the size and scope of the preferred alternative of EA OR-030-006-007. This proposal will result in less expense since a well will not have to be drilled, and the three reservoirs will not have to be sealed. The watering troughs associated with the new Currey Canyon Pipeline will be placed in the disturbed area of the Currey Canyon Reservoir which will result in little to no negative livestock impacts from loafing livestock.

Protest Point 28

I propose providing permittee with clearances for a well to be drilled on the north end of allotment #6 near Stemler Ridge Reservoir. Permittee will find alternative funding for this project.

Protest Response 28

This project may or may not be within the size and scope of the preferred alternative of EA OR-030-006-007. The BLM requires more information than what is provided such as a project description and how this proposal fits into EA OR-030-006-007.

Protest Point 29

The reservoir I proposed needs to be put in the West MJ pasture.

Protest Response 29

Under Oregon law, all water is publicly owned. Oregon Water Resources Department controls water use and rights in the State of Oregon. Oregon Water Resources Department does not identify any surface water available in the watershed in which the reservoir is proposed. BLM cannot support the proposed reservoir as the water storage is deemed not available according to the State of Oregon.

Protest Point 30

The Moonshine pasture needs to be cross-fenced and fall use put into the rotation.

Protest Response 30

The Moonshine pasture is scheduled to be grazed in common with operator number 3603154 and is estimated to support approximately 60 AUMS (6.5%) of your preference, the other 1160 AUMS (93.5%) will be grazed solely by your livestock. Fall use in the Moonshine pasture would allow for faster progress toward attainment of failed standards for upland rangeland health; however the other permittee that you share this pasture with was not receptive to fall use. Fall use in the Moonshine pasture may also slow progress toward attainment of failed standards for riparian health. A cross fence for Moonshine pasture was not analyzed in either edition of the EA and thus would require the compilation of an Addendum to the EA.

Protest Point 31

Protesters identified several grazing system changes as follows:

- ***Jack Creek Pasture needs to be grazed from 3/15 to 4/15 in year 1 of the Beulah Allotment grazing schedule instead of 3/15 to 4/7.***
- ***Upper Poverty needs to be grazed from 4/1 to 5/1 in year 1 of the Beulah Allotment grazing schedule instead of 4/7 to 5/1.***
- ***Upper Poverty needs to be grazed from 9/1 to 10/15 in year 2 of the Beulah Allotment grazing schedule instead of 9/1 to 10/7.***
- ***North East Homestead needs to be grazed from 5/15 to 6/21 in year 3 of the Beulah Allotment grazing schedule instead of 6/1 to 6/21.***

Protest Response 31

Suggestions provided were considered by BLM in the grazing system deliberations and the outcomes would not meet management objectives.

Protest Point 32

[redacted] ***pointed out that his permit dates are 3/15 to 10/31.***

Protest Response 32

The proposed grazing decision with your new term permit and grazing schedule does not support 7/2 to 8/31 livestock use. Your new term permit and grazing schedule was developed with your input from eight separate meetings within the last 11 months with the BLM in order to allow progress toward meeting failed Standards and Guidelines for livestock management within 8 of 10 of your non FFR pastures. You requested a permit with the

most flexibility as to livestock number, kind, and date. The BLM identified limited flexibility in your allotment in order to meet resource objectives. Therefore, your grazing authorization and pasture rotation, as noted in your final grazing decision, provides the greatest amount of flexibility while still allowing the allotment to meet resource objectives.

Protest Point 33

In reference to North Fork Malheur Wild and Scenic Study River the 3.6 mile long corridor is an established livestock driveway. The livestock driveway starts at the headwaters and goes down the river corridor to the Castle Rock Ranch.

Protest Response 33

BLM is unaware of any documented livestock driveway associated with the North Fork Malheur Wild and Scenic Study River. Any livestock trailing that occurs within this corridor would require a trailing permit which triggers consultation with the United States Fish and Wildlife Service per requirements of the Biological Opinion for Bull Trout within the North Fork Malheur River.

Protest Point 34

I did not agree to take non- use from 5/2 to 6/4 in years 2 and 4. This can be changed by simply staying in Agency Mountain 1 to 2 weeks longer and going to Water Gulch 1 to 2 weeks earlier in years 2 and 4.

Protest Response 34

The non- use period of 5/2 to 6/4 was scheduled for years 2 and 5 for an estimated 251 AUMs of Non-Use. During a telephone conversation with you on 1/15/08 you proposed a shorter Non-Use period of 5/2 to 5/18 on years 2 and 5 for an estimated 133 AUMs of Non-Use. In consideration of the minor differences to the resource we concluded that a Non-use of 133 AUMs from 5/2 to 5/18 would allow Water Gulch to maintain resource conditions.

Protest Point 35

A permittee submitted a revised grazing schedule for Castle Rock Allotment.

Protest Response 35

The grazing system you have proposed was not analyzed in either edition of EA-OR-030-006-007 as the proposal was submitted after analysis in the revised EA was completed. Analysis of this proposal would require the compilation of an Addendum to the EA.

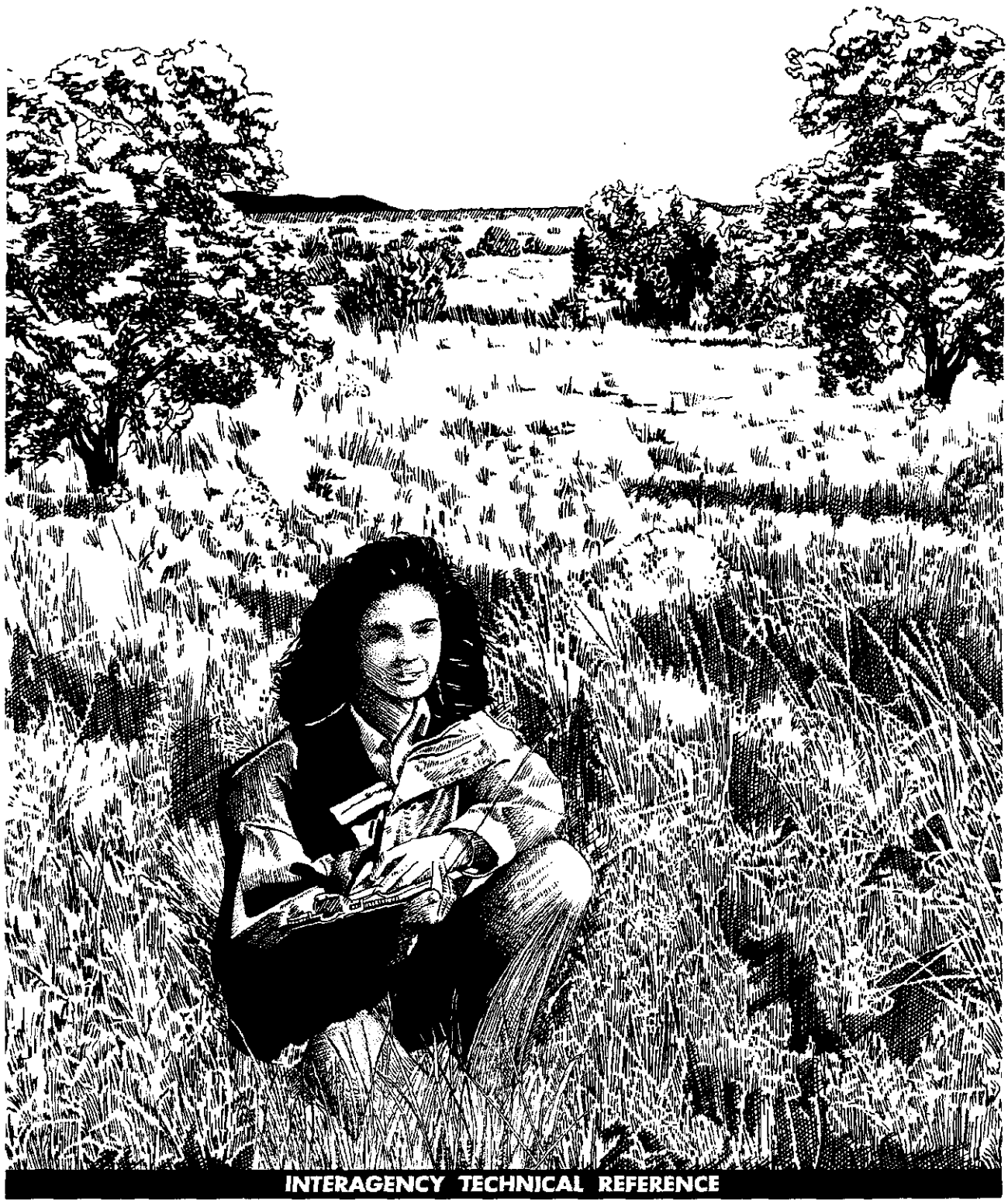
Protest Point 36

Must have flexibility in allotment moves for better overall management. It seems like your allotment move dates are written in stone.

Protest Response 36

As noted in EA OR-030-006-007 page 30 for the ease of operation, four days of flexibility in turn-out/gathering would be allowed in each pasture identified in a grazing schedule for a maximum of 8 days.

UTILIZATION STUDIES AND RESIDUAL MEASUREMENTS



Utilization Studies and Residual Measurements

Interagency Technical Reference

Cooperative Extension Service

U.S. Department of Agriculture

—Forest Service—

Natural Resource Conservation Service,
Grazing Land Technology Institute

U.S. Department of the Interior

—Bureau of Land Management—

1996

Revised in 1997, 1999

Supersedes BLM Technical Reference 4400-3, *Utilization Studies*, dated September 1984

Edited, designed, and produced by the Bureau of Land Management's
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UTILIZATION STUDIES AND RESIDUAL MEASUREMENTS

Interagency Technical Reference

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DEDICATION

This publication is dedicated to the memory of Kristen R. Eshelman, who contributed tremendously to its development and preparation. Throughout his career, Kris was instrumental in producing numerous technical references outlining procedures for rangeland inventory, monitoring, and the evaluation of rangeland data. Through his efforts, resource specialists were provided with the tools to improve the public rangelands for the benefit of rangeland users and the American public.

I. PREFACE

The intent of this interagency monitoring guide is to provide the basis for consistent, uniform, and standard utilization studies and residual measurements that are economical, repeatable, statistically reliable, and technically adequate. While this guide is not all inclusive, it does include the primary study methods used across the West. An omission of a particular sampling method does not mean that the method is not valid in specific locations; it simply means that it is not widely used or recognized throughout the western states. (see Section V.E, Other Methods.)

Proper use and management of our rangeland resources has created a demand for uniformity and consistency in rangeland health measurement methods. As a result of this interest, the USDI Bureau of Land Management (BLM) and USDA Forest Service met in late 1992 and agreed to establish an interagency technical team to jointly oversee the development and publishing of vegetation sampling field guides.

The 13-member team currently includes representatives from the Forest Service, BLM, the Grazing Land Technology Institute of the Natural Resource Conservation Service (NRCS), and the Cooperative Extension Service.

The interagency technical team first met in January 1994 to evaluate the existing rangeland monitoring techniques described in BLM's *Utilization Studies, Technical Reference TR 4400-3*. The team spent 2 years reviewing, modifying, adding to, and eliminating techniques for this interagency Utilization Studies and Residue Measurements technical reference. Feedback from numerous reviewers, including field personnel, resulted in further refinements.

D. Qualitative Assessments - Landscape Appearance Method (formerly the Key Forage Plant Method)

This technique uses an ocular estimate of forage utilization based on the general appearance of the rangeland. Utilization levels are determined by comparing observations with written descriptions of each utilization class.

a **Areas of Use** This method is adapted to areas where perennial grasses, forbs, and/or browse plants are present and to situations where utilization data must be obtained over large areas using only a few examiners.

b **Advantages and Limitations** This method is rapid and does not require unused areas for training purposes. Estimates are based on a range (class) of utilization rather than a precise amount. Different examiners are more likely to estimate utilization in the same classes than to estimate the same utilization percentages. One limitation of this technique is that the method can still result in varying estimates because of different examiners. Another limitation is that there is no way to assess the precision of the estimate because the estimates are qualitative.

c **Equipment**

- Study Location and Documentation Data form (see Appendix A)
- Landscape Appearance form (see Illustration 22)
- Tally counter (optional)

d **Training** Personal judgment is involved in any estimation method. Estimates are only as good as the training and experience of the examiners (see Section III.D.9). The training described for the Ocular Estimate and Key Species Methods often helps examiners using this method make the utilization class estimations (see Section V.C.2 and 3). The examiners must be trained to recognize the seven herbaceous or seven browse utilization classes using the written class descriptions. Examiners must think in terms of the general appearance of the rangeland at each observation point, rather than weight or height removed.

e **Establishing Studies** Careful establishment of studies is a critical element in obtaining meaningful data. Note that it is not necessary to select key species or to complete pilot studies, since statistical analysis is not possible under this method.

(1) At the beginning of each study, determine the transect bearing and distance between observation points. Select a prominent distant landmark such as a large tree, rocky point, etc., that can be used as the transect bearing point.

(2) Plot the transects on detailed management unit maps and/or aerial photos (see beginning of Section III).

(3) Permanently mark the location of each study with a reference post and study location stake (see beginning of Section III).

(4) Number studies for proper identification to ensure that the data collected can be positively associated with specific studies on the ground (see Appendix B).

(5) Document the location and other pertinent information concerning the study on the Study Location and Documentation Data form (see beginning of Section III and Appendix A).

f Sampling Process After examiners are trained and have confidence in their ability to judge utilization by utilization classes, proceed with the collection of utilization data. At each observation point along the transect, estimate the utilization class using the written description of the classes. In those cases where part of a class description does not apply (example: percentage of seedstalks remaining), judge utilization based on those parts of the description that do apply. An observation point is the immediate area visible to examiners when standing at a particular location along the transect. Record the estimates by dot count by utilization class on the Landscape Appearance From (see Illustration 22).

(1) ***Herbaceous utilization classes*** Seven utilization classes are used to show relative degrees of use of herbaceous species (grasses and forbs). Each class represents a numerical range of percent utilization. Estimate utilization within one of the seven classes. Utilization classes are as follows:

(a) (0-5%). The rangeland shows no evidence of grazing use or negligible use.

(b) (6-20%). The rangeland has the appearance of very light grazing. The herbaceous forage plants may be topped or slightly used. Current seedstalks and young plants are little disturbed.

(c) (21-40%). The rangeland may be topped, skimmed, or grazed in patches. The low value herbaceous plants are ungrazed and 60 to 80 percent of the number of current seedstalks of herbaceous plants remain intact. Most young plants are undamaged.

(d) (41-60%). The rangeland appears entirely covered as uniformly as natural features and facilities will allow. Fifteen to 25 percent of the number of current seedstalks of herbaceous species remain intact. No more than 10 percent of the number of low-value herbaceous forage plants are utilized. (Moderate use does not imply proper use.)

(e) (61-80%). The rangeland has the appearance of complete search. Herbaceous species are almost completely utilized, with less than 10 percent of the current seedstalks remaining. Shoots of rhizomatous grasses are missing. More than 10 percent of the number of low-value herbaceous forage plants have been utilized.

(f) (81-94). The rangeland has a mown appearance and there are indications of repeated coverage. There is no evidence of reproduction or current seedstalks of herbaceous species. Herbaceous forage species are completely utilized. The remaining stubble of preferred grasses is grazed to the soil surface.

(g) (95-100). The rangeland appears to have been completely utilized. More than 50 percent of the low-value herbaceous plants have been utilized.

(2) ***Browse utilization classes*** Seven utilization classes show relative degrees of use of available current year's growth (leaders) of browse plants (shrubs, half shrubs, woody vines, and trees). Each class represents a numerical range of percent utilization. Estimate utilization within one of the seven classes. Utilization classes are as follows:

(a) (0-5%). Browse plants show no evidence of grazing use or only negligible use.

(b) (6-20%). Browse plants have the appearance of very light use. The available leaders of browse plants are little disturbed.

(c) (21-40%). There is obvious evidence of leader use. The available leaders appear cropped or browsed in patches and 60 to 80% of the available leader growth of browse plants remains intact.

(d) (41-60%). Browse plants appear rather uniformly utilized and 40 to 60% of the available leader growth of browse plants remains intact.

(e) (61-80%). The use of the browse gives the appearance of complete search. The preferred browse plants are hedged and some plant clumps may be slightly broken. Nearly all available leaders are used and few terminal buds remain on browse plants. Between 20 and 40% of the available leader growth of browse plants remains intact.

(f) (81-94%). There are indications of repeated coverage. There is no evidence of terminal buds and usually less than 20% of available leader growth on browse plants remains intact. Some patches of second and third years' growth may be grazed. Hedging is readily apparent and the browse plants are more frequently broken. Repeated use at this level will produce a definitely hedged or armored growth form.

(g) (95-100). Less than 5% of the available leader growth on browse plants remains intact. Some, and often much, of the more accessible second and third years' growth of the browse plants has been utilized. All browse plants have major portions broken.

g Calculations Calculate the percent utilization as follows:

(1) Convert the dot count to the number of observations for each utilization class.

(2) Multiply the number of observations in each utilization class times the midpoints of the class intervals.

(3) Total the products for all classes.

(4) Divide the sum by the total number of observations on the transect.

(5) Record the average percent utilization on the Landscape Appearance form (see Illustration 22).

h Data Analysis Calculate confidence intervals around average estimated percent utilization.

i References

Anderson, E. William and Wilbur F. Currier. 1973. Evaluating zones of utilization. J. Range Manage. 26:87-91.

Heady, Harold F. 1949. Methods of determining utilization of range forage. J. Range Manage. 2:53-63.

U.S. Department of Interior Bureau of Land Management. 1984. Rangeland Monitoring - Utilization Studies, TR4400-3.

Landscape Appearance

Study Number	Date	Examiner

Allotment Name & Number	Pasture

Kind and/or Class of Animal	Period of Use

Class Interval	Int Mid (M)	Dot Count	No. By Class (C)	No. X Midmt. (C)(M)
0-5%	2.5			
6-20%	13			
21-40%	30			
41-60%	50			
61-80%	70			
81-94%	88			
95-100%	97.5			
		Totals		

Avg. Util. $= \frac{\Sigma(CM)^*}{\Sigma C} =$ _____

Notes (use other side or another page, if necessary)

* Where C = The number of observations within each class interval (C column), M = the class interval midpoint (M column), and Σ = the summation symbol.

(a) (0-5%). The rangeland shows no evidence of grazing or negligible use.

(b) (6-20%). The rangeland has the appearance of very light grazing. The herbaceous forage plants may be topped or slightly used. Current seedstalks and young plants are little disturbed.

(c) (21-40%). The rangeland may be topped, skimmed, or grazed in patches. The low value herbaceous plants are ungrazed and 60 to 80 percent of the number of current seedstalks of herbaceous plants remain intact. Most young plants are undamaged.

(d) (41-60%). The rangeland appears entirely covered as uniformly as natural features and facilities will allow. Fifteen to 25 percent of the number of current seedstalks of herbaceous species remain intact. No more than 10 percent of the number of low-value herbaceous forage plants are utilized. (Moderate use does not imply proper use.)

(e) (61-80%). The rangeland has the appearance of complete search. Herbaceous species are almost completely utilized, with less than 10 percent of the current seedstalks remaining. Shoots of rhizomatous grasses are missing. More than 10 percent of the number of low-value herbaceous forage plants have been utilized.

(f) (81-94). The rangeland has a mown appearance and there are indications of repeated coverage. There is no evidence of reproduction or current seedstalks of herbaceous species. Herbaceous forage species are completely utilized. The remaining stubble of preferred grasses is grazed to the soil surface.

(g) (95-100). The rangeland appears to have been completely utilized. More than 50 percent of the low-value herbaceous plants have been utilized.