



# United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Boise District Office

3948 Development Avenue

Boise, Idaho 83705

<http://www.id.blm.gov/offices/lsrcd>



09/28/2007

In Reply Refer To:  
4130 ID110  
1101855

Certified - Return Receipt Requested

Jake Glen Merrill

## **Notice of Field Manager's Proposed Decision**

Dear Mr. Merrill:

### **Introduction**

The purpose of this proposed decision is to implement actions presented in Categorical Exclusion (CE) ID-110-2007-CE-3615 for grazing permit renewal. Renewal of the grazing permit to Jake Glen Merrill, for the authorization of livestock grazing on North Fork FFR Allotment #293, is in conformance with:

- The Taylor Grazing Act, 1934,
- The Federal Land Policy and Management Act, 1976 (FLPMA), Title IV, Section 402,
- Title 43 of the Code of Federal Regulations Part 4100, Grazing Administration – Exclusive of Alaska,
- Idaho Standards for Rangeland Health and Guidelines for Livestock Grazing Management,
- the 1988 Cascade Resource Management Plan, and
- Instruction Memorandum ID-090-2004-086 (IM)
- Federal Register Notice; Volume 72, Number 156; Tuesday, August 14, 2007.

### **Background**

Idaho Standards for Rangeland Health and Guidelines for Livestock Grazing Management were approved by the Secretary of the Interior August 12, 1997. Following this, the Idaho State Office issued instructions for implementing the requirement of 43 CFR (Code of Federal Regulations) 4100 – Grazing Administration (exclusive of Alaska) in May 1998. These actions initiated the ten-year assessment timeframe in which the Bureau of Land Management (BLM) is required to have all public lands assessed to determine conformance with Idaho Standards for Rangeland Health and Guidelines for Livestock Grazing Management (standard and guidelines).

To conduct standard and guideline assessments, Four Rivers Field Office (Four Rivers) was divided into ten management areas called watersheds. A standard and guideline assessment includes a written Rangeland Health Assessment (health assessment), Evaluation and Determination, appropriate analysis as directed by the National Environmental Policy Act (NEPA) and issuance of new 10-year grazing permits.

The initial step of this process was to review the 1988 Cascade Resource Management Plan (RMP) and grazing permits, to ensure the permits are conforming with RMP directions. This step was completed by signing the Initial Allotment and Permit Review and Rangeland Health Assessment by the acting Four Rivers Field Manager. Following a public review period, a Determination of Achieving Standards for Rangeland Health and Conforming with Guidelines for Livestock Grazing Management was prepared. It was determined that “all of the applicable Standards for Rangeland Health are being met, and all of the livestock management practices conform with all applicable Guidelines for Livestock Grazing Management”.

When Goodrich Watershed assessment was initiated, there were 78 allotments and 67 permittees. Since that time, all public lands within nine allotments were patented into private ownership as a result of the 2003 Cascade Land Exchange (resulting in cancellation of six permits and 233 AUMs<sup>1</sup>). One allotment was added to the management area. There are now 70 allotments and 59 permittees within the Goodrich Watershed. The management area was further divided into two assessment units. “Isolated Parcels” is one of the units, which was finalized in 2006. The other is “Blocked Unit”. Renewal of grazing permits within this unit are being assessed either through the August 14, 2007, Categorical Exclusion authority or through an Environmental Assessment.

### **Proposed Decision**

My proposed decision is to renew the grazing permit, described in attached Categorical Exclusion Documentation #ID-110-2007-CE-3615, for livestock grazing on North Fork FFR Allotment #293. The permit, under Authorization Number 1101855 will be for a term of ten-year term from March 1, 2008 to February 28, 2018.

Through this decision:

Only North Fork FFR Allotment #293 is being addressed at this time. Thorn Creek Allotment #292 will remain on the permit as it is currently written until it is addressed through a separate decision, at a later time.

- a. livestock kind and number, period and amount of use, and associated terms and conditions will be identified;
- b. North Fork FFR Allotment boundaries and allotment name are adjusted.

A. The grazing permit will be adjusted:

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<sup>1</sup> The grazing regulations (43 CFR 4100.0-5) define an AUM, or an Animal Unit Month, as “the amount of forage necessary for the sustenance of one cow or its equivalent for a period of one month.”

From:

Permittee	Livestock	Season of Use	Percent Public Lands	Preference		
				Active	Suspended	Total
Jake Glen Merrill	45 Cattle	04/21 to 05/31	100%	61	29	90

1. Use on the North Fork Allotment is in coordination with the Fish and Game and Sikes Act Agreement of 1989 and 1990.
2. The allotment(s) listed on this grazing permit are subject to the requirement of 43 CFR 4180 – Fundamentals of Rangeland Health and Guidelines for Grazing Administration. This permit shall be modified (if necessary) to meet these requirements upon completion of a standard and guidelines assessment and determination as scheduled by the authorized officer.
3. Turn-out is subject to Boise District range readiness criteria.
4. Your certified actual use report is due within 15 days of completing your authorized annual grazing use.
5. Salt and/or supplement shall not be placed within one-quarter (1/4) mile of springs, streams, meadows, aspen stands, playas or water developments.
6. Changes to the scheduled use require prior approval.
7. Trailing activities must be coordinated with the BLM prior to initiation. A trailing permit or similar authorization may be required prior to crossing public lands.
8. Livestock exclosures located within your grazing allotment(s) are closed to all domestic grazing use.
9. Range improvements must be maintained in accordance with the cooperative agreements and range improvement permits in which you are a signatory or assignee. All maintenance or range improvements within a wilderness study area require prior consultation with the authorized officer.
10. All appropriate documentation regarding base property leases, lands offered for exchange-of-use, and livestock control agreements must be approved prior to turn-out. Leases of land and/or livestock must be notarized prior to submission and be in compliance with Boise District Policy.

To:

Allotment	Livestock	Season of Use	Percent Public Lands	Preference		
				Active	Suspended	Total
Jake Glen Merrill	45 Cattle	04/21 to 05/31	100%	61	29	90

1. Livestock grazing for North Fork Allotment will comply with Field Manager’s Proposed Decision dated September 28, 2007.

2. Use on the North Fork Allotment is in coordination with the Fish and Game and Sikes Act Agreement of 1989 and 1990.
  3. Scheduled use changes require prior approval on an annual basis. From information provided in the annual application, a grazing bill will be prepared indicating authorized use for that year.
  4. The annual actual use report is due within 15 days of completing your authorized annual grazing use.
  5. Turn-out date is subject to range readiness. Range readiness occurs once physiological requirements of the plants have been met.
  6. Annual maintenance of range improvements will be completed prior to livestock entry of the allotment.
  7. Pursuant to 43 CFR 10.4(b), the permittee must notify the BLM Field Manager, by telephone followed with written confirmation, immediately upon the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony on federal land. Pursuant to 43 CFR 10.4(c), the permittee must immediately stop any ongoing activities connected with the discovery and make a reasonable effort to protect the discovered remains or object.
  8. Salt and/or mineral blocks shall not be placed on public lands within one quarter (¼) mile of springs, streams, meadows, riparian habitats or aspen stands.
- B. Adjust the allotment name to North Fork Allotment and the boundary to correspond with existing fencelines. With this modification, the fenced allotment will be one pasture consisting of 444 acres of public land and 1,046 acres of private land.

### **Rationale**

Permit renewal is needed at this time to ensure compliance with 43 CFR 4180 and to provide resource protection while continuing multiple use management of public lands. No issues were brought forward through the health assessment and various public comment periods. Through the allotment evaluation and determination, it was shown that all applicable rangeland health standards and livestock management guidelines were being met. Because all applicable standards and guidelines were in conformance, a categorical exclusion was prepared as directed through the August 14, 2007 Federal Register.

Per 43 CFR 4130.3, grazing permits shall contain terms and conditions determined by the authorized officer to be appropriate to achieve management and resource objectives for the public lands to ensure conformance with the provisions of subpart 4180 of this part.

Renewal of this grazing permit is in conformance with the RMP. In addition, Section 3 of the Taylor Grazing Act states in part, "The Secretary of the Interior is authorized to issue or cause to be issued permits to graze livestock on grazing districts . . . Such permits shall be for a period of

not more than ten years....to renewal is the discretion of the Secretary of the Interior, who shall specify from time to time numbers of stock and season of use. .”

The grazing permittee has met all qualifications of 43 CFR 4110.1, 4110.2, 4110.2-1, and 4110.2-2. Authorization of the grazing permit is consistent with 43 CFR 4100.0-8, 4130.2, 4130.3, 4130.3-1, 4130.3-2, 4130.3-3, 4160 and all of subpart 4180.

Administrative corrections are being made at this time, but overall there are no increases of livestock time on the allotment or of the grazing preference.

Field assessments showed this allotment has a stable soil surface that is resistant to erosion and is capable of reproducing native vegetation; the native plant community is diverse.

North Fork Grays Creek displayed a healthy assemblage of age classes representing a diverse potential natural plant community that is appropriate for the valley type, substrates, and elevations. Each stream segment was hydrologically stable. Creek segment identified as NFGRA-004.7 was rated in proper functioning condition.

There are no populations of threatened, endangered, or sensitive plant or wildlife species known from the allotment at the present time. There are no known cultural resources on the allotment. There is little to no recreational use of this parcel of public land.

### **Authority**

Authority under which this decision is being issued is found in Title 43 of the Code of Federal Regulations (CFR).

43 CFR 4100.0-8	Land Use Plans
43 CFR 4110.1	Mandatory Qualifications
43 CFR 4110.2-2	Specifying Grazing Preference
43 CFR 4110.2-4	Allotments
43 CFR 4110.3	Changes in Grazing Preference
43 CFR 4120.2	Allotment Management Plans and Resource Activity Plans
43 CFR 4120.3	Range Improvements
43 CFR 4120.5-1	Cooperation in Management
43 CFR 4130.1-1	Filing Applications
43 CFR 4130.2	Grazing Permits or Leases
43 CFR 4130.3	Terms and Conditions
43 CFR 4130.4	Authorization of Temporary Changes in Grazing Use Within the Terms and Conditions of Permits and Leases, Including Temporary Nonuse
43 CFR 4140	Prohibited Acts
43 CFR 4160	Administrative Remedies
43 CFR 4180	Fundamentals of Rangeland Health and Standards and Guidelines for Grazing Administration

In addition to the grazing regulations, livestock grazing on North Fork Allotment, as well as the surrounding area, is in conformance with:

- The Taylor Grazing Act, 1934,
- The Federal Land Policy and Management Act, 1976 (FLPMA), Title IV, Section 402,
- Title 43 of the Code of Federal Regulations Part 4100, Grazing Administration – Exclusive of Alaska,
- Idaho Standards for Rangeland Health and Guidelines for Livestock Grazing Management,
- The 1988 Cascade Resource Management Plan,
- Instruction Memorandum ID-2004-086 (IM), and
- Federal Register Notice; Volume 72, Number 156; Tuesday, August 14, 2007  
(Notice of Final Action to Adopt Revisions to the Bureau of Land Management's Procedures for Managing the NEPA Process, Chapter 11 of the Department of the Interior's Manual Part 516.)

### **Right of Protest and/or Appeal**

Any applicant, permittee, lessee or other interested publics may protest a proposed decision under Sec. 43 CFR 4160.1 and 4160.2, in person or in writing to Rosemary Thomas, Field Manager, Four Rivers Field Office, 3948 Development Avenue, Boise, Idaho 83705 within 15 days after receipt of such decision. The protest, if filed, should clearly and concisely state the reason(s) why the proposed decision is in error.

In accordance with 43 CFR 4160.3 (a), in the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice unless otherwise provided in the proposed decision.

In accordance with 43 CFR 4160.3 (b) upon a timely filing of a protest, after a review of protests received and other information pertinent to the case, the authorized officer shall issue a final decision.

Any applicant, permittee, lessee or other person whose interest is adversely affected by the final decision may file an appeal in accordance with 43 CFR 4.470 and 43 CFR 4160.4. The appeal must be filed within 30 days following receipt of the final decision or within 30 days after the date the proposed decision becomes final. The appeal may be accompanied by a petition for a stay of the decision in accordance with 43 CFR 4.471 pending final determination on appeal. The appeal and petition for a stay must be filed in the office of the authorized officer, as noted above. The person/party must also serve a copy of the appeal on the Office of the Solicitor, Boise Field Solicitors Office, 550 West Fort Street MSC 020, Boise Idaho 83724 and person(s) named [43 CFR 4.421(h)] in the Copies sent to: section of this decision.

The appeal shall state the reasons, clearly and concisely, why the appellant thinks the final decision is in error and otherwise complies with the provisions of 43 CFR 4.470.

Should you wish to file a petition for a stay, see 43 CFR 4.471 (a) and (b). In accordance with 43 CFR 4.471(c), a petition for a stay must show sufficient justification based on the following standards:

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

As noted above, the petition for stay must be filed in the office of the authorized officer and served in accordance with 43 CFR 4.471.

Any person named in the decision that receives a copy of a petition for a stay and/or an appeal see 43 CFR 4.472(b) for procedures to follow if you wish to respond.

If you have any questions, feel free to contact either Mary Clark, Rangeland Management Specialist at 208-384-3375, or myself at 208-384-3430.

Sincerely,

/s/ Rosemary Thomas

Rosemary Thomas  
Four Rivers Field Manager

Enclosure:    1. Categorical Exclusion Documentation  
                  2. Evaluation and Determination for Achieving the Idaho Standards for  
                  Rangeland Health and Conformance with the Guidelines for Livestock Grazing  
                  Management

Copies sent to:  
Burns Paiute Tribe  
Shoshone-Paiute Tribe  
Shoshone-Bannock Tribes  
Doug McConnaughey  
Boise District Grazing Board  
Weldon Branch  
Phil Soulen  
Senator Larry Craig  
Senator Mike Crapo  
Congressman Bill Sali  
Adams County Commissioners  
ID Dept of Agriculture  
Idaho Dept of Fish & Game  
Idaho Dept of Lands, 555 Deinhard Lane  
Western Watersheds Project