



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/lsrc>



In Reply Refer To:
4160 ID111
1101690

September 28, 2007

CERTIFIED - RETURN RECEIPT REQUESTED

Notice of Field Manager's Proposed Decision

Danskin L.L.C.
c/o Robert C. Baker

Dear Mr. Baker:

Introduction

The purpose of this proposed decision is to implement actions presented in Environmental Assessment ID-111-2006-EA-1772 for the Reverse Allotment (873). Renewal of the grazing permit for the Reverse Allotment (873) to Danskin L.L.C. is in conformance with:

- The Taylor Grazing Act of 1934,
- The Federal Land Policy and Management Act, 1976 (FLPMA), Title IV, Section 402,
- Title 43 of the Code of Federal Regulations (CFR) Part 4100, Grazing Administration – Exclusive of Alaska,
- Idaho Standards for Rangeland Health and Guidelines for Livestock Grazing Management,
- the 1983 Kuna Management Framework Plan (MFP),
- Instruction Memorandum ID-090-2004-086 (IM), and

The actions are also compatible with the Snake River Birds of Prey National Conservation Area (NCA) enabling Act (Public Law 103-64), and are consistent with management direction contained in the soon-to-be-released Final NCA Resource Management Plan (RMP).

Background

The 483,700 acre Snake River Birds of Prey National Conservation Area (NCA) was established on August 4, 1993, to provide for the conservation, protection, and enhancement of raptor populations and habitats, and the natural and environmental resources and values associated therewith. Section 4(f)(1) of the Act provides that Bureau of Land Management (BLM) may authorize livestock grazing that is compatible with the purposes for which the NCA was established.

Except for a part of the Sunnyside Spring/Fall Allotment, the 14 grazing allotments in the Sunnyside Watershed are located within the NCA in Ada, Canyon, and Elmore County. The allotments are located between the Snake River and Highway I-84, and extend southeast from Melba to about Hammett, Idaho.

Idaho Standards for Rangeland Health and Guidelines for Livestock Grazing Management were approved by the Secretary of the Interior August 12, 1997. In May 1998, the BLM Idaho State Office issued instructions for implementing the requirements of 43 CFR 4100. A standard and guidelines 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.

Following a public review period, determinations were prepared to reflect whether allotments were achieving standards for rangeland health and conforming with guidelines for livestock grazing management.

The Sunnyside Watershed Standards and Guides assessment acknowledged that the NCA has been significantly impacted by wildfire, failed emergency rehabilitation projects, and drought. It also determined that, in some instances, timing and intensity of livestock grazing has contributed to either not meeting a standard or placing the area at risk of not meeting a standard. The rangeland health determinations for the Reverse Allotment are described below and in Table 1.

Table 1. Rangeland health determinations for the Reverse Allotment

Allotment Name	Rangeland Health Standards							
	1	2	3	4	5	6	7	8
Reverse #00873	M	*	*	M	NMC	NM	*	NM/NMC

M = Meeting the Standard.

NM = Not meeting, but livestock grazing is not a significant factor.

NMC = Not meeting, and livestock grazing is considered a significant factor.

* Standard does not apply to this allotment.

Reverse Allotment

Standards 1 (watersheds) and 4 (native plant communities) were being met, and Standards 2 (riparian areas and wetlands), 3 (stream channel/floodplains), and 7 (water quality) do not apply to this allotment.

Pastures 1, 3, 4, and the north half of Pasture 2 do not meet Standard 6 (exotic plant communities, other than seedings), but livestock grazing management was not a significant factor. Noxious weeds are increasing throughout these pastures, and will continue to increase with or without grazing. Perennial plants, both native and seeded, are weak and decadent or dead. Nutrient and energy cycling are not adequate to maintain a perennial plant community.

Standard 8 (threatened, endangered, and sensitive species) was being met under the current grazing management in Pastures 1 - 6 and 8, but was not in Pastures 7 and 9 due to the potential for grazing-related impacts to slickspot peppergrass. In 2004, conservation measures from the slickspot peppergrass CCA were not incorporated into the grazing permit for the Reverse Allotment based on the permittee's agreement to follow appropriate livestock grazing

management to preclude impacts to slickspot peppergrass populations and habitats in these Pastures 7 and 9. If future monitoring shows impacts occurring, mitigation measures could include construction of a fence(s) to exclude grazing from the affected areas. Excluded areas would then be deleted from the grazing allotment.

The 2002 determination for Standard 5 (seedings) was recently re-evaluated due to additional monitoring data. On May 30, 1996, a monitoring site was established in a crested wheatgrass/fourwing saltbush seeding in Pasture 5. The monitoring site was revisited on June 28, 2007. Crested wheatgrass frequency had decreased from 37% in 1996 to 1% in 2007. Sandberg bluegrass frequency had decreased from 16% in 1996 to 1% in 2007. No basal cover of perennial plants was encountered in 2007. Litter increased from 52% in 1996 to 95% in 2007. Bare ground decreased from 42% in 1996 to 4% in 2007. This reflects the virtual elimination of crested wheatgrass, and an increase in annual vegetation, which is not consistent with the 2002 assessment of healthy vigorous crested wheatgrass plants. As such, Standard 5 (seedings) is not being met, and livestock grazing management was determined to be a significant factor. This issue may be made moot by the fact that Pastures 4 and 5 burned in the Summer of 2007. As such, the pastures will be treated to restore some of the native and perennial components, and will be evaluated following seeding establishment to determine how and to what extent continued livestock grazing will be authorized to ensure that the ecological and monetary investments in the vegetation treatment are protected and conserved.

The Sunnyside Watershed assessments were originally completed without evaluating the effects of livestock grazing on species listed under the Endangered Species Act, including bald eagles and Idaho springsnails. Therefore, in 2005, BLM prepared a district-wide Biological Assessment (BA) to determine the effects of livestock grazing on these two species. Livestock grazing in the Reverse Allotment was determined to have no effect to bald eagles. However, livestock grazing in the Reverse Allotment was determined to have a likely adverse effect to Idaho springsnails. Both of these species have since been de-listed, and the Idaho springsnail has also been reclassified as the Jackson Lake springsnail. As such, the two species will continue to be managed as BLM sensitive species. Because Pasture 4 of the allotment contains about 1.5 miles of river frontage, the permit will incorporate Management Requirements to ensure the permittee minimizes impacts to Jackson lake springsnails by continuing to ensure that sufficient quantities of water and salt required for daily needs of those cattle in Pasture 4 are readily available at locations away from the riverfront portions of this pasture.

Alternative strategies for modifying grazing use to make significant progress toward the Idaho Standards for Rangeland Health were analyzed in environmental assessment (EA) No. ID-111-2006-EA-1772. A pre-decisional EA was mailed to grazing permittees and interested publics in July 2006. Table 2.1 in EA ID-111-2006-EA-1772 shows that Pastures 1 – 6 in the Reverse Allotment are annual pastures that have crossed the threshold from native to annual exotic rangeland. Table 2.2 shows that Pastures 7, 8, and 9 are perennial pastures.

No significant changes in livestock grazing management are proposed for Pastures 1 – 6 in the Reverse Allotment due to the inability of annual pastures to respond ecologically to grazing management. The current seasons of use (3/1-5/31 and 11/10-2/28) would continue; however, a deferred rotation grazing system would be incorporated and conservation measures would be

imposed to protect habitat for slickspot peppergrass and Jackson Lake springsnail. The proposed decision will also incorporate management requirements to ensure that minimum amounts of residual vegetation remain in all pastures following livestock removal. While these changes will help mitigate Standard 8, they will probably not result in Pasture 5 meeting Standard 5.

A deferred rotation grazing system will be initiated in Pastures 7, 8, and 9 that reduces the length of the spring grazing season. The proposed decision will also impose management requirements to protect habitat for slickspot peppergrass and Jackson Lake springsnail, and to ensure that minimum amounts of residual vegetation remain in all pastures following livestock removal. If needed, range improvements will be authorized to protect sensitive plant species. The above changes will help mitigate Standard 8. On-the-ground cultural, wildlife, and botanical surveys would be conducted prior to any new surface disturbing activities.

Pursuant to direction in the soon-to-be-released Final NCA RMP, if the Reverse Allotment is treated in the future for habitat restoration and/or fuels management, a number of strategies could be employed to improve livestock grazing to facilitate management of the resulting perennial plant community. Future grazing systems could potentially incorporate modifications in livestock numbers, use dates, and utilization levels. Management objectives would address livestock movement, distribution, and turn-out dates. Range improvements could be proposed that improve livestock distribution, accommodate and support rangeland restoration efforts, protect sensitive plant species, and facilitate implementation of grazing systems. Cultural, wildlife, and botanical surveys would be conducted prior to authorizing any new surface disturbing activities. Additional NEPA would be completed prior to implementing a grazing system different than what is currently being authorized.

Grazing alternatives are in conformance with the Kuna MFP, as required by 43 CFR 1610.5-3(a). Also, the alternatives are in conformance with the enabling legislation for the Snake River Birds of Prey NCA, and the 1996 NCA Management Plan, and are consistent with management direction included in the soon to be released Final NCA RMP.

Proposed Decision

After carefully considering the analysis of EA ID-098-2004-054, input from the permittees, state agencies, other federal agencies, interested public and my staff, I have decided that Alternative D of EA ID-098-2004-054 (with modifications) is my proposed decision. Management Requirements will be imposed as part of this proposed decision.

Through this decision:

1. Livestock kind and number, period of use, amount of use, and associated terms and conditions will be identified (*points 1 and 2, below*);
2. Management Requirements will be used to set parameters in development of the annual grazing system (*point 3, below*).
3. Rangeland management projects (*point 4*) will be identified to improve livestock management in the allotment.

(Point 1) A grazing permit will be issued to Danskin L.L.C., Operator Number 1101690, for the term of March 1, 2008 to February 28, 2018. Management flexibility, based on seasonal

circumstances, may be made with approval from the Authorized Officer, provided livestock use is within the sideboards of the mandatory terms and conditions. The grazing permit will be issued as follows:

Allotment		Livestock		Grazing Period		%	AUMs	
Name	No.	No.	Kind	Begin	End	PL	Active	Suspended
Reverse	00873	315	Cattle	03/01	05/31	95	905	0
		315	Cattle	11/01	02/28	95	1092	0

Grazing Management

The Reverse Allotment will be authorized the same spring use dates, but the dormant season will be extended by 10 days. All pastures will be grazed under a deferred rotation schedule, with one or more of the nine pastures being rested during any one calendar year. Pasture use will rotate annually between the spring and dormant seasons. No pasture will be grazed in two consecutive springs. Pasture schedules will be coordinated with BLM each year.

Perennial pastures (Pastures 7, 8 & 9) will be managed differently than annual pastures (Pastures 1 – 6). Perennial pastures will have restricted spring use dates (4/1 to 5/20) and dormant season use from 11/1 to 2/28 in alternating years as demonstrated in Table 2. Individual pastures will not be authorized spring and dormant season use in the same grazing year. The permittee may be authorized consecutive dormant seasons of use in perennial pastures, but not consecutive spring periods. Actual pasture rotations will be developed and agreed to prior to turn-out.

Table 2 – Deferred Grazing Rotation (Perennial Pastures)

Perennial Pastures	Pasture 7	Pasture 8	Pasture 9
Year 1	4/1 - 5/20	11/1 - 2/28	4/1 - 5/20
Year 2	11/1 - 2/28	4/1 - 5/20	11/1 - 2/28

Authorized seasons of use in annual pastures are spring (3/1 to 5/31) and dormant season (11/1 to 2/28). Individual annual pastures will be grazed during two of the three months of the spring season. The one month rest or deferment will occur during a different 30 day period in any two consecutive spring grazing seasons, as demonstrated in Table 3. The permittee may defer use of any pasture to the dormant season in any year. Actual pasture rotations will be developed and agreed to prior to turn-out.

Table 3 – Deferred Grazing Rotation (Annual Pastures)

Pasture	Year 1	Year 2	Year 3
1	3/1 – 4/30	11/1 - 2/28	4/1 – 5/31
2	3/1 – 3/31 and 5/1 – 5/31	11/1 - 2/28	3/1 – 4/30
3	4/1 – 5/31	11/1 - 2/28	3/1 – 3/31 and 5/1 – 5/31
4	11/1 - 2/28	3/1 – 4/30	11/1 - 2/28
5	11/1 - 2/28	3/1 – 3/31 and 5/1 – 5/31	11/1 - 2/28
6	11/1 - 2/28	4/1 – 5/31	11/1 - 2/28

(Point 2) Allotment Terms and Conditions

The following terms and conditions would be included in the grazing permit to provide for proper range management and assist in the orderly administration of the public rangelands:

1. Livestock grazing within Reverse Allotment will be in accordance with the Four Rivers Field Manager's Final Grazing Decision.
2. Livestock numbers may vary annually, providing the period of use, AUMs and livestock numbers are not exceeded, except as otherwise provided by this permit.
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. An annual grazing license will not be issued unless an actual use report for the previous grazing season has been filed with BLM.
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. Trailing activities must be coordinated with the BLM prior to initiation. A trailing permit, crossing permit or similar authorization may be required prior to crossing public lands.
7. Livestock exclosures located within your grazing allotments are closed to all domestic grazing use.
8. All appropriate documentation regarding base property leases, lands offered for exchange-of-use, and livestock control agreements must be approved prior to turn-out.
9. Pursuant to 43 CFR 10.4(b), you must notify the BLM Field Manager, by telephone with written confirmation, immediately upon the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony on federal lands. Pursuant to 43 CFR 10.4(c), you must immediately stop any ongoing activities connected with such discovery and make a reasonable effort to protect the discovered remains or objects.
10. Changes to the scheduled use require prior approval.
11. Range improvements must be maintained in accordance with the cooperative agreements and range improvement permits in which you are a signatory or assignee.
12. Failure to pay grazing bills within 15 days of the due date specified shall result in a late fee assessment of \$25.00 or 10 percent of the grazing bill, whichever is greater, not to exceed \$250.00. Payment made later than 15 days after the due date shall include the appropriate late fee assessment. Failure to make payment within 30 days may be a violation of 43 CFR 4140.1(b)(1) and shall result in action by the authorized officer under 43 CFR 4150.1 and 4160.
13. Livestock grazing will be in accordance with your allotment grazing schematic(s). Changes in scheduled pasture use dates will require prior authorization.

(Point 3) Management Guidelines

Management Guidelines are actions to be followed in order to bring livestock management, or activities associated with livestock management, into conformance with the allotment or specific areas within the allotment that require special attention and management.

Adherence to these guidelines and the prescribed grazing management plan would likely maintain or make progress toward meeting rangeland health standards and land use plan objectives. Periodic collection, evaluation and interpretation of monitoring data could provide an indication of the potential success of the grazing management plan.

1. To protect the watershed and maintain sufficient available forage for Piute ground squirrel populations, the minimum amount of residual or ungrazed forage is recommended to be 250 lb/ac. Livestock will be removed from the allotment before grazing exceeds this use level.
2. Key areas and key upland herbaceous forage species would be established with the operators. The maximum allowable use level for key upland vegetation is 50% of the current year's growth as determined by a quantitative method outlined in "*Utilization Studies and Residual Measurements, Interagency Technical Reference 1996*". Livestock should be removed from the affected area when this utilization level has been reached. Additional key areas will be established where needed in cooperation with permittees.
3. The permittee will continue to ensure that sufficient quantities of water and salt required for daily needs of those cattle in Pasture 4 are readily available at locations away from the riverfront portions of this pasture to reduce potential impacts to Jackson lake springsnail populations and habitat.
4. Permittee shall place salt/supplement at least ½ mile from slickspots and playas identified to support or have supported slickspot and Davis peppergrass, respectively, to minimize trampling. Supplements that are attractants should be placed so that cattle will not trail through an element of occurrence to the supplement or water source. Attractants should be placed so that cattle are drawn away from the area of the element occurrence.
5. If monitoring shows that livestock management practices are not adequately protecting slickspot peppergrass populations and habitats, measures will be taken to restrict livestock access to affected areas, including fence construction.
6. Permittee will supplement federal and state agency surveys and monitoring by surveying their allotments or use areas for slickspots and slickspot peppergrass plants, including existing occurrences, during their normal course of business. Permittee will report survey information to the Conservation Data Center for the purposes of aiding monitoring efforts and contributing to the CA adaptive management strategy.

(Point 4) Rangeland Management Projects

Field investigations would be conducted to determine site suitability and feasibility of rangeland management projects. Upon completion of all necessary clearances the following project would be authorized:

1. If overall livestock management, including Management Requirements, do not effectively restrict livestock effects to slickspot peppergrass populations and habitats, a fence may be constructed in Section 11, T 5S, R 7E, to exclude livestock from identified slickspot peppergrass habitat in Pastures 7 and 9. The fence location and the area excluded from grazing would be based on the needs of the affected slickspot peppergrass EO and habitat.

Rationale

Renewal of the grazing permit is in conformance with the Kuna MFP Record of Decision. 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 in the discretion of the Secretary of the Interior, who shall specify from time to time numbers of stock and season of use.”

All qualifications of 43 CFR 4110.1, 4110.2-1, and 4110.2-2 have been met. The authorization of the grazing permit is consistent with 43 CFR 4100.0-8, 4110.3, 4130.2, 4130.3, 4130.3-1, 4130.3-2, 4130.3-3, 4130.6-1, 4160 and all of subpart 4180.

Additional rationale follows:

1. Standard 8 was not being met in the Reverse Allotment for slickspot peppergrass. The implementation of the slickspot peppergrass CA conservation measures will prevent trampling of rare plants and their associated habitat. Specifically, these measures will minimize the impact of ground disturbance caused by livestock penetrating trampling of slickspots during periods when soils are saturated. These changes will assist sensitive plant populations and their habitat making significant progress towards meeting Standard 8.
2. Incorporating measures to ensure that sufficient quantities of livestock water and salt are available at locations away from the river will help to ensure that Standard 8 will continue to be met for Jackson lake springsnail populations and habitat in Pasture 4.
3. Proper management of annual exotic ranges requires more flexibility than perennial ranges. Low elevation ranges on which cheatgrass has excluded almost all desirable perennial species should be managed as annual range, with the primary goal of reducing fuel loading, and providing grazing opportunities consistent with long-term protection of the site.
4. The primary consideration for protecting annual range is the maintenance of enough litter to protect the soil, and adequate seed production for stand maintenance. Establishing management guidelines and monitoring will provide data and the means to manage these highly variable rangelands for watershed health.

5. Native rangelands once converted to an annual type will normally remain an annual community unless significant expenditures of resources are applied.
6. Where current livestock grazing practices are not significant factors or where standards are met, existing grazing management practices will remain the same. Once an area has been successfully treated for habitat restoration or fuels management, such that the area supports a perennial plant community pursuant to the Final NCA RMP, grazing management practices will be implemented to provide deferment or rest during the critical growing period of perennial plants, maintaining plant vigor and adequate ground cover for watershed protection. Additional NEPA analysis will be completed prior to implementing a grazing system different than what is currently being authorized.
7. The Reverse Allotment was identified as having perennial pastures that warrant restricted seasonal and rotational use in which to maintain or improve current conditions.
8. The effects of grazing pastures during the early spring season can be mitigated by providing rest or deferment in alternating years.

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	Changing in Grazing Preference
43 CFR 4120.2	Allotment Management Plans and Resource Activity Plans
43 CFR 4120.5	Cooperation
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

Right of Protest and/or Appeal

Any applicant, permittee, lessee or other interested public 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) as to 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 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 by certified mail to Ken Sebby, Office of the Field Solicitor, US Department of the Interior, 960 Broadway Avenue, Suite 400, Boise, Idaho 83706 and to person(s) named [43 CFR 4.421(h)] in the *copies sent to*: section of this decision.

The appeal shall state clearly and concisely the reason 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 of the decision pending resolution of the appeal, 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 serviced in accordance with 43 CFR 4.473. Any person named in the decision that receives a copy of a petition for a stay and/or an appeal will need to refer to 43 CFR 4.472(b) for procedures to follow if you wish to respond.

You may access EA ID-111-2006-EA-1772, which addresses allotments within the Sunnyside Watershed on our website at: <http://www.blm.gov/id/st/en/info/nepa.2.html>

If you have any questions, please contact either Mike Barnum, Rangeland Management Specialist at 384-3218, or myself at 384-3430.

Sincerely,

/s/ Rosemary Thomas

Rosemary Thomas
Four Rivers Field Manager

Enclosure: CD containing EA ID-111-2006-EA-1772

Copies sent to:

Burns Paiute Tribe, Tribal Chairman
Shoshone-Paiute Tribe, Kyle Prior Chairman
Shoshone-Bannock Tribes, Tribal Chairman
Doug McConnaughey, Resolution Advocates

Boise District Grazing Board, Stan Boyd
Weldon Branch
Phil Soulen
Senator Larry Craig
Senator Mike Crapo
Congressman Bill Sali

ID Dept of Agriculture
Committee for Idaho's High Desert, c/o Pam Marcum
Idaho Bird Hunters Inc c/o Game Bird Conservation Comm
Idaho Dept of Fish & Game, Bob Martin
Idaho Dept of Lands, SW Idaho Area Office
ID Dept of Lands
Idaho Farm Bureau Federation, c/o Judy Bartlett
High Desert Coalition, Inc. Ted Hoffman
Knight Veterinary Clinic, Lloyd Knight DVM
Land & Water Fund, Laird Lucas

Elmore County Commissioners
Ada County Commissioners
Western Watersheds Project
Col Wm Richey, Special Asst, Military Affairs, Office of the Governor
Curt Meis
Michael Stanford