



# 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>



In Reply Refer To:  
4160 ID111  
1101675

September 28, 2007

CERTIFIED - RETURN RECEIPT REQUESTED

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

George Withers

Dear Mr. Withers:

#### **Introduction**

The purpose of this proposed decision is to implement actions presented in Environmental Assessment ID-111-2006-EA-1772 for the Medbury Hill Allotment (899). Renewal of the grazing permit for the Medbury Hill Allotment to George Withers 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 Medbury Hill Allotment are described below and in Table 1.

**Table 1. Rangeland health determinations for the Medbury Hill Allotment**

Allotment Name	Rangeland Health Standards							
	1	2	3	4	5	6	7	8
Medbury Hill #00899	M	M	M	*	NM	M	*	NM

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.

For the Medbury Hill Allotment, it was determined that Standards 1 (watersheds), 2 (riparian areas and wetlands), 3 (stream channel/floodplains), and 6 (exotic plant communities, other than seedings) were being met, and Standards 4 (native plant communities) and 7 (water quality) did not apply to this allotment.

Standard 5 (seedings) was not being met because the Hammett Seeding had failed and was dominated by annual exotic species, but livestock grazing management was not a significant factor.

The mix of native and exotic perennial plants meets Standard 8 (T&E and sensitive species) for some native upland dependent special status animals in perennial Pastures 2 and 3, north of the highway. In the Hammett Seeding and in annual Pastures 1 and 4 along the river, Standard 8 was not being met, but livestock grazing management was not a significant factor. These areas

are dominated by exotic annuals, lack structure provided by shrubs, and do not meet this standard for most native upland shrub-dependent special status animals.

The Sunnyside Watershed assessments were completed without evaluating the effects of livestock grazing on species listed under the Endangered Species Act. Therefore, in 2005, BLM filed with the U.S. Fish and Wildlife Service (FWS) a Biological Assessment (BA) to determine the effects of livestock grazing on the threatened bald eagle and endangered Idaho springsnail, both of which have since been de-listed. In addition, the Idaho springsnail was reclassified as the Jackson Lake springsnail. In August, 2005, the FWS published a Biological Opinion (BO) that determined that livestock grazing in the Medbury Hill Allotment was a May Affect, Likely to Adversely Affect for the Idaho (Jackson Lake) springsnail, and a May Affect, Not Likely to Adversely Affect for the bald eagle. Although no specific conservation measures were developed for the Medbury Hill Allotment, the permittee agreed to the following, which will be incorporated as Management Requirements to protect the riparian areas of the allotment:

1. When livestock are grazing on the allotment, the permittee will ensure that sufficient quantities of water and salt required to meet the daily needs of those cattle present in the pasture are readily available at locations away from the riverfront portion of pastures #1 and #4.
2. During permitted grazing periods, the permittee will monitor the location of grazing livestock and ensure that cattle are not allowed to remain near the Snake River shoreline.

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. Tables 2.1 and 2.2 in EA ID-111-2006-EA-1772 show that pastures 1 and 4, located south of the highway in the Medbury Hill Allotment are annual pastures, while pastures 2 and 3 north of the highway are perennial pastures. As shown in Alternative D-9, George Withers (permittee) proposed the following changes to the current permit:

1. Spring grazing would continue to be authorized any time between 4/1 and 5/31 in annual Pastures 1 and 4;
2. Spring grazing in perennial Pastures 2 and 3 would be annually rotated between early spring (4/1- 4/30) and late spring (5/1- 5/20); and
3. The authorized dormant season would be extended from the current one month season (11/15 to 12/14) to a two month season (11/1 to 12/31), with no additional AUMs.

No significant changes in livestock grazing management are proposed for the two annual pastures (1 and 4) in the Medbury Hill Allotment due to the inability of annual pastures to respond to improved grazing management. The annual pastures would continue to be grazed each year from 4/1 to 5/31, which should provide opportunities for some regrowth.

Perennial pastures (2 and 3) located north of Highway 30 would benefit from a deferred rotation grazing system that allows each pasture to be alternately grazed in April one year, and in May the next.

This proposed decision will incorporate permit modifications necessary to ensure conformance with rangeland health standards, while providing management flexibility. The permit will also incorporate Management Requirements to protect the allotment's riparian areas and the sensitive Jackson Lake springsnail, as well as to ensure that minimum amounts of residual vegetation remain in all pastures following livestock removal, which should help the allotment to make progress towards meeting Standards 4 and 8.

Pursuant to direction in the soon-to-be-released Final NCA RMP, if the Medbury Hill Allotment is treated in the future for habitat restoration and/or fuels management purposes, a number of strategies could be employed to improve livestock grazing to facilitate management of the resulting perennial plant community. Future grazing systems will incorporate management objectives and modify livestock numbers, use dates, and utilization levels to properly manage the treated areas. 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.

The 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-111-2006-EA-1772, input from the permittees, state agencies, other federal agencies, interested public and my staff, I have decided that Alternative D of EA #ID-111-2006-EA-1772 (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, below*).

**(Point 1)** A grazing permit will be issued to George Withers, Operator Number 1101675, 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		Pasture	Livestock		Grazing Period		% PL	AUMs	
Name	No.		No.	Kind	Begin	End		Active	Suspended
Medbury Hill	00899	1 & 2	59	Cattle	04/01	05/31	100	118	0
		2 & 3	50	Cattle	04/01	05/20	100	82	0
		All	63	Cattle	11/01	12/31	100	95	0

### Grazing Management

The Medbury Hill Allotment will be authorized the same spring use dates and an extended dormant season. Annual pastures (#1 and #4) are not expected to improve through livestock management alone. Perennial pastures (#2 and #3), however, will benefit from deferred rotation grazing. Perennial pastures will have a shortened spring season of use. Livestock numbers may vary, provided that total permitted AUMs or seasons of use are not exceeded.

Livestock will be rotated through the four pastures in the spring (4/1 to 5/31). Livestock will graze Pastures 2 and 3 under a spring deferred rotation grazing system. The pasture used first would be rotated each year. Pastures 1 and 4 will be grazed from 4/1 to 5/31 at the permittee's discretion. Suggested rotations are as follows, but will be determined following consultation with the authorized officer:

Years	Pasture 1	Pasture 2	Pasture 3	Pasture 4
Odd	4/1 to 5/31	4/26 to 5/20	4/1 to 4/25	4/1 to 5/31
Even	4/1 to 5/31	4/1 to 4/25	4/26 to 5/20	4/1 to 5/31

Livestock in pastures 2 and 3 may be rotated between pastures earlier than April 25, but may not stay later than May 20.

Dormant season use would be evaluated and could potentially be authorized in those pastures having unused spring AUMs and adequate residual forage. Water may need to be hauled to distribute livestock and mitigate Jackson Lake springsnail restrictions along the Snake River.

All pastures would be used each spring, starting in most years in the two perennial pastures (#2 & #3) on the north side of Highway 30, then moving to the annual pastures south of Highway 30 in early May, dependent upon range-readiness and production.

### (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 in Medbury Hill 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.
14. Spring AUMs may be shifted to dormant use annually upon approval of the authorized officer.

**(Point 3) Management Requirements**

Management Requirements 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 Paiute 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. During those periods when livestock are grazing on the allotment the permittee will assure that sufficient quantities of water and salt are readily available at locations away from the riverfront portion of Pastures 1 and 4.
3. During permitted grazing periods, the permittee will monitor the location of grazing livestock and ensure that cattle are not allowed to remain near the Snake River shoreline.
4. 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.

**(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 as either a habitat restoration or fuels management project:

Reseed the previously unsuccessful Hammett Seeding in Pasture #1.

**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. Standards for Rangeland Health were either meeting the standard or not meeting the standard, but livestock grazing management practices were determined not to be significant factors.
2. Riparian and wildlife resources would not be adversely affected by the prescribed grazing plan.
3. 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 loads, and providing optimum grazing opportunities consistent with long-term watershed protection.
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 a 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 massive expenditures of resources are applied.
6. The Medbury Hill Allotment was identified by Four Rivers Field Staff as having perennial attributes that warrant rotational grazing use in which to maintain or improve current conditions.
7. 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.

### **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 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) 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 Seby, 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