



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Owyhee Field Office
20 First Avenue West
Marsing, Idaho 83639



In Reply Refer To:
4160 ID130 - 1101387

AUG 28 2007

Richard Bennett
[REDACTED]
[REDACTED]

NOTICE OF FIELD MANAGER'S PROPOSED DECISION

Dear Mr. Bennett,

INTRODUCTION

This decision is addressing grazing management in the Palmer (#0507) grazing allotment. This decision serves as the Record of Decision for Environmental Assessment (EA #ID130-07-EA-3339), which analyzes livestock grazing management practices, and renews your 10-year term grazing permit to authorize livestock grazing in accordance with mandatory terms and conditions and the grazing management modifications found in this grazing decision. In addition, this grazing decision authorizes the implementation of rangeland developments and modifications, and mechanical treatments of encroaching western juniper on the Palmer allotment. This decision is the result of on-site monitoring and inventory data, used in the completion of an evaluation and determination of the applicable Idaho Standards for Rangeland Health. The determination for the Palmer allotment concluded that Standards 1, 2, 3, 4, and 8 were not being met, and that livestock management practices were significant factors. Standard 7 was being met, and Standards 5 and 6 do not apply to the Palmer allotment. Terms and conditions for the grazing permit are specified in this decision. This permit issuance will incorporate all permit modifications necessary to improve rangeland health conditions in accordance with Idaho Rangeland Health Standards and Guidelines in the Palmer (#0507) allotment.

Prior to issuance of this Proposed Decision, the Owyhee Field Office staff conducted an interdisciplinary (ID) team review of the Palmer allotment. The ID team has reviewed current grazing management practices for conformance with the applicable Owyhee Resource Management Plan (RMP) Objectives (Owyhee RMP, 1999), and Idaho Standards for Rangeland Health and Guidelines for Livestock Grazing Management.

BACKGROUND

Your grazing permit #1101387, for grazing on the Palmer (#0507) allotment, has expired. The Bureau of Land Management's Owyhee Field Office renewed the permit in 1997. On March 31, 1999, the Honorable B. Lynn Winmill, Chief Judge, U.S. District Court, signed a Memorandum Decision and Order (Civil Case No. 97-0519-S-BLW) finding that BLM violated the National

Environmental Policy Act (NEPA) when 68 grazing permits (including the permit for grazing on the Palmer allotment) were renewed in 1997. The decision did not impose a remedy to rectify the NEPA violation. However, on February 29, 2000 Judge Winmill signed a Memorandum Decision and Order (Civil Case No. 97-0519-S-BLW) directing the BLM to complete the review of the allotments associated with the 68 grazing permits that are under the new Owyhee Resource Management Plan and Environmental Impact Statement (RMP/EIS).

The BLM Owyhee Field Office has completed a review of conditions on the Palmer Allotment. A Draft Rangeland Health Assessment for the Palmer (0507) allotment was completed September 17, 2004, and made available for public comment. The Final Rangeland Health Assessment for the Palmer (0507) Allotment, and Evaluation and Determination of Achieving the Idaho Standards for Rangeland Health and Conformance with the Guidelines for Livestock Grazing Management were issued on September 26, 2006, and made available for public comment until December 31, 2006. Comments on the Final Rangeland Health Assessment were received from Alan Schroeder. The Owyhee Field Office prepared an Environmental Assessment (EA ID-130-2007-EA-3339) which analyzed the effects of a range of management alternatives. The Draft Environmental Assessment was issued May 11, 2007, and was open for public comment through June 15, 2007. Comments were received from Chad Gibson and Western Watersheds Projects. Comments received were considered and applicable modifications have been incorporated into the final environmental assessment (enclosed with this decision).

FINDING OF NO SIGNIFICANT IMPACTS

I have reviewed this environmental assessment including the explanation and resolution of any potentially significant environmental impacts. I have determined that the proposed action will not have any significant impacts on the human environment and that an EIS is not required. The following ten factors were considered in reaching this Finding of No Significant Impact:

1. *Impacts that may be both beneficial and adverse*

The analysis documented in EA #ID130-07-EA-3339 did not identify any individual significant adverse short-term or long-term impacts. In the long-term, under the proposed grazing management practices, improvement in the overall rangeland health within the Palmer allotment will occur.

2. *The degree to which the proposed action affects public health or safety.*

No significant effects to public health and safety were identified in the EA.

3. *Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.*

No major effects on unique geographic characteristics of the area, cultural or historical resources, parklands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas were identified in the EA. Cultural resources would not be adversely impacted. Improvement to riparian areas is expected through the application of the

Annual Management Indicators criteria (EA ID130-07-EA-3339, Riparian, Wetlands, and Water Quality). No prime farmlands or parklands are found in the project area.

4. *The degree to which the effects on the quality of the human environment are likely to be highly controversial.*

The analysis did not identify highly controversial effects on the quality of the human environment. Public comments did express concerns about effects of management actions on various resource values. The effects have been analyzed and disclosed in the EA.

5. *The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.*

The analysis did not identify any effects on the human environment that are highly uncertain or involve unique or unknown risks. Grazing has been the primary use in this area for at least 70 years (Taylor Grazing Act, 1934). Vegetation management projects similar to those proposed by this decision have been completed in other parts of the Owyhee resource area, including monitoring following treatment. Therefore the effects of the proposed action on the human environment are not highly uncertain, and do not involve unique or unknown risks.

6. *The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.*

The analysis showed how the alternatives would implement direction in the Owyhee Resource Management Plan and would not establish precedent for any future actions. The activities are not connected to any other future actions. Implementation of this decision would not trigger other actions, nor is it a part of a larger action in the project area encompassed by this decision.

7. *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.*

The analysis did not identify any known significant cumulative or secondary effects (EA ID130-07-EA-3339). Outside this project area, additional Standards and Guidelines assessments, determinations and subsequent decisions have been made, resulting in changes in livestock management actions, stocking levels and seasons of use. However, those actions in combination with this decision are not expected to result in cumulatively significant impacts. Proposed vegetation treatment is included within the objectives of the September 2005 Southwestern Idaho Fire Planning Unit Fire Management Plan (FMP). The cumulative effects of this action, together with other objectives identified in the FMP were analyzed in the FMP Environmental Assessment.

8. *The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.*

The analysis showed that the alternatives would not result in adverse effects to cultural or historical resources. The terms and conditions of the grazing permit under the proposed action provide a reasonable level of general protection for cultural resources.

9. *The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.*

No endangered or threatened species are known in this allotment. Therefore, threatened or endangered species would not be adversely impacted by the proposed action.

10. *Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.*

The analysis in the EA shows that the alternatives are consistent with Federal, State, and local laws or requirements imposed for protection of the environment.

PROPOSED GRAZING DECISION

My proposed decision is to select Alternative D found in Environmental Assessment, EA# ID-130-2007-EA-3339, for the authorization of livestock grazing use on the Palmer allotment for a term of 10 years (from 3/1/2008 through 2/28/2018). This decision includes: mandatory terms and conditions, and other general terms and conditions which will be included on your grazing permit. Additionally, the grazing rotation, livestock management flexibility, annual management indicators, and range management and vegetation projects to be implemented are included as part of my decision.

From: Table 1: Permitted Use for Palmer Allotment

Operator Name/Number	Livestock		Season of Use	Federal Land	AUMs		
	Num.	Kind			Active	Suspended	Permitted ¹
Richard Bennett (1101387)	126	Cattle	4/16-10/15	58%	439	0	439

¹ Permitted AUMs reflect the total active and suspended AUMs.

To: Table 2: Permitted Use for Palmer Allotment

Permittee Name/Number	Livestock		Season of Use	Federal Land	AUMs		
	Num.	Kind			Active	Suspended	Permitted
Bennett /1101387	150	C	4/1-8/31	58%	439	0	439

Terms and Conditions

The following terms and conditions would apply to the grazing permit for this allotment:

1. Livestock turnout dates are subject to Boise District Range Readiness Criteria.
2. You are required to properly complete, sign and date an Actual Grazing Use Report Form (BLM Form 4130-5) annually for each allotment. The completed form(s) must be submitted to this office within 15 days from the last day of your authorized annual grazing use.
3. Supplemental feeding is limited to salt, mineral, and/or protein in block, granular, or liquid form. If used, these supplements must be placed at least one-quarter (1/4) mile away from any riparian area, spring, stream, meadow, aspen stand, sensitive plant

species, playa, or water development.

4. 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 (as defined in 43 CFR 10.2) 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.

Grazing Management

Livestock will typically be turned out on April 15 following Boise District Range Readiness criteria. However, turnout may occur as early as April 1 when annual climatic and forage conditions allow. Livestock will typically be removed from the allotment around August 15, though they may be removed as late as August 31 as long as seasonal utilization levels and permitted AUMs are not exceeded.

Deferment of use for purposes of this decision is defined as grazing after July 15. A modified deferred-rotation system will be implemented as depicted in Table 1, below.

	Year 1	Year 2	Year 3
Pasture 1	4/15-5/31	4/15-5/31	6/1-7/14
Pasture 2	6/1-7/14	7/15*-8/31	7/15*-8/31
Pasture 3	7/15*-8/31	6/1-7/14	4/15-5/31

Livestock may be turned into “deferred” pastures as early as July 5 if field inspection shows that key perennial grasses have reached seed-ripe, as defined in this document.

Use in Pasture 1 would occur in the spring and summer, Pasture 2 would be used in the summer, and deferred until after seed-ripe in 2 of 3 years. Pasture 3 would be used during the spring and summer, and deferred until after seed-ripe in 1 of 3 years

Flexibility in Livestock Management: Livestock numbers may vary annually with prior approval from the BLM Authorized Officer, as long as total active AUMs are not exceeded, and seasonal utilization guidelines are met. Actual grazing use will remain within the authorized season of use and active AUMs, and should not exceed the seasonal utilization levels identified under the Annual Management Indicators included under this alternative. Pasture use flexibility would be authorized allowing five days before and five days after the annually scheduled pasture move dates, provided pastures are cleared of cattle within the five days following the scheduled pasture move date. Livestock may be moved into the “deferred” pasture as early as July 5 if it is determined that key perennial grass species have attained seed-ripe (as defined in this document).

Annual Management Indicators

Listed below are measurable annual management indicators, which assist in complying with the Guidelines for Livestock Grazing Management. Adherence to these management guidelines along with the prescribed grazing management practices would make significant progress towards meeting the Standards for Rangeland Health and land use plan objectives.

1. Seasonal utilization of key perennial grass species should not exceed 40% in spring and summer use pastures (4/15-7/14), and 50% in deferred (7/15-8/31) use pastures, as measured at the end of the grazing period (Owyhee RMP, 24).
2. Browse use of riparian shrubs, including but not limited to willows, should be limited to “light” (20-40%) use on young woody plants less than three (3) feet in height as measured at riparian key areas (Monitoring Streambanks and Riparian Vegetation – Multiple Indicators. Technical Bulletin 2005-02 v 2.0, May 2006).
3. Streambank alteration attributable to livestock grazing (pugging, shearing, trails, trampling) should be less than ten (10) percent as measured at key riparian areas¹.
4. Stubble height of herbaceous riparian species along the greenline on Palmer Creek should be a minimum of 4” at the end of the growing season¹.
5. In deer winter range, utilization of bitterbrush or other key browse species should not exceed 30 percent of annual leaders browsed. In all other deer habitat, utilization should not exceed 50 percent of annual leaders browsed (Owyhee RMP, 16).

Rangeland Management Projects: Following completion of field investigations for all required clearances, the following projects are identified for construction or modification in the Palmer Allotment. The BLM would conduct resource inventories prior to fence construction or removal on public land and permittees would provide for the maintenance of all range management projects. All projects on public lands would be constructed and maintained to conform to BLM design specifications. Applicable mitigation measures would be integrated into the construction of the rangeland management projects on BLM lands. Refer to EA #ID130-07-EA-3339 for specific project locations.

Palmer Creek Spring Development: Construct a 2 acre enclosure around the spring and wet meadow area in Section 23 on Palmer Creek in Pasture 1. Develop the spring with a headbox and pipeline (approximately 800 feet in length) to carry the water to two troughs at a minimum of 150 feet away from the spring and creek area for livestock use in Pastures 1A and 1B.

Pasture 1 Division Fence: This fence would only be constructed if monitoring data indicate that it is needed to make progress towards meeting the Idaho Standards for Rangeland Health and to conform with Guidelines for Livestock Grazing Management. This project would include construction of approximately 0.9 miles of 3-strand fence (with a smooth bottom wire set a minimum of 18” from the ground), which will divide Pasture 1 into a lower-elevation riparian pasture (1A) and an upper pasture (1B). The northern section would require off-road travel for survey, design, and construction. All off-road travel will be kept to a minimum and requires prior approval by the Authorized Officer. The fence would be constructed according to BLM standards.

¹ Streambank alteration and stubble height indicator criteria may be altered following monitoring, in order to insure that these criteria are appropriate to facilitate livestock management practices that will result in significant progress towards meeting the ISRH for riparian areas, stream channels, and floodplains (Interagency Technical Reference TR 1737-20, 2006).

Adaptive Management:

If utilization measurements (at the end of the growing season) indicate that utilization levels of 40% in spring and summer (4/1-7/14) use pastures, and 50% in deferred (7/15-8/31) pastures are exceeded, the authorized officer could issue a proposed decision to adjust the stocking rate by placing a portion of the permitted AUMs in suspension. Construction of the Pasture 1 division fence will first be considered if specified utilization levels are exceeded, prior to adjusting the stocking rate on the allotment.

BLM and the grazing permittee would work cooperatively to ensure proper seasonal utilization levels, as identified under Annual Management Indicators, are not exceeded. In addition, upland and riparian utilization and riparian stubble height monitoring would be conducted in each of the 3 pastures yearly for the first three years following implementation of this alternative, and on an approximately 3-year interval thereafter, at the end of the growing season. Riparian monitoring would consist of establishment and periodic monitoring of a Multiple Indicator Monitoring (MIM) site along Palmer Creek. In addition, periodic PFC assessments would be conducted on springs and streams on the allotment. Additional riparian monitoring may be conducted if it is determined to be necessary, in accordance with established Multiple Indicator Monitoring procedures or other BLM accepted protocols.

If monitoring indicates that the modified season of use in Pasture 1 is not adequate to allow significant progress towards meeting ISRH Standards 2 and 3, or if upland range condition is impacted, this pasture may be split to form a riparian pasture (1A) and an upland pasture (1B) in order to increase flexibility of grazing rotations, and to decrease the length of the grazing period along Palmer Creek. Following construction of the pasture division fence, the following grazing rotation would be applied:

Pasture	Year 1	Year 2	Year 3
1A	6/1-6/15	4/15-4/30	4/15-4/30
1B	6/16-7/14	5/1-5/31	5/1-5/30
2	7/15*-8/31	7/15*-8/31	6/1-7/14
3	4/15-5/31	6/1-7/14	7/15*-8/31

*Livestock may be turned into "deferred" pastures as early as July 5 if field inspection shows that key perennial grasses have reached seed-ripe, as defined in this document.

Other Project Proposals

Seral and Immature Juniper Removal (Pastures 1 and 2) – In order to maintain Wyoming big sagebrush communities, younger junipers (conical growth form) would be removed in pastures 1B and 2 of the Palmer Allotment. Older junipers (those with rounded tops and those occurring in rocky outcrops) will not be removed. Junipers will be cut at ground level, and limbs from trees taller than 8 feet would be lopped and scattered. Motorized vehicle use to access junipers for treatment is restricted to existing roads. The treatment involves approximately 1,000 acres of public lands on the Palmer Allotment. At trend sites within the treatment area, juniper density will be measured prior to treatment, and during scheduled nested plot frequency monitoring. Refer to EA #ID130-2007-EA-3339 for the location of this proposed vegetation treatment.

RATIONALE FOR DECISION

It was determined in 2006 that livestock grazing management practices on the Palmer (#0507) allotment were a significant factor in not meeting Idaho Standards for Rangeland Health (ISRH) and was not in conformance with Guidelines for Livestock Grazing Management.

Environmental Assessment #ID130-2007-EA-3339 was prepared to analyze a range of grazing management alternatives designed to make significant progress towards meeting the ISRH. I have determined that the renewal of grazing lease #1101387 in accordance with the Terms and Conditions, prescribed grazing rotations, and annual management indicators established under this decision is in conformance with the 1999 Owyhee RMP, and will make significant progress towards meeting Idaho Standards for Rangeland Health by adhering to the Guidelines for Livestock Grazing Management (GLGM). Proposed management changes will achieve the following:

- The spring season of use in Pasture 1 will allow adequate recovery time for riparian vegetation during the growing season, resulting in increased cover and vigor of herbaceous and woody riparian vegetation. Stream channel and floodplain stability and function will improve as riparian vegetation recovers, narrowing the stream channel and capturing sediment.
- Construction of an enclosure around the spring and wet meadow complex on Palmer Creek will result in improved riparian habitat for wildlife, and will stabilize downstream portions of Palmer Creek by buffering extremes in runoff and in-channel flow.
- Managing livestock use to not exceed 40% upland utilization in spring and summer (4/1-7/14) and 50% in deferred (7/15-9/15) pastures will improve overall perennial grass health, vigor and recruitment, and allow for increased litter and soil protection.
- Summer and deferred use in Pasture 2 will result in improved soil surface conditions due to decreased mechanical damage from livestock trampling wet soils. Additionally, deferral will occur in this pasture in two out of three years, resulting in improved plant vigor, and increased litter for soil protection.
- In Pasture 3, proposed management is similar to current management, and is in accordance with the GLGM.
- Implementation of mechanical treatment of seral western juniper will forestall the effects of continued juniper invasion into sagebrush-dominated rangelands, allowing for appropriate watershed function and native plant community structure and composition. This action is in conformance with the 1999 Owyhee Resource Management Plan (RMP), Objectives VEGE-1 (page 13) and FIRE-3 (page 27). Objective VEGE-1 is to “improve unsatisfactory and maintain satisfactory vegetation health/condition in all areas.” Management actions identified in the RMP under objective VEGE-1 include use of prescribed burning, mechanical and chemical treatments in sagebrush and western juniper habitats where it is determined that these practices would improve rangeland health and increase native plant biodiversity. The Palmer Allotment is within the Owyhee Front Fire Management Unit (FMU). The September 2005 Southwestern Idaho Fire Planning Unit Fire Management Plan (FMP) ranks Owyhee Front FMU as a moderate priority for fuels treatments, with a #1 priority to maintain salt desert and sagebrush-steppe communities. Recommended objectives and strategies identified for this FMU include mechanical treatment of seral juniper on 2,500 acres (A copy of the Southwestern Idaho Fire

Planning Unit Fire Management Plan is available at the Owyhee Field Office, Marsing, ID).

AUTHORITY

The authority for this decision is made is contained in Title 43 of the Code of Federal Regulations (CFR), which includes:

4100.0-8, Land Use Plans.
4110.3, Changes in Permitted Use.
4110.3-2, Decreasing Active Use.
4110.3-3, Implementing Changes in Active use.
4120.3-1, Conditions for Range Improvements.
4120.3-2, Cooperative Range Improvement Agreements.
4120.3-4, Standards, Design, and Stipulations.
4120.3-5, Assignment of Range Improvements.
4130.2, Grazing Permits or Leases.
4130.3, Terms and Conditions.
4130.3-1, Mandatory Terms and Conditions.
4130.3-2, Other Terms and Conditions.
4130.3-3, Modification of Permits and Leases.
4130.7, Ownership and Identification of Livestock.
4130.8, Fees.
4160.1, Proposed Decisions.
4160.2, Protests.
4160.3, Final Decisions.
4160.4, Appeals.
4180.2, Standards and Guidelines for Grazing Administration.

RIGHT OF PROTEST and/or APPEAL

Any applicant, permittee, lessee or other affected interest may protest a proposed decision under Sec. 43 CFR 4160.1, in person or in writing to *Mark Lane - Field Manager, Owyhee Field Office, 20 First Avenue, Marsing, ID 83639* 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), 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 writing*) 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, University Plaza, 960 Broadway Ave., Suite 400, Boise, ID, 83706* 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 Nika Lepak – Rangeland Management Specialist at (208) 896-5921, or myself at (208) 896-5913.

Sincerely,



Mark Lane
Field Office Manager

Cc: See attached mailing list

Enclosure: Environment Assessment EA# ID-130-2007-EA-3339

70060810000150135043 Michael Stanford, [REDACTED]
70060810000150135036 Tim Lowry, [REDACTED]
70060810000150135029 Vernon Kershner, [REDACTED]
70060810000150135012 Elias Jaca, [REDACTED]
70060810000150140009 Chad Gibson, [REDACTED]
70060810000150139997 Richard Bennett, [REDACTED]
70060810000150139980 Western Watershed Projects, Box 1770, Hailey ID 83333
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70060810000150139928 Jim Desmond, [REDACTED]
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70060810000150139904 OR Division of State Lands, 1645 NE Forbes Rd, Ste.112, Bend OR 97701
70060810000150139898 ID Wildlife Federation, Box 6426, Boise ID 83707
70060810000150139881 ID Fish & Game, 3101 S Powerline Rd, Nampa ID 83686
70060810000150139874 ID Dept of Lands, 8355 W State St, Boise ID 83714
70060810000150139867 ID Dept of Agriculture, 2270 Old Penitentiary Rd, Box 7249, Boise ID 83707
70060810000150139850 ID Conservation League, PO Box 844, Boise ID 83701
70060810000150139843 High Desert Coalition, [REDACTED]
70060810000150139836 DEQ, 1445 N Orchard, Boise ID 83706
70060810000150139829 Committee for the High Desert, Box 2863, Boise ID 83701
70060810000150139812 Boise District Grazing Board, Box 2596, Boise ID 83701