

APPENDIX A

PUBLIC INVOLVEMENT

COMMENT ANALYSIS

APPENDIX A: PUBLIC INVOLVEMENT–DEADWOOD GRAZING LEASE RENEWAL EA

Written comments received in response to the Deadwood Grazing Lease Renewal EA were reviewed by the interdisciplinary team and responsible official and substantive comments are addressed below

Substantive Comments are those that:

- Provide new information pertaining to the Proposed Action or an alternative;
- Identify a new relevant issue or expand on an existing issue;
- Identify a different way (alternative) to meet the purpose and need;
- Identify a specific flaw in the analysis;
- Ask a specific relevant question that can be meaningfully answered or referenced;
- Identify an additional source of credible research, which if utilized, could result in different effects.

Non-substantive comments are those that:

- Primarily focus on personal values or opinions;
- simply provide or identify a preference for an alternative considered;
- Restate existing management direction, laws, or policies that were utilized in the design and analysis of the project (or provide a personal interpretation of such);
- Provide comment that is considered outside of the scope of the analysis (not consistent or in compliance with current laws and policies, is not relevant to the specific project proposal, or is outside of the Responsible Officials decision space);
- Lack sufficient specificity to support a change in the analysis or permit a meaningful response, or are composed of general or vague statements not supported by real data or research.

COMMENT ANALYSIS

Comment 1: Grazing on the Deadwood Allotment is adversely affecting riparian vegetation, thus increasing stream temperature, and violating the Clean Water Act.

Response: The BLM is recognized by Oregon DEQ as a Designated Management Agency for implementing the Clean Water Act on BLM-administered lands in Oregon. The BLM and DEQ have a Memorandum of Agreement (MOA) that defines the process by which the BLM will cooperatively meet State and Federal water quality rules and regulations. Under the Protocol, the BLM will protect and maintain water quality where standards are met or surpassed, and restore water quality limited water-bodies within their jurisdiction to conditions that meet or surpass standards for designated beneficial uses (*Revised EA p. 28*).

Past and current grazing is only a part of the overall cause of high stream temperatures, and BLM manages a small portion, approximately 30% of the stream miles listed for temperature. Of the 5.2 total stream miles listed for temperature, 1.7 [30%] (1.4 miles on Hoxie Creek, 0.3 miles on Dead Indian Creek, 0.0 miles on Conde Creek) are on BLM-administered lands. Thus, grazing represents but a portion of the total effects related to stream temperature.

Past human-caused activities in riparian areas such as timber harvest, road construction, residential and agricultural clearing, and livestock grazing, have reduced the amount of riparian vegetation in the analysis

area. Water withdrawals during the summer also contribute to elevated stream temperatures (*Revised EA p. 45*).

Furthermore, the removal of cows would not appreciably increase the rate of recovery toward improving stream temperatures. “The singular action of eliminating grazing in this allotment is not likely to change the water quality [temperature] listings for Conde, Dead Indian, and Hoxie Creeks. Past timber harvest on federal and non-federal lands and roads built in riparian areas will continue to contribute to temperature increases. On non-federal lands, near-stream vegetation disturbance/removal and water withdrawals continue to adversely affect stream temperatures. On federal forested lands, the long-term recovery of shade in the riparian reserves will decrease water temperatures” (*Revised EA, p. 40*).

Even though BLM stream surveys conducted in riparian areas of this allotment between 1996 and 2006 identified locations where streambanks had been trampled and damaged by cattle, stream temperatures are on an upward trend (decreasing) on federal land as previously harvested riparian vegetation recovers (*Revised EA p. 30*).

Alternative 2 continues the decreasing stream temperature trend because (1) the addition of the term and condition requiring removal of livestock when a 5” stubble height and/or 20% bank alteration threshold is met will slightly improve streambank stability, maintaining adequate riparian vegetation reduces the solar radiation and heating of the water surface in seeps/springs/streams (*Revised EA p. 38*) (2) seeding of disturbed areas increases riparian vegetation (*Revised EA p. 39*); and (3) the installation of additional cattle guards (potential mitigation measure) will add additional benefits (*Revised EA p. 39*). Therefore, alternative 2 meets the Clean Water Act by improving the current conditions for stream temperature in the 303(d) listed streams.

Comment 2: Grazing on the Deadwood Allotment adversely affects water quality due to increased sedimentation, thus violating the Medford District RMP and the Aquatic Conservation Strategy (ACS).

Response: In order to meet the ACS, the project must not retard or prevent attainment of Riparian Reserve objectives.

Sediment sources resulting from human activities include roads; logging (tractor skid trails, yarding corridors, and landings); off-highway vehicle (OHV) trails, and concentrated livestock grazing in riparian zones.

Current conditions resulting from past and present actions include surface erosion from existing roads primarily at road-stream crossings and where fill slopes closely parallel streams, and streambank trampling from livestock grazing. BLM stream surveys conducted in riparian areas of this allotment between 1996 and 2006 identified where streambanks were trampled and damaged by cattle (*Revised EA p. 31, 45*).

Bank trampling contributes to sedimentation therefore; actions that reduce bank trampling will reduce sedimentation. The addition of the term and condition requiring removal of livestock when a 5” stubble height and/or 20% bank alteration threshold is met will slightly improve streambank stability and improve the ability of vegetation to trap sediment during higher streamflows (*Revised EA p. 38*). Because, the majority of the water sources are Howard Prairie Lake and water bodies not on a stream, there would be a slight decrease in bank trampling and disturbances near water sources due to the additional monitoring

and possible herding of animals away from streambanks. The four additional terms and conditions and three CRMP updates will slightly reduce trampling and soil compaction in riparian areas (*Revised EA p. 63*).

Thus, with the reduction of bank trampling, there will be a decrease in sediments reaching the streams, and an increase in stream complexity and therefore Alternative 2 meets the applicable ACS objectives (*Revised EA p. 50-55*).

Comment 3: Grazing on the Deadwood Allotment exceeds acceptable levels of coliform, thus violating the Clean Water Act.

Response: In December 2008, the ODEQ issued the *Rogue River Basin Total Maximum Daily Load (TMDL)*. The TMDL addresses temperature and bacteria (*E. coli*) impairments for an area that includes the North and South Forks Little Butte Creek. In December 2010, the ODEQ issued the *Upper Klamath and Lost River Subbasins TMDL* for review. TMDLs are numerical loadings that are set to limit pollutant levels such that instream water quality standards are met.

The *Rogue River Basin TMDL* addresses bacteria (*E. coli*) and acknowledges that the management of federal forest lands does not typically contribute to elevated levels of *E. coli* that are the basis for the listings in the Rogue Basin (*Revised EA p. 32*). There are currently no *E. coli*-listed streams on BLM-administered lands within the Deadwood Allotment.

Therefore, there is no basis to conclude that unacceptable levels of *E. coli* are being caused by grazing on the Deadwood allotment.

Comment 4: Based on conclusions of the National Center for Conservation Science and Policy (NCCSP) study on predator-prey dynamics in the Cascade-Siskiyou National Monument area, grazing in Deadwood is adversely affecting northern spotted owl, thus violating the Endangered Species Act.

Response: The Deadwood allotment is a high elevation conifer forest ecosystem essentially devoid of oak woodlands so the reduction observed in the Deer Mice population will not be effected by the grazing in the Deadwood allotment (*Revised EA p. 22*). Woodrats, which are also “important prey of the Northern Spotted Owl” were reduced in heavily grazed sites in the NCCSP study. The composite map of utilization and transect data collected between the years of (1984-2004) shows an overall decrease in utilization over the past decade within the Deadwood allotment (*RHA p. 3*), (*Revised EA p.35*).

The northern spotted owl is primarily associated with the Mixed-Conifer and White Fir Zones. Grazing does not physically reduce the numbers of the northern spotted owl nor does it appreciably reduce feeding, breeding and sheltering opportunities (*Revised EA p. 59*). Therefore, there is no reliable inference from this study related to the grazing on the Deadwood allotment.

Comment 5: Grazing in Deadwood will spread noxious weeds violating the Medford District RMP.

Response: Per the RMP, BLM should manage to contain and/or reduce noxious weed infestations on BLM-administered land using integrated pest management approach and avoid introducing or spreading noxious weed infestations.

Most of the noxious weed populations in the Deadwood allotment occur along roads or in areas with historical disturbance regimes. Due to their invasive nature, noxious weeds present on the allotment can continue to spread when left untreated. Areas of moderate-to-heavy livestock utilization and congregation areas (salt blocks, water sources, shade) that experience soil and vegetation disturbance within the allotment are at risk for weed colonization.

However, under Alternative 2 only localized site disturbance would continue to produce conditions favoring noxious weeds and invasive introduced species. Noxious weed populations/sites in the allotment are sparse with most species occupying a single, small location (*Revised EA p. 72*). Noxious weed populations would continue to be treated as prescribed in the RMP and the Medford District Integrated Weed Management Plan Environmental Assessment (1998) (*Revised EA p. 10*).

A term and condition has been added to reduce the further spread of nonnative species by requiring washing of vehicles used for livestock transport and herding off of established roadways. The level at which livestock grazing on this allotment occurs would not significantly change the structure or rate of noxious weed spread. Weeds would continue to be treated. Therefore, the alternative meets the RMP objectives for managing noxious weeds (*Revised EA p.73*).

Comment 6: Alternative 2 would result in significant environmental impacts requiring BLM to prepare an Environmental Impact Statement (EIS).

Response: Management activities, including grazing, are analyzed for the Medford District in the EIS that supports the RMP. Thus, grazing leases that remain within the effects stated in the RMP EIS do not further require the preparation of a project EIS.

Alternative 2 would authorize the same AUMs and season of use that was analyzed in the 1995 Final EIS with the addition of stricter management requirements and mitigation measures. Because the decision to authorize alternative 2 will not result in significant effects beyond those disclosed in the 1995 Final EIS, completing an EIS will not be necessary. There are no significant impacts (*see the Finding of No Significant Impact—FONSI*). Therefore, the preparation of an *additional* EIS is not necessary.

CERTIFIED MAIL-RETURN RECEIPT REQUESTED (7005 1820 0006 5965 6853)

Merton Bradshaw Co.
C/O Mr. Lee Bradshaw
10275 Hwy 140
Eagle Point, OR 97524

Authorization # 3600102

CERTIFIED MAIL-RETURN RECEIPT REQUESTED (7005 1820 0006 5965 6914)

Mr. Brad Luscombe
16622 Lower Klamath Lake Rd.
Tulelake, CA 96134

Authorization # 3601784

NOTICE OF THE FIELD MANAGER'S FINAL DECISION

Dear Mr. Bradshaw and Mr. Luscombe:

INTRODUCTION

The purpose of this Final Decision is to address timely received points of protest submitted by members of the interested public regarding my Proposed Decision to renew the grazing leases on the Deadwood Allotment for a period of ten years. This Final Decision documents my rationale in response to points protested and serves as the next step toward selecting an alternative for implementation.

BACKGROUND

On September 08, 2011, I mailed my Notice of Field Manager's Proposed Decision to renew the grazing leases on the Deadwood Allotment for a period of 10 years to interested public members, or those who submitted comments during scoping or the Environmental Assessment (EA) comment period. The Proposed Decision included a Finding of No Significant Impact (FONSI) to the Environmental Assessment (DOI-BLM0OR0M060-2010-0028-EA) and an analysis of comment letters received.

On September 26, 2011, a joint protest letter to the Proposed Decision was timely received from the Center for Biological Diversity, Klamath Siskiyou Wildlands Center, Oregon Wild, Soda Mountain Wilderness Council, and The Wilderness Society. The protest letter restated issues previously submitted in comment letters from the same groups regarding the scoping process, the EA public comment period and the Proposed Decision protest period. The comments were considered and addressed in the NEPA process, in the EA analysis, the Decisions' comment analysis, and again in the protest points summarized below.

Protest Point 1: Requirements of the Aquatic Conservation Strategy (ACS)

"BLM has admitted that the status quo will not meet any of the nine ACS objectives. See EA at 53-56 (acknowledging Alternative 1, the status quo, does not meet or maintain ACS objectives)" (KS Wild et al., Protest Letter 9/26/11, p. 4).

"Thus, because Alternative 2 will maintain the status quo in these critical respects, the decision to implement Alternative 2 continues to violate the ACS objectives and thus the NWFP. Indeed, the BLM fails to explain how continued livestock grazing under Alternative 2 would not retard or prevent attainment of ACS objectives" (KS Wild et al., Protest Letter 9/26/11, p. 5).

BLM Response: Under BLM’s 1995 RMP, the Northwest Forest Plan’s ACS protocol requires that projects “not retard or prevent the attainment of Aquatic Conservation Strategy objectives.” Effects from projects that occur within the scope of the BLM’s 1995 RMP effects analysis do not require that improvements be in with every case. Also, “evidence . . . that a project will result in some degradation does not, standing alone, constitute ACS noncompliance” BARK v. BLM, 643 F. Supp. 2d 1214, 1234-1235 (D. Or. 2009). For this reason alone, you err in concluding that maintaining the status quo violates the ACS.

However, Alternative 2 does *not* maintain the status quo. Alternative 2 alters the terms and conditions of the lease and CRMP to make slight progress toward: 1) improving plant cover and community structure to promote streambank stability, debris and sediment capture, and floodwater energy dissipation in riparian areas; 2) improving livestock distribution; 3) improving water quality; and 4) avoiding unwanted or damaging concentrations of livestock on streambanks and wetland areas (EA p. 39).

Alternative 2 would see minor improvements over Alternative 1 because of the 5” stubble height and <20% bank disturbance outlined in the terms and conditions. If 5” stubble heights and <20% bank disturbance are maintained throughout the allotment and active herding is conducted effectively then improvements at the site level would occur (EA p. 51).

Under alternative 2, the four additional terms and conditions and three updates to management objectives in the Deadwood CRMP will slightly improve the physical integrity of these sites and reduce some of the effects of grazing on riparian vegetation. Maintaining 5” stubble height and less than 20% bank disturbance throughout the allotment will improve water quality. Active herd management will be necessary to promote livestock dispersal so as to prevent the development of other hotspots and overutilization of the woody shrub species and grasses that provide stream shade in the riparian areas (EA, p. 53).

For the same reasons the court found in BLM’s favor in BARK, the expected reduction in grazing effects to riparian vegetation, streambank instability, sedimentation, temperature, water quality and watershed function defined in Alternative 2 of this project meet the requirements of ACS, and your protest point does not show how BLM’s conclusions on this issue are in error or are lacking a solid explanation.

In Summary, Alternative 2 meets the requirements of the grazing regulations for Rangeland Health, (43 CFR 4180) and therefore, is also in compliance with the ACS because aquatic ecosystems will be maintained with improving conditions across the allotment.

Protest Point 2: The RMP and ESA listed species

“The DR inappropriately dismissed the impacts to northern spotted owl and thus failed to [p]rotect and conserve’ ESA-listed species as required by the RMP wildlife standards. One known spotted owl nest site exists within the Deadwood Allotment (DR at 12) and their prey species are known to be negatively impacted by grazing, specifically heavy grazing” (KS Wild et al., Protest Letter 9/26/11, p7).

BLM Response: You cite the National Center for Conservation Science and Policy study (DellaSala and Barr 2007) on predator-prey dynamics in the Cascade-Siskiyou National Monument as one of the studies to conclude that owls are impacted by grazing. The study area adjacent to the Deadwood Allotment

concluded “no significant differences ($P > 0.05$) in species richness, diversity, and evenness of small mammals were found between grazing intensities. However, cumulative biomass and abundance of small mammals in heavily grazed sites were 62% and 80%, respectively, of that in lightly grazed sites. Significantly fewer (all P values < 0.05) Harvest Mice (*Reithrodontomys megalotis*), woodrats (*Neotoma cinerea* and *N. fuscipes*), and Long-tailed Voles (*M. longicaudus*) occurred in **heavily versus lightly grazed** sites and fewer Deer Mice (*Peromyscus maniculatus*) were found **in heavily grazed oak woodlands**” [emp added].

The northern spotted owl is primarily associated with the Mixed-Conifer and White Fir Zones. The Deadwood allotment is a high elevation conifer forest ecosystem essentially devoid of oak woodlands (Revised EA p. 22). Levels of grazing in the habitat of the single northern spotted owl nest site in the mixed-conifer and white fir zone is light to non-existent (Revised EA p. 58). Furthermore, while the study concluded there were some differences (most differences were not scientifically significant) between light and heavily grazed areas, the study made no conclusions about the impacts to owls. Therefore, there is no reliable inference from this study related to the grazing on the Deadwood allotment.

While the EA did not specifically quantify the amount (acres) of heavy grazing, it did disclose the context in which “heavy” grazing should be discussed. “At the current grazing levels, fragile riparian areas would continue to see heavy to severe use and associated bank disturbance, fine sediment and bare ground. *These impacts are not widespread* [emphasis added] throughout the entire allotment; rather, they are focused along critical perennial stream sections” (Revised EA, p. 50). Therefore, when considering the minimal amount of land in a heavily grazed condition and the lack of significant differences between heavily and lightly grazed conditions, the heavy grazing impacts in riparian zones does not factor into meaningful impacts. Moreover, there are ongoing improvements to riparian vegetation. The BLM’s livestock impact study by Hosten and Whitridge (2007), which you cited, found stream channel riparian areas have shown considerable improvement in riparian vegetation composition (Revised EA p. 34). In addition, the implementation of Alternative 2 will result in improved forage conditions for wildlife (Revised EA p.61).

Furthermore, the Recovery Plan for the Northern Spotted Owl (2010) does not even address livestock grazing as an issue impeding the recovery of the owl. There is no mention of livestock grazing save a single reference in the 274-page document that simply lists grazing among management activities that have altered the landscape after Euro-American settlement. In light of the actions of Alternative 2 and the lack of evidence and concern that livestock grazing has any meaningful impact to northern spotted owls, the EA rightly claims that there will be no effect to the northern spotted owl (Revised EA p.59).

Protest Point 3: The RMP and noxious weeds

“BLM concludes without sufficient rationale that grazing would not significantly change the structure or rate of noxious weed spread” (KS Wild et al., Protest Letter 9/26/11, p.9).

BLM Response: The Medford District RMP objective for noxious weeds is to contain and/or reduce noxious weed infestations using an integrated pest management approach, and to reduce infestations where possible (RMP p. 92).

Sixteen and ten years of nested frequency data respectively show a significant decrease in two noxious weed species, *Hypericum perforatum* and *Bromus tectorum* (Revised EA p.65). To control known populations and prevent future spread of noxious and invasive species, the BLM weed control program uses herbicides, biological control agents, and hand pulling to treat infestations across the landscape. Chemical treatments in the Deadwood Allotment have occurred (Revised EA p.69). Populations of noxious weeds selected by the BLM for treatment and control efforts will continue to decrease in size. Because many of these populations are small and sparse priority will be given towards eradication efforts (Revised EA p.73). This treatment program will be enhanced by a new term requirement to pressure wash vehicles and equipment before entering the allotment. Therefore, Alternative 2 meets the RMP objective to reduce infestations, where possible.

Protest Point 4: Clean Water Act

“[t]he BLM has chosen Alternative 2, which clearly perpetuates violation of the Clean Water Act by continuing to impose virtually, if not the very same, impacts on the Deadwood allotment streams as the current condition” (KS Wild et al., Protest Letter 9/26/11, p10).

BLM Response: The BLM is recognized by Oregon Department of Environmental Quality (DEQ) as a Designated Management Agency for implementing the Clean Water Act on BLM-administered lands in Oregon. The BLM and DEQ have a Memorandum of Agreement (MOA) that defines the process by which the BLM will cooperatively meet State and Federal water quality rules and regulations. In accordance with the MOA, the BLM in cooperation with the Forest Service, DEQ, and the Environmental Protection Agency is implementing the *Forest Service and Bureau of Land Management Protocol for Addressing Clean Water Act Section 303(d) Listed Waters* (USDA and USDI 1999). Under the Protocol, the BLM will protect and maintain water quality where standards are met or surpassed, and restore water quality limited water bodies within their jurisdiction to conditions that meet or surpass standards for designated beneficial uses (Revised EA p. 28).

As acknowledged in the EA, removal of riparian vegetation, and the shade it provides, contributes to elevated stream temperatures. Past human-caused activities in riparian areas such as timber harvest, road construction, residential and agricultural clearing, and livestock grazing, have reduced the amount of riparian vegetation in the analysis area (USDI 2006 and USDI 2008c) (Revised EA, p. 28). Water withdrawals during the summer also contribute to elevated stream temperatures. Augmentation and diversion of flows in Jenny Creek Watershed for purposes of irrigation and hydroelectric production in the Bear Creek Watershed greatly complicate the instream flow regime for Jenny Creek (Revised EA p. 28). However, the BLM manages only 33% of the total stream miles listed for temperature (Revised EA p. 29) and has no control over effects being generated from private lands including logging, road use, recreation, grazing, agricultural conversion or other influences. The BLM administered lands along the assessed reaches of lower Conde and Dead Indian Creek meet the target shade and stream temperatures are on an upward trend (decreasing) on federal land as previously harvested riparian vegetation recovers (Revised EA p. 30).

Natural erosion processes occurring in the allotment area such as landslides, surface erosion, and flood events contribute to increased sedimentation (USDI and USDA 1997). Sediment sources resulting from human activities include roads; logging (tractor skid trails, yarding corridors, and landings); off-highway vehicle (OHV) trails, and concentrated livestock grazing in riparian zones (Revised EA p. 31).

Management measures used to limit the presence of livestock in stream channels or riparian zones in order to reduce sedimentation (USDI 2006) will also minimize the amount of bacterial contamination in surface water from BLM-managed lands (Revised EA p.32)

The degree of streambank trampling and disturbance in wet areas are reduced by both mitigation measures and terms and conditions (Revised EA p. 14-15) that (1) incorporate a pasture rotation in the Guard station area; (2) provide for installation of two cattleguards to facilitate distribution; (3) seeding bank disturbance areas; and (4) provide herding to reduce the amount of livestock congregation in the riparian zones. Therefore, with reductions in riparian vegetation utilization, concentration of livestock, and streambank trampling, the stream temperature, sedimentation, and E.coli will be reduced. Alternative 2 does not perpetuate the current conditions, rather improves water quality, and therefore does not violate the Clean Water Act.

Protest Point 5: FLPMA and Rangeland Health Standards

“In sum, BLM has acknowledged the status quo fails to meet four of the five Rangeland Health Standards. Despite the requirement to take “appropriate action” by 2010, BLM fails to demonstrate how the Deadwood Allotment will ensure compliance with those RHS. 43 C.F.R. 4180.2(c). [T]here is no rational connection between the existing situation where RHS is being violated and BLM’s decision to continue the land management that resulted in those violations without change.

BLM is mistaken if it believes that it is sufficient simply “make progress” [sic] toward meeting RHS and RMP Standards and Guidelines, instead of actually meeting those guidelines. There is no support for this approach” (KS Wild et al., Protest Letter 9/26/11, p.12).

BLM Response: The four fundamentals of Rangeland Health stated in 43 CFR 4180 are that: watersheds, ecological processes, water quality, and habitats **are, or are making significant progress towards** meeting rangeland health standards and guidelines (Standards for Rangeland Health pg. 3). “Significant progress” is defined (4180 Handbook) as “movement toward meeting standards and conforming to guidelines that is acceptable in terms of rate and magnitude. Acceptable levels of rate and magnitude must be realistic in terms of the capability of the resource, but must also be as expeditious and effective as practical.

The Revised EA provides rationale as to why Alternative 2 with implementation of four additional terms and conditions, three Deadwood CRMP updates and two mitigation measures satisfy BLM’s obligation to **make significant progress towards** meeting RHS’s, **maintain or restore** aquatic conditions and water quality, and **manage for the conservation** of Special Status Species as set forth in the RHS, CWA, ACS, and RMP Standards and Guidelines.

Standard 2 (Watershed Function (riparian/wetland areas) is not being met because wetlands and riparian areas are not functioning properly due to the degree of consumption of riparian vegetation, the degree of streambank trampling, and the degree of disturbance in wet areas which all influence water quality and temperature. Standard 3 (Ecological Processes) is not being met because the lack of improvement in hydrological process indicated by cut-banks and deteriorating rills across dry and wet meadows prevents meeting this standard. Standard 4 (Water Quality) is not being met because livestock are negatively affecting; stream temperature, establishment of riparian vegetation, stabilization of streambanks, sediment regimes and water quality (Revised EA, p.7).

Significant progress for Standards 2, 3 and 4 is addressed by reducing the degree of consumption of riparian vegetation, reducing the degree of streambank trampling, and reducing the degree of disturbance in wet areas which all influence water quality and temperature. Alternative 2 alters the terms and conditions of the lease to make *slight* progress toward: 1) improving plant cover and community structure to promote streambank stability, debris and sediment capture, and floodwater energy dissipation in riparian areas; 2) improving livestock distribution; 3) improving water quality; and 4) avoiding unwanted or damaging concentrations of livestock on streambanks, meadows and wetland areas (Revised EA pp. 51-54).

Standard 5 (Native, T&E, and Locally Important Species) is not being met because grazing negatively affects aquatic mollusks and their habitat by disturbing the soil, removing vegetation that provides shade and habitat for the mollusks, trampling the mollusks themselves; because grazing causes habitat degradation through streambank trampling and wading in shallow ponds, springs, and streams; and because grazing reduces the height and potentially (depending on the species) percent cover of plants used by the Mardon Skipper for nectaring and ovipositing.

Significant progress for Standard 5 for plants is addressed by the repair of the divide fence separating the BLM from the US Forest Service and additional terms and conditions of the lease (particularly stubble height requirements in key riparian areas) that would reduce the amount of time that livestock spend in riparian areas (Revised EA pp. 72-73). Measures noted above which facilitate distribution of livestock will result in improved forage conditions for wildlife. Disturbance and potential nest trampling of nesting birds would not differ measurably (Revised EA p. 61).

The full impact on rangeland health standards of the current terms and conditions in place was not appropriately determined because the divide fence that gives the allotment its rest-rotation management regime under the Coordinated Range Management Plan (RMP) was not functional for at least 3-5 years due to design and maintenance issues (Revised EA p. 9). A functioning divide fence essentially reduces livestock grazing by 50% in the Deadwood allotment, because grazing only occurs for ½ of each season alternately beginning in the early season and the middle of the season. Thus, impacts caused by late season grazing only occur once every other year.

The terms and conditions in Alternative 2 address both the fence maintenance of the divide fence and additional measures. It is not appropriate to measure significant progress in absence of the influence of a major flaw (nonfunctioning divide fence). Therefore, the combination of compliance under the CRMP and the slight improvements predicted by additional measures does represent movement toward meeting standards and conforming to guidelines. Field inspection of conditions since repair of the divide fence has indicated significant improvements (Revised EA, p. 10).

The efficacy of the rate and magnitude toward meeting standards can be judged by comparing the environmental results if grazing were to cease (Alternative 4). The singular action of eliminating grazing in this allotment is not likely to change the water quality listings for Conde, Dead Indian, and Hoxie Creeks (Revised EA p. 40). While difficult to quantify, riparian and aquatic habitat conditions in the allotment would improve as trampling and associated fine sediment would decrease while riparian vegetation density would increase (Revised EA, p. 51). Wildlife would benefit by eliminating the direct adverse impacts (e.g., nest trampling and trampling of individual mollusks) Revised EA, p. 61). Eliminating grazing on the allotment would allow plant community restoration to occur at a slightly faster rate than would occur with the current grazing allocation and would slightly increase the effectiveness of noxious weed treatments (Revised EA, p. 74). Thus, even the changes caused by completely ceasing grazing are very modest, at best. Therefore, the slight improvement of Alternative 2 when compared to the baseline of improvements when ceasing grazing altogether is acceptable in terms of rate and magnitude.

Protest Point 6: Monitoring for Lease Compliance

“BLM cannot rely on monitoring to ensure compliance with the terms of the lease and protection of the natural resources based on past experiences and current staffing realities” (KS Wild et al., Protest Letter 9/26/11, p.14).

BLM Response: While it is true that the issue of the divide fence was undetected for a number of years, it is a single incident and does not constitute a pattern of failed monitoring. The EA (pp. 11-12) lists eight monitoring protocols that are ongoing and two additional monitoring protocols that will provide evaluation of the proposed mitigation and terms and conditions. The list of ongoing monitoring demonstrates that while funding is never constant or guaranteed, regular monitoring is occurring.

Protest Point 7: Environmental Impact Statement

“BLM must prepare an EIS for the Deadwood Allotment because the impacts are significant” (KS Wild et al., Protest Letter, 9/26/11, p.15).

BLM Response: The FEIS for the 1995 Medford District Resource Management Plan authorizes livestock grazing as analyzed in the 1984 Grazing FEIS. The Medford Grazing FEIS (April 1984) analyze and disclose effects from grazing activities on resources as found in the September 1983 Draft EIS (DEIS pp. 31 – 48). The record of decision for the FEIS was signed on September 24, 1984, as part of the Rangeland Program Summary (RPS) Record of Decision. Changes and updates over time are contained in subsequent Rangeland Program Summaries (RPS) as amended and updated. Thus, grazing leases that remain within the effects stated in the RMP EIS do not further require the preparation of a project EIS.

Alternative 2 would authorize the same AUMs and season of use that was analyzed in the 1995 Final EIS (FEIS p. 91, Appendix B), and the Rangeland Program Summary (9/84, 5/92), of the 1995 RMP Decision Record, with the addition of stricter management requirements and mitigation measures. Because the decision to authorize Alternative 2 will not result in significant effects beyond those disclosed in the 1995 Final EIS, completing an EIS will not be necessary. There are no significant impacts (*see the Finding of No Significant Impact—FONSI*), therefore, the preparation of an *additional* EIS is not necessary (Appendix A p. 5).

Protest Point 8: Cumulative Effects Analysis

“Cumulative environmental effects have not been adequately analyzed in this EA (KS Wild et al., Protest Letter 9/26/11, p.14).

“EA fails to disclose that potentially significant cumulative effects to riparian habitat are inevitable.

BLM Response: The NEPA definition of a cumulative impact comes from the Council on Environmental Quality (CEQ), which defines a cumulative impact as *the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.* (40 CFR §1508.7.)

Past actions on riparian habitat are discussed on page 28 of the Revised EA. They include road building, logging, land clearing, agriculture, and livestock grazing. A lengthy discussion of those impacts defined by the current condition is on pages 28-35.

The impact of livestock grazing (present impacts) on the riparian habitat is disclosed in the Revised EA on pages 35-40.

The cumulative effects are discussed in the “Cumulative Effects” section on pages 41 and 42 concluding that Alternative 1, 2, and 3 all present a similar low potential for negative effects to peak flows, low flows, bacteria and pathogens. Alternatives 2 and 3 have less potential for negative effects to temperature, turbidity, and riparian condition than alternative 1. Alternative 2 will slightly improve conditions at the site level and the HUC 7. Alternative 3 will improve conditions more rapidly at the site level and the HUC 7 than alternative 2.

Protest Point 9: Cascade Siskiyou National Monument (CSNM) Proclamation

“The EA also fails to evaluate how the Deadwood Allotment lease will impact the CSNM or demonstrate how the agency will meet land management directives for the Monument” (KS Wild et al., Protest Letter 9/26/11, p.17).

BLM Response: The Revised EA at page 10 concludes that “[t]he parcel receives **no use** (*emphasis added*) by livestock due to low quantities of palatable forage, no available drinking water and most of all, steep, heavily timbered slopes that livestock rarely travel through. If utilization data indicates that livestock grazing is occurring on this 32 acre parcel then a fence would be constructed to prevent unauthorized livestock use”. Therefore, there is no direct impact from livestock to the CSNM.

The Antiquities Act that was used to create the Cascade-Siskiyou National Monument states that “*the President of the United States is hereby authorized, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and may reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with proper care and management of the objects to be protected [emphasis added]*”. Therefore, by definition, the objects are sufficiently protected by inclusion into the monument boundary.

Nonetheless, the EA briefly evaluates how the Deadwood Allotment lease will impact the CSNM by disclosing the indirect effects on water quality. Streams in the Deadwood Allotment drain into Howard Prairie Reservoir, Jenny Creek, and Dead Indian Creek (EA p. 30). Only a portion of Jenny Creek flows into the monument. Tributaries of Jenny Creek that flow into the CSNM and not into Howard Prairie Lake could affect temperature and sediment parameters; however, the effects would not be detectable above other influences. Additionally, the portions of Jenny Creek within the Deadwood allotment are in areas of slight to light grazing use (RHA p.3).

FINAL DECISION

I have carefully considered the statement of reasons included in the protest, information received through consultation, communication, and coordination with the current grazing lessees, Center for Biological Diversity, Klamath Siskiyou Wildlands Center, OR Wild, Soda Mountain Wilderness Council, The Wilderness Society, several members of the interested public and other information pertinent to the matters addressed in this decision. My Final Decision is to issue two separate grazing leases with a term of 10-years, beginning March 1, 2012 to February 28, 2022. The potential impacts of these grazing leases

were considered in the proposed action described in the Revised Environmental Assessment, EA# DOI-BLM-OR-M060-2010-0028-EA which considered the authorization of livestock grazing use on the Deadwood Allotment. The management objectives, livestock management and monitoring will continue to be used to set the parameters in the development of the annual grazing instructions which are in accordance with this decision.

Under the authority of 43 CFR 4130.2a, 43 CFR 4130.2d, and 43 CFR 4160.1a, it is my Final Decision to authorize the implementation of Alternative 2 as described in the *Revised Environmental Assessment for the Deadwood Grazing Allotment Lease Authorization* (DOI-BLM-OR-M060-2010-0028-EA) including mitigation measures, CRMP Updates and terms and conditions, as shown in Table 1, because I believe it best meets the purpose and need and best addresses the issues identified in the EA with acceptable environmental consequences.

With the implementation of Alternative 2, AUM levels and the grazing seasons-of-use would not be modified. The allotment would continue to be managed under a deferred rotation grazing system in accordance with the 1972 Deadwood Coordinated Range Management Plan (CRMP) with the U.S. Forest Service. The BLM allotment boundary would be adjusted to exclude 32 acres that are within the Cascade-Siskiyou National Monument (CSNM) boundary. In accord with the CSNM proclamation "...the Secretary shall not reallocate the forage available under such permits or for livestock grazing purposes..." and therefore, the 32 acres will no longer be available for grazing (Proclamation 7318 - Establishment of the CSNM P.3).

Table 1 – Deadwood Allotment Authorization Terms and Conditions:

Allotment	Acres	Number of Livestock	Season of Use		AUMs
			Year 1 (Even numbered years)	Year 2 (Odd numbered years)	
Deadwood (Total)*	7,972	393 cattle	06/16-8/15	08/16-10/15	788
Terms and Conditions (43 CFR 4130.3-2)					
<ul style="list-style-type: none"> • The Deadwood CRMP is incorporated as a term and condition of the lease. Grazing use is rotated such that grazing begins on BLM lands in even numbered years and begins on USFS lands in odd numbered years. • Turn-out would be based upon range readiness. • Actual use reports are to be returned within 15 days of off-date. • Billings are due upon receipt and must be paid prior to turn-out. • Late payment may result in unauthorized use, late fees and/or interest penalty. • BLM approved ear tags may be a requirement of the lease. • Lessees will conduct active management practices such as herding to promote livestock distribution to reduce grazing use in riparian areas. • Salt/mineral blocks will be placed at hardened locations at least ¼ mile from streams, springs, seeps or other wetlands with riparian vegetation, special status species, and recreation areas and will be rotated to promote livestock distribution and movements into areas where utilization levels are low. • Lessees are expected to annually commit labor, materials and/or funds necessary to keep improvements fully functional prior to livestock turn-out for the duration of the lease, including during periods of approved nonuse. 					

*Individual authorizations would be expressed in percentages consistent with existing individual grazing leases.

Management Objectives (In the process of being added to the Deadwood CRMP)

- Lessees are expected to commit continuous, day-long riding and gathering efforts necessary to effectively locate and remove all livestock by the annual authorization period. Any livestock not rotated or returning to the early season (BLM) allotment would be removed within 3 days of notification.
- An average stubble height of 5 inches with no more than 20% livestock caused bank alteration will be maintained in riparian areas of concern and would be seeded by BLM using native seed mixtures when native seed and workforce are available.
- Lessees are expected to remove 95% of their cows by the late season take-off date. Grazing use (greater than 5% of the cows) after the take-off date will result in unauthorized use fees for forage consumed, a 20% reduction in AUMs, and termination of the late season grazing period until such time as progress toward meeting standards is achieved in accordance with the provisions of 43 CFR, part 4180.
- To prevent the further spread of nonnative species in the allotment vehicles used for livestock transport and herding (trailers, trucks, all-terrain vehicles [ATVs]), and all motorized vehicles intended for use off of established roadways, must be power-washed prior to entry onto BLM-administered lands. Washing must remove all mud, dirt, excrement, and vegetative debris from vehicles.

Mitigation Measures That Will Be Implemented Under This Decision

- The Guard Station Pasture; an area that is fenced separately from the rest of the allotment in T. 38S R.4E Section 17 and the NE portion of Section 20 would be used during gathering on years where late season use is on BLM (year 2) for a maximum of seven days. To compensate for the late season concentration the previous fall, cattle will not be allowed in the Guard Station pasture until July 1 the following year to allow for recovery. Under the No Action alternative this area is used season long and has had unauthorized use because of poor fence maintenance and gates being left open.
- Two cattle guards would be installed cooperatively with the BLM and the lessee. A cattleguard would be installed on road 38-4E-7.1 in T 38S R. 4E Section 17 NW ¼ SW ¼ and on road 38-4E-7 in T 38S R. 4E Section 20 NE ¼ at the intersection of road 38-4E-8. These cattle guards would prevent livestock from drifting back into partially or completely fenced areas (that have been grazed) at locations where gates are often left opened during the grazing season. Installing cattle guards would improve the distribution within the allotment and reduce or eliminate unauthorized use due to gates being left open by the public.

Protective Exclosure

Exclusion of grazing would occur at two exclosures to protect areas known to be inhabited by the Mardon Skipper, a species that is a federal candidate for listing under the Endangered Species Act (EA p.10).

Allotment Lands within the Boundary of the Cascade Siskiyou National Monument (CSNM)

The 32 acres that are within the bounds of the CSNM would be removed from the Deadwood grazing

allotment by adjusting the allotment boundary to the section line along the northern edge of T. 38S. R. 4E Section 9.

Monitoring

Monitoring data will be collected in odd years, when the late season of grazing is on the BLM's Deadwood grazing allotment at key areas chosen in the field in cooperation with the lessees. Key areas are dynamic and will change based on utilization patterns. Data will be collected during the hot season and after cows have been on the allotment for at least one month (September 16-October 15) and will be used to work collaboratively with the lessees to ensure that livestock are moved from riparian areas prior to crossing the thresholds identified in the Terms and Conditions and to trigger management changes the lessees may have to implement for compliance with the lease (*Revised EA p.11 & 12*). In addition to being used as a management tool, the data gathered will be used to determine the effectiveness of the additional terms and conditions and mitigation measures in the analysis for the next lease renewal period. Because there are 50 grazing leases administered on the Medford District BLM some leases will go through the lease renewal process prior to expiration of the 10 year lease period. Grazing allotments in which livestock are determined to be a contributing factor to non-attainment of Rangeland Health Standards will be a priority for re-initiation of the lease renewal process. If it is determined that livestock grazing is continuing to be a significant contributing factor to non-attainment of Rangeland Health Standards, then a new range of alternatives to address these issues would be analyzed.

Range Improvements & Maintenance

Under Alternative 2, maintenance responsibilities for nine range improvement projects would be transferred to the lessees, with responsibilities divided amongst the lessees (Table 2). A new maintenance agreement will be developed after lease renewal has taken place formalizing maintenance responsibilities for each lessee. The requirements for maintenance and associated penalties are described in the Revised EA on page 13.

Table 2 - Range Improvement Projects and Maintenance Responsibility:

Project Name:	Project Number	Project Type:	Responsibility:
Griffin Pass Spring Fence	750547	PCT Drinking Water	Lessees
Moon Prairie (Aspen 1)	750559	Species Protection	Lessees
Moon Prairie (Aspen 2)	750560	Species Protection	Lessees
Owens Spring & trough	750532	Riparian Exclosure & Trough	Lessees
Guard Station fence & trough	7329	Riparian Exclosure & Trough	Lessees
Hoxie Meadow Fence (West)	750492	Riparian Exclosure	Lessees
Hoxie Meadow Spring (East)	750531	Riparian Exclosure & Trough	Lessees
Hoxie Creek Spring	750067	Trough/Water Development	Lessees
Moon Prairie Seeding #1	750001	Seeding	BLM
Moon Prairie Seeding #2	750002	Seeding	BLM
Dead Indian Creek Guard	750489	Cattleguard	Lessees
Shell Peak Pasture Fence	750463	Fence	Lessees
Howard Prairie	750126	Fence	Lessees

Fence			
Moon Prairie Fence	750119	Fence	Lessees
Hoxie Tributary Rock Dams	750474	Riparian Improvement	BLM
Jenny Creek Detention Dam	750054	Water Development	BLM
Brush Mtn. Detention Dam	750060	Water Development	BLM
Brush Mtn. Res	750357	Water Development	BLM
Guard Station Road Reservoir	750355	Water Development/Mardon Skipper study	Lessee (exclosure only)
Big Fir Reservoir	750358	Water Development	BLM
Johnson Creek #1 Pump Chance	750329	Pump Chance	BLM
Big Spring Pump Chance	750330	Pump Chance	BLM
Hoxie Creek Pump Chance	750331	Pump Chance	BLM
Quarry Pump Chance	750354	Pump Chance	BLM
Moon Prairie Meadow	To be assigned (TBA1)	Mardon Skipper study exclosure	Lessee

RATIONALE

Based on my review of the EA for Grazing Lease Renewal of the Deadwood Allotment (DOI-BLM-OR-M060-2010-0028-EA), reissuing two 10-year grazing leases with identified terms and conditions will balance the need to allow for livestock grazing as part of the Medford District's multiple-use program, while complying with the *Standards for Rangeland Health and Guidelines for Grazing Management for Public Lands in Oregon and Washington* (1997).

Short of eliminating grazing or fencing off all areas with water, there will be impacts from grazing in riparian zones (acknowledged in the Medford District RMP via its accompanying EIS). Therefore, the objective is not zero impact. To understand the concerns brought forward in the Rangeland Health Assessment and the EA, I've made a number of visits to the allotment (2008 through 2010) to see first-hand the most impacted areas and riparian zones. My findings are that adherence to the CRMP, and improvement to the division fence between the USFS and BLM pastures in 2008 has allowed noticeable improvement at impacted riparian areas. Staff visits in 2009 also noted improving conditions (*Revised EA p. 17*).

This re-emphasis and attention placed on maintenance and the design features of the CRMP, with close attention to compliance on pasture rotations and livestock removal dates, demonstrates that effective management results in progress toward meeting functional standards.

In Alternative 2, the more heavily impacted areas having functional concerns are proposed for exclosures as additional mitigation, and I am choosing to implement those mitigation measures. Thus, additional riparian areas will be physically closed to cows. Additional monitoring proposed to determine if impacts to riparian systems are being reduced is also in place. Therefore, the EA correctly concludes that riparian conditions will improve. These mitigations, and repairs to the division fence, combined with modified terms and conditions, will ensure that CRMP guidance, rotation of pastures, and removal of livestock at the take-off date occurs as scheduled.

While livestock removal is critical, I want to clarify that the new terms addressing rotation and removal are not always a simple process. The intent of the new terms is to get compliance with CRMP guidance with timely pasture rotations and livestock removal at year end. The reality is that from time to time, depending on environmental/weather conditions, cows may be difficult to round up and meet that tolerance, and may not even be having the impacts the CRMP was designed to avoid. As long as the lessees are diligent about pasture rotations and finding and retrieving cows at the end of authorized use, I will apply discretion to penalties outlined in the terms and conditions.

The BLM and the lessees have come to a good understanding about the need to meet the maintenance, pasture rotation, and take-off conditions, and I am confident the cooperative relationship in place will allow us to meet the intent of the end of season permit requirements. Ongoing monitoring of the allotment will provide the BLM with site-specific data to validate that improvement in functional standards are occurring.

The Rangeland Health Determination implicates livestock grazing as a contributing factor for not meeting Standard 2, Watershed Function – Riparian/Wetland Areas, Standard 3, Ecological Processes, Standard 4, Water Quality, and Standard 5, Native, T&E, and locally important Species. My Final Decision to modify the existing livestock grazing lease for the Deadwood Allotment includes adjusted terms and conditions for more effective livestock management; update of maintenance agreements with the expectation for more effective pasture rotations; distribution and timely removal in accordance with the CRMP guidelines for limited use and rest; development of a gathering area in the guard station area to facilitate better handling and more timely animal movement; two cattle guard installations to mitigating incidental livestock release where chronic gate closure failures are precluding effective containment; and installation of protective exclosures around sensitive habitat with increased effects monitoring to evaluate current grazing trends from other current and historic activities. These improvements, coupled with repair and update of existing management structures, will further recovery to functional standards for wetland and riparian areas, ecological processes, and T & E and other locally sensitive species concerns, in alignment with resource recovery already observed to be underway.

LANDUSE PLAN COMPLIANCE

The Medford District initiated planning and design for this project to conform and be consistent with the Medford District's 1995 RMP. Following the March 31, 2011 decision by the United States District Court for the District of Columbia in Douglas Timber Operators et al. v. Salazar, which vacated and remanded the administrative withdrawal of the Medford District's 2008 ROD and RMP, we evaluated this project for consistency with both the 1995 RMP and the 2008 ROD and RMP. Based upon this review, the selected alternative does not contain design features not included in either the 1995 RMP or the 2008 ROD and RMP. Accordingly, this project is consistent with the Medford District's 1995 RMP and the 2008 ROD/RMP.

FINDING OF NO SIGNIFICANT IMPACT (FONSI)

I have considered both context and intensity of the impacts anticipated from the renewal of the livestock grazing lease on the Deadwood Allotment relative to each of the ten significance criteria suggested by the CEQ. I have determined that my decision to implement Alternative 2, as described in the Environmental Assessment for the Deadwood Grazing Allotment Lease Authorization, are within the range of effects described in the Environmental Impact Statements for the Medford Grazing Management Program (incorporated by reference by the Medford District Management Plan Environmental Impact Statement), or the effects have been determined to not be significant. The estimated effects of implementing Alternative 2 are described below relative to each of the ten significance criteria suggested by CEQ.

With regard to the significance criteria, Alternative 2 would not:

1) *Have significant beneficial or adverse effects*

Soils and Water Resources

While grazing was identified as a contributing factor for not meeting rangeland health standards of watershed function (riparian/wetland areas), and water quality conditions (Standard 2 and 4), and Ecological Processes (Standard 3), Alternative 2 will modify the grazing lease by adding four terms and conditions and three updates to management objectives of the Deadwood CRMP incorporated into the lease, and implementation of three mitigation measures in an effort to reduce the pressures of grazing on riparian function and water quality.

The four additional terms and conditions with three updated management objectives of the Deadwood CRMP under this alternative, especially with the removal of livestock when a 5 inch stubble height and/or 20% bank alteration threshold is met and enforcement of the take-off date will slightly improve streambank stability, improve the ability of vegetation to trap sediment during higher streamflows, and reduce the solar radiation and heating of the water surface in seeps/springs/streams. Both the term terminating the late season grazing until progress toward meeting standards is achieved and a 20% reduction in AUMs in the years following unauthorized late season grazing will reduce late season impacts to riparian areas. Seeding of native vegetation on bare riparian ground will also benefit water resources. Late season use would continue to focus impacts on riparian areas making attainment of ACS difficult although not impossible. The four additional terms and conditions, three CRMP updates and active herd management will be vital for this alternative to meet ACS objectives at the site level and HUC 7 level. (Revised EA p.38-39) There would be a slight decrease in bank trampling and disturbances near water source due to herding of animals away from streambanks. Overall the erosion rates in this allotment would remain moderately above natural levels in the areas where cattle water. The proposed mitigation will help to insure cattle will remain in the allotted grazing area but due to the season of grazing would have only a very slight positive effect on soil erosion and/or productivity rates. The four additional terms and conditions with three CRMP updates will slightly reduce trampling and soil compaction in riparian areas (Revised EA p.63).

In addition the potential mitigation measures elected in this Decision will be an additional benefit to water resources in the allotment. Management of the Guard Station Pasture will be a benefit to riparian vegetation in this area (Revised EA p.39). The installation of the two cattleguards will improve the distribution within portions of the allotment and provide some benefit to riparian vegetation in Hoxie Creek (Revised EA p.39). Alternatives 2 and 3 have less potential for negative effects to temperature, turbidity, and riparian condition than alternative 1. Alternative 2 will slightly improve conditions at the site level and the HUC 7 (Revised EA p.42).

Monitoring of grazing conditions during recent field visits (9/2/09, 10/13/09, and 10/27/09) showed

vegetative recovery in riparian areas after improvements to existing fence line (in T. 38S R 4E Section 20) and strict adherence to grazing seasons (*Revised EA p. 17*). Field inspections in 2007 and 2008 indicated fence maintenance on the line between the Forest Service and BLM portions of the allotment was not being performed. The fence was non-functional and apparently had been that way for a number of years. The lack of a functional fence negated the benefits from alternating seasons of use, as well as increased AUMs on BLM lands. After repairs to this fence in 2008, field observations indicated the effects on riparian, wetlands, meadows were reduced, and the amount of heavy to severe utilization was less (*Revised EA p. 24*).

The long-term goal of the WQRP is compliance with water quality standards for the 303(d) listed streams in the North and South Forks of Little Butte Creek Key Watershed and the Draft Water Quality Restoration Plan for the Jenny Creek Watershed (USDI 2006 and USDI 2008c). The WQRPs identify TMDL implementation strategies to achieve this goal. Recovery goals focus on protecting areas where water quality meets standards and avoiding future impairments of these areas, and restoring areas that do not currently meet water quality standards. The recovery of water quality conditions on BLM-administered land in the North and South Forks Little Butte Key Watershed and the Jenny Creek Key Watershed is dependent upon implementation of the BLM *Medford District Resource Management Plan* (USDI 1995). The RMP (Appendix D: 172) includes best management practices (BMPs) that are intended to prevent or reduce water pollution to meet the goals of the CWA (*Revised EA p.8, 28*).

Best Management Practices described in the RMP (Appendix D: 172) call for protecting, maintaining, and improving water quality and riparian areas with the use of fencing, resting the allotment during periods of critical vegetation growth, and adjusting livestock management practices to meet resource objectives. The implementation of Alternative 2 meets these Best Management Practices by requiring the maintenance of an average of 5 inch stubble height and/or 20% or less streambank alteration in riparian areas to prevent over utilization in riparian areas.

Vegetation

Ensuring that use dates are complied with and if they are not implementing a 20% reduction in AUMs the following grazing season would allow plants to restore carbohydrate reserves for winter dormancy and spring growth in years with the early season of use (June 16-August 15). In years with the late season of use (August 16-October 15) a higher percentage of plants will be able to complete their growth cycles, from early season sprouting and blooming to setting seed successfully (if this is their primary means of reproduction).

Soil and vegetation trampling of wet or semi-wet areas would continue to a lesser extent than in Alternative 1. The repair to a fence separating the BLM from the US Forest Service and additional terms and conditions of the lease (particularly stubble height requirements in key riparian areas) would reduce the amount of time that livestock spend in riparian areas. This, in turn, would benefit native riparian species, as well as those that grow in the semi-wet to dry areas adjacent to perennial sources of water. Seed set would remain in adequate condition for successful germination the following season. Native species could begin to out-compete the short-lived, and highly successful, exotic species which thrive in disturbed soils and contributed to a conversion from native to non-native dominance in some open areas within the Deadwood allotment. The ability of a site to increase in native species will depend on the species characteristics (native and non-native) that are present, and the ecological site.

Wildlife

Mitigation measures which facilitate distribution of livestock will result in improved forage conditions for wildlife (*Revised EA p.61*). Two protective exclosures (pump chance 125 and 128) will protect an area inhabited by the Mardon Skipper from livestock grazing, a species that is a federal candidate for listing under the Endangered Species Act. Under the Bureau Special Status Species Policy (BLM Handbook

6840, 2008) candidate species are to be managed as Sensitive Species. With the construction of two protective enclosures at the reproductive sites, impacts to the Mardon Skipper are greatly reduced (*Revised EA p. 60*). These enclosures will benefit this butterfly species through limiting trampling of eggs, larvae, or adults and through increased availability of preferred vegetation for oviposition and nectaring (*Revised EA p. 58*).

Aquatic Habitat

Four new terms and conditions and three CRMP updates proposed under this alternative, specifically maintenance of 5" stubble heights in riparian areas, <20% active, livestock caused bank alteration, and active herd management will provide a measure of protection for riparian areas, allowing for slightly improved condition of riparian hotspots at the end of each grazing season. There would be a slight decrease in bank trampling and disturbances near water sources due to the term and condition requiring herding of animals away from riparian areas. The proposed mitigation measures (if chosen) would help reduce hotspot impacts but due to the season of grazing would have a very slight positive effect on stream banks and riparian stubble heights (*Revised EA p.50*).

Climate Change

Livestock grazing authorized in the Deadwood grazing lease falls well below the production limit to be in compliance with the Council for Environmental Quality's directions for Methane production and the analysis assumes that changes in grazing practices on this allotment would not result in any change in total carbon storage (*Revised EA p. 24-25*).

2) *Have significant impacts on public health or safety.*

No aspects of this lease renewal have been identified as having the potential to significantly and adversely impact public health or safety. All operations on BLM-administered lands are required to meet Occupational Safety and Health Association regulations for worker and public safety.

Grazing animals were identified as a potential contaminant source for the Gold Hill, Rogue River, and Grants Pass drinking water protection areas. The assessments recognized that concentrated livestock may contribute to erosion and sedimentation of surface water bodies. Grazing in the Little Butte Creek portion of the allotment consists of open range grazing with an average of approximately 48 cows across the 1,012 acres of the allotment. The City of Yreka source water assessment identified open range cattle as a potential contaminating activity (*Revised EA p.33*). However, given the numbers of AUMs authorized on this allotment is somewhat low, it is unlikely that this allotment grazed as authorized under the No Action or the three action alternatives is a significant contributor to the identification of grazing as a potential contaminant source (*Revised EA p. 36*).

3) *Have significant, adverse effects on unique characteristics of the geographic area such as historic or cultural resources; park lands or refuge lands; wilderness areas; wild or scenic rivers; Areas of Critical Environmental Concern (ACEC); prime farmlands; or climate change.*

The grazing allotment does not include; parks, refuge lands, wilderness areas, wild or scenic rivers, or prime farmlands. Nor does the allotment contain any ecologically significant areas such as significant caves, Wilderness Study Areas, or areas listed on the National Register of Natural Landmarks.

For *National Monument* lands, The 32 acres that are within the bounds of the CSNM would be removed from the Deadwood grazing allotment by adjusting the allotment boundary to the section line along the northern edge of T. 38S. R.4 E, Section 9. The boundary adjustment would be done to ensure management of the 32 acres is consistent with management of other CSNM lands and to keep management considerations associated with the monument from impinging on the greater area of the

Deadwood Allotment. At this time, review of livestock movement and utilization data indicates the parcel receives no use by livestock due to low quantities of palatable forage, no available drinking water and most of all, steep, heavily timbered slopes that livestock rarely travel through. If utilization data indicates that livestock grazing is occurring on this 32 acre parcel then a fence would be constructed to prevent unauthorized livestock use (*Revised EA p.9*).

For *Areas of Critical Environmental Concern (ACECs)*, the Hoxie Creek ACEC is located in the SE corner of 38S 4E Section 29 and is a 255 acre area designated in the Medford District RMP for natural systems, wildlife and botanical values. The ACEC is within the SE corner of the Deadwood allotment boundary. Utilization within the Hoxie Creek ACEC has generally been light (*Revised EA p. 75*).

The Moon Prairie ACEC shows a general improvement in range condition over the past two decades (*Revised EA p. 75*).

For *Resource Natural Area lands (RNAs)*, the Old Baldy RNA has utilization mapping that shows livestock do not use this area; therefore, livestock have no effect on the Old Baldy RNA (*Revised EA p. 75*).

For *Developed Recreation Area* lands, planned grazing activities are within the range of effects expected from the previous authorization and are within the guidelines approved for the Visual Resource Management rating applied to this site. (*Revised EA p. 74*)

Livestock grazing authorized in the Deadwood grazing lease falls well below the production limit to be in compliance with the Council for Environmental Quality's directions for Methane production and the analysis assumes that changes in grazing practices on this allotment would not result in any change in total carbon storage (*Revised EA p. 24*).

4) Have highly controversial environmental effects.

I have not identified any significant or unique level of controversy, or substantial dispute within the scientific community, concerning the effects of this lease renewal. The EA was published for public review and comments were received that supported non-use as the only means to improve riparian conditions. The concerns identified in this letters were addressed in the EA and these concerns do not elevate this to highly controversial environmental effects. The effects of renewing the grazing lease for the Deadwood Allotment are similar in nature to those of other approved grazing leases that have been implemented within the scope of the Environmental Impact Statements for the Medford Grazing Management Program and Medford District Resource Management Plan.

5) Have highly uncertain and potentially significant environmental effects or unique or unknown environmental risks.

The analysis does not show that this action will involve any unique or unknown risks outside of those addressed and anticipated in the Environmental Impact Statement for the Medford Grazing Management Program.

6) Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.

The decision to renew the Deadwood Allotment grazing leases will not set any precedents for future actions with significant effects and is consistent with the level of grazing anticipated in the 1995 Resource

Management Plan. These grazing lease renewals will reauthorize grazing activities with minor modifications similar to previously approved livestock grazing plans under the 1984 Medford Grazing Program Environmental Impact Statement.

7) Be directly related to other actions with individually insignificant, but significant cumulative environmental effects.

The Interdisciplinary Team (IDT) reviewed this project for the potential for significant cumulative effects considering past, present, and reasonably foreseeable actions. Terms and conditions are included as part of this lease renewal in order to implement it in a manner that reduces the potential for adverse effects to water quality, aquatic and wildlife habitats, botanical resources, and soils. Based on the analysis documented in the EA, there is no substantial potential for implementation of this lease renewal to contribute to significant beneficial or adverse cumulative effects.

8) Have adverse effects on properties listed or eligible for listing on the National Register of Historic Places. This includes Native American religious or cultural sites, archaeological sites, or historic properties.

This project was reviewed for the potential for adverse effects on cultural resources. BLM determined that the proposed project would have no adverse effects on known cultural resources. (*Revised EA p.74*)

9) Have adverse effects on species listed or proposed to be listed as Federally Endangered or Threatened Species, or have adverse effects on designated critical habitat for these species.

Coho, Coho Critical, and Essential Fish Habitat

In 1997, the Southern Oregon/Northern California (SONC) Evolutionary Significant Unit (ESU) of coho salmon (*Onchorynchus kisutch*) was listed as “threatened” with the possibility of extinction under the Endangered Species Act (ESA) by the National Marine Fisheries Service (NMFS). There are no coho salmon within the allotment area, therefore, no potential for direct effects to coho. The nearest Coho Critical Habitat is approximately 4.0 miles downstream of the Allotment. There is no Essential Fish Habitat, as defined by NOAA fisheries within the allotment (*Revised EA p. 44*).

Because Coho Critical Habitat for SONC coho salmon is 18.0 miles downstream in the Klamath River system, below Irongate Reservoir and 4.0 miles downstream of the allotment in the South fork Little Butte Subwatershed, and because there is no Essential Fish Habitat (EFH) within the allotment, BLM has determined that renewing the Deadwood Grazing Leases under Alternative 2 is a “No Effect (NE)” for listed coho salmon, their Critical Habitat, and Essential Fish Habitat.

Mardon Skipper

The Mardon Skipper Butterfly is a Bureau Sensitive Species and is listed as a Federal Candidate species under the U.S. Endangered Species Act. Two reproductive sites are known within this allotment. Twelve known sites occur in the Ashland Resource Area. The “primary threat” listed for each of these sites is “grazing.” Mechanisms through which livestock may impact this species include trampling, eating food sources, and facilitating invasion of non-native plants (Xerces, 2007, 2010). With the construction of two protective enclosures at the reproductive sites, impacts to the Mardon Skipper are greatly reduced. (*Revised EA p. 60*)

Northern Spotted Owl

The suite of (wildlife) species that is not affected or affected to only a minor degree includes the following: Northern Spotted Owl ... These species are primarily associated with the Mixed-Conifer and White Fir Zones. Grazing does not physically reduce the numbers of these species nor does it appreciably

reduce feeding, breeding and sheltering opportunities.

There is one known Northern Spotted Owl nest site in this allotment. Northern Spotted Owls prefer dense forest habitat and grazing is light to non-existent in these areas due to a lack of forage. Grazing does not affect this species in this allotment. (*Revised EA p. 59*)

Federally Listed Plants

The Deadwood Allotment is outside the range of known to occur on the Medford District of the BLM (*Fritillaria gentneri*, *Limnanthes floccosa ssp. grandiflora*, *Arabis macdonaldiana*, and *Lomatium cookii*) as defined by the U.S. Fish and Wildlife Service (USDI Fish and Wildlife Service, 2003). No occurrences of any federally listed plant species are known on federal lands within the allotment (*EA p. 64*).

There are six known Survey and Manage and Special Status vascular and nonvascular plants, and fungi within the Deadwood Allotment. Grazing under Alternative 2 does not pose a threat to the persistence of Survey and Manage or Bureau Sensitive plants because loss of some individuals would not contribute to the need to list these species (*Revised EA p. 70*).

10) Violate a Federal, State, Local, or Tribal law, regulation or policy imposed for the protection of the environment.

I have determined that implementing Alternative 2 will not result in actions that will threaten a violation of any federal, state, or local environmental protection laws. As designed, Alternative 2 will comply with the Medford Grazing Management Program and the Medford District Resource Management Plan.

This lease renewal is in conformance with the direction given for the management of public lands in the Medford District by the Northwest Forest Plan, the Oregon and California Lands Act of 1937 (O&C Act), Federal Land Policy and Management Act of 1976 (FLPMA), the Endangered Species Act (ESA), Safe Drinking Water Act (SDWA) of 1974 (as amended in 1986 and 1996), the Clean Water Act, and the Archaeological Resources Protection Act of 1979 (ARPA).

The BLM IDT reviewed this grazing lease renewal for the potential for disproportionately high or adverse effects on minority or low income populations; based on the analysis, I have determined that no adverse impacts to minority or low income populations will occur as a result of implementing Alternative 2 *Executive Order 12898 (Environmental Justice)*.

The grazing lease renewal will not result in restricting access to, and ceremonial use of, Indian sacred sites by Indian religious practitioners or adversely affect the physical integrity of such sacred sites. No sites have been identified in the project area *Executive Order 13007 (Indian Sacred Sites)*.

This project would have no effect on Indian Trust Resources as none exist in the project area.

AUTHORITY

This decision is made under the authority of the following 43 CFR 4100 citations:

4100.0-8 (Land use plans), 4110.2-2 (Specifying permitted use), 4120.3 (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 or leases), 4130.4 (Approval of changes in grazing use within the terms and conditions of permits and leases), 4160.3 (Final Decisions), 4180.2 (Standards and guidelines for grazing administration).

RIGHT OF APPEAL PROCEDURES

Any applicant, 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. The appeal may be accompanied by a petition for a stay of the decision in accordance with 43 CFR 4.471 and 4.479, 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 by certified mail on the U.S. Department of the Interior, Office of the Regional Solicitor, Pacific NW Region, 805 SW Broadway, Suite 600, Portland, Oregon 97205, 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 from which an appeal is taken (other than the appellant) who wishes to file a response to the petition for a stay may file with the Hearings division a motion to intervene in the appeal, together with the response, within 10 days after receiving the petition. Within 15 days after filing the motion to intervene and response, the person must serve copies on the appellant, the Office of the Solicitor and any other person named in the decision (43 CFR 4.472(b)).

If you have any questions, feel free to contact Steve Slavik at (541) 618-2471.

Sincerely,

/s/: John Gerritsma

John Gerritsma
Field Manager
Ashland Resource Area

Enclosures

cc: CERTIFIED MAIL-RETURN RECEIPT REQUESTED (7005 1820 0006 5965 6877)
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