

CERTIFIED MAIL-RETURN RECEIPT REQUESTED (7005 1820 0003 8142 0821)

Lee Bradshaw
10275 Highway 140
Eagle Point, OR 97524

Authorization #3600115

NOTICE OF THE FIELD MANAGER'S FINAL DECISION

Dear Mr. Bradshaw:

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 lease on the Howard Prairie 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 October 4, 2011, I mailed my Notice of Field Manager's Proposed Decision to renew the grazing lease on the Howard Prairie 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-BLM-OR-M060-2011-0006-EA) and an analysis of comment letters received (Appendix A).

On October 20, 2011, a joint protest letter to the Proposed Decision was timely received from the Klamath Siskiyou Wildlands Center and the Soda Mountain Wilderness Council. 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 Decision's comment analysis, and again in the protest points #1-5, summarized below.

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

"Alternative 2 permits continued degradation of streambank stability and riparian vegetation, in violation of the Northwest Forest Plan Aquatic Conservation Strategy (ACS)" (KS Wild et al., Protest Letter 10/20/11, p. 2).

BLM Response: Under BLMs 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 made in 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).

A determination on the results of the assessment find that the Standard for Riparian/Wetland Watershed Function and Water Quality are not being met; however, the current livestock grazing authorization were determined to not be a major contributing factor (EA p.6). Contributing factors other than the current livestock grazing authorization include; water augmentation from the canal, unauthorized grazing use, and horse use from the Lily Glenn Equestrian Park (EA pp.7, 12-14, and 16). In Summary, Alternative 2 meets the requirements of the grazing regulations for Rangeland Health, (43 CFR 4180) and, is also in

compliance with the ACS because aquatic ecosystems will be maintained with some improvements in the allotment (EA pp. 15-17).

Protest Point 2: Endangered Species Act (ESA)

“The Howard Prairie EA significantly and falsely downplays the potential adverse impacts of continued grazing on sensitive species, including the Mardon skipper” (KS Wild et al., Protest Letter 10/20/11, p. 5).

BLM Response: The BLM manages Species of Concern, which includes species that are federally listed as threatened or endangered, proposed or candidates for federal listing as threatened or endangered, are BLM designated sensitive species, or are listed as Survey and Manage species under the Northwest Forest Plan. The Mardon skipper is a BLM Special Status Species. These species require special management consideration to promote their conservation and reduce the likelihood and need for future listing under the ESA (EA p. 18). However, there is no requirement under the ESA for protection of candidate species.

The EA at page 22 states that the BLM does believe that suitable habitat for the Mardon skipper (butterfly) exists in the Howard Prairie grazing allotment. The EA goes on to state that, assuming that Mardon skippers are present, it is likely that grazing in this allotment would not have significant adverse effects to the adults because they have completed ovipositing (laying eggs) and ended their lifecycle (Xerces 2007). The larvae would be entering diapause for the winter at the base of the host plants and are unlikely to be consumed during grazing. The potential for trampling larvae exists but lack of research makes it difficult to determine what effect isolated trampling would have on the population. In addition, not all grazing is detrimental; light or rotational grazing can be beneficial in maintaining preferred vegetation structure for some skipper species and can help reduce conifer encroachment (Kerwin and Huff, 2007) (EA p.23).

The Mardon skipper management plan indicates that California oatgrass (*Danthonia californica*) and Idaho fescue (*Festuca idahoensis*) are the primary bunchgrass species that the Mardon skipper is dependent on for ovipositing (Xerces 2007). Neither of these species were recorded in the Nested Frequency transect data collected in the Howard Prairie Grazing allotment therefore, the trend for these key bunchgrass species is unknown. The late season grazing window would allow bunch grasses to have already dropped seed and would lessen the effect to seed sources (EA p.23). In addition, the areas most likely to experience conversion from native perennial grasslands to exotic annual/perennial grasslands have already undergone conversion within the Howard Prairie allotment (EA p.27).

Protest Point 3: NEPA

3.A *“The BLM concludes that “(t)he level at which livestock grazing on this allotment occurs would not significantly change the composition, structure, and rate of weed spread” (DR Appendix, Comment Analysis, Comment 4 Response). This conclusion is arbitrary and capricious, runs contrary to available scientific evidence and is not supported by any reliable sources whatsoever. The BLM is required by NEPA to provide scientific support for its assumptions and predictions as well as disclose any evidence that might address significant controversy or uncertainties” (KS Wild et al., Protest Letter 10/20/11, p. 6).*

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).

The two noxious weed species known to occur within the allotment are small populations and are species

that are not targeted by the BLM for treatment. The *Hypericum perforatum* generally grows along roadsides or other disturbed areas and does not aggressively invade in the Howard Prairie area. The *Bromus tectorum* is not treated because the Medford District currently only uses broadleaf selective herbicides that are not effective on grass species (EA p.27). Vegetation monitoring has shown that this species does not aggressively invade in this high elevation environment (Hosten et al. 2007d).

The conclusion that the level at which livestock grazing on this allotment occurs would not significantly change the composition, structure, and rate of weed spread is not arbitrary or capricious and uses the same body of scientific evidence (The Cascade-Siskiyou National Monuments Livestock Impacts Study) that is cited in the protest, as well as BLM's weed database, Nested Frequency Trend Data, Oregon Department of Agriculture Weed publications, literature reviews, as well as specialists' knowledge of the area. You have not provided any information that would refute the analysis and conclusions in the EA.

3B. “EA and DR Failed to Address Significant Issues Raised by Petitioners in Their EA Comments” (KS Wild et al., Protest Letter 10/20/11, p. 6).

BLM Response: BLM regulations, regarding the National Environmental policy Act (NEPA) state that “it is not better documents but better decisions that count. NEPA’s purpose is not to generate paperwork – even excellent paperwork – but to foster better action ((40 CFR §1500.1(c)). NEPA requires that alternatives are described in sufficient detail so that effects of the alternatives can be compared (40 CFR 1502.14(b)). The NEPA calls for “concise” and focused descriptions of the proposals and “brief discussions... of the environmental impacts of the proposed action and alternatives” (40 CFR 1508.9(b)); and “(1) Briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact (40 CFR 1508.9(a)(1)); not all background information is required to be part of the NEPA document (40 CFR 1502.1).

The following are issues alleged to not have been addressed. The agreement between BOR and BLM (1968) for managing grazing in the Howard Prairie allotment is background information that is not necessary either for analysis of effects or making an informed decision. BOR was provided the scoping and EA comments received by BLM, regarding the Memorandum of Agreement (MOA No. 83-168) dated March 31, 1983. BLM and BOR addressed scoping and EA comments by providing copies to commenters who expressed interest in the document thereby satisfying the request. Other comments/questions regarding livestock trespass were addressed in the EA at page 7 where it was noted that improvements to gates and fences have been successful at stopping trespass from the adjacent Deadwood grazing allotment. Fence maintenance was covered in the EA on pages 8 and 10 under Range Improvements & Maintenance where BLM discusses fence maintenance responsibilities. Lessee Coordinated Range Management Plan (CRMP) compliance is a non-issue because no CRMP is in place for this allotment, and the full costs of lease administration is not relevant to the specific project proposal and is therefore considered a non-substantive comment (Appendix A).

3C. “BLM failed to analyze the cumulative effects of the proposed action” (KS Wild et al., Protest Letter 10/20/11, p. 7).

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.)

The affected environment and No Action effects section for each resource incorporates the current condition, and past, present, and reasonably foreseeable actions. Following the Code of Federal Regulations and CEQ guidance, the effects sections add the anticipated effects of this project to the current conditions, resulting in the cumulative effects analysis for the project (EA p.11).

You mention a number of other projects in your protest. Other allotments near the Howard Prairie allotment are Deadwood to the south and east and Conde Creek to the northwest. Cove Creek is in a different watershed and would not be expected to cause cumulative effects in conjunction with this project. In any case, as no substantive effects are expected from grazing on the Howard Prairie allotment, none of the effects are additive or synergistic with the effects of the other projects. There are no anticipated cumulative effects from project activities that were not addressed in the EA and you have not provided any support that this conclusion is in error.

3D. “BLM failed to analyze an adequate range of alternatives, in violation of NEPA” (KS Wild et al., Protest Letter 10/20/11, p. 8).

BLM Response: Alternatives respond to the purpose and need which is to determine under what conditions the lease would be renewed consistent with the Federal Lands Policy and Management Act of 1976 (FLPMA) (43 U.S.C. § 1701 et seq.) and regulations set forth under 43 CFR 4100, Grazing Administration to “establish efficient and effective administration of public rangelands” so as to “provide for the sustainability of the western livestock industry and communities dependent upon productive, healthy, public rangelands.” (EA p.1). Using *Standards for Rangeland Health and Guidelines for Livestock Grazing Management for Public Lands in Oregon and Washington* provides the basis for assessing the rangeland condition and trend.

The EA considered a range of alternatives designed to meet the BLM’s legal obligations, and purpose and need for action. According to the CEQ regulations and the Department of the Interior NEPA regulations, “[t]he range of alternatives includes those reasonable alternatives (paragraph 46.420(b)) that meet the purpose and need of the proposed action, and address one or more significant issues (40 CFR 1501.7(a)(2–3)) related to the proposed action. Since an alternative may be developed to address more than one significant issue, no specific number of alternatives is required or prescribed” (43 CFR 46.415(b)).

The BLM considered a reasonable range of alternatives as required by NEPA and CEQ regulations. In the development of alternatives, the EA follows the guidance stated in Section 102 (2) (E) of the National Environmental Policy Act of 1969, as amended (NEPA). Federal agencies shall “...study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources.” CEQ regulations require BLM to analyze those alternatives necessary to come to a reasoned choice in meeting the purpose and need for the project (40 CFR 1502.14).

The Ninth Circuit has rejected the argument that an EA requires consideration of more than two alternatives. See *Native Ecosystems Council v. Forest Service*, 428 F.3d 1233, 1246 (9th Cir. 2005). Further, in the *Morongo Band of Mission Indians v. Federal Aviation Admin.*, 161 F.3d 569, 576 (9th Cir. 1998), the Ninth Circuit held that parties claiming a NEPA violation involving failure to consider a reasonable alternative must offer a specific, detailed counterproposal that has a chance of success. Also an agency does not have to consider alternatives that are not feasible, (See *Headwaters, Inc. v. BLM*, 914 F.2d 1174, 1180-1181 (9th Cir. 1998)), and an agency does not have to consider alternatives that would not accomplish the purpose of the proposed project. See *City of Angoon v. Hodel* 803 F.2d 1016, 1021 (9th Cir 1986).

The EA includes three alternatives; a No Action Alternative which would renew the grazing lease as is, the Proposed Action which analyzes two mitigating measures, and a No Grazing Alternative that would rest the allotment for ten years. In addition, the Howard Prairie EA (DOI-BLM-OR-M060-2011-0006-EA) discusses three additional alternatives that were considered by the Interdisciplinary Team but were not analyzed in detail (EA p. 10).

The Standards for Riparian/Wetland Watershed Function and Water Quality are not being met; however, the current livestock grazing authorization were determined to not be a major contributing factor. The preliminary findings documented in the resulting Howard Prairie Allotment Rangeland Health Determination provided a basis for formulating the agencies alternatives for renewing the grazing lease (EA p.6). Because grazing was determined to not be a significant causal factor no action is required by the agency (IM 2009-007).

Protest Point 4: Clean Water Act

“The decision for Alternative 2 perpetuates violations of the Clean Water Act by continuing to permit grazing in the exact same number and for the exact same grazing season as the no-action alternative” (KS Wild et al., Protest Letter 10/20/11, p. 10).

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 (EA p. 28).

As acknowledged in the EA, Grizzly Creek for 3 miles below Howard Prairie Reservoir to its confluence with Jenny Creek is listed as water quality impaired, 303(d), for exceeding summer temperature criteria (ODEQ 2010). Since water originating within and above the allotment is stored in Howard Prairie Reservoir and released for irrigation and other purposes, grazing has no effect on stream temperatures within the listed reach of Grizzly Creek (EA p.12). Even if mitigation measures were chosen the augmented flows in the Grizzly Creek channel from the South Fork Canal to Howard Prairie Reservoir will maintain the channel in its overall degraded condition (EA p.13). Alternative 1, 2, and 3 would have no effect on water temperature because shade would be maintained or improved along all stream channels (EA p. 16).

Gates and the fence along the south boundary of the allotment that divides the Howard Prairie Allotment from the Deadwood Allotment were upgraded in 2009. The maintenance was done to help manage incidental unauthorized use coming from the Deadwood allotment and to facilitate better gate closure by equestrian park users. Follow-up observations indicate that the gate and fence improvements have been successful at stopping trespass from the adjacent Deadwood grazing allotment (EA p. 7). The majority of the Grizzly Creek stream channel is incised above the wooden footbridge. Vertical banks are common along much of this reach (EA p. 12) which makes it inaccessible to livestock. Ground disturbance and vegetation consumption in the riparian area associated with the Lily Glen Equestrian Park affect water quality and functionality of the streams within the Howard Prairie grazing allotment (EA p. 12).

A determination on the results of the assessment find that Standards for Riparian/Wetland Watershed Function and Water Quality are not being met; however, the current livestock grazing authorization were determined to not be a major contributing factor (EA p.6). Therefore, the grazing currently authorized under the Howard Prairie Grazing Lease is not perpetuating the 303d listing nor is it violating the Clean Water Act.

Protest Point 5: FLPMA

5A. *“BLM must take action to modify the terms and conditions of the Howard Prairie grazing lease in order to comply with the RHA and thus FLPMA. (See 43 C.F.R. § 4180.2 requiring BLM, once it determines that livestock grazing is diminishing allotment resources in a way that precludes it from meeting rangeland health standards, to take appropriate action to meet the standards no later than the start of the next grazing year)” (KS Wild et al., Protest Letter 10/20/11, p. 11).*

BLM Response: Instruction Memorandum No. 2009-007, *Process for Evaluating Status of Land Health and Making Determinations of Causal Factors When Land Health Standards Are Not Achieved*, outlines the process that the authorized officer must follow in the renewal of grazing leases on BLM managed lands.

The Evaluation and Determination for the Howard Prairie Grazing allotment documents that standards are not achieved in the assessment area; therefore, the authorized officer determined significant causal factors for non-achievement (DR p.2). Existing grazing management practices or levels of grazing use on public land are NOT significant factors, the causal factors are activities or events outside of BLM's control, and therefore, no action is required. Alternative 2 follows management standards and guidelines set forth by the Medford District RMP and thus complies with FLPMA.

Despite the fact that the authorized grazing within the Howard Prairie grazing allotment is **not a significant** causal factor for not meeting rangeland health standards the BLM has taken the opportunity to coordinate and cooperate with the BOR and Jackson County Parks to improve management at the Lily Glenn Equestrian Park by; upgrading gates in 2009 to facilitate better gate closure by equestrian park users (EA p.7), and is pursuing ways to reduce horse and livestock traffic in riparian areas (DR p. 7, Mitigation Measures) to make progress toward meeting the rangeland health standards that are currently not being met. In addition, monitoring will occur to determine if significant progress toward meeting the standards is occurring (EA p. 8).

5B. *“.....the effect of cattle wastes consistently being deposited into the reservoir and onto its fluctuating level of shoreline is inconsistent with the Jackson County and BOR designation of Howard Prairie as an outdoor recreation area. Such a location for a commercial livestock grazing allotment is not suitable under FLPMA and applicable RMPs and regulations” (KS Wild et al., Protest Letter 10/20/11, p. 11).*

BLM Response: There are two designated recreation sites near the Howard Prairie grazing allotment. The allotment is south of the Grizzly Creek County Park and surrounds the Lily Glen Equestrian County Park. Given the numbers of AUMs authorized on this allotment is low; it is unlikely that the grazing on this allotment is a significant contributor to contaminants in Howard Prairie Lake (DR p.9). In addition, the season of use on this allotment, October 15th - November 15th would further limit the potential of livestock to interfere with outdoor recreation use because recreation use in the fall is very limited. In addition, the Grizzly Creek County Park is completely fenced from the grazing that occurs on the Howard Prairie grazing allotment (EA p. 30).

FINAL DECISION

I have carefully assessed the statement of reasons included in the protest, information received through consultation, communication, and coordination with the current grazing lessee, and several members of the interested public. Under the authority of 43 CFR 4130.2a, 43 CFR 4130.2d, and 43 CFR 4160.1a, it is my Final Decision to issue the grazing lease with a term of 10-years, beginning March 1, 2012 to February 28, 2022. The potential impacts of this grazing lease were considered under Alternative 2 and described in the Environmental Assessment, EA# DOI-BLM-OR-M060-2011-0006-EA which includes terms and conditions, as shown in Table 1 (below). I believe these terms and conditions best meet the purpose and need, and best address the issues identified in the EA with acceptable environmental consequences.

The implementation of Alternative 2 will renew the Howard Prairie grazing lease with the same season of use and AUMs as the existing livestock grazing lease. The lease will authorize 61 cattle (61 AUMs) on BOR and BLM managed lands from October 16th to November 15th. The following table (Table 1) describes terms and conditions to be included as a requirement of the lease renewal.

Table 1 – Lease Terms and Conditions

Allotment Name	AUMs	Number of Livestock	Season of Use
Howard Prairie	61	61 Cattle	10/16-11/15
Terms and Conditions (43 CFR 4130.3-2) <ul style="list-style-type: none">• Actual use reports are to be returned within 15 days of off-date.• Maintenance of assigned range improvements is a requirement of lease and must be done prior to livestock turn-out.• In the event of adjacent allotment closure, the lessee will assume all maintenance responsibilities for Howard Prairie boundary fences.• Billings are due upon receipt and must be paid prior to turn-out.• Late payment may result in unauthorized use and/or interest penalty.• BLM approved ear tags may be a requirement of lease.			

Mitigation Measures

The two potential mitigation measures discussed in the EA on page 9 will not be implemented at this time. Further coordination and cooperation with the Bureau of Reclamation, Jackson County Parks, and recreational user groups of the Lily Glenn Equestrian Park will be attained prior to implementation. Once cooperation and support of the other agencies and user groups is attained a second Decision will be written. In addition to signs and improvements to gates in 2009 to prevent unauthorized grazing, signs may be posted at stream crossings along the Lily Glenn trail to ask user groups to please stay on the trail to prevent bank disturbance.

Range Improvements & Maintenance

Under this alternative, maintenance of range improvement project # 7500126 and Range Improvement Project #750045 would continue to be the responsibility of the lessee. The requirements for maintenance and associated penalties are described in the EA on page 9.

DECISION RATIONALE

Based on my review of the EA for Grazing Lease Renewal of the Howard Prairie Allotment Grazing Lease Authorization (DOI-BLM-OR-M060-2011-0006-EA), reissuing a 10-year grazing lease 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).

The Rangeland Health Determination **does not** implicate livestock grazing as a significant contributing factor for not meeting Standard 2 Watershed Function – Riparian/Wetland Areas, and Standard 4 Water Quality. My Final Decision to renew the existing livestock grazing lease for the Howard Prairie Allotment, which emphasizes maintenance of range improvements and gate closure to prevent unauthorized use will reduce impacts to riparian areas and is expected to make progress towards meeting the Standards for Rangeland Health in the Howard Prairie Grazing Allotment. All streams in the allotment ultimately drain into Howard Prairie Reservoir. Since water originating within and above the allotment is stored in Howard Prairie Reservoir and released for irrigation and other purposes, grazing has no effect on stream temperatures within the listed reach of Grizzly Creek. Even if mitigation measures were chosen the augmented flows in the Grizzly Creek channel from the South Fork Canal to Howard Prairie Reservoir will maintain the channel in its overall degraded condition (EA p.13).

LAND USE 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 Howard Prairie 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 Howard Prairie 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

The topography of this allotment is fairly gentle so erosion rates on the landscape ranges are low to moderate. Grizzly Creek for 3 miles below Howard Prairie Reservoir to its confluence with Jenny Creek is listed as water quality impaired, 303(d), for exceeding summer temperature criteria (ODEQ 2010). Since water originating within and above the allotment is stored in Howard Prairie Reservoir and released for irrigation and other purposes, grazing has no effect on stream temperatures within the listed reach of Grizzly Creek (EA p.12). Grazing was not identified as a significant contributing factor for not meeting rangeland health standards of watershed function (riparian/wetland areas), and water quality conditions.

Vegetation

The late season of use on this allotment will allow perennial plant species to produce seed every year. The Rangeland Health Assessment completed in 2009 showed that there are varied departures in Biotic Integrity within this allotment, depending on the ecological site being evaluated. Two ecological sites were evaluated: Wet Meadow (None to Slight departure) and a Loamy Wet Terrace (Slight departure) (EA p.25)

Wildlife

Even though grazing may potentially disrupt local individuals of sensitive wildlife species and may cause the loss of habitat in some cases, grazing on this allotment is not expected to adversely affect long-term population viability of any Bureau wildlife species of concern known to occur in the area. Additionally, this project combined with other actions in the area would not contribute to the need to list any species under the provisions of the ESA, because of the small scope of this grazing lease compared to the available habitat in the vicinity and the late season grazing window (EA p. 24).

Aquatic Habitat

Jenny Creek redband trout are found in Howard Prairie Lake, the South Fork Canal and Grizzly Creek. Currently, the redband trout population in this area is in poor condition due to genetic dilution from hatchery fish released into the lake. Stream surveys noted unstable banks and active bank erosion on Grizzly Creek resulting primarily from the canal contribution. Cattle and horse grazing cause concentrated bank disturbance and channel widening at two locations along the channel. Shade is lacking along this reach of Grizzly Creek (EA p.14). Grazing was not identified as a significant contributing factor for not meeting rangeland health standards of watershed function (riparian/wetland areas), and water quality conditions.

Climate Change

Livestock grazing authorized in the Howard Prairie 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 (EA p.31).

2) Have significant impacts on public health or safety.

No aspects of this lease renewal have been identified as having the potential to significantly or adversely impact public health or safety.

Public scoping comments showed concern for animals grazing along Howard Prairie Lake as a potential contaminant source near a recreation area; however, given the numbers of AUMs authorized on this allotment is low, it is unlikely that the grazing on this allotment is a significant contributor to contaminants in Howard Prairie Lake. In addition, the season of use on this allotment, October 15th - November 15th would further limit the potential of health concerns because water contact by humans in the fall would be very limited.

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); or prime farmlands.

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

The grazing allotment is near several developed recreation areas managed by Jackson County Parks. The Grizzly Creek County Park is completely fenced from the grazing that occurs on the Howard Prairie grazing allotment. The season of use on the Howard Prairie allotment is late (October 15 to November 15) to reduce user conflicts with the Lily Glen Equestrian Park (EA p. 30). 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.

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 concerns identified in comment letters were addressed in the EA or in the attached Appendix A, these concerns do not elevate this to highly controversial environmental effects. The effects of renewing the grazing lease for the Howard Prairie 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 Howard Prairie Allotment grazing lease 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. This grazing lease renewal 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 livestock grazing does not pose any significant threat to cultural sites (EA p.30).

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

Because Coho Critical Habitat for SONC coho salmon is 18 miles downstream of the allotment, and because there is no Essential Fish Habitat (EFH) within the allotment, BLM has determined that renewing the Howard Prairie Lease Renewal under Alternative 2 is a “No Effect (NE)” for listed coho salmon, their Critical Habitat, and Essential Fish Habitat (EA p.14).

The Howard Prairie Allotment is outside the range of federally listed plants known to occur on the Medford District of the BLM (*Fritillaria gentneri*, *Limnanthes floccosa*, *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. 26).

There are no known Special Status vascular or nonvascular plants, and fungi within the Howard Prairie Allotment (EA p. 26).

There are no known Northern Spotted Owl nest sites in the 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 (EA p.19).

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

Enclosure

cc:

CERTIFIED MAIL – RETURN RECEIPT (7005 1820 0003 8142 0784)
Rik Arndt
BOR-Pacific northwest regional office
1150 North Curtis Road, Suite 100
Boise, ID 83706

CERTIFIED MAIL – RETURN RECEIPT (7005 1820 0003 8142 0791)
Bob Morris
Dead Indian Stockman's Association
225 West Valley View Road
Ashland , OR 97520

CERTIFIED MAIL – RETURN RECEIPT (7005 1820 0003 8142 0807)
Randy White
Ja. County Soil & Water Conservation District
573 Parsons Drive
Medford , OR 97501

CERTIFIED MAIL – RETURN RECEIPT (7005 1820 0003 8142 0814)
Joseph Vaile
Klamath Siskiyou Wildlands Center
P.O. Box 102
Ashland , OR 97520

CERTIFIED MAIL – RETURN RECEIPT (7005 1820 0003 8142 0838)
c/o Lily Glenn Equestrian Park
Jackson County Parks
7520 Table Rock Road,
Central Point, OR 97502

CERTIFIED MAIL – RETURN RECEIPT (7005 1820 0003 8142 0845)
Eugene Stanley
2022 Riley Road
Eagle Point, OR 97524

CERTIFIED MAIL – RETURN RECEIPT (7005 1820 0003 8142 0852)
Willis, Dave
Soda Mtn. Wilderness Council
P.O. Box 512
Ashland, OR 97520

CERTIFIED MAIL – RETURN RECEIPT (7005 1820 0003 8142 0869)
Mike Dauenhauer Trustee
1681 Old Highway 99 South
Ashland, OR 97520

CERTIFIED MAIL – RETURN RECEIPT (7005 1820 0003 8142 0876)
John Ward
Home Ranch Herefords
1525 Baldy Creek Road
Ashland, OR 97520

CERTIFIED MAIL – RETURN RECEIPT (7005 1820 0003 8142 0883)
Janet Dunlap
7477 Hyatt Prairie Road
Ashland, OR 97520

CERTIFIED MAIL – RETURN RECEIPT (7005 1820 0003 8142 0890)
Doug Frank
15097 Hwy 66
Ashland, OR 97520

CERTIFIED MAIL – RETURN RECEIPT (7005 1820 0003 8142 0906)
Suzi Given
2020 Soda Mountain Road
Ashland, OR 97520

CERTIFIED MAIL – RETURN RECEIPT (7005 1820 0003 8142 0913)
Connie Lewis
71 Crystal Hts.
Medford , OR 97501

CERTIFIED MAIL – RETURN RECEIPT (7005 1820 0003 8142 0920)
Gretchen Hillard
3048 Greer Road
Palo Alto, CA 94303

APPENDIX A

PUBLIC INVOLVEMENT

COMMENT ANALYSIS

APPENDIX A: PUBLIC INVOLVEMENT–HOWARD PRAIRIE GRAZING LEASE RENEWAL EA

Written comments received in response to the Howard Prairie 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: Alternative 2 does not meet ACS objectives

Response: The ACS review in the EA on page 15-17 conclude that benefits from implementing any of the alternatives, even the no grazing, would be immeasurable for most objectives and implementation of Alternative 2 or 3 would have very slight benefits at the sight scale for some objectives.

Comment 2: RMP Compliance; BLM must manage sensitive species such as the Mardon skipper butterfly, Siskiyou short-horned grasshopper, and Jenny Creek redband trout for their conservation and not to contribute to the need to list them under the Endangered Species Act.

Response: Grazing on this allotment is not expected to adversely affect long-term population viability of any Bureau wildlife species of concern known to occur in the area. Additionally, this project combined with other actions in the area would not contribute to the need to list any species under the provisions of the ESA, because of the small scope of this grazing lease compared to the available habitat in the vicinity and the late season grazing window (*EA p. 24*).

Comment 3: RMP Compliance; Grizzly Creek flows through the Howard Prairie allotment and is 303d listed.

Response: Since water originating within and above the allotment is stored in Howard Prairie Reservoir and released for irrigation and other purposes, grazing has no effect on stream temperatures within the listed reach of Grizzly Creek (EA p. 12). Augmented flows in the Grizzly Creek channel from the South Fork Canal to Howard Prairie Reservoir will maintain the channel in its overall degraded condition (EA p. 13). The impacts on aquatic resources that are generally associated with hot season grazing are not a factor on the Howard Prairie Allotment because of the late season of use (October 16-November 15). Temperatures in October and November are generally cool reducing the need for water and some grass species will re-grow “green up” which reduces the amount of use in the riparian areas.

Comment 4: RMP Compliance; grazing in Howard Prairie will spread noxious weeds violating the Medford District RMP.

Response: The level at which livestock grazing on this allotment occurs would not significantly change the structure or rate of noxious weed spread (EA p.27). The two noxious weed species known to occur within the allotment are small populations and are species that are not targeted by the BLM for treatment. The *Hypericum perforatum* generally grows along roadsides or other disturbed areas and does not aggressively invade in the Howard Prairie area. The *Bromus tectorum* is not treated because the Medford District currently only uses broadleaf selective herbicides that are not effective on grass species and vegetation monitoring has shown that this species does not aggressively invade in this high elevation environment (Hosten et al. 2007d). Therefore, the alternative meets the RMP objectives for managing noxious weeds.

Comment 5: Lands within Howard Prairie Allotment are known to have significant historical values.

Response: The EA at page 30 states “This project was determined to have no 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. Due to inclusion and implementation of the project design criteria there would be no direct effects to cultural resources; therefore the proposed allotment renewal would have no adverse effects on known cultural resources”.

Comment 6: Range of Alternatives is too narrow

Response: Three other alternatives were considered by the ID Team for analysis but none of these additional alternatives were analyzed in detail because the current livestock grazing is not a significant contributing factor for not meeting Rangeland Health Standards (EA p. 10).