

**NOTICE OF FINAL DECISION FOR
AUTHORIZATION OF LIVESTOCK GRAZING USE
ON THE DOUGLAS CREEK ALLOTMENT (0778)**

INTRODUCTION

The Bureau of Land Management (BLM) has received an application to renew a livestock grazing lease in the Douglas Creek allotment (0778), with an additional request to add 440 acres adjacent to the allotment into the allotment boundary and management plan, as outlined in the *Douglas Creek Allotment Management Plan (AMP) Revision and Douglas Creek Canyon Restoration Environmental Assessment (DOI-BLM-OR-134-2014-0008)*. A revised allotment management plan (AMP), which includes range improvements and upland restoration projects, has been developed in response to this application and incorporates management actions to address concerns raised by the BLM and the current grazing lessee.

The Douglas Creek allotment lies approximately four miles north of Palisades in Douglas County, Washington. The legal description of the current allotment includes portions of T.23 N. R.23 E., sections 14-16, and 21-23. Additional acreage proposed to be added to the allotment boundary includes portions of BLM-administered lands in T23N R23E sections 8 and 9.

BACKGROUND

A Notice of Proposed Decision regarding the reissuance of a grazing lease for the Douglas Creek allotment was posted to the BLM Spokane District website at <http://www.blm.gov/or/districts/spokane/plans/index.php> on January 15, 2015. A Protest to this Proposed Decision was received on January 30, 2015. I have carefully considered the Protest's statements of reasons as to why the Proposed Decision was in error, and have responded below.

Management of longsepal globemallow (*Iliamna longisepala*) is not addressed in this response as actions regarding this species would occur outside of the action area discussed in the proposed grazing decision, and are therefore not subject to protest.

In addition to EA clarifications discussed below, BLM has clarified in the EA that it has consulted with natural resource agencies including Washington Department of Natural Resources and other technical experts (US Forest Service) during development of action alternatives (EA Section 4). As a result of tribal comment BLM has added an appendix which clarifies inadvertent discovery clauses for cultural resources and human remains in the event that previously unknown cultural materials are identified (EA p.80). Additionally, a grammatical clarification has been added on page 36 of the EA. All changes have been **bolded** in the EA.

Protest Point 1: The time period for calculation of carbon flux for this analysis is not provided. How many tons per AUM are produced? I need explanation of how you came to this estimate (50 metric tons). Analysis needs to include reduction in biomass and photosynthesis.

BLM Response: The BLM has appropriately analyzed and disclosed the effects of the proposed action on carbon flux. In draft guidance issued in 2010, the Council on Environmental Quality (CEQ) identified 25,000 metric tons of CO₂ as a reference point for when quantitative analysis of greenhouse gas emissions might be useful to a decision-maker (CEQ 2010).¹ Greenhouse gas emissions are to be considered as an issue when emissions would or could conceivably constitute a significant impact (BLM IM-OR-2010-012).² The BLM is to apply the rule of reason to ensure that the discussion pertains to the issues that deserve study and does not emphasize issues that are less useful to the decision regarding the proposal, its alternatives, and mitigation options (CEQ 2010; 40 C.F.R. §§ 1500.4(f), (g), 1501.7, 1508.25). The typical length of a BLM grazing lease is ten years (43 C.F.R. 4130.2).

To determine whether the alternatives could produce carbon fluxes large enough to be considered an issue for analysis, the BLM developed an estimate of carbon flux (metric tons (Mg)). This estimate incorporated all greenhouse gasses (including methane) for the proposed action based on equations provided in the 2006 Intergovernmental Panel on Climate Change (IPCC) Guidelines for Greenhouse Gas Inventories³. This estimate assumed a ten year period (EA, page 11). This estimate did not include reductions in biomass or photosynthesis; plants in the action area respond to grazing by producing new biomass, a carbon sink, and the IPCC (2006) does not consider this to be an important enough flux to include in its model. The estimate of carbon flux was less than 50 Mg CO₂ over a ten year period. This would equate to 0.009 Mg/AUM for the proposed action. This estimated level of emissions is less than 1% of the reference point suggested by CEQ for when quantitative analysis of greenhouse gas emissions might be useful to a decision-maker. The BLM therefore deemed that further analysis was not necessary to determine whether this impact would be significant. The decision to not analyze in detail was made following BLM interdisciplinary team discussion. Since GHG was not considered an issue for analysis, details of the analysis described above were not included in the EA. The results of the team's discussion and the estimate of GHG emission are documented in the EA on page 10, Table 1. The BLM has therefore appropriately disclosed and analyzed the effects of the proposed action on carbon flux.

Protest Point 2: Climate change would affect poor communities disproportionately and should be analyzed under the Environmental Justice issue.

BLM Response: The BLM has appropriately analyzed the effects of the proposed action to environmental justice within the action area. Agencies are to ensure that the description of greenhouse gas (GHG) emission is commensurate with the importance of the GHG emissions of the proposed action, avoiding useless bulk and boilerplate documentation, so that the NEPA document may concentrate attention on important issues (40 C.F.R. 1502.5, 1502.24; CEQ 2014⁴). Further, CEQ has determined that it is not possible to link specific climatological

¹ Council on Environmental Quality (CEQ) NEPA Revised Draft GHG Guidance.

DRAFT published for public review and comment Dec 2014. Available at:
http://www.whitehouse.gov/sites/default/files/docs/nepa_revised_draft_ghg_guidance_searchable.pdf.

² USDI BLM. 2010. Analysis of Greenhouse Gas Emissions and Consideration of Climate Change in National Environmental Policy Act Documents. BLM IM No. OR-2010-012.

³ Volume 4, Chapter 10, Emissions from Livestock and Manure Management.

⁴ http://www.whitehouse.gov/sites/default/files/docs/nepa_revised_draft_ghg_guidance.pdf

changes or the resulting environmental effects to the emissions from any single project or resource management plan. *Id.*

In considering effects to minority and low-income populations, the BLM must follow Executive Order 12898 (1994)⁵ which states that “each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its... activities on” these populations (Section 1-101). If a project or an action is expected to have either “insignificant or no impact” on these populations, an EA must disclose reasons for this conclusion “under an appropriate section” (ECM95-3 1995, p. 2)⁶.

The geographic scope for an EA, in addition to the extent and effect of the cumulative factors "is a task assigned to the special competency of the appropriate agencies." *Kleppe v. Sierra Club*, 427 U.S. 390, 414 (1976); *Neighbors of Cuddy Mtn. v. Alexander*, 303 F.3d 1059, 1071 (9th Cir. 2002). Agencies have "discretion to determine the physical scope used for measuring environmental impacts" so long as they do not act arbitrarily and their "choice of analysis scale . . . represent[s] a reasoned decision." *WildWest Institute v. Bull*, 547 F.3d 1162, 1173 (9th Cir. 2008) (quoting *Idaho Sporting Cong., Inc. v. Rittenhouse*, 305 F.3d 957, 973 (9th Cir. 2002)). However, the "choice of analysis scale must represent a reasoned decision and cannot be arbitrary." *Idaho Sporting Cong., Inc.*, 305 F.3d at 973; *Center for Biological Diversity*, 181 IBLA 325, 363-64 (2012).

All action alternatives would occur in one watershed (as defined on EA p.4) and would produce very limited amounts of GHG (see Protest Point 1 and EA page 10). There are no minority or low-income populations in the geographic scope of the alternatives, and it would be impossible to link specific climatological changes to the emissions from any single project. Based on the above, the BLM analyzed the potential effects of the proposed action to minority and low-income populations and determined that no impacts were likely to occur (EA p.10). BLM has therefore appropriately analyzed the effects of the action to this issue.

Protest Point 3: Define native species. I want to know the source of all plant materials that will be used, including specifics on root stock and growing conditions. BLM must develop Plant Material Transfer Guidelines for use of plant seed or root stocks.

BLM Response: The BLM has disclosed in the EA the relevant and applicable information available to the agency. The CEQ regulations on NEPA state that “it is not better documents but better decisions that count.” 40 C.F.R. 1500.1(c). NEPA’s purpose is not to generate paperwork – even excellent paperwork – but to foster better action. *Id.* NEPA requires that alternatives are described in sufficient detail so that effects of the alternatives can be compared. 40 C.F.R. 1502.14(b). In an EA, NEPA calls for “concise” and focused descriptions of the proposals and “brief discussions ... of the environmental impacts of the proposed action and alternatives” (40 C.F.R. 1508.9). The EA is to “Briefly provide sufficient evidence and analysis for determining whether to prepare an EIS or a finding of no significant

⁵ Executive Order 12898, Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

⁶ Environmental Compliance Memorandum No. ECM95-3, NEPA Responsibilities Under the Departmental Environmental Justice Policy

impact (40 C.F.R. 1508.9(a)(1)). Not all background information is required to be part of the NEPA document (40 C.F.R. 1502.1).

A native species is one that historically occurred or currently occurs in a particular ecosystem and was not introduced (USDI BLM 2008).⁷ A local source is within or as close as possible to the project area and within the same ecological region. *Id.* The BLM is not required to use native plants from local sources. *Id.*

When implementing vegetation management projects, BLM is not required to specify plant germ lines, specific root stock or growing conditions, or to employ material transfer guidelines. Instead, the BLM's proposed action would use native seeds from local sources, following guidance in BLM Manual 1745 (USDI BLM 1992) and the BLM's Integrated Vegetation Management Handbook. The BLM has disclosed in the EA the relevant and applicable information available to the agency, including its use of native plants (beginning on EA page 13).

The BLM has added a description of its regulatory direction regarding plant materials to Section 1.1 of the EA (page 7). Addition of this clarifying information does not change the BLM's analysis in any way. The BLM has therefore appropriately disclosed the relevant and applicable information available to the agency.

Protest Point 4: AUM levels are not supported by measurements (data).

BLM Response: The BLM has disclosed in the EA the relevant and applicable information available to the agency (see Protest Point 3). Permitted use is the forage allocated by a land use plan for livestock grazing in an allotment under a lease and expressed in Animal Unit Months (AUMs). An AUM is the amount of forage necessary for the sustenance of one cow for one month (43 CFR 4100.0-5). The Spokane District Resource Management Plan Record of Decision (1987 RMP ROD) directs forage allocations of up to 50% utilization of forage for livestock (1987 RMP ROD, p. 7). A moderate utilization level (30-40%) is documented to maintain or improve forage production based on utilization guidelines for the sagebrush grassland range type with 8-12" average precipitation (Holechek et al. 2011, cited in the EA, p. 12).

The Spokane District RMP ROD directs that the BLM monitors to determine that stocking levels are meeting AMP objectives (1987, p. 26). Annual utilization monitoring gathered from 2006 to 2013 to determine livestock stocking levels showed that the actual use resulted in between 0-40% utilization and did not exceed the 50% allocated in the RMP ROD (EA p. 26). Current utilization data demonstrates that current stocking rates do not exceed permitted AUMs. Further, analyses performed by the BLM as part of its land health evaluation found that the physical and biological characteristics of this management unit were near reference condition (summarized on EA p. 27) and forage production has been maintained under the current permitted use. The allotment meets the Standards for Rangeland Health detailed in the Standards for Rangeland Health and Guidelines for Livestock Grazing Management for Public Lands Administered by the Bureau of Land Management in the States of Oregon and Washington (OR/WA Standards and

⁷ BLM Integrated Vegetation Management Handbook.

Guidelines)⁸ (EA, p. 26). The BLM has therefore disclosed the relevant and applicable information available to the agency.

Clarification of the applicability of the OR/WA Standards and Guidelines has been added to the EA on page 5. Addition of this clarifying information does not change the BLM's analysis in any way.

Protest Point 5: How did you derive utilization levels in the proposed action?

BLM Response: The BLM developed utilization levels for the proposed action using the direction in the 1987 RMP ROD and the OR/WA Standards and Guidelines. Permitted use is based on forage available for livestock grazing as established in the land use plan or decision of the authorized officer (43 CFR 4110.2-2). The 1987 RMP ROD directed forage allocation of up to 50% utilization for livestock, providing also for site-specific forage allocations (USDI BLM 1987, p. 6). A moderate utilization level (30-40%) is documented to maintain or improve forage production based on utilization guidelines for the sagebrush grassland range type with 8-12" average precipitation (Holechek et al. 2011, cited in the EA, p. 12). The OR/WA Standards and Guidelines provide guidance on setting the season, timing, frequency, duration, and intensity of livestock grazing based on the physical and biological characteristics of the site in order to maintain diverse plant populations, help prevent the spread of noxious weeds, and maintain and restore habitat elements of native animals including special status species (USDI BLM 1997, p. 13).

The BLM developed a management unit-specific forage allocation for this allotment. Under the proposed action a moderate utilization level (30-40%) is proposed to maintain or improve forage production and to support the physical and biological characteristics of the site (Holechek et al. 2011, cited in the EA, p. 12). The effects of applying this moderate level of utilization are detailed in the EA beginning on page 31.

Protest Point 6: You need to describe the statistical precision of the monitoring proposed in this EA.

BLM Response: The BLM has disclosed the relevant monitoring information in the proposed action. Monitoring is required for multiple BLM resource programs (1987 RMP ROD). The 1987 RMP ROD and the Spokane District Monitoring Plan provide direction on the frequency of sampling and direction regarding specific techniques (e.g., upland trend plots). These sources do not specify monitoring precision standards (e.g., error, variance, statistical power). Interagency Technical Reference 1734-3: Utilization Studies and Residual Measurements (USDA USFS USDI BLM 1999) describes how to develop statistically precise measurements, but does not require the BLM to establish a particular level of precision in measurement. The AIM strategy details the components of a statistically valid sampling design but does not require specific statistical precision (Taylor et al. 2014)⁹. Similarly, BLM grazing regulations under CFR 4120.2 (a)(4) provide for monitoring but do not specify monitoring precision standards.

⁸ USDI Bureau of Land Management. 1997.

⁹ Taylor et al. 2014. AIM-Monitoring: A Component of the BLM Assessment, Inventory, and Monitoring Strategy. *Technical Note 445*.

The monitoring proposed in this EA would conform to monitoring requirements in the 1987 RMP ROD, including frequency (pp. 26-27). Monitoring techniques that BLM would follow under alternatives analyzed in this EA include: a) the Spokane District Monitoring Plan (USDI BLM 1988); b) for the Range Program, Interagency Technical Reference 1734-3 (USDA USFS USDI BLM 1999); and c) for vegetation, the BLM Assessment, Inventory, and Monitoring (AIM) Strategy as outlined in Technical Note 445 (Taylor et al. 2014). These technical resources are detailed in the EA on page 23. Monitoring proposed in this EA would be consistent with direction in the Spokane District Monitoring Plan, Interagency Technical Reference 1734-3, and BLM Technical Note 445. Therefore, providing the statistical precision of the monitoring proposed in this EA is not required.

Protest Point 7: You need to do a better job of explaining adaptive management, and why pasture rotations are not being developed now.

BLM Response: To clarify our intent, the EA has been edited to use the term “flexibility in management” to describe small modifications in the described proposed action that are supported by regulation and guidelines. This clarification in the terminology would not change any of the disclosed effects (EA, page 23).

Annual assessments of actual use, utilization monitoring data, water availability, and climate conditions would all influence flexibility in season of use and pasture rotation for the next year (EA, page 23-24). For further discussion on pasture rotation, see Protest Point 9.

Protest Point 8: Please provide details as to whether you will follow the conservation strategies from The State of Washington Greater Sage-Grouse Recovery Plan (Stinson et al. 2004), especially livestock trail use during nesting season.

BLM Response: The BLM has disclosed in the EA the relevant and applicable information available to the agency (see Protest Point 3). The BLM followed its 1987 RMP ROD, BLM 6840 Manual, and the National Sage-Grouse Conservation Strategy (2004) in developing management alternatives for greater sage-grouse habitat in BLM-administered lands, as noted in the EA (Section 1.1, page 6). The RMP ROD states that management activities in sensitive species habitat would be designed specifically to benefit sensitive species whenever possible, through habitat improvement or protection (USDI BLM 1987, p. 21). The BLM used the State of Washington Greater Sage-Grouse Recovery Plan (Stinson et al. 2004) as a technical reference when developing management consistent with the National Sage-Grouse Strategy, as stated in the EA on page 6. Terms and conditions, including season of use, are detailed in EA Section 2.1.1; effects of the proposed action, including season of use on greater sage-grouse habitat, are detailed in EA Section 3.3.2, beginning on page 42.

The BLM has developed and analyzed a range of alternatives that incorporate, to varying degrees, recommendations, suggested management practices, and conservation strategies from the BLM’s National Sage-Grouse Conservation Strategy (2004) and WDFW’s Greater Sage-Grouse Recovery Plan (2004). By incorporating these recommendations into the alternatives, the BLM will be implementing proactive conservation measures intended to reduce or eliminate threats to sage-grouse and their habitat consistent with objectives of the

BLM's 6840 Manual. The BLM has therefore appropriately disclosed the relevant and applicable information available to the agency.

Protest Point 9: How are you going to defer grazing without a set rotation schedule? Will you be grazing during the critical period more frequently than once every three years?

BLM Response: The BLM has appropriately disclosed the rationale for the grazing schedule and the means by which it will be implemented. The 1987 RMP ROD directs BLM to manage public lands through development of AMPs, establishment of grazing systems, seasons of use, and range improvements to accomplish the multiple use objectives of livestock forage production, wildlife habitat, and watershed needs (USDI BLM 1987, p. 7). The OR/WA Standards and Guidelines (USDI BLM 1997) directs the BLM to set the season, timing, frequency, duration, and intensity of livestock grazing use to support soil stability, plant communities, and provide habitat elements for native wildlife species (EA, p. 13). Rotations are determined annually and in coordination with the lessee to meet direction in the 1987 RMP ROD and to meet the objectives required by regulation (43 C.F.R. 4120.2; 43 C.F.R.4130.3, C.F.R. 4180.2; C.F.R. 4100.0-2).

The BLM used grazing management guidelines produced by USDA NRCS (2009)¹⁰ as a technical reference while analyzing the effects of implementing alternatives that met its 1987 RMP ROD, Standards and Guidelines, and federal grazing regulation (EA, pp. 32-37). The proposed action may include grazing during the critical period more frequently than once every three years; the effects of this grazing are included in the effects analysis in the EA (EA pp. 32-37). Monitoring data would be used to inform rotation development (see Protest Point 6 and EA, p. 23). "Pasture rotation would be determined annually and would be consistent with guidelines for grazing management (BLM 1997). Periodic rest from grazing would be provided during native forage bunchgrass species' critical growth period" (EA, p. 12). Such modifications in pasture rotation will meet direction in the 1987 RMP ROD and objectives described under the regulations, including support of healthy sustainable rangeland ecosystems.

Therefore, BLM could occasionally graze during the critical growth period for native bunchgrasses more frequently than once every three years under the proposed action alternative, but would meet its management direction. The BLM has thus appropriately described the grazing schedule and the means by which it will be implemented.

Protest Point 10: Cumulative effects analysis needs to be done.

BLM Response: The BLM has adequately analyzed the cumulative impacts of the alternatives in the EA. A cumulative impact is "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" (40 C.F.R. 1508.7). Reasonably foreseeable actions are those that are sufficiently likely to occur that a prudent decision maker would take them into account when making a decision (43 C.F.R. 46.30). Reasonably foreseeable actions include those for which there are

¹⁰ Rouse, G., and K. Guinn. 2009. *NRCS-WA Range Technical Note 34*. USDA-Natural Resources Conservation Service, Spokane, WA.

existing decisions, funding, or proposals, but do not include those that are highly speculative or indefinite. *Id.*; *Kootenai Tribe of Idaho v. Veneman*, 313 F.3d 1094, 1123 (9th Cir. 2002); *Oregon Chapter Sierra Club, et al.*, IBLA 2010-150 *4, 2010 WL 3440490 (2010). The cumulative effects discussion must provide a useful analysis of the cumulative impacts and requires some quantified or detailed information, but not necessarily a formulaic recitation of a list of projects. *Bering Strait Citizens for Responsible Resource Development v. U.S. Army Corps of Engineers*, 524 F.3d 938, 954 (9th Cir. 2008); *KS Wild v. BLM*, 387 F.3d 989, 993-94 (9th Cir. 2004). The cumulative impacts section must take into account the combined effects of the project in addition to other reasonably foreseeable projects. *KS Wild*, 387 F.3d at 996.

The BLM disclosed the cumulative effects of the project in the EA (EA, pp. 53-55). BLM is unaware of specific reasonably foreseeable actions in the action area. General cumulative effects considered in the EA included agriculture in adjacent land ownerships and ongoing off-highway vehicle (OHV) usage. These cumulative effects did not substantively add to the effects of the action alternatives within the action area. The cumulative effects analysis in the EA accounts for those past, present, and reasonably foreseeable future actions in the project area. The BLM has therefore adequately analyzed the cumulative impacts of the alternatives in the EA.

FINAL DECISION

After careful consideration of the Protest received, all further information received through consultation, communication and coordination with the interested public, and reconsideration of all information contained in the EA prepared for this action, **my Final Decision is to implement the proposed action (Alternative 1) as described in Environmental Assessment DOI-BLM-OR-134-2014-0008 for authorization of livestock grazing use on the Douglas Creek allotment.**

Under the authority of the Code of Federal Regulations (43 CFR 4120.2, 43 CFR 4120.3, 43 CFR 4130.2, 43 CFR 4130.3, and 43 CFR 4160), it is my final decision to implement the revised AMP portion of the proposed action analyzed in DOI-BLM-OR-134-2014-0008-EA, which authorizes livestock grazing on allotment 0778 under authorization number 3600778 for a term of ten years (2015 to 2025), as well as upland restoration and range improvement projects.

Implementation of the revised AMP includes the terms and conditions described in Section 2.1.1 of the EA and the addition of 440 acres to the allotment boundary. Reported actual use and rangeland monitoring will be used in the development of the annual grazing rotations. Up to 200 cattle may utilize no more than 530 Animal Unit Months (AUMs) during the season of use from April 1st to September 15th.

Changes in rotation will only be allowed as long as they continue to meet resource objectives and do not exceed the permitted use. Changes to on or off dates may be adjusted annually based on vegetative response to seasonal conditions, and would allow for a two week period of flexibility around the permitted season of use. Schedule will be adjusted to not exceed permitted AUMs dependent on livestock number.

Grazing will be billed on an actual use basis. The lessee is required to submit within 15 days after completing their annual grazing use, the actual use made (43 CFR 4130.3-2(d)).

Upland restoration of shrub-steppe vegetation in the allotment, intended to enhance and improve shrub steppe habitat, will also be implemented. AUMs will be temporarily modified to meet restoration objectives.

This final decision implements the revised AMP portion of the proposed action only (including upland restoration, and range improvements) analyzed in the EA. A separate decision record was developed for implementation of restoration in Douglas Creek canyon, and for weed treatments in both the Douglas Creek allotment and Douglas Creek canyon, and will be posted at the BLM Spokane District website: <http://www.blm.gov/or/districts/spokane/plans/index.php>.

RATIONALE

The proposed action (Alternative 1) best meets the purpose and need for action by implementing a revised AMP for the allotment, while maintaining and improving upland health, and is in conformance with the Record of Decision (ROD) for the Spokane Resource Management Plan (1987) and its amendment (1992). The Resource Management Plan provides for multiple uses, including grazing, and also provides guidance for developing AMPs to establish livestock use levels, grazing systems, seasons of use, and range improvements.

The revised AMP and proposed upland restoration is in conformance with the ROD for the Spokane Resource Management Plan and amendment. The ROD (p. 21) specifies that management actions within habitat for endangered, threatened, or sensitive species would be designed specifically to benefit those species through habitat improvement.

Implementing the proposed action will also meet federal grazing objectives for promoting healthy sustainable rangeland ecosystems (43 CFR 4100.0-2), as outlined in the Fundamentals of Rangeland Health (43 CFR 4180.1) and the Standards for Rangeland Health (BLM 1997), as described in the EA. A Finding of No Significant Impact (FONSI) was prepared to document the factors considered to determine the significance of the effects on the human environment. Implementing the proposed action analyzed in the EA does not constitute a major federal action and will not lead to significant impacts to the human environment. Therefore, an Environmental Impact Statement is not required and will not be prepared.

AUTHORITY

The following citations come from 43 CFR, Subpart 4100:

{§4100.0-8} states that “The authorized officer shall manage livestock grazing on public lands under the principle of multiple use and sustained yield, and in accordance with applicable land use plans. Land use plans shall establish allowable resource uses (either singly or in combination), related levels of production or use to be maintained, areas of use, and resource condition goals and objectives to be obtained. The plans also set forth program constraints and general management practices needed to achieve management objectives. Livestock grazing activities and management actions approved by the authorized officer shall be in conformance with the land use plan as defined at 43 CFR 1601.0-5(b).”

{§4110.3} states that “The authorized officer shall periodically review the permitted use specified in a grazing permit or lease and make changes in the permitted use as needed to manage, maintain or improve rangeland productivity, to assist in restoring ecosystems to properly functioning condition, to conform with land use plans or activity plans, or to comply with the provisions of subpart 4180 of this part. These changes must be supported by monitoring, field observations, ecological site inventory or other data acceptable to the authorized officer.”

{§4130.3} states that “Livestock grazing permits and leases shall contain terms and conditions determined by the authorized officer to be appropriate to achieve management and resource condition objectives for the public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with the provisions of subpart 4180 of this part.”

{§4130.3-1} states that “(a) The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the amount of use, in animal unit months, for every grazing permit or lease. The authorized livestock grazing use shall not exceed the livestock carrying capacity of the allotment.” “(b) All permits or leases shall be made subject to cancellation, suspension, or modification for any violation of these regulations or of any term or condition of the permit or lease.” “(c) Permits and leases shall incorporate terms and conditions that ensure conformance with subpart 4180 of this part.”

{§4160.3(b)} states that “Upon the timely filing of a protest, the authorized officer shall reconsider her/his proposed decision in light of the protestant’s statement of reasons for protest and in light of other information pertinent to the case. At the conclusion to her/his review of the protest, the authorized officer shall serve her/his final decision on the protestant, or her/his agent, or both, and the interested public.

{§4180.1} states in part that “(a) Watersheds are in, or are making significant progress toward, properly functioning condition, including their upland, riparian-wetland, and aquatic components; soil and plant conditions support infiltration, soil moisture storage, and the release of water that are in balance with climate and landform and maintain or improve water quality, water quantity, and timing and duration of flow.” “(b) Ecological processes, including the hydrologic cycle, nutrient cycle, and energy flow, are maintained, or there is significant progress toward their attainment, in order to support healthy biotic populations and communities.” “(c) Water quality complies with State water quality standards and achieves, or is making significant progress toward achieving, established BLM management objectives such as meeting wildlife needs.” “(d) Habitats are, or are making significant progress toward being restored or maintained for Federal threatened and endangered species, Federal proposed or candidate threatened and endangered species, and other special status species.”

RIGHT OF APPEAL AND PETITION FOR STAY

Any applicant, permittee, lessee or other person whose interest is adversely affected by the final decision may file an appeal in accordance with 43 CFR 4.470 and 43 CFR 4160.3 and 4160 .4. The appeal must be filed within 30 days following receipt of the final decision, or within 30 days after the date the proposed decision becomes final. The appeal may be accompanied by a petition for a stay of the decision in accordance with 43 CFR 4.471 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. A notice of appeal electronically transmitted (e.g. email, facsimile, or social media) will not be accepted as an appeal. Also, a petition for stay that is electronically transmitted will not be accepted as a petition for stay.

The appellant must serve a copy of the appeal by certified mail to the Office of the Solicitor, Pacific Northwest Region, U.S. Department of the Interior, 805 SW Broadway, Suite 600, Portland, OR 97205 and person(s) named [43 CFR 4.421(h)] in the Copies sent to: section of this decision.

The appeal shall clearly and concisely state the reasons why the appellant thinks the final decision is in error, and otherwise comply with the provisions of 43 CFR 4.470.

Should an appellant 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 4.473.

Any person named in the decision that receives a copy of a petition for a stay and/or an appeal should see 43 CFR 4.472(b) for procedures to follow if you wish to respond.

If you have any questions, feel free to contact Angela Link, Range Management Specialist, or me at 509-665-2100.

/s/ Linda Coates-Markle

3-16-2015

Linda Coates-Markle
Field Manager

Date

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