

Argenta Cooperative Monitoring Group
Issue Resolution Documentation – Section 13.1 of Settlement Agreement
Submission of Actual-Use and Within-Season Data

1. Brief Description of Situation

The permittees subject to the Settlement agreement have failed to provide Actual Use Reports to the CMG, BLM, and NRST. The permittees have failed to provide information about when Within Season triggers were met.

2. Issues among parties

WWP has been requesting the Actual Grazing Use Reports since mid November of 2015. To date, we have not received these reports from a single permittee. The Settlement Agreement states:

Because the Stockmanship Plan is driven not by number of livestock but rather by when within-season move triggers are reached, this Agreement requires that Permittees provide consistent reporting of actual use numbers and what was done throughout the year in terms of movement, when Within Season triggers were met, End-of-Season Use Levels, weather, water, etc. This information is critical to informing the assessment and interpretation of year end conditions and planning for subsequent grazing years.

Actual Grazing Use Reports are also required by the grazing regulations and this statement appears on each grazing permit:

In accordance with 43 CFR 4130.3-2(d): actual use information, for each pasture/use area, will be submitted to the authorized officer within 15 days of completing grazing use as specified on the grazing permit and/or grazing licenses.

There is also no information in the annual report to indicate “when Within Season triggers were met”.

3. Options for Resolution (Minimum of two)

Require each permittee to submit the required Actual Grazing Use Reports on form 4130-5 before grazing is approved for the 2016 grazing season.

Attempt to determine “when Within Season triggers were met”.

Require permittees to file weekly reports in the 2016 grazing year with estimations of utilization criteria.

4. NRST Recommendation to Field Manager –

WWP raises two related issues in this dispute: (1) submission of actual use records; and (2) submission of within-season monitoring data. Each is discussed below.

Actual Use. In a regulatory sense, permittees complied with 43 CFR 4130.3-2(d). As Jack Alexander pointed out to the CMG on 2/26/2016 and Kathryn Dyer confirmed on 3/1/2016:

“Actual use is required to be submitted within 15 days of take-off/permit off date, not each pasture move.”

The end of the use period for this allotment is February 28. Actual use records therefore would be due by March 15. In 2016, actual use records were submitted by all permittees prior to the March 15 deadline:

- Filippini Ranching submitted actual use records to the Battle Mountain District office on February 19. Sam Ault distributed these to the entire CMG on March 3.
- Chiara Ranch completed actual use records on February 25; and Jack Alexander sent those to Sam Ault and Mark Gonzalez on February 25. Mark incorporated the actual use records into the public report, which was distributed to the CMG on February 25.
- Tomera Ranches completed actual use records on February 28; and Bob Schweigert distributed an unsigned copy to the CMG on February 28 with a revised copy distributed to the CMG on February 29.

Consequently, all permittees complied with the federal regulation concerning completion and submission of actual use records.

The NRST and CMG members discussed WWP’s concern and felt the issue was better addressed under Section 6.9.5 of the Settlement Agreement. It appears that WWP may have confused the information requested under Section 6.9.5 with the information that is reported in an actual use record. The CMG discussed the information requested under Section 6.9.5 and discussed ways in which this information could be collected and shared more effectively in the future. Steve Leonard and Steve Cote prepared a brief PowerPoint presentation for the CMG. They suggested the permittees collect the information requested under Section 6.9.5 (i.e. water availability, date the area is entered, number of cattle, conditions of forage when the area is entered, weather conditions, length of time grazed, and possibly photo point monitoring). To facilitate collection of this information, Steve Leonard was asked to draft a field form to record:

1. Date on/off of a use area*
 2. Numbers and class of animals*
 3. Days of Riding (dates riding, livestock management notes)
 4. Conditions of forage on the range, photos and/or notes*
 5. General weather (hot, dry, storms and lightening)*
 6. Insect infestations, new noxious weed spots (crickets or grasshopper/whitetop & other noxious species/poisonous plants)
 7. Livestock losses (predation, poison, bloat, unknown reasons, etc.)
 8. Water availability per use area*
- *Items required under Section 6.9.5.

Furthermore, various ideas were shared to facilitate note collection and information sharing, including:

- Have range riders document conditions as noted above, which could be sent to their supervisor with a photo on a regular basis (perhaps daily);
- The permittees need to make more of an effort to get a report at the end of the day when the crews come in;
- Hang a calendar in a location that is easily accessible to the crews to document observations, actions, etc.;
- Develop a card that lists the different things to note on the range;
- It would be helpful to understand where water holes/water hauling occurred on private lands (when and where);
- More specific or detailed notes, field observations, etc., could be documented by the rangeland consultants (or their crews) when in the field;
- Develop a chart or format addressing the various factors listed above which could be sent to the CMG on a monthly basis;

Note that these suggestions are not binding, rather they are ideas offered to assist the process.

Summary and NRST recommendation on Actual Use. Actual use records were in fact filed in a timely fashion, contrary to WWP's claim. In fact, they were all submitted early and before the deadline. NRST and the CMG recognized that other information, specifically information requested of permittees in Section 6.9.5, should be collected by the permittees and shared with the CMG in a timely manner. However, the Settlement Agreement does not specify a frequency or date for reporting such information. After a discussion on this topic, the permittees indicated that they could provide this information on a monthly basis to the CMG going forward. In addition an interim "use" report would be provided by the year-end CMG meeting (November) to better inform interpretation of end-of-season monitoring data. Steve Leonard will draft a field form to facilitate capture of the information requested in Section 6.9.5.

Within-season Monitoring.

WWP also contends that permittees have failed to provide information about when within-season triggers were met. However, this allegation is not entirely true. Jamie Dafoe shared within-season monitoring data during the November 17-18, 2015 CMG meeting. This information is reflected in the meeting notes:

Mid-season monitoring – On behalf of IRC, Jamie Dafoe distributed upland utilization summaries, some done in July and others in late August/early September. Only AG-08 in Slaven Use Area had met upland triggers by early September, though these data will need to include confidence intervals.

In addition, the within-season monitoring data were sent by Bob Schweigert via email to WWP and the CMG on August 20, 2015 and September 30, 2015.

The NRST and CMG members discussed WWP's concern with within-season monitoring and identified some steps to improve within-season data collection in the future. For example, NRST

noted that within-season data were not collected, or at least not reported, from all use areas. Therefore, within-season data should be collected in all use areas. Furthermore, no within-season riparian data were collected or shared. Therefore, within-season monitoring should include stubble-height measurements in the riparian DMAs using the MIM method (Burton et al. 2011). Mark Gonzalez agreed to provide IRC and any other interested CMG members with training on the stubble-height method. This training could occur in early May in conjunction with the collection of long-term indicator data.

Another idea accepted by the CMG was to prioritize within-season monitoring in those KMAs and DMAs where (1) the end-of-season use in 2015 did not meet the prescribed use levels set in the Settlement Agreement, or (2) where the end-of-season use in 2015 did meet the prescribed levels, but the 95% confidence intervals on either side of the parameter estimate spans the prescribed utilization level. In these two circumstances, within-season monitoring in 2016 should occur every month. Furthermore, when residual stubble height is 5.0 inches or less, the within-season monitoring frequency should increase to once every 7 days. And when residual stubble height is 4.5 inches or less, the permittees should prepare to move livestock.

The CMG added that these recommendations are guidelines, not standards. Allowances should be made for the time of season, antecedent and current weather conditions, herd sizes in the area, and other factors that could accelerate or slow the rate of forage utilization within a use area.

Summary and NRST recommendations on within-season monitoring. The NRST recommends several actions discussed by the CMG to improve within-season data collection, including:

- Collect within-season data in all use areas,
- Collect within-season stubble-height at all DMAs,
- Provide training on the stubble-height method,
- Prioritize data collection at those sites that did not meet prescribed use levels in 2015, and also at those sites where the 95% confidence interval in 2015 spanned the prescribed use levels set in the Settlement Agreement. At these sites, collect within-season data monthly.
- For all sites, increase the frequency of monitoring to 7-days when average stubble-height reaches 5 inches or less.

Citations

Burton, T.A., S.J. Smith, and E.R. Cowley, 2011. Riparian area management: Multiple indicator monitoring (MIM) of stream channels and streamside vegetation. Technical Reference 1737-23. BLM/OC/ST-10/003+1737. U.S. Department of the Interior, Bureau of Land Management, National Operations Center, Denver, CO. 155 pp.

5. Field Manager – Acceptance with of NRST recommendation (yes X no _____).

Date Received 3/16/2016

Date of Decision 3/30/2016 Signature of FM Jan A. Shene

Comments:

Based upon my review of the dispute and after consulting with my staff I accept NRST's recommendations. This was an issue discussed at the CMG meeting (3/9/2016 and 3/10/2016) and clarified by the BLM Nevada State Office. Furthermore, the Mount Lewis Field Office will continue to work with the CMG to clarify the submittal timeframes and the content of the Actual Use Reports.

6. District Manager – Acceptance of NRST recommendation, if needed (yes _____ no _____)

Date Received _____

Date of Decision _____ Signature of DM _____

Comments:

7. State Director – Final Determination

Date Received _____

Date of Decision _____ Signature of SD _____

Comments:

Instructions/intent for Issue Resolution Document

Purpose of Document – This tool is intended to provide a record of how decisions are made on various issues that might arise within the CMG, including how and at what level those issues are resolved. This tool will provide transparency to options and possible consequences, including the rationales for which choices are made, and specific record of the timing and outcomes of issue resolution. It will also establish a record and help create consistency in the face of changing players over time. Close communications and an environment for resolving issues at the lowest level is encouraged. Minor issues/disagreements that are easily handled in the normal team situation will not be documented in this manner; this is intended for substantive issues that affect intended outcomes under the settlement agreement.

1. *Document the situation surrounding CMG disagreement on a given issue, including if possible, the location, essential time frames, background (including reference to Settlement Agreement section if applicable), and potential scope of consequences.*

2. *Who are the parties in disagreement; what are the differing positions and the basis for each differing side?*

3. *At least two options for resolution must be described, even if one is “no action”. The CMG will be expected to problem solve and raise other possible solutions to the issue to assist the parties in disagreement. Each option will be briefly documented.*

4. *Following the problem solving activity (where needed), the NRST will select, document and provide rationale for a recommendation to the Field Manager.*

5. *If accepted, this will end the issue resolution process; if not, the NRST recommendation will be forwarded to the DM promptly, accompanied by written rationale by the FM for not agreeing to the NRST recommendation.*

6. *The DM will review the recommendation by the NRST along with the rationale statement by the FM for his/her disagreement. The DM will accept or reject the NRST recommendation; again, discussion between NRST and DM is strongly encouraged prior to determination. If the DM disagrees with the NRST, rationale should be documented and provided to the State Director along with resolution deemed more suitable by the DM.*

7. *The State Director will review the recommendation by the NRST and information in support of the differing position of the DM, and promptly render a final determination.*

Other – At each step in the process, the parties will be provided electronic copies of the various documents and determinations. The BLM Battle Mountain District Office will maintain the official record of transactions for the issue resolution process.