



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Winnemucca Field Office
5100 East Winnemucca Boulevard
Winnemucca, Nevada 89445
<http://www.nv.blm.gov>



In Reply Refer To:
4160/1792
(NV-022.15)

JUL 1 1 2007

Dear Interested Public:

The enclosed Proposed Decision for the Soldier Meadows Allotment (SMA) Grazing Permit Renewal and Range Improvement Project is being provided to you as an Interested Public of record for this allotment.

The SMA Grazing Permit Renewal and Range Improvement Project Environmental Assessment are available online at http://www.blm.gov/nv/st/en/fo/wfo/blm_information/nepa.html or in hardcopy at the BLM Winnemucca Field Office. Hardcopies are also available upon request.

PROTEST

In accordance with 43 CFR 4160.2, any applicant, permittee, lessee or other interested public may protest the proposed decision under 4160.1 of this title in person or in writing to the authorized officer, Arlan G. Hiner, Assistant Field Manager, Renewable Resources, Bureau of Land Management, 5100 East Winnemucca Boulevard, Winnemucca, NV 89445, within 15 days after receipt of such decision. The protest, if filed, must clearly and concisely state the reason(s) why the protestant thinks the proposed decision is in error.

In accordance with 43 CFR 4160.3 (b), 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.

Subsequent to the protest period, a Final Decision will be issued which will provide an opportunity for appeal in accordance with 43 CFR 4160.4 and 43 CFR Part 4.

If you have any questions please contact Ron Pearson at (775) 623-1500.

RECEIVED

JUL 1 2 2007

DEPARTMENT OF ADMINISTRATION
OFFICE OF THE DIRECTOR
BUDGET AND PLANNING DIVISION

Sincerely,

Arlan G. Hiner
Assistant Field Manager
Renewable Resources

Enclosure



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Winnemucca Field Office
5100 East Winnemucca Boulevard
Winnemucca, Nevada 89445-2921
Phone: (775) 623-1500 Fax: (775) 623-1503
Email: NV_WFO_Webmail@blm.gov
www.nv.blm.gov/winnemucca



In Reply Refer to:
4160(NV-22.15)
Auth No 2702893

JUL 1 1 2007

NOTICE OF PROPOSED DECISION

CERTIFIED MAIL NO. 7006 2760 0001 6680 1192
RETURN RECEIPT REQUESTED

Kudrna Nevada LLC
C/O Jim Kudrna
16912 Mt. Rose Highway
Reno, NV 89511

Dear Mr. Kudrna:

This proposed decision is in conformance with the Bureau of Land Management (BLM) Sonoma-Gerlach Management Framework Plan, MFP III, 1982 and the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area Resource Management Plan, July, 2004. These documents guide the management of public lands within the SMA.

The purpose and need for this project is described in the SMA Grazing Permit Environmental Assessment (EA) No. NV-020-07-EA-08, which is enclosed for your information.

BACKGROUND

On August 14, 2003, the Fish and Wildlife Service (FWS) issued the Biological Opinion for the 2003 through 2013 livestock grazing for the SMA.

On May 5, 2004, the SMA Final Multiple Use Decision (FMUD) was issued to Estill Ranches LLC. This document guides livestock grazing in the allotment.

On June 14, 2004, BLM received a partial appeal and petition for partial stay of the FMUD from Estill Ranches LLC.

On July 22, 2004, the FWS issued an amendment to the August 14, 2003 Biological Opinion for the 2003 through 2013 livestock grazing for the SMA.

On November 18, 2005, Estill Ranches LLC transferred the BLM grazing preference to you, making you the sole permittee within the SMA and the legal successor-in-interest to the appeal of the 2004 FMUD.

On October 25, 2006, you filed a Motion for Dismissal of the appeal of the 2004 FMUD.

On November 17, 2006, you submitted an application for modification of the grazing system in the SMA, and for the construction and/or modification of a range improvement project. The stated purpose for the requested change was to enable you to establish and maintain a stable herd size. You have indicated you do not have another ranch to move your livestock to and do not have the capabilities to greatly vary the number of livestock on the allotment and/or private lands as the current grazing system specifies.

On May 26, 2006, a general scoping letter was sent to interested public for numerous allotments including the SMA. No comments were received related to this allotment.

On May 4, 2007, the interested public for the SMA were notified that the preliminary Environmental Assessment (EA) was available for comment until June 3, 2007. Two comments were received.

On May 8, 2007, a Notice of Proposed Action on Lands in Wilderness was sent to the interested public for comment until June 11, 2007. One comment was received.

After review of specific public comments on the EA, BLM grouped them into three broad categories: (1) Monitoring, (2) National Environmental Policy Act (NEPA)/Planning and (3) Sensitive Species.

A summary of the comments in those response categories follows:

Monitoring – The majority of comments received on the EA were questions dealing with monitoring.

Monitoring data were collected on the allotment during the allotment re-evaluation period and continues to be collected on the SMA. These data were analyzed, interpreted and evaluated to determine the attainment and/or non-attainment of allotment specific objectives and Standards for Rangeland Health (SRH) and was incorporated in the 2003 SRH Determination. Monitoring criteria and objectives have been included in this proposed decision.

NEPA/Planning – Several comments on the EA were made regarding NEPA and the Land Use Plan (LUP). One comment stated that the BLM must prepare an Environmental Impact Statement (EIS). Other comments were that the NEPA analysis did not provide a range of alternatives.

The existing grazing system implemented by the 2004 FMUD was already achieving the allotment specific objectives and SRH. The purpose of the EA was to analysis a grazing system that would meet the needs of the new permit holder and accomplish resource objectives. The

BLM developed an appropriate range of alternatives in the EA that would meet the purpose and need for the action (as well as disclosing the impacts of the no grazing alternative) and took a hard look at the impacts associated with the implementation of each of those alternatives. Based on the analysis and implementation of monitoring and mitigation measures contained in this decision, I have determined there are no impacts that warrant an EIS and that the range of alternatives in the EA are appropriate.

The EA for the SMA complies with NEPA and associated Council of Environmental Quality regulations (40 CFR 1500-1508). The BLM used a systematic, interdisciplinary approach to evaluate environmental impacts from the proposed action and encourages public participation. In addition, BLM rigorously explored and objectively evaluated reasonable alternatives as required under 40 CFR 1502.14(a). The proposed action and alternatives on BLM administered lands are in conformance with the Sonoma-Gerlach Land Use Plan approved in 1982 and the NCA Resource Management Plan approved in 2004.

Sensitive Species – Some comments on the EA were made concerning sensitive species on the SMA.

During the allotment re-evaluation process, the Winnemucca Field Office requested and received a list of Threatened and Endangered species from the Fish and Wildlife Service. The affected threatened and endangered species as well as BLM sensitive species were addressed and analyzed in the EA.

CHANGES TO THE EA:

Based on additional staff review, the EA has been changed to clarify and explain some points. The following changes were made:

- Explained in the Purpose and Need section what the recent monitoring results have shown.
- Further explained the proposed action.
- Renumbered some of the allotment short term monitoring criteria
- Clarified the intent of some of the short term monitoring criteria.
- Expanded discussion of livestock grazing authorities and restrictions in Wilderness Areas
- Explained why impacts on several resources are not expected.
- Identified in the No Livestock Grazing alternative that Wild Horses and Burros would be concentrated at the remaining water sources and associated riparian areas.
- In the Cumulative Impact section it was recognized that:
 - Under the proposed action alternative allotment objectives and SRH would be achieved in a timely manner.
 - Visitation has increased since the designation of the NCA and that as a result the potential for an increase in human caused wildfires is likely.

None of the changes are substantial enough to warrant additional public review.

DECISION

Based upon the NEPA analysis, EA comments, consultation with the permittee and other interested public, and recommendations from my staff, my Proposed Decision is to select the Proposed Action Alternative with the exception of the 30% utilization of key upland species. In its place, I have selected a component of the No Action Alternative that analyzed 50% utilization of key upland species. This decision is in accordance with 43 CFR subpart 4160 and consistent with the FONSI. This decision is as follows:

GRAZING PERMIT:

A six year grazing permit, reflecting these modifications to the terms and conditions of the current permit, will be offered upon completion of the decision making process. Existing permit(s) will become null and void when the new permit becomes effective.

SHORT TERM MONITORING CRITERIA AND LONG TERM OBJECTIVES ARE AS FOLLOWS:

A. Short Term Monitoring Criteria:

1. Livestock grazing on Colman (existing Lahontan Cutthroat Trout (LCT) habitat) and Donnelly Creeks (potential LCT habitat) are subject to the following criteria based upon site potential and stream characteristics:
 - a. A minimum of a 6-inch greenline¹ stubble height for riparian herbaceous vegetation in Colman Creek, will remain when livestock are removed from the Colman Use Area.
 - b. A minimum of a 4-inch greenline stubble height for riparian herbaceous vegetation, in Donnelly Creek, will remain when livestock are removed from the Calico Use Area.
 - c. Utilization of willow (*Salix*) greater than 5 feet in height will not exceed 30%, and will not exceed 20% on willows less than 5 feet in height, and will not exceed 10% on any height of aspen (*Populus tremuloides*).
 - d. Streambank alteration from livestock trampling will not exceed 10% as measured along the greenline.
2. A minimum of 3 inches of greenline stubble height on key riparian herbaceous vegetation species in wetland lentic riparian sites not previously identified will remain at the end of September.
3. A minimum of 4 inches of greenline stubble height on key riparian herbaceous vegetation species in wetland lotic riparian sites not previously identified will remain at the end of September.

¹ Greenline – the first perennial vegetation that forms a lineal grouping of community types on or near the water's edge. Most often it occurs at or slightly below the bankfull stage. (BLM TR 1737-20)

4. Utilization on key woody species not previously identified will not exceed 30% utilization at the end of September.
5. Utilization of any key upland plant species; bluebunch wheatgrass (*Pseudoroegneria spicata*), serviceberry (*Amelanchier*), curleaf mountainmahogany (*Cercocarpus ledifolius*), basin wildrye (*Leymus cinereus*), ephedra (*Ephedra*), winterfat (*Krascheninnikovia lanata*), Idaho fescue (*Festuca idahoensis*), meadow barley (*Hordeum brachyantherum*), Baltic rush (*Juncus balticus*), lupine (*Lupinus caudatus*), Indian ricegrass (*Achnatherum hymenoides*), bluegrass (*Poa*), Nevada bluegrass (*Poa nevadensis*), Sandberg bluegrass (*Poa secunda*), antelope bitterbrush (*Purshia tridentata*), bottlebrush squirreltail (*Elymus elymoides*), needleandthread (*Hesperostipa comata*), Thurber needlegrass (*Achnatherum thurberianum*), and snowberry (*Symphoricarpos*) will not exceed 50% on any key species. Occasional use up to 60% is acceptable since 41 to 60% use is considered moderate grazing. Repeated utilization (two consecutive grazing seasons) of more than 50% on any one species will be considered as not meeting the criteria. Moderate use means that half of the available forage (by weight) on key species appears to have been utilized and 15 to 25% of the current seedstalks remain intact.

B. Long Term Objectives:

1. Maintain or improve public rangeland conditions to provide forage on a sustained yield basis for livestock, with an eventual stocking level of 12,168 AUMs.
2. Maintain or improve public rangeland conditions to provide forage on a sustained yield basis for big game, with a forage demand of 786 AUMs for mule deer, 429 AUMs for pronghorn, and 264 AUMs for bighorn sheep.
3. Manage herd management areas (HMAs) to provide adequate food, water, and living space for the long-term maintenance of healthy wild horses and burros and maintain their free-roaming nature.
4. Sagebrush Habitat-Sagebrush Obligates

Maintain or improve sagebrush plant communities on stable soils with structurally diverse shrub component in various age classes (within a stand or among stands across the landscape) with vigorous, diverse, self-sustaining understory of native grasses and forbs based on ecological site potential.
5. Maintain existing Proper Functioning Condition (PFC) on reaches of Cherry, Colman, Donnelly, Mahogany, Slumgullion, and Summer Camp Creeks; improve to PFC or make significant progress toward PFC on reaches of Cherry, Colman, Donnelly, Slumgullion, Snow, and Soldier Creeks presently not meeting standards.
6. Maintain or improve fisheries habitat to a condition appropriate to stream potential.
7. Maintain Mahogany Creek and Summer Camp Creek to the State of Nevada designated Class A (NAC 445A.124) water standards.
8. Maintain Snow Creek to State of Nevada designated Class B (NAC 445A.125) water standards due to the tributary rule found at NAC 445A.145 (or subsequent revisions).
9. All other surface waters within the allotment are subject to the State's water quality standards, found at NAC 445A.121 (or subsequent revisions).

Following appropriate consultation, some revision or further quantification of some short-term monitoring criteria and long-term objectives may occur during the next evaluation of grazing management.

LIVESTOCK MANAGEMENT IS CHANGED FROM:

Scheduled Use	Not Scheduled	Grazing Pref.	Suspended AUMs	Total
7,680	4,481	12,168	3,902	16,070

Table 1. Grazing Schedule Yr. 1

Use Area	Cow #s	Begin	End
South	1037	01/16	04/30
Idaho Canyon	300	05/01	07/31
Warm Springs	300	08/01	09/30
Hot Springs & Colman	1037	10/01	12/15
Colman		11/16	12/15
Private Lands	1037	12/16	01/15

Table 2. Grazing Schedule Yr. 2

Use Area	Cow #s	Begin	End
South	1037	01/16	04/30
Warm Springs	300	05/01	07/31
Idaho Canyon	300	08/01	09/30
Hot Springs & Colman	1037	10/01	12/15
Colman		11/16	12/15
Private Lands	1037	12/16	01/15

This two year grazing system cycle will continue to repeat in subsequent years until activating a total grazing preference of 12,168 AUMs. Approximately 25% of the non scheduled 4,481 AUMs will be activated after each cycle (2 yrs.) if monitoring criteria, allotment objectives and SRH are achieved.

LIVESTOCK MANAGEMENT IS CHANGED TO:

Scheduled Use	Not scheduled	Grazing Pref.	Suspended AUMs	Total
8,785	3,383	12,168	3,902	16,070

Table 3. Grazing Schedule - Odd Years

Use Area	Cow #s	Begin	End
1 - South	800	01/16	03/31
2 - Hot Springs (South)	800	04/01	04/30
3 - Warm Springs	800	05/01	07/15
4 - Idaho Canyon	800	07/16	10/31
5 - Hot Springs (North)	800	10/01	12/15
6 - Slumgullion			
7 - Colman		11/16	12/15
Calico Mtns.	Rest		
Private Lands		12/16	01/15

Table 4. Grazing Schedule - Even Years

Use Area	Cow #s	Begin	End
1 - South	800	01/16	03/31
2 - Calico Mtns. & South	800	04/01	06/15
3 - Hot Springs (South)	800	04/15	07/15
4 - Idaho Canyon	800	07/16	10/31
5 - Hot Springs (North)	800	10/01	12/15
6 - Slumgullion			
7 - Colman		11/16	12/15
Warm Springs	Rest		
Private Lands		12/16	01/15

This two year grazing system cycle will repeat for the term of the permit. Approximately 25% of the non scheduled 3,383 AUMs will be activated after each cycle (2 yrs.) if monitoring criteria, allotment objectives and SRH are achieved until the total grazing preference of 12,168 AUMs has been activated, which is consistent with the 2004 FMUD. (See "Increases in Permitted Use" below.)

Dates for use area movements may be modified if it is consistent with management objectives and approved by the authorized officer. However, in accordance with the existing Biological Opinion no use will occur before November 16 in the Colman use area in any year.

Prescribed grazing may be authorized in the Stanley Camp Riparian Pasture, excluding the Mahogany Creek Exclosure, if it is consistent with the management objectives of the NCA Resource Management Plan. No grazing will be authorized in the Mahogany Creek Exclosure. Any proposed prescriptive grazing plan for the Stanley Camp Riparian Pasture will require reinitiating consultation with the U.S. Fish and Wildlife Service.

TERMS AND CONDITIONS ARE AS FOLLOWS:

The following terms and conditions are in conformance with the Standards and Guidelines for the Sierra Front - Northwestern Great Basin Resource Advisory Council, approved by the Secretary of the Interior on February 12, 1997.

- The permittee is required to perform normal maintenance on the range improvements as per his signed Cooperative Agreements/Section 4 Permits prior to turning out in a use area scheduled for livestock use.
- The permittee is required to maintain authorized water improvements outside of livestock use periods to provide water for wild horses/burros seasonally.
- The permittee is required to ensure available water is provided to wild horses/burros where water is controlled by valve(s). The valve(s) will be locked and only the permittee and BLM staff will have access to the valves.
- The permittee is required to install bird ladders in all water troughs for which he has maintenance responsibility; BLM will provide the bird ladders.
- The permittee's certified actual use report, by pasture/use area, is due 15 days after the end of the authorized grazing period.
- Pursuant to 43 CFR 10.4(g), the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony (as defined at 43 CFR 10.2). Further, pursuant to 43 CFR 10.4(c) and (d), you must stop activities in the immediate vicinity of the discovery and protect it from your activities for thirty (30) days or until notified to proceed by the authorized officer.
- The permittee may be approved to actively trail (riders present) livestock through use areas outside of the authorized period of use on a case by case basis. Active trailing between use areas/pastures within the SMA by the permittee during the authorized use period does not require a trailing permit. Livestock will be trailed in a timely manner between use areas with a minimal amount of drift.
- Livestock trailing through the Desert Dace Exclosure will only be authorized consistent with the following Terms and Conditions identified in the August 14, 2003 BO, as amended.
 - a. The permittee shall notify BLM no less than 24 hours prior to and after trailing through the Desert Dace Exclosure or as soon as possible.
 - b. Any livestock that are trailed into the Desert Dace Exclosure shall be continuously herded until they reach the outside boundary of the exclosure within 4 hours.
 - c. Livestock trailing through the Desert Dace Exclosure shall be restricted to the routes identified in the 2004 Biological Opinion Amendment.
 - d. BLM shall monitor desert dace thermal spring outflow crossing along the route to ensure that livestock streambank alteration does not exceed a maximum of 25 linear feet from each side of the existing culverts.
- With the exception of salt or mineral blocks, supplemental feeding is not authorized on public lands unless prior approval is requested and given by the authorized officer.

- Salt and/or mineral blocks shall not be placed within one quarter (1/4) mile of springs, streams, riparian habitats or aspen stands.
- The authorized officer reserves the authority to make modifications to the annual grazing authorization that are consistent with the SRH, allotment specific objectives and are NEPA compliant.
- The terms and conditions of the permit will be modified if additional information indicates that revision is necessary to conform to 43 CFR 4180 as supplemented by the Sierra Front - Northwestern Great Basin Resource Advisory Council Standards for Rangeland Health and Guidelines for Grazing Management.
- Allotment and/or pasture gates, but not into any enclosure, will be tied back (open) when livestock are not present (or present in adjoining pasture/allotment) to minimize impacts on the free-roaming nature of wild horses and burros.

OTHER CONDITIONS OF APPROVAL:

- If livestock drifting into the Colman Use Area prior to the scheduled season of use (11/16-12/15) becomes a problem a series of small drift fences along the Slumgullion Canyon Road will be constructed following additional NEPA analysis.
- If BLM determines that unacceptable impacts are occurring at dispersed springs, off-site water will be developed and barriers constructed, following additional NEPA analysis, to protect the springs and associated riparian areas.

TEMPORARY NON-RENEWABLE (TNR) USE

When it is determined that additional forage is temporarily available for livestock, the authorized officer **may** authorize use on a nonrenewable basis. Temporary non-renewable use, if granted, will be based on monitoring and the estimated forage production for the year, but will not exceed 16,070 AUMs (Total Grazing Preference = 12,168 AUMs active use + 3,902 AUMs suspended use). The permittee will be required to meet the short term monitoring criteria and must meet or make progress towards the SRH and long term objectives.

INCREASES IN PERMITTED USE:

The initial livestock stocking level is 8,785 AUMs. If allotment monitoring criteria and objectives, Terms/Conditions and SRH are achieved, or progress is being made toward achievement of the SRH, 845 AUMs of the remaining 3,383 Non Scheduled AUMs, may be activated every two years. This equates to 76 additional head for 11 months. Incremental increases will occur until the Grazing Preference of 12,168 AUMs is activated. If monitoring data identifies that the allotment objectives, terms and conditions and SRH are not achieved, or progress is not being made toward achievement of the SRH, and existing grazing management is a major factor in the failure to achieve these goals, then appropriate actions will be initiated to adjust livestock numbers, season of use and/or AUMs.

RANGE IMPROVEMENT:

The fence, analyzed in the EA, between the Idaho Canyon and Warm Springs Use Areas is required for the grazing system to function properly and this project is authorized by this decision. Until the fence is constructed the permittee must ride and herd to keep cattle in the appropriate use areas.

The fence will be constructed with four wires (bottom wire is smooth, 16 inches above the ground and three barbed wires with the top wire 42 inches above the ground) and metal posts in compliance with BLM's specifications for fences in antelope habitat (as described in the SMA EA NV-020-07-EA-08) and as further defined in the Cooperative Agreement to be developed prior to construction of this project. Prior to any construction work the BLM will be contacted to ensure that cultural clearances have been completed.

The following mitigation measures identified in the EA are hereby accepted and will be implemented:

Gates will be strategically placed where horse trails intersect the fence line. The new fencing will be flagged so wild horses can see the new fence.

The fence line will be inventoried for two years after construction of the project. If noxious weeds are observed at the project site they will be treated by the permittee following approval by the BLM.

RATIONALE:

General:

The proposed changes to the existing grazing system, implemented by the 2004 decision, are not due to any problems but to develop a stabilized livestock operation that will continue to achieve the allotment objectives and SRH and meet the new owner's needs and situation. The proposed livestock grazing management system and range improvement are expected to improve or maintain the health of the majority of the riparian habitats and all of the upland habitats. As a result, other resources such as fisheries, wildlife, water quality, vegetative communities, and other resources, will benefit. Health of upland areas will be maintained or improved. As identified in the EA there was some concern that the springs, seeps and associated riparian areas in the Warm Springs and Idaho Canyon Use Areas will not achieve or make significant progress towards achievement of the Standards for Rangeland Health. However, by incorporating the identified mitigating measures, these concerns are addressed. There is no change regarding the impacts to affected T&E species from the analysis for the 2004 FMUD and associated BO and this decision is consistent with the impacts addressed in that BO. As a result I have determined that the approved objectives and management system are in conformance with the Standards and Guidelines for Rangeland Health developed by the Sierra Front - Northwestern Great Basin Resource Advisory Council, approved by the Secretary of the Interior on February 12, 1997.

Section 102 (7) of the Federal Land Policy and Management Act of 1976 states: ".....and that management be on the basis of multiple use and sustained yield unless otherwise specified by law;" The preamble to The Taylor Grazing Act of June 28, 1934 states: "An Act to stop injury

to the public grazing lands by preventing over-grazing and soil deterioration, to provide for their orderly use, improvement, and development, to stabilize the livestock industry dependent upon the public range, and for other purposes.” The current land use plan identifies grazing as one of the multiple uses of the public lands within this allotment. This plan meets all of these requirements and balances the use and sustained yield of the resources present within the allotment.

This decision conforms to the Sonoma-Gerlach Management Framework Plan, NCA RMP and is consistent with federal, state and local laws, regulations, and plans to the maximum extent consistent with federal law. It is also in compliance with the existing August 14, 2003 Biological Opinion, as amended.

Short Term Monitoring Criteria and Long Term Objectives:

The short-term monitoring criteria are intended to be used to indicate whether grazing management is expected to result in progress towards long-term objectives. It is appropriate to use short-term monitoring criteria:

- In conjunction with long-term objectives and/or the Standards for Rangeland Health in evaluating the results grazing management over time,
- To make annual changes in grazing management as needed to facilitate progress towards meeting long-term objectives and/or the Standards for Rangeland Health, and/or,
- As triggers to remove livestock or leave in a use area longer during the grazing season.

The 30% vegetation utilization objective was not selected since the grazing system provides rest from livestock grazing during the critical growing periods. This grazing system combined with maintaining wild horses and burros at Appropriate Management Level (AML), will result in meeting SRH. Given the relative few numbers of horses and burros, their impact on upland vegetation during the critical growing season will be minimal. This conclusion is supported by the fact that several upland monitoring sites established in the past in the Warm Springs HMA are no longer being monitored because very little to no use by wild horses was ever documented at these sites.

Concern with impacts to lentic riparian systems is discussed elsewhere in this decision. A handful of wild horses and burros, cattle, or wildlife grazing during the hot season can result in these areas not meeting vegetative objectives.

Monitoring sites will be established at a minimum of one per use area based upon ecological sites and utilization patterns within the area. The monitoring sites will be reviewed periodically, usually at the end of a growing season. If short-term monitoring criteria are not met, livestock management will be changed in consultation with the permittee to allow the short-term criteria to be met under subsequent grazing. For example, if stubble height on herbaceous vegetation is less than the established limit at the end of the growing season, adjustments in cattle numbers, period of use or other changes may implemented. Science-based revisions or further quantifications of the short-term monitoring criteria and long-term objectives may be made as a result of the next evaluation. For example, long-term objectives for riparian habitats will be further refined to

maintain or improve spring brook/channel morphology, riparian vegetation cover/community, and aquatic species diversity. As a result, if long term objectives are not being met, adjustments in short term monitoring criteria may include, but are not limited to, changes in trampling limits, reduced utilization levels, and implementation/adjustment of stubble height.

The rationale for the objectives include balancing multiple use management with the resources in compliance with the existing laws, regulations, policies and land use plans. Emphasis is placed on management of wild horses and burros, sagebrush habitat and sagebrush obligates, LCT and other fisheries habitat, Desert Dace Habitat, and water quality. No grazing is permitted in the Desert Dace habitat with the exception of active trailing through the exclosure. Likewise no grazing is authorized in the Mahogany Creek/Summer Camp exclosure. No trailing through this exclosure is authorized due to its importance to LCT and water quality.

Livestock Management:

The accepted grazing management system meets the needs of the permittee for a sustainable livestock operation without unduly or unnecessarily impacting other resources and uses. The system provides the maximum amount of flexibility that I am convinced will protect other resources on the allotment. The accepted terms and conditions are either required by regulation, policy or were identified in the EA as necessary to protect resource values.

Terms and Conditions:

Repair and maintenance of range improvement projects, especially water developments, is crucial to the success of this grazing system. The operator is expected to perform this maintenance WHERE THEY HAVE AN APPROVED COOPERATIVE AGREEMENT OR RANGE IMPROVEMENT PROJECT AUTHORIZATION. However, use of mechanical equipment in any wilderness area requires specific authorization from BLM since BLM must coordinate with wilderness groups to determine if the use of the equipment complies with the minimum tool requirement.

The operator must maintain bird ladders in all water troughs on public land in order to comply with the Migratory Bird Act. BLM will supply these ladders in an effort to minimize the impact of this requirement on the permittee.

In order to maintain a thriving population of wild horses and burros in balance with the ecosystem their access to water is critical. Therefore, consistent with the authorization for the development, water shall be kept available to wild horses and burros even when livestock are not in the use area/pasture. Where water is provided through a system that has a valve(s) there is a concern that anyone could close the valve and thus impact wild horses. To minimize this potential situation access to the valves will be locked; only BLM and the permittee will have access to the locked valves.

Under the proposed livestock management system, use will be authorized by pasture or use area. The permittee is required as a term and condition of his grazing permit to provide his certified

actual use report, by pasture/use area, after the end of the authorized grazing period. Accurate and timely reporting of actual use is a key to the success of adaptive management.

The requirement to stop work and call the BLM immediately if human remains, funerary objects, sacred objects, or objects of cultural patrimony are discovered is in compliance with 43 CFR 10.4(g) and is included here so the permittee will be aware of that requirement.

Trailing is a necessary part of livestock management on public lands. As long as it occurs during the authorized use period a specific trailing permit is not required as it is considered as being covered by the annual authorization. Trailing through the Desert Dace Exclosure is necessary in order to access portions of the allotment from the ranch headquarters. Livestock trailing through the Desert Dace Exclosure is subject to specific requirements agreed upon with the USFWS in the 2004 BO and must be complied with under this decision.

Supplemental feeding without authorization is prohibited by 43 CFR 4140.1(a)(3), however, salt and mineral blocks, that are required for livestock survival, are not considered as supplemental feeding and are authorized as a term and condition in accordance with 4130.3-2(c).

Reporting of actual use is critical in analyzing monitoring data and making decisions to adjust livestock numbers or season of use.

Other Conditions of Approval:

There is some concern that cattle will drift north from the Slumgullion Use Area into the Colman Use Area (Colman Creek) prior to scheduled use on November 16. I am authorizing this grazing system based upon the proximity of Colman Creek to the ranch headquarters and assurances from the permittee that he will properly manage his livestock and prevent cattle from drifting north of Slumgullion Canyon which is the boundary between these use areas. If BLM determines cattle are impacting Colman Creek in violation of this decision and the Biological Opinion then BLM will construct drift fences, subject to NEPA compliance, or take other appropriate action along the Slumgullion Canyon Road to alleviate these impacts.

Given the number of springs and seeps within the allotment it is unrealistic to expect they will not be impacted by livestock, wild horses and burros, or wildlife. In recognition of this fact, I have decided to mitigate any impacts to these resources on a case-by-case basis determined upon their identified priority. The highest priority springs and riparian areas will be evaluated for construction of off-site water and some type of barrier constructed around the spring(s) and associated riparian area to reduce or eliminate these impacts.

Temporary Non-Renewable Use:

Temporary nonrenewable (TNR) grazing permits or leases may be issued on an annual basis to qualified applicants when forage is temporarily available, provided this use is consistent with multiple use objectives and does not interfere with existing livestock operations on public lands. (43 CFR 4110.3-1 and 4130.6-2) There are 3,902 suspended AUMs on the permit. Approval of TNR use would be based on available forage and the requirements to continue to: 1) meet the short term monitoring criteria and 2) meet or be making progress in meeting SRH and long term

objectives. Under these requirements no undue impacts were identified in the EA. This decision will give the BLM the needed flexibility to approve the use of these AUMs without conducting additional NEPA.

Increases in Permitted Use:

The initial stocking level of 800 cattle is expected to result in achieving the allotment objectives and the SRH. In accordance with Bureau policy any increases in livestock numbers will be based upon monitoring and implemented incrementally to ensure attainment of the allotment objectives and SRH.

Range Improvement:

Construction of the Warm Springs/Idaho Canyon Fence will eliminate livestock drift between the two use areas and enable the operator to maintain his livestock in the authorized areas. The operator has experienced cattle drifting back into the Warm Springs area after being moved into the western portion of the Idaho Canyon area. Since seasonally wild horses and burros move through the area of the proposed fence gates will be placed in areas where trails intersect the fence to maintain their free roaming nature. The gates will be tied open when they are not needed to control livestock.

While initially proposed as mitigation for this fence, I have determined that tying gates open when they are not needed to control livestock is a good management practice for the entire allotment, except for gates in enclosure fences (Desert Dace, Mahogany, etc). Tying the gates in the open position will lessen the chance that someone will close the gate and unnecessarily impact the free-roaming nature of the wild horses.

FUTURE MONITORING AND GRAZING ADJUSTMENTS:

The Winnemucca Field Office will continue to monitor the SMA. The monitoring data will continue to be collected in the future to provide the necessary information for subsequent evaluations. These evaluations are necessary to determine if the SRH as expressed by the allotment specific objectives are being achieved under the new grazing management strategy. In addition, these subsequent evaluations will determine if adjustments are required to meet the established allotment specific objectives and standards or if additional incremental increases may be authorized.

Springs and associated riparian areas will be monitored and if objectives are not being met selected springs and riparian areas may be fenced, following NEPA compliance, after off-site water is developed if necessary.

AUTHORITY:

The authority for this decision is contained in Title 43 of the Code of Federal Regulations, which states in pertinent parts:

§4100.0-8 “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.”

§4120.3-1(a) “Range improvements shall be installed, used, maintained, and/or modified on the public lands, or removed from these lands, in a manner consistent with multiple-use management.”

§4120.3-4 “Range improvement permits and cooperative range improvement agreements shall specify the standards, design, construction and maintenance criteria for the range improvements and other additional conditions and stipulations or modifications deemed necessary by the authorized officer.”

§4130.2(a) “Grazing permits or leases shall be issued to qualified applicants to authorize use on the public lands and other lands under the administration of the Bureau of Land Management that are designated as available for livestock grazing through land use plans. Permits or leases shall specify the types and levels of use authorized, including livestock grazing, suspended use, and conservation use. These grazing permits or leases shall also specify terms and conditions pursuant to §§ 4130.3, 4130.3-1, and 4130.3-2.”

§4130.2(b) “The authorized officer shall consult, cooperate and coordinate with affected permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public prior to the issuance or renewal of grazing permits and leases.”

§4130.2(c) “Grazing permits or leases convey no right, title, or interest held by the United States in any lands or resources.”

§4130.3 “Livestock grazing permits and leases shall contain terms and conditions determined by the authorized officer to be appropriate to achieve the 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(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.”

§4180.1(a) “Watersheds are in, or are making significant progress toward, properly functioning physical 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.”

§4180.1(b) “Ecological processes, including the hydrologic cycle, nutrient cycle, and energy flow, are maintained, or there is significant progress towards their attainment, in order to support healthy biotic populations and communities.”

§4180.1(c) "Water quality complies with State water quality standards and achieves, or is making significant progress towards achieving, established BLM management objectives such as meeting wildlife needs."

§4180.1(d) " Habitats are, or are making significant progress toward being, restored or maintained for Federal threatened and endangered species, Federal Proposed, Category 1 and 2 Federal candidate and other special status species."

PROTEST

In accordance with 43 CFR 4160.2, any applicant, permittee, lessee or other interested public may protest the proposed decision under 4160.1 of this title in person or in writing to the authorized officer, Arlan G. Hiner, Assistant Field Manager, Renewable Resources, Bureau of Land Management, 5100 East Winnemucca Boulevard, Winnemucca, NV 89445, within 15 days after receipt of such decision. The protest, if filed, must clearly and concisely state the reason(s) why the protestant thinks the proposed decision is in error.

In accordance with 43 CFR 4160.3 (b), 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.

Subsequent to the protest period, a Final Decision will be issued which will provide an opportunity for appeal in accordance with 43 CFR 4160.4 and 43 CFR Part 4.

Sincerely,



Arlan G. Hiner
Assistant Field Manager
Renewable Resources

Enclosures:

cc:

(See attached mailing list)

Kudrna Nevada LLC
John Falen
Cindy MacDonald
RCI
Humboldt Co. Commissioners
Reed Martinez
NRCS
NDOW-Fallon
Nv. Dept. of Administration
Nevada Wool Growers
Alan Schroeder
Estill Ranches, LLC
Greg Foster
Nevada Cattlemen's Assoc.
Western Watersheds Project
NDOW-Winnemucca
Summit Lake Paiute Tribe
John Walker
Great Old Broads Wilderness
Ft. Bidwell Tribal Council
Paul C. Clifford Jr.
Friends of Nv. Wilderness
Northern Nv. Native Plant
Mary Conelly
Ca. Wilderness Coalition
Walker River Bowmen
John Davis
Wilderness Watch
Pyramid Lake Paiute Tribe
Robert P. Davison
Nv. Bow Hunters Assoc.
Ralph Albright
Tony Diebold
Canvasback Gun Club
Greg Aplet
Gale G. Dupree
Or. Natural Desert Assoc.
Sarah Barth
Silver Arrow Bowmen
Karen Boeger
Clint Garrett
NW Great Basin Assoc.
Leah Brashear
Mike Harper
Az. Wilderness Coalition
Judi Caron
Vicky Hoover
Dave Pulliam
Terry Williams
James Jurad
Terry Reed
Bryan Lamont

Debbie Sease
Ken Longballa
Marjorie Sill
Susan Lynn
Stephen Smith
Kody Menghini
Donna Potter Stammers
Willie Molini
Steve Tabor
James D. Morefield
Ed & Anita Wagner
Brian Murdock
Johanna Wald
Marisha Noneo