

Bureau of Land Management
Winnemucca Field Office
Arlan G. Hiner, AFM, Renewable Resources
5100 East Winnemucca Blvd.
Winnemucca, NV 89445

September 12, 2007

RE: Comments and Protest of Proposed Decision and Actions
Biological Assessment for the Soldier Meadows Allotment Livestock Grazing Permit and,
Soldier Meadows Allotment Grazing Renewal and Range Improvement Project
Environmental Assessment NV-020-07-EA-08

Dear Mr. Hiner:

It has recently come to my attention that the Bureau of Land Management through the Winnemucca Field Office has prepared a Biological Assessment and Final Environmental Assessment for the Soldier Meadows Allotment and Grazing Renewal Permit.

Upon review of these documents, it has become glaringly apparent that the management, protection and preservation of wild horses and burros within the proposal area has not been meaningfully addressed.

Based on the information provided, the BLM must reconsider key aspects of these assessments and proposals, initiate specific management plans that insure the cited Long Term Objectives of providing adequate resources, living space, preservation of healthy wild horses and burros and implementation of range improvements that maintain their free-roaming behavior.

The Biological Assessment (BA) prepared by the BLM for the Soldier Meadows Allotment (SMA) provided history, analysis and data regarding the projected impacts of the proposed actions to three federally protected species; the Lahontan Cutthroat Trout (*Oncorhynchus clarki henshawi*), the Desert Dace (*Eremichthys across*) and the Bald Eagle (*Haliaeetus leucocephalus*).

Wild horses (*Equus caballus*) and wild burros (*Equus asinus*) are also a federally protected species as is their designated habitat, yet no history, analysis or data of the proposed actions to or from them was provided within the BA.

While the BA fails to provide data and analysis of both the short and long-term impacts to the federally protected wild horses and burros of the area, the Final Environmental Assessment for the Soldier Meadows Grazing Allotment indicates significant adverse impacts to these species will transpire if the proposed action is authorized and implemented. These include, but are not limited to:

- Extreme competition for similar forage with livestock during critical grazing periods as a result of the proposed action.
- Dangerous impacts to rangeland resources, plant vigor and health, riparian areas, water quality, soil erosion, stream bank stability, wildlife and herd health due to overstocking and over allocation to livestock that causes intense competition in times of drought and/or severe winter conditions.
- Failure to provide adequate resources to prepare wild horse and wild burro populations for winter conditions when resources are limited and the current grazing rotation schedule intended to help mitigate competition is only effective 50% of the time.
- Failure to consider impacts to wild horse and burro populations by the removal of water and forage access through the exclosures designed to protect the threatened Desert Dace populations.
- Life-threatening impacts to wild horse and burro populations through the implementation of fencing proposals that will restrict known migratory routes, access to critical resources necessary for healthy and thriving populations, provide limitations to genetic viability and meta-population vigor, as well as entrapment of wild horses during winter conditions that are projected to possibly cause harm, injury and death.
- Proposed mitigation measures are questionable regarding their effectiveness in preventing harm, injury and death to wild horses through the implementation of the fencing proposals. These measures will require BLM personnel to *always be available* in a timely manner, no matter what unexpected weather patterns occur, such as severe snowstorms, to open gates in order to prevent wild horse entrapment, starvation and death.
- The proposed action in the Final Environmental Assessment for the Soldier Meadows Allotment clearly outlines forage allocations to achieve long terms objectives for both livestock and big game species within the proposal area yet fails to provide any forage allocations to insure long term objectives that preserve healthy and viable wild horse and wild burro populations.

No specific framework or management plans are provided as to how BLM expects to achieve the cited goal of “*provide adequate food, water, and living space for the long-term maintenance of healthy wild horses and burros and maintain their free roaming nature*”.

Long-standing studies and research indicate that wild horse grazing and resource utilization patterns differ from those attributed to domestic livestock such as cattle and sheep, yet no distinction between these utilization patterns and requirements were analyzed or provided as BLM lumped all wild horse use with domestic livestock analysis within the BA.

In 1990, the Government Accounting Office (GAO) released the following analysis Under Related GAO Products, which cited the primary cause of the degradation in rangeland resources is poorly managed domestic livestock (primarily cattle and sheep) grazing.

The report stated that;

“Although recognizing that overgrazing was occurring, BLM range managers reported that no adjustments in the authorized livestock grazing levels were scheduled in 75 percent of the allotments threatened with further damage. These managers cited insufficient data on specific range conditions and resistance by livestock permittees as the primary reasons why action had not been taken”.

The GAO further testified that BLM has been more concerned with the immediate needs of livestock interests or budget reductions than with insuring the long-term health of the range.

In more recent times, two recently retired scientists and each with more than 30 years experience at the BLM, Erick Campbell and Bill Brookes, characterized the edits of their contributions to the new grazing regulations BLM implemented in July of 2006 as “an attempt to suppress scientific information”.

Campbell termed the matter "a whitewash" and "a crime" and stated, "They took all of our science and reversed it 180 degrees". Brookes agreed, adding, "Everything I wrote was totally rewritten and watered down."

Even BLM cites the proposed action through increasing livestock grazing in the Soldier Meadow Allotment has potential to pose significant threats to rangeland health, a variety of species in the area including sage grouse and the “thriving ecological balance” they are legally mandated to protect. Yet it is obvious that political and economic pressure is causing BLM to attempt to find a way to appease the new owner of the Soldier Meadow Ranch as well as the current administrations focus on exploitation of public resources to the detriment of future sustainability and healthy ecosystems.

Additionally, studies and research on wild burro populations and resource utilization patterns are significantly less than wild horses by comparison but notable differences between each of these species has also been documented. Yet again, BLM fails to provide any distinction or analysis of their requirements or impacts within either the BA or the Final EA.

Wild burro populations are cited as occurring within the Warm Springs Herd Management Area (HMA), which is one of the HMAs listed within the proposal area.

BLM has failed to analyze the wild burro population as a distinct population and species separate from wild horses populations. Wild burro populations, available habitat and trends have undergone extreme nationwide cumulative impacts as a result of site-specific decisions by BLM that have resulted in significant threats to their continued preservation within our Nation. The BA for the SMA also continues this trend by not examining the current status of the federally protected wild burros, their population, requirements, habitat, or trends.

In 1974, the BLM conducted a national census of wild horse and burro populations, which estimated that 14,000 wild burros were residing on public lands and were eligible for the protection granted by Public Law 92-195, also known as the Wild Free Roaming Horse and Burro Act of 1971.

Today, the nationwide wild burro population objective as designated by BLM is merely 2,695 wild burros throughout the entire West and they have become the modern day poster child for “fast disappearing” that initiated the passage of federal laws to protect and preserve them.

Due to this continued oversight, a report is being provided for BLMs review titled, *“Wild Burros of the American West- A Critical Analysis of the National Status of Wild Burros on Public Lands-2006”* that provides the most current information available on the nationwide status and trends regarding wild burro populations and their habitat and why the BLM must now address the cumulative impacts of their management actions through site specific decisions that have caused wide reaching negative effects if this downward trend is to be reversed.

While the BLM is proposing long-term objectives designed to increase forage allocations for livestock grazing within the SMA by an additional 3,383 AUMs, the wild burro population for the Warm Springs HMA is merely a “token presence” with an established allowable management level designated as a maximum population objective of 24 wild burros – not a healthy or viable population by any standard.

The total acres of all habitats allocated for wild burro use throughout the West is currently reported at 5,619,884 acres. This is not exclusive habitat either, with much of this acreage mixed with large wild horse numbers.

Reported habitat loss for wild burros, either through the Bureau of Land Managements Fiscal Year 2006 Herd Statistics, recent or pending land use plans, and BLM personnel, totaled 5,071,112 acres - almost 50% of their entire historically designated ranges.

Additionally, while the BLM insures resource allocations within this proposal for species such as mule deer, pronghorn antelope and big horn sheep totaling 1,479 AUMs just for this one allotment, wild burro populations have only been issued 288 AUMs throughout the entire Warm Springs HMA.

Most of the current Nevada big game populations are estimated as having achieved all time statewide highs with the current mule deer population exceeding Nevada wild burro population objectives by a ratio of 125-1, pronghorn exceeding wild burros by a ratio of 28-1 and the “rarest and most coveted” of all big game species, the big horn sheep exceed statewide burro population objectives by a ratio of over 9-1 as does the Nevada elk to burro ratios.

Over 630 million acres is now controlled by some sort of federal agency such as National Park Service, United States Fish and Wildlife Service, United States Forest Service as well as Bureau of Land Management itself, and this figure omits any state controlled land, and all of it is managed for wildlife species and their preservation.

BLM oversees approximately 262 million public acres, yet nearly 20 million acres of the original 53.3 million acres set aside for wild horse and burro preservation has been deemed no longer suitable for management with only 34.4 million acres of their historical Herd Areas still allowing any populations at all.

Of those that still remain, it is estimated that 70% of the allowable population levels BLM has issued are not genetically viable and the herds will begin showing signs of inbreeding within ten to fifteen years or less.

The Silver Peak HMA in Nevada completely zeroed out all wild horse and burro use in 2006 and cited signs of inbreeding as one of the justifications for their permanent removals -the wild horse population totaled 143 according to BLMs post-gather results.

It is estimated that over 9 million cattle currently graze the West, and between BLM and United States Forest Service (USFS) managed lands, a little over 332 million acres is authorized for livestock use, almost ten times the available acreage as wild horses and burros.

As of January 2007, the United States Department of Agriculture reported 97.1 million cattle were within the United States, up 400,000 from last year’s number, with a total world population estimated at 1.3 billion head.

Within the eleven Western States dedicated to animal agriculture, 70% of the available water is used for livestock production purposes, 85% of all soil erosion is directly attributed to the livestock industry, their overall waste output creates vast amounts of pollution that often ends up in waterways and rivers, and methane, the second leading cause of global warming and rated in the livestock sectors as CO₂, is estimated at generating 18% more greenhouse gas emissions than transport.

While livestock are one of the most major contributors to serious environmental health problems today, meat and milk production are expected to more than double by the year 2050. Livestock now use 30% of the earth’s entire land surface and the need to meet the constantly growing demand has also resulted in severe deforestation, requiring more and more old growth forests be cleared in order to create the much needed pasture for their ever-increasing numbers.

The request made by Kudrna Nevada LLC (Kudrna) to modify the existing livestock grazing system and construct a range improvement (fence) on the Soldier Meadows Allotment to increase the economic yield of the ranching operation is only one of the many considerations and legal requirements that BLM must balance and administer.

When Kudrna bought the property, they also bought the conditions, terms and existing reservations that went with it. If they failed to properly research these issues, it is not the public's responsibility to sacrifice our resources to compensate the permittee for their short sightedness.

As a member of the general public, I can assure you that the City of North Las Vegas does not alter city ordinances, regulations, laws, management plans or resources to suit my individual needs or economic conditions. Since assuming residency here, changes in traffic, roadways, easements, airplane routes, limitations on watering schedules and availability, property taxes, sewage, garbage, and all associated fees and charges have been implemented without modification for my individual circumstances.

Currently, a national crisis in home and property foreclosures is affecting millions of Americans that are also not receiving any special considerations, modifications, or alterations to preserve their "lifestyle". Why? Because it is commonly accepted that as the purchaser of the property, the terms and conditions that are part of the property become the responsibility of the owner and as such, they are required to fulfill their obligations based on those terms.

Some of the terms, conditions and laws that a livestock permittee is bound to through the use of public lands and resources can be found in Appendix I located in the back of this document.

Furthermore, significant changes have transpired on both national and global scales since the passage of the Taylor Grazing Act in 1934, as amended, some of which were highlighted in the previous statistics. Global warming, drought, water shortages, loss of ecosystems, habitat fragmentation, and species decline and/or extinction have all become top concerns for many scientists, researchers, environmentalists and humanity in general to which livestock grazing provides significant contributions to accelerating the noted downward trends.

Apparently, it is not enough for Kudrna to be able to feed a cow and a calf for less than \$1.50 per month (can anyone else do this?) and to have access to public water resources – they also believe that the purchase of this property entitles them to priority status over all other species and rangeland health in the area.

If Kudrna believes that there are insufficient resources available to achieve the economic conditions they desire connected to this property under the current grazing authorizations, than do what everyone else does, sell the property and find a more suitable location.

The BLM analyzes the alternative of No Livestock Grazing and consistently reports that accelerated rangeland health, plant vigor, riparian areas, water quality, wildlife populations, threatened species, wild horse and burro herd health, etc. would improve as a result from the implementation of this alternative.

However, a No Livestock Grazing Alternative is not consistent with BLMs multiple use mandates and management strategies for sustained yield of public resources and Kudrna is lawfully entitled to the use of public resources through livestock grazing, just not at the expense of everything else.

These facts support BLM issuing a decision to implement the No Action Alternative to the proposed grazing system and Kudrna's request to increase their economic benefits at the expense of the general public and national laws whose intent is to manage public resources in a thriving ecological balance.

If BLM attempts to find alternative solutions to the three options already presented within the SMA Final Environmental Assessment, the following issues require adjustments for legal compliance as well adherence to the "spirit of the law" designed to protect public rangelands and ecosystems.

- Separately analyze wild horse and burro impacts, utilization patterns, habitat requirements and trends from livestock.
- Provide specific forage allocations for wild horse and burro use through clearly delineating AUM allocations that are comparable to other resource users within the proposal area that will support healthy and self-sustaining populations to insure protection and preservation for future generations.
- Increase forage allocations and allowable management levels that will provide and sustain genetically viable wild burro populations.
- Prohibit any further intrusion through the implementation of more fences into wild horse and burro migratory routes that are necessary to disperse grazing pressure within the area – Idaho Canyon already is fenced on three sides despite the legal requirement to keep fencing to a minimum in wild horse and burro habitat.
- Provide grazing alternatives that do not cause unnecessary stress and damage to rangeland health and all resource users during times of drought and harsh winter conditions. The current proposal is based on "ideal" conditions 100% of the time – a condition that is well-documented as non-existence.

- Provide grazing alternatives that do not result in known competition between livestock, wild horses, wild burros and other wildlife 50% of the time.

Foundational solutions on the base permit must be compatible and provide necessary habitat requirements 100% of the time for all rangeland users as well as allowing for known environmental fluctuations such as drought. Temporary grazing permits may be used during years of higher forage and resource availability.

The established planning process that allows public input to help BLM mitigate and better manage public and natural resources can sometimes be perceived as being too slow or cumbersome. Yet public resources are our most valuable commodity, rangeland health and decisions that support it are the most vital component of Life itself – water, air, soil, species preservation, etc. must not be considered lightly as too often unintended and unexpected results can be much more costly than anyone could have possibly foreseen.

It is with this spirit that I would like to express my deep appreciation for the opportunity to participate in the management and preservation of our Nations resources and hope my input, suggestions, comments and solutions are helpful in BLMs ever-challenging mission to provide stewardship and fulfillment of their mandates, responsibilities and goals.

Sincerely,

REMOVED

Appendix I

Applicable Legal Requirements, Laws & Regulations

The Wild Free-Roaming Horse and Burro Act of 1971 Public Law 92-195

Section 1331. Congressional Findings and declaration of policy

“Congress finds and declares that wild free-roaming horses and burros are living symbols of the historic and pioneer spirit of the West; that they contribute to the diversity of life forms within the Nation and enrich the lives of the American people; and that these horses and burros are fast disappearing from the American scene. It is the policy of Congress that wild free-roaming horses and burros shall be protected from capture, branding, harassment, or death; and to

accomplish this they are to be considered in the area where presently found, as an integral part of the natural system of public lands.” (*emphasis added*)

Section 1332 Definitions

As used in this Act-

“(c) “range” means the amount of land necessary to sustain an existing herd or herds of wild free-roaming horses or burros, which does not exceed their known territorial limits, and which is devoted principally but not necessarily exclusively to their welfare in keeping with the multiple-use concept for the public lands;” (*emphasis added*)

Section 1333 Powers and duties of Secretary

Jurisdiction; management, ranges, ecological balance objectives, scientific recommendations; forage allocations adjustments

“All wild free-roaming horses and burros are hereby declared to be under the jurisdiction of the Secretary for the purposes of management and **protection** in accordance with the provisions of the Act. The Secretary is authorized and directed to protect and manage wild free-roaming horses and burros as components of the public lands, and he may designate and maintain specific ranges on public lands as sanctuaries for their protection and preservation, where the Secretary after consultation with the wildlife agency of the State wherein any such range is proposed and with the Advisory Board established in section 1337 of this Act deems such action desirable. The Secretary shall manage free-roaming wild horses and burros in a manner designed to achieve and maintain a thriving natural ecological balance on the public lands. He shall consider the recommendations of qualified scientists in the field of biology and ecology, some of whom shall be independent of both Federal and State agencies and may include members of the Advisory

Board established in section 1337 of this Act. All management activities shall be at the minimum feasible level and shall be carried out in consultation with the wildlife agency of the State wherein such lands are located in order to protect the natural ecological balance of all wildlife species which inhabit such lands, particularly endangered wildlife species. Any adjustments in forage allocations on any such lands shall take into consideration the needs of other wildlife species which inhabit such lands. (*emphasis added*)

(iv) such additional information as becomes available to him from time to time, including that information developed in the research study mandated by this section, or in the absence of the information contained in (I-iv) above on the basis of all information currently available to him, that an **overpopulation** exists on a given area of the public lands and that action is necessary to remove excess animals, he shall immediately remove excess animals from the range so as to achieve appropriate management levels. Such action shall be taken, in the following order and priority, until all excess animals have been removed so as to restore a thriving ecological balance to the range, and protect the range from the deterioration associated with **overpopulation.** (*emphasis added*)

Federal Lands Policy and Management Act of 1976

Public Law 94-579

Title 1, Definitions-

Sec. 102. [43 U.S.C. 1701] (a)

“The Congress declares that it is the policy of the United States that– (b) The policies of this Act shall become effective only as specific statutory authority for their implementation is enacted by this Act or by subsequent legislation and shall then be construed as supplemental to and not in derogation of the purposes for which public lands are administered under other provisions of law.” (*emphasis added*)

Title 1, Definitions-

Section 103 [43 UUSC 1702] (c):

“The term “multiple use” means the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of balanced and diverse resource uses that take into account the long-term needs of future generations for renewable and non-renewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output.” (*emphasis added*)

Title 1, Declaration of Policy, Section 102-(7):

“goals and objectives be established by law as guidelines for public land use planning, and that the management be on the basis of multiple use and sustained yield unless otherwise specified by law:” (*emphasis added*)

Title 1, (4):

“the Congress exercise its constitutional authority to withdraw or otherwise designate or dedicate Federal lands for specified purposes and that Congress delineate the extent to which the Executive may withdraw lands without legislative action;” (*emphasis added*)

Title 1, Definitions, Section 103. [43 U.S.C. 1702]:

“Without altering in any way the meaning of the following terms as used in any other statute, whether or not such statute is referred to in, or amended by, this Act, as used in this Act-“

Title 1, Definitions, Section 103. [43 U.S.C. 1702] (a):

“The term “areas of critical environmental concern” means areas within the public lands where special management attention is required (when such areas are developed or used or where no development is required) to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards” (*emphasis added*)

Title 2, Land Use Planning, Section 201 [43 U.S.C. 1711] (a):

“The Secretary shall prepare and maintain on a continuing basis an inventory of all public lands and their resource and other values (including but not limited to, outdoor recreation and scenic values), giving priority to areas of critical environmental concern.”

Title 3, Administration, Section 302. [43 U.S.C. 1732] (a):

“The Secretary shall manage the public lands under principles of multiple use and sustained yield, in accordance with the land use plans developed by him under section 202 of this Act when they are available, except that where a tract of such public land has been dedicated to specific uses according to any other provisions of law it shall be managed in accordance with such law.” (*emphasis added*)

Title 4, Grazing Leases and Permits, Section 402. [43 U.S.C. 1752] (h):

“Nothing in this Act shall be construed as modifying in any way law existing on the date of approval of this Act with respect to the creation of right, title, interest or estate in or to public lands or lands in National Forests by issuance of grazing permits or leases.”

Title 7, Effect on Existing Rights; Section 701. [43 U.S.C. 1701 note] (a):

“Nothing in this Act, or in any amendment made by this Act, shall be construed as terminating any valid lease, permit, patent, right-of-way, or other land use right or authorization existing on the date of approval of this Act.” (*emphasis added*)

Title 7, Effect on Existing Rights; Section 701. [43 U.S.C. 1701] (f):

“Nothing in this Act shall be deemed to repeal any existing law by implication.” (*emphasis added*)

Title 7, Effect on Existing Rights; Section 701. [43 U.S.C. 1701] 6 (h) states:

“All actions by the Secretary concerned under this Act shall be subject to valid existing rights.” (*emphasis added*)

Code of Federal Regulations
Title 43 Public Lands: Interior Part 4700
Protection Management and Control of Wild
Free-Roaming Horses and Burros

Subpart 4700—General §4700.0–1 Purpose.

“The purpose of these regulations is to implement the laws relating to the protection, management, and control of wild horses and burros under the administration of the Bureau of Land Management.” (*emphasis added*)

§4700.0–2 Objectives.

“The objectives of these regulations are management of wild horses and burros as an integral part of the natural system of the public lands under the principle of multiple use;”
(*emphasis added*)

§4700.0–6 Policy.

(a) Wild horses and burros shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat. (*emphasis added*)

(b) Wild horses and burros shall be considered comparably with other resource values in the formulation of land use plans. (*emphasis added*)

§4710.3–1 Herd management areas.

Herd management areas shall be established for **the maintenance** of wild horse and burro herds. In delineating each herd management area, the authorized officer shall consider the appropriate management level for the herd, the habitat requirements of the animals, the relationships with other uses of the public and adjacent private lands, and the constraints contained in §4710.4....
(*emphasis added*)

§4710.5 Closure to livestock grazing.

(a) If necessary to provide habitat for wild horses or burros, to implement herd management actions, or to protect wild horses or burros from disease, harassment or injury, the authorized officer may close appropriate areas of the public lands to grazing use by all or a particular kind of livestock. (*emphasis added*)

(c) Closure may be temporary or permanent. After appropriate public consultation, a Notice of Closure shall be issued to affected and interested parties.

§4710.6 Removal of unauthorized livestock in or near areas occupied by wild horses or burros.

The authorized officer may establish conditions for the removal of unauthorized livestock from public lands adjacent to or **within areas occupied by wild horses or burros to prevent undue harassment of the wild horses or burros.** Liability and compensation for damages from unauthorized use shall be determined in accordance with subpart 4150 of this title.
(*emphasis added*)

**Code of Federal Regulations
Title 43 Public Lands: Interior Part 4100
Grazing Administration**

§ 4100.0-5 Definitions.

Range improvement means an authorized physical modification or treatment which is designed to improve production of forage; change vegetation composition; control patterns of use; provide water; stabilize soil and water conditions; restore, protect and improve the condition of rangeland ecosystems to benefit livestock, wild horses and burros, and fish and wildlife. The term includes, but is not limited to, structures, treatment projects, and use of mechanical devices or modifications achieved through mechanical means. (*emphasis added*)

§ 4110.2-1 Base property.

(b) After appropriate consultation, cooperation, and coordination, the authorized officer shall specify the length of time for which land base property shall be capable of supporting authorized livestock during the year, relative to the multiple use management objective of the public lands. (*emphasis added*)

§ 4110.2-3 Transfer of grazing preference.

(3) The transferee shall accept the terms and conditions of the terminating grazing permit or lease (see §4130.2) with such modifications as he may request which are approved by the authorized officer or with such modifications as may be required by the authorized officer. (*emphasis added*)

§ 4110.3 Changes in grazing preference.

(c) Before changing grazing preference, the authorized officer will undertake the appropriate analysis as required by the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et seq.). Under NEPA, the authorized officer will analyze and, if appropriate, document the relevant social, economic, and cultural effects of the proposed action. (*emphasis added*)
[71 FR 39504, July 12, 2006]

§ 4110.3-1 Increasing active use.

When monitoring or documented field observations show that additional forage is available for livestock grazing, either on a temporary or sustained yield basis, BLM may apportion additional forage to qualified applicants for livestock grazing use consistent with multiple-use management objectives specified in the applicable land use plan. (*emphasis added*)

§ 4110.4-2 Decrease in land acreage.

(b) When public lands are disposed of or devoted to a public purpose which precludes livestock grazing, the permittees and lessees shall be given 2 years' prior notification except in cases of emergency (national defense requirements in time of war, natural disasters, national emergency needs, etc.) before their grazing permit or grazing lease and grazing preference may be canceled. A permittee or lessee may unconditionally waive the 2-year prior notification. Such a waiver shall not prejudice the permittee's or lessee's right to reasonable compensation for, but not to exceed the fair market value of his or her interest in authorized permanent range improvements located on these public lands (see §4120.3–6).

[43 FR 29067, July 5, 1978, as amended at 49 FR 6451, Feb. 21, 1984; 49 FR 12704, Mar. 30, 1984; 54 FR 31485, July 28, 1989; 60 FR 9963, Feb. 22, 1995; 71 FR 39505, July 12, 2006]

(emphasis added)

§ 4120.2 Allotment management plans and resource activity plans.

(a)(2) Prescribe the livestock grazing practices necessary to meet specific resource objectives;

§ 4120.3-1 Conditions for range improvements.

(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.

§ 4120.3-2 Cooperative range improvement agreements.

(b) Subject to valid existing rights.....

(d) Range improvement work performed by a cooperator or permittee on the public lands or lands administered by the Bureau of Land Management does not confer the exclusive right to use the improvement or the land affected by the range improvement work.

[60 FR 9964, Feb. 22, 1995, as amended at 61 FR 4227, Feb. 5, 1996; 71 FR 39505, July 12, 2006] *(emphasis added)*

§ 4120.3-3 Range improvement permits.

(c) The term “forage available for livestock” does not include temporary nonuse that BLM approves for reasons of natural resource conservation, enhancement, or protection, or use suspended by BLM under §4110.3-2(b) *(emphasis added)*

§ 4120.3-8 Range improvement fund.

(b) Funds appropriated for range improvements are to be used for investment in all forms of improvements that benefit rangeland resources including riparian area rehabilitation, improvement and protection, fish and wildlife habitat improvement or protection, soil and water resource improvement, wild horse and burro habitat management facilities, vegetation improvement and management, and livestock grazing management. *(emphasis added)*

§ 4120.5-1 Cooperation in management.

The authorized officer shall, to the extent appropriate, cooperate with Federal, State, Indian tribal and local governmental entities, institutions, organizations, corporations, associations, and individuals to achieve the objectives of this part.

[60 FR 9965, Feb. 22, 1995]

§ 4120.5-2 Cooperation with Tribal, state, county, and Federal agencies.

Insofar as the programs and responsibilities of other agencies and units of government involve grazing upon the public lands and other lands administered by the Bureau of Land Management, or the livestock which graze thereon, the Bureau of Land Management will cooperate, to the extent consistent with applicable laws of the United States, with the involved agencies and

government entities. The authorized officer will cooperate with Tribal, state, county, and Federal agencies in the administration of laws and regulations relating to livestock, livestock diseases, sanitation, and noxious weeds, including— (a) State cattle and sheep sanitary or brand boards in control of stray and unbranded livestock, to the extent such cooperation does not conflict with the Wild Free-Roaming Horse and Burro Act of 1971 (16 U.S.C. 1331 et seq.); (*emphasis added*)

§ 4130.1-2 Conflicting applications.

When more than one qualified applicant applies for livestock grazing use of the same public lands and/or where additional forage for livestock or additional acreage becomes available, the authorized officer may authorize grazing use of such land or forage on the basis of §4110.3–1 of this title or on the basis of any of the following factors:

- (a) Historical use of the public lands (see §4130.2(e));
- (b) Proper use of rangeland resources;
- (f) Other land use requirements unique to the situation.

§ 4130.2 Grazing permits or leases.

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

§ 4130.3-2 Other terms and conditions.

(f) Provision for livestock grazing temporarily to be delayed, discontinued or modified to allow for the reproduction, establishment, or restoration of vigor of plants, provide for the improvement of riparian areas to achieve proper functioning condition or for the protection of other rangeland resources and values consistent with objectives of applicable land use plans, or to prevent compaction of wet soils, such as where delay of spring turnout is required because of weather conditions or lack of plant growth; (*emphasis added*)