

Sustaining Working Landscapes Initiative

An Overview

Introduction

The Bureau of Land Management believes it is time to consider making changes in our grazing program to promote more effective partnerships with grazing permittees for the purpose of advancing the long-term health and productivity of the public lands. The changes under consideration would put into action Interior Secretary Norton's Secretary's Four C principles: *consultation*, *communication* and *cooperation*, all in the service of *conservation*. The overall objective would be to improve range conditions that support working landscapes, that is, landscapes that are economically productive and environmentally healthy.

Authority for Changes

Many of the mechanisms and tools to facilitate improved partnerships can be implemented without any modifications to the grazing program through **voluntary** cooperative efforts of ranchers and conservation-minded citizens who are committed to the concept of sustaining working landscapes. In other words, there is already sufficient authority and flexibility within the grazing regulations to achieve many of our objectives – increasing the ability of grazing permittees and lessees to work with the BLM and others to maintain and restore working landscapes, while at the same time maintaining the economic and operational viability of their ranching operations.

There are, however, some changes that need to be made in the BLM's grazing regulations to allow for greater flexibility and to create incentives for more effective partnerships. Thus, both regulatory and non-regulatory changes are being considered. The BLM believes that the initiative, when finalized and implemented, will promote citizen-based stewardship for the public lands. This will benefit not only the BLM's grazing permittees, but all who use, enjoy, and care about our nation's public lands.

Regulatory Changes

Regulatory changes were initiated with the publication in the *Federal Register* on March 3, 2003, of an "Advanced Notice of Proposed Rulemaking" describing the general nature of possible changes in regulations being considered and a "Notice of Intent" announcing the BLM's plans to prepare an environmental impact statement (EIS) in compliance with the National Environmental Policy Act. The EIS will analyze the potential impacts of the proposed changes and any alternatives on the human environment. The BLM held four scoping meetings – in Billings, MT, Albuquerque, NM, Reno, NV, and Washington, D.C. – to allow the public an opportunity to identify concerns and issues related to the rulemaking. Written comments were also accepted. The public comment period closed on May 2, 2003. Over 8,300 comments were received.

The BLM is currently reviewing the public scoping comments and developing a proposed grazing rule and alternatives for consideration and analysis in the EIS. The next step in the rulemaking process will be the release of proposed grazing rule and draft EIS for public review and comment – tentatively in December of 2003. We fully expect the BLM Resource Advisory Councils to play an important role in facilitating comment on the proposed rule. Based on public comments on the proposed rule and draft EIS, the BLM will develop a final rule and final EIS. The final rule is not likely to be completed until the summer of 2004.

Non-Regulatory Policy Changes

On March 25, 2003, the BLM announced the initiation of a public process to gather ideas and input on actions the BLM could take to achieve the goals of the Sustaining Working Landscapes initiative. The idea was to begin identifying means for improving the long-term health and productivity of the public lands through innovative partnerships with permittees and lessees. Basically we were looking at things we could do within the current regulatory framework.

Twenty three public workshops were held in the west and one workshop was held in Washington, D.C. to explore some new concepts and to identify other creative ideas for enhancing our ability to work together to achieve healthier rangelands in a mutually supportive way. At those workshops we introduced several concepts for consideration, including: Conservation Partnerships, Reserve Common Allotments, Voluntary Allotment Restructuring, Conservation Easements, and Endangered Species Mitigation. The two page handout from the workshops is provided as Attachment A for your reference. The public raised many valuable comments and legitimate concerns at the workshops. A summary of the public comments are shown as Attachment B.

As a result of the workshops as well as a national meeting of BLM Resource Advisory Council representatives held in Washington, D.C. in April, it was decided that we would benefit from more involvement and advice from our established advisory councils throughout the west before moving forward with this initiative. Furthermore we determined that it would be best if we did not try to develop policy guidance – even in draft form – at this time. Rather we have reviewed the comments from the workshops and attempted to provide responses to many of the questions and concerns raised in those sessions in the form of Q&A's on some of the policy concepts we had identified. The Q&A's (Attachment C) were developed with the help of BLM field resource specialists.

You will note that “Conservation Easements” as a separate concept are not addressed in the Q&A's. Although use of conservation easements is certainly an option, it was determined that we are limited in our ability to use them and, at least in the immediate future, we will not be highlighting or emphasizing their use as a major policy tool. Also, in our earlier concept paper we discussed “Endangered Species Mitigation” as a policy concept. Although we have not dropped this concept, we have addressed it in the Q&A's in a broader context under the heading “Landscape Habitat Improvement”. We anticipate that the concepts and terminology will continue to evolve as we receive further input from the RACs and the public. At this point the policy framework is very fluid.

Expectations of RAC's in Providing Advice to BLM on the SWL Initiative

We are taking very seriously the desires expressed to us by RAC representatives at a National RAC meeting held in Washington, D. C. in April of 2003. At that meeting, the RAC representatives indicated that they wanted to work with us to develop the Sustaining Working Landscapes policy – they did not want to merely review and rubber stamp a draft policy. We respect and understand that position. Too often the RACs are not used as effectively as they could be in helping us to define where we should go as well as how we should get there. We are seeking advice and recommendations from the RAC's in four major areas:

- Are we going in the right direction and have we identified the correct objectives? Is the process/ strategy we have identified for developing the Sustaining Working Landscapes initiative on target? What else should we be doing to ensure that we develop the best and most reasonable approach to sustaining working landscapes?
- Have we adequately addressed the concerns and issues raised by the public at the April workshops and are there other issues or concerns that need to be addressed? Many of the commenters felt that the information on the concepts presented at the workshops was too vague. Do the Q&A's help in clarifying the concepts? Do we need to provide additional information? Are there other issues that need to be addressed before we develop policy guidance? The RAC meetings provide another opportunity for the public to present their concerns.
- Are there other mechanisms and policy concepts that we ought to consider to achieve the objectives of the Sustaining Working Landscapes initiative? We are very interested in any additional innovative ideas or concepts that would move us toward our goals of restoring healthy rangelands and maintaining the vitality of our ranching communities.
- Are there existing examples or potential pilot projects in your area that can be used to demonstrate effective partnerships for meeting the objectives of the Sustaining Working Landscapes initiative? We are particularly interested in projects or actions that demonstrate collaborative efforts involving permittees and lessees in the protection of threatened or endangered or special status species or their habitat? Would it be wise to conduct some pilot projects before we go forward with a final policy?



March, 2003

SUSTAINING WORKING LANDSCAPES ON WESTERN PUBLIC LANDS

Concepts for Promoting Sustainable Ranching and Sustainable Landscapes

Sustainable rangelands, sustainable ranching -- these mutually attainable goals are actually dependant on each other. Certain BLM grazing policies can hinder the efforts of ranchers and conservation-minded citizens who wish to work actively with BLM to reach these goals. BLM plans to change these policies to facilitate improved partnerships with those who value maintaining and restoring western resources and landscapes while preserving the vitality of ranching and all that it contributes to western lifestyles. Our objective is to increase the flexibility of grazing permittees and lessees in working with the BLM, conservationists and others to maintain or restore working landscapes, while at the same time maintaining the economic and operational viability of their ranching operations.

The concepts presented below provide a framework for citizen-based stewardship that supports *conservation* through *consultation*, *communication* and *cooperation*. Changes in the grazing rules, an effort that began earlier this month, will be needed before we can implement the "Reserve Common Allotment" concept presented below. We believe that the other concepts can be implemented as soon as we develop the appropriate management tools.

We invite you to examine these concepts. BLM will be hosting between one and three grazing policy development workshops per State across the West from March 31 to April 25. In addition, one workshop will be held in the Washington, D. C. area. The purpose of these workshops is to allow you to provide your thoughts concerning these concepts and others that would achieve the same ends - increasing the flexibility for working collaboratively to maintain or restore the public land resources. Those interested in participating in the workshops should check with their State or local BLM office for details.

Concept 1: Conservation Partnerships

Authorized under the Federal Land Policy & Management Act, Conservation Partnerships provide an opportunity for permittees and lessees, on a voluntary basis, to enter into contracts or agreements with BLM to achieve upland recovery, riparian/wetland restoration, enhanced or improved water quality and quantity, improved wildlife or fisheries habitat, and listed species recovery. In return, conservation partnerships would allow permittees and lessees to seek grants to pay for labor and materials invested in conservation practices or provide increased management flexibility within agreed upon parameters.

Concept 2: Reserve Common Allotments (RCAs)

Reserve Common Allotments would be managed as reserve forage areas for the purposes of rangeland restoration and recovery. BLM would allow RCAs to be used by permittees and lessees who are engaged in rangeland restoration and recovery activities that require them to rest their customary allotments. By temporarily shifting their livestock to RCAs, permittees and lessees would be able to address rangeland health issues while simultaneously meeting their economic needs.

Concept 3: Voluntary Allotment Restructuring

Voluntary allotment restructuring involves merging two or more allotments in which one (or more) of the permittees or lessees agrees to temporarily not graze their livestock. The other permittee(s) or lessee(s) would then be allowed to graze their original herd over the entire area resulting in lighter grazing use over the larger area. The goal is to improve range conditions while supporting permittee economic viability.

Concept 4: Conservation Easements

Conservation easements are land-use restrictions or constraints voluntarily placed on property by the landowners for the purpose of advancing conservation goals. In many areas of the west, land ownership patterns are intermingled between state, private, federal and other ownerships. In some areas, small parcels of public land managed by the BLM are completely surrounded by larger parcels of private land, which leads to an unmanageable situation. Often these small parcels of public land are identified in agency land use plans for disposal. Under this concept, prior to disposal, BLM would place a conservation easement on the small isolated parcel of public land. In exchange for the value of the small parcel of public land with the conservation easement, the owner of the adjacent private land would place a similar conservation easement on their surrounding private land. The results would be larger blocks of land that would preserve the conservation values in accordance with the covenants of the conservation easement.

Concept 5: Endangered Species Act Mitigation

Conservation Partnerships, RCAs, restructured allotments and conservation easements all provide options to mitigate affects to listed species resulting from livestock grazing. For example, Conservation Partnerships could be used to restore rangelands, which benefit listed species. RCAs are intended to be grazed intermittently, and then only to the extent consistent with sustaining their long-term conservation objective. Restructured allotments incorporate forage reserves for grazing. Conservation easements automatically include mitigating factors for some listed species. Mitigation banks could also be an option under these concepts. They work by permanently preserving and/or creating habitat for listed species and then using that habitat as a source of mitigation credits to be sold to other land users to mitigate land development impacts on listed species as required by the Endangered Species Act.

**SUMMARY OF WORKSHOP COMMENTS ON SUSTAINING
WORKING LANDSCAPES INITIATIVE CONCEPTS**

June 4, 2003

CONSERVATION PARTNERSHIPS

Topic	Comment Summary
General Overview	<ul style="list-style-type: none"> • A large number of commenters stated that conservation partnerships may hold promise but would not support the program until seeing details. • The need for this program to be “voluntary” and include “flexibility” was repeated throughout the comments. • Seen as a means to give permittees taxpayer money with limited to no resource improvement. • Still others felt that the current system is working. • Possible impairment of private property rights
Criteria and Terms	<ul style="list-style-type: none"> • Permits/contracts should longer than 10 years • Must be voluntary • No “3rd Party” interference • 3rd Party cooperators should be included in some cases • Future administrations could make this mandatory • Need to include an escape clause for permittee • Emphasis should be on resource health needs • Should be designed to stimulate & reward creative thought • Specifics on “failure to perform” must be included • Non-use should be for specific resource needs • Permittee must be a true partner with BLM • Contracts need to clearly define the who, how long, etc. • Provide increased flexibility for permittee/BLM Manager • Must have permittees who are willing to comply with rules
Streamlining	<ul style="list-style-type: none"> • Don’t choke with red tape and paperwork • Authorize changes in use dates faster • Use Conservation Partnership funding to complete NEPA/Clearances quicker
Incentives	<ul style="list-style-type: none"> • Credit for what permittees already do should be provided • Ranchers should be financially compensated for resource condition improvement • Should be allowed to run enough cows to make ends meet • Increased tenure • Additional funding for range improvements • Give permittee larger role in allotment management • Reward good stewardship with increases in stocking rates • Grazing fees should be waived • Increase flexibility • Find ways to improve resource conditions w/o reductions • Remove restrictions on range improvement ownership • BLM act as a buffer between permittees and public • Guarantee permit retention • Allow permittee free harvest of native seed from rest areas • Preferential hiring for rehab/restoration work • Fee waiver for public services provided on private land • RI trust funds for each allotment
Private Land Partnerships	<ul style="list-style-type: none"> • Incorporate private land into partnerships • Bring inholding landowners in as partners • Private landowner must have means of retaining control of intermingled private land

SUMMARY OF WORKSHOP COMMENTS ON SUSTAINING WORKING LANDSCAPES INITIATIVE CONCEPTS

Topic	Comment Summary
CCC	<ul style="list-style-type: none"> • 3rd parties need to bring something to the table(\$) • Coordination with local governments is key • Coordination with permittees must be part of process • Involvement of public could affect increases and tenure • Nationwide promotion program promoting sustainable grazing and to help ranchers fend off negative press • Include state wildlife agencies and USFWS in the process • Partnerships involve “stakeholders” only, not managed by “interested parties” • Use colleges/extension as technical support • Groups not favorable to grazing may use process to create impediments to grazing
\$'s	<ul style="list-style-type: none"> • Funding sources need to be identified by BLM and made available • Does BLM have adequate funding? • Money should not come from existing range mgt budget • NRCS funds may be available for use on public land • Are there limits on the number of grants per permittee? • Dealing with grants is confusing • Costs will be enormous • Establish special fund to deposit private matching dollars • Get funding from USDA and EPA for use by permittees • Grants may come with unacceptable requirements

VOLUNTARY ALLOTMENT RESTRUCTURING

Topic	Comment Summary
General Overview	<ul style="list-style-type: none"> • A number of commenters expressed concern that this proposal will result in loss of grazing • Overwhelmingly there were more commenters who came out against this proposal than were in favor of it • The comment that permittees should work arrangements out on their own came up numerous time • Suggestion was made in several comments that removal of the surcharge reg would result in increase operator to operator restructuring • Concern was repeated that this would be a vehicle for non-livestock groups to try to end grazing
Criteria and Terms	<ul style="list-style-type: none"> • Nonuse AUMs should be able to be used in full • Permittees should have the flexibility of exchanging permit privileges among themselves • Provision for livestock reductions to allow for enhancement of big game should be added • Should only be used where permittee takes non-use for non-resource reasons • Method for determining who uses area when two neighboring landowners are interested in the same area • Where allotments have been restored, use should not go back to historic levels automatically • Provide for increased use supervision to assure that the resource is used properly with a change in livestock • Private and state inholdings need to be considered
Incentives	<ul style="list-style-type: none"> • BLM should compensate the permittee for additional costs • Ranchers should be compensated for giving up their grazing privileges. • Surcharge exemption should apply to these allotments • More flexibility and more intensive grazing management systems should be encouraged with incentives such as higher priority for RI funding
CCC	<ul style="list-style-type: none"> • Process would need to be developed to assure the public knows what is going on with agreement formulation, compliance and implementation

**SUMMARY OF WORKSHOP COMMENTS ON SUSTAINING
WORKING LANDSCAPES INITIATIVE CONCEPTS**

RESERVE COMMON ALLOTMENTS

Topic	Comment Summary
General Overview	<ul style="list-style-type: none"> • Concerns were expressed about potential loss of grazing and that this proposal is simply a means of reducing/ending grazing • Fear that this proposal would result in permits being cancelled to provide vacant allotments • Loss of water rights through long term non-use was brought up several times • Several commenters suggested adding unused refuge and USFS lands to the program
Criteria and Terms	<ul style="list-style-type: none"> • RCAs should come from vacant allotments • In addition to restoration and recovery, RCAs should be available to offset drought and fire • RCAs should not be used as a subterfuge for conservation use • RCAs should not result in increasing permitted AUMs • Consider using seedings for RCAs to increase available forage • Not more than 10% of a District should be in RCAs at any one time • Permittees and grazing boards should be involved in RCA allocation • Preference holders should be able to voluntarily enter into agreements with BLM setting up an RCA. Suggest a period not exceeding 3 years • Should be managed as true supplemental forage reserves and not to remove livestock grazing • Ensure that RCAs don't become a substitute for proper land management • Should continue to be grazed by permittees within the grazing district for purposes of range improvement or temporary abatement of emergencies • Extended periods of nonuse should result in RCA returning to regular allotment status • Vacant allotments could and should provide additional forage and cover for wildlife, stream and water quality improvement and places for recreation. • Preference should stay with original base property • RCAs should not be permanent. Suggest no more than 5 years • Concept should be permittee driven with permittees coming together and establish RCAs • RCAs should not reward permittees with history of mismanaging their permitted allotment
Management	<ul style="list-style-type: none"> • Forage banks should be managed locally or by a stewardship group not by BLM • RCAs need to have adequate range improvements developed prior to using the allotment • An activity/business plan needs to be developed to address livestock mgt and RI maintenance • Provide an incentive for a permittee to maintain the BLM administered RCA • Livestock management and health issues need to be considered • RI maintenance costs need to be worked out in advance •
Incentives	<ul style="list-style-type: none"> • BLM should compensate permittees for additional costs • BLM should provide financial incentives for range improvements and implementing conservation measures • Flexibility should be provided • Use of an RCA should be to credit for good stewardship • BLM should provide incentives including monetary compensation for permittees to make their allotments temporarily available for use as RCAs •

**SUMMARY OF WORKSHOP COMMENTS ON SUSTAINING
WORKING LANDSCAPES INITIATIVE CONCEPTS**

CONSERVATION EASEMENTS

Topic	Comment Summary
General Comments	<p>The majority of commenters oppose this concept for several reasons including:</p> <ul style="list-style-type: none"> • Loss of private property rights • Reduction in land values resulting from encumbrances • Reduction in tax base • Inability of BLM to provide compliance with easement terms • Difficulty in determining values of easements • Public lands identified for disposal should be sold/exchanged without reservation • An already cumbersome exchange process would be further bogged down • BLM has difficulty managing the lands it already controls
Criteria and Terms	<ul style="list-style-type: none"> • Easement terms and conditions should be identified and submitted for public comment • Form a private trust because of resistance to a federal agency holding the easement • BLM should pay for appraisals, surveys, etc • Private lands should have certifiable and recoverable habitat or water resources that are important from a landscape perspective • CE's should be for specific timeframe or have review clause that would allow for modification as conditions and priorities change • CE's should be in perpetuity • Terms and conditions should be tailored to each specific situation • Consider nonadjacent BLM parcels for exchange for CEs • A plan for compliance monitoring should be developed

ESA MITIGATION

General Comments	<p>Very limited support was expressed for this program by any commenters. Concerns over implementation of this concept included:</p> <ul style="list-style-type: none"> • This proposal implies a subordination of grazing to conservation on public land • Permittees should not be able to sell something that the BLM is obligated to protect • Fear that private property rights might be affected • Lack of specifics to understand the concept
Criteria and Terms	<ul style="list-style-type: none"> • Criteria for valuing credits needs to be developed • Land Use Plan amendments may be needed • Mitigation credits should be implemented through the other 4 concepts • Need to be strictly voluntary • Should be scientifically based with documented results
Compensation	<ul style="list-style-type: none"> • Permittees should be compensated for endangered species taking precedence
CCC	<ul style="list-style-type: none"> • County Commissioners should be involved in the process

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SUSTAINING WORKING LANDSCAPES COMMENT RESPONSES QUESTIONS AND ANSWERS

July, 2003

**United States Department of the Interior
Bureau of Land Management**

The Bureau of Land Management (BLM) is exploring development of new management tools framed around public land ranchers and their grazing allotments to better enable citizen stewardship of public lands through voluntary action, individual responsibility and partnerships between friends, neighbors and interested members of the public.

BLM held workshops throughout the west and received comment on this framework in April and May, 2003. The questions and answers below are offered in response to many of these comments and are intended to facilitate dialogue and exchange of ideas on new ways to promote stewardship on public lands. Input from BLM's Resource Advisory Councils and the public will help BLM draft new policies to enhance community-based conservation and citizen-centered stewardship of the Nation's western rangelands.

It is intended that these tools would enhance opportunities for the people and communities most committed to the public land in the West to forge local solutions to local problems of national significance. These tools would apply the diverse ideas and talents of those close to the public lands to the task of caring for the land, for the mutual benefit of themselves, affected communities and Americans everywhere.

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➔ Section 1: Rangeland Conservation Partnerships

Reserve Common Allotments
Voluntary Allotment Restructuring
Landscape Habitat Improvement

1. What would a rangeland conservation partnership consist of?

A rangeland conservation partnership (RCP) would be a voluntarily entered and legally binding collaboration among permittee(s) or lessee(s), any other signatory party(ies), and BLM that describes each party's role to perform services, provide goods and/or otherwise abide by the provisions of the agreement in exchange for goods, services or other valuable consideration provided by BLM. The arrangements would be documented by a Rangeland Conservation Partnership Agreement (RCPA - see question 6).

2. What purpose would a rangeland conservation partnership serve?

The purpose of a rangeland conservation partnership would be to cooperatively improve, manage and/or protect public lands within a grazing allotment or allotments to achieve on-the-ground actions that will contribute to achievement of multiple-use resource goals specified in land use plans. They could be developed by BLM under the authority provided by the Federal Land Management and Policy Act of 1976 (PL 94-579, Section 307 (b)).

3. What would be the intent of a rangeland conservation partnership?

The intent of a rangeland conservation partnership would be:

- to achieve specific on-the-ground resource conditions; and,
- to attain or maintain positive aesthetic, economic and social outcomes.

The desired resource conditions and positive outcomes could be specified in the partnership agreement itself, but more likely they would be specified in the applicable activity or land use plan for the area and be incorporated into the partnership agreement by reference. Partners would identify and agree upon measurable and achievable resource management objectives along with range improvements, management practices, flexibility, monitoring and other responsibilities identified in the proposal.

4. How could a rangeland conservation partnership improve cooperative public lands stewardship?

Beyond the significant benefit of effective communication among partners that will be inherent in a successful partnership, participation in rangeland conservation partnership would enhance the ability of permittees/lessees to qualify for resources available through

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means other than BLM appropriations, such as stewardship programs, grants (federal, state, and/or private), and other funding sources that support improvement and management of natural resources. Local organizations and government entities often have the ability to acquire resources not available to the federal government. This would allow the permittee/lessee and other partners to implement the RCPA provisions with greater flexibility, additional funding and management capability than that which would be possible if they were partnering solely with the BLM.

5. What activities would be appropriate candidates for forming Rangeland Conservation Partnerships?

Rangeland conservation partnerships could be used to facilitate range improvement as that term is defined at 43 CFR 4100.0-5, as follows:

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 improvement the condition of rangeland ecosystems to benefit livestock, wild horses and burros, and fish and wildlife.

For example, an RCP could undertake:

- simple actions such as the construction of a single short drift fence;
- moderately complex land treatments such as a seeding; or,
- a very complex series of actions necessary to facilitate landscape scale watershed improvement, wetland/riparian area restoration or to improve habitat for T&E species; and,
- effectiveness monitoring to determine if the implemented actions are resulting in intended outcomes.

RCP's also could be used to describe grazing management practices and/or management provisions or administration that do not fit the definition of range improvement. In that case, RCP's could be very similar to Allotment Management Plans authorized at 43 CFR 4120.2. The difference would be that the permittee or lessee, rather than BLM, would be the primary instigator of creating the partnership and developing the improvements and practices to be implemented.

RCP's also could be used to describe the terms and provisions for enabling a Voluntary Allotment Restructuring (VAR - see Section 3 -Voluntary Allotment Restructuring).

Some RCP's could include private and/or State lands with similar resource management objectives if their inclusion would facilitate public land rangeland improvement. The Wyden Amendment, 16 USC 1011 (a) as amended by Section 136 of PL 105-277, provides direction for projects of this nature. Approval by State land managers, other federal land managers, and/or private landowners on their respective lands would be necessary if lands under their purview are included in the RCP project area.

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6. What information would be in a rangeland conservation partnership agreement?

A rangeland conservation partnership agreement would describe:

- the purpose and intent of the agreement, including desired outcomes;
- the roles, responsibilities and accountabilities of the partners;
- the arrangements and on-the-ground actions to occur under the terms and provisions of the agreement;
- terms that describe arrangements for exchange of goods, services or other valuable considerations among the parties;
- the duration of the agreement;
- terms that provide for modifications to or termination of the agreement, and the condition(s) that would trigger making modifications or terminating the agreement;
- terms that describe the actions that would occur in the event of any signatory party's failure to abide by, carry out or conform with the terms and conditions of the agreement.

RCPA's could be used to document provisions for undertaking one or more actions in a single year or a series of actions that will occur over several years.

7. The answer to question 1 referred to "goods, services or other valuable consideration provided by BLM." What goods, services, or other valuable consideration could BLM offer the permittee, lessee or other partner(s) under the terms of a rangeland conservation partnership agreement?

BLM could include, within the RCPA, provisions:

- To pay a partner for range improvement construction work pursuant to the provisions of an Assistance Agreement (BLM Manual Handbook H-1511-1 contains guidance regarding Assistance Agreements).
- That use stewardship contracting authority (as allowed by Section 323 of P.L. 108-7) to create a firebreak in a stand of pinon/juniper woodland.
- That provide for free grazing (using authority found at 43 CFR 4130.5(b)) if livestock were used as a tool to achieve restoration ends such as intensive grazing to create a firebreak or to suppress weeds.
- That address the nature and type of management actions that each partner may take, on their own initiative, in response to monitoring or other information that indicates a need for immediate adjustment in management practices to ensure continued progress towards achievement of performance outcomes.
- That incorporate within the grazing permit or lease terms and conditions that allow the operator, within the framework of the stocking levels and season of use parameters specified by BLM in the permit or lease, to decide the appropriate numbers of livestock and places of use within an allotment to meet agreed upon

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RCPA performance outcomes such as levels or patterns of grazing use and desired riparian area condition.

- That incorporate elements of any applicable programmatic biologic opinion under Section 7 of the Endangered Species Act that provides "safe harbor" like protection for parties engaged in the conservation practices specified in the RCPA.
- That address the intended allocation priorities of any sustained increase in forage production that could result from management or improvement practices specified in the RCPA (in accordance with the provisions of 43 CFR 4110.3-1.)
- That provide for the renewal of grazing permits and leases several years in advance of their expiration date to refresh permit tenure.
- That authorize non-use on a biennial or triennial basis to facilitate installation of structural range improvements or to allow for land treatment recovery.

In addition, incentives to encourage innovative livestock grazing management approaches could be proposed by BLM or others at any time for consideration by the Secretary for development and implementation in accordance with 43 U.S.C. 1908.

8. How would a rangeland conservation partnership be created?

The permittee or lessee would initiate a rangeland conservation partnership by submitting to the BLM field manager a "Rangeland Conservation Partnership Proposal" (See exhibit 1 for one possible template of an RCP proposal). A RCP proposal could be suggested or recommended to the permittee/lessee by any potential partner.

Rangeland Conservation Partnership Proposals would be carefully reviewed by BLM for consistency with applicable law, regulation and policy, including land use plan conformance and compliance with NEPA. Upon concurrence by all partners, the proposal would be processed in accordance with standard applicable procedures, including planning and environmental analysis. Provisions including in RCPA's could vary depending on the purpose and intent of the partnership. As such, the nature of the instrument(s) needed to implement the RCPA also would vary (e.g. Assistance Agreements, Contracts, Cooperative Management Agreements, Cooperative Range Improvement Agreements, Challenge Cost Share Agreement, Volunteer Agreement, Memorandum of Understanding, Proffer of Monetary Contribution, etc.). BLM's "Guide to Agreements" located at <http://www.blm.gov/natacq/tools/ib98100.html>, would be an appropriate source to help determine the appropriate instruments that would be needed and the procedures that would be required to execute these instruments.

9. Would the Partnership Proposal be the same as the Partnership Agreement?

No. The proposal, however, would set the stage to work out the details of the Partnership Agreement. The management practices suggested by the proposal would be tentative pending land use plan conformance and documentation of NEPA compliance. Following this review and analysis, they then would be implemented via the RCPA.

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Typically, the RCPA could be a one page document that incorporates the proposal by reference. Alternatively, in this electronic age, it would not be difficult to "cut and paste" applicable portions of the proposal to create a "stand-alone" RCPA for finalization, all signatures, and BLM approval.

The Secretary would be responsible for final approval of a Rangeland Conservation Partnership Agreement as it pertains to the public lands. This authority, in turn, would be delegated from the Secretary to the BLM Director to BLM State Directors to BLM Field Managers.

10. Would the parties who entered into a Rangeland Conservation Partnership Agreement still need to follow the grazing rules?

Rangeland Conservation Partnerships Agreements would not exempt the partners from compliance with applicable law and regulations, including the grazing regulations. BLM's management authority for the public lands would not be not affected by an RCPA.

11. What if there was the desire to enter into a rangeland conservation partnership, but neither the partners nor the BLM had readily available means to implement the projects that would be needed? What could be done?

A possible benefit of entering into a rangeland conservation partnership is that funds competitively available for natural resource improvement from a variety of federal, state programs and non-profit grant programs that may not available to the permittee, BLM or another partner if acting alone, would have a better chance of becoming available if they are cooperatively acting together. Examples of potential funding sources are the Wyden Amendment (16 U.S.C. 1011(a), as amended by Section 136 of P.L. 105-277), the USDA-NRCS's Environmental Quality Incentive Program (EQIP), and the EPA's Total Daily Maximum Load (TMDL) program.

Step one would be for the permittee to initiate partnership discussions with the BLM and possible partners. The second step would be for the permittee to submit a partnership proposal to BLM. The third step would be for the partners, working together to pursue the funding. It is intended that BLM would facilitate, not dictate, partnership arrangements. The partnership proposal could be used as needed to formalize a partnership contingent upon funding to demonstrate to grant sources that the effort is sincere.

12. If BLM pursued implementation of an RCPA policy, would there be training available to assist participants on how to go about it?

The BLM's National Training Center (NTC) offers a several training courses that would be helpful to facilitating Rangeland Conservation Partnerships:

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- (1) "Community Based Partnerships and Ecosystems for a Healthy Environment," Course 1730-31, that goes into practical depth on all aspects of partnership in a land management context.
- (2) "Assistance Agreements" - Course 1500-13PV provides detailed information on the procedures for formation and administration of assistance agreements.
- (3) "Environmental Collaborative Management & Conflict Negotiation," Course 1620-25, is 3-day interactive workshop designed to build practical communication, collaboration, and conflict negotiation skills for both new and experienced resource managers engaged in environmental decision-making.
- (4) "Grant Writing for Conservation," Course 1730-33, interweaves the grant proposal writing process and strategic thinking for successful grant awards. It provides instruction regarding how to cultivate relationships with potential funding partners to support projects which promote and maintain conservation and natural resource management.

In addition, NTC offers many other courses that that address biological and physical aspects of natural resources management which also would be important and pertinent to development and execution of RCP's.

Training offered by other federal and state and local organizations, and by private vendors that address topics useful to facilitation of RCP's also are available.

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Exhibit 1

This template could be modified as needed to develop appropriate partnership provisions.

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TEMPLATE FOR:

Rangeland Conservation Partnership Proposal

For the purposes of: (Brief description of the purposes of the partnership)

I. Partners: (Name, Address, Contact for Administering Agreement Provisions):

II. Lands Affected: (Brief identifying information of the lands that would be affected by the partnership - location, ownership):

III. Desired Outcomes: (Include measurable and achievable resource management objectives, provisions for monitoring,)

IV. Management Practices: (flexibility, compliance, contingencies for modification should monitoring show practices are not achieving the desired results)

Permittee/Lessee will:

Partner A will:

Partner B will:

BLM will:

V. Rangeland Improvements: (construction arrangements, funding sources, contributions, land use plan conformance, NEPA, etc.):

Permittee/Lessee will:

Partner A will:

Partner B will:

BLM will:

VI. Administrative and Other Terms of Partnership: (partnership duration, safe harbor clause, contingencies in the case of fire, drought, or other unforeseeable circumstances).

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VII. Attachments

VIII. Signatures

Proposed by:

I agree to the terms and conditions of this proposal, including any provisions contained on the above-described attachments, if any. I understand that upon approval by BLM, this proposal becomes a Rangeland Conservation Partnership Agreement.

If BLM does not approve this proposal prior to _____ (DATE), my signature is no longer binding and this proposal becomes null and void.

Permittee/Lessee (Date)

Proposal agreement:

I agree to the terms and conditions of this proposal, including the provisions contained in the above described attachments, if any. I understand that upon approval by BLM, this becomes a Rangeland Conservation Partnership Agreement.

If BLM does not approve this proposal prior to _____ (DATE), my signature is no longer binding and this proposal becomes null and void.

Partner (Date)

* * * * *

Approval:

BLM Field Manager (Date)

Prioritization of partnership proposals may be required depending on the availability and/or source(s) of funding.

BLM will periodically and independently verify and monitor performance and compliance in accordance with applicable law.

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SUSTAINING WORKING LANDSCAPES COMMENT RESPONSES QUESTIONS AND ANSWERS

Rangeland Conservation Partnerships

➔ Section 2: Reserve Common Allotments

Voluntary Allotment Restructuring
Landscape Habitat Improvement

GENERAL QUESTIONS

1. What would be a Reserve Common Allotment?

A Reserve Common Allotment (RCA) would be an allotment reserved by BLM for temporary and non-renewable grazing use by permittees or lessees whose participation in a land restoration and recovery program temporarily precludes use of all or a part of the active use assigned to their base property.

The term "reserve" implies that the allotment is designated for a specific management purpose and modifies the rest of the name. The term "common" implies that it will be used by more than one permittee or lessee, and use of the term "allotment" means that it is an area managed for grazing purposes. Just as traditional allotments are managed for other multiple use purposes along with grazing, so would be Reserve Common Allotments.

Use in RCA's would not be made by any one individual permittee or lessee on a permanent basis. Rather, an RCA would be used in sequence by a series of eligible permittees or lessees who are temporarily authorized use in the allotment. The temporary authorization could be for a single year, or for several years, depending on the recovery needs of the permittee's "home" allotment.

An RCA would be considered the hub of a "landscape scale range improvement project" that benefits the land, resources and multiple permittees over a period of several years.

2. What would be the purpose of a RCA?

The purpose of an RCA would be to facilitate rangeland restoration and recovery on a landscape scale. To facilitate improvement in rangeland conditions, BLM and its partners routinely undertake resource improvement projects and land treatments. For example, treatments that involve vegetation removal, ground disturbance and/or planting of vegetation or seed temporarily create soil or vegetative conditions not able to withstand grazing pressure. BLM policy requires a minimum of two years growing seasons' rest from grazing in these circumstances, and often longer rest is needed or desirable to establish a thriving plant community. Another possible use of an RCA would be to graze livestock to allow the permittee's home allotment to build up sufficient fine fuels to carry a prescribed burn. Permittees or lessees can be reluctant to embrace these projects when

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they have no replacement forage. RCA's could be a source of replacement forage. Grazing use that would be available in an RCA would lessen economic and operational impacts to grazing permittees by offsetting the temporary forage loss that is inherent to resting all or a portion of an allotment from grazing.

In addition to the management flexibility created by establishment of an RCA for planned events, RCA's could be used for unplanned events such as wildfire induced forage loss and may provide limited drought relief. Since drought occurs on a regional basis, the availability of an RCA for drought relief would occur only when the RCA had been rested from grazing before the onset of drought, leading to a "build up" of forage. If the RCA had been regularly used before the onset of drought, forage "build up" would not occur and the RCA would have limited value in this regard.

3. What is the intent of an RCA?

The intent of an RCA is to have a management option available to operators who otherwise might be reluctant to voluntarily engage in a restoration effort due to economic hardship arising from having no source of replacement forage. An RCA would not be used to supplement permitted use on the permittee's home allotment (although an increase in forage production resulting from improved health of the home allotment may result). Neither would an RCA be used to "bail out" an operator whose management practices have resulted in poor conditions in his "home" allotment. No grazing preference would be established by any individual operator on the RCA by virtue of its use.

The maximum term that any one operator would be allowed use in an RCA would be specified in an RCA management plan. Typically, use would be allowed for as long as needed to allow resource recovery on the eligible permittees or lessees "home" allotments. The operator would then return to his/her home allotment and the RCA would become available to the next eligible operator for their use.

4. Would an RCA be a Grassbank™?

RCA goals are similar to grassbank goals, however, some grassbanks require the user to pay for their use of the bank by accepting a conservation easement on their home ranch property. This would not be part of the RCA concept. RCA's would work within the public land grazing permit and lease system, where preference for grazing permits on the public lands are attached to privately owned base property. However, this would not preclude RCA arrangements whereby a non-BLM RCA sponsor could be compensated by RCA users for work necessary to the operation of the RCA.

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5. How could you make an RCA when all available grazing use is already obligated to existing permittees and lessees?

There are three ways to create an RCA without disturbing existing forage obligations.

Model 1- Permittee Sponsored RCA:

Because BLM allows livestock other than those owned by the permittee to graze on their permitted allotments, a current permittee (be they an individual or corporate entity) could propose that BLM designate their allotment as an RCA. The preference for the permitted use would remain attached to the base property owned or leased by the permittee. If BLM accepts the offer, BLM would consult with the permittee and others and through a Rangeland Conservation Partnership Agreement (RCPA) or a Memorandum of Understanding (MOU) document the administrative arrangement that provides for the establishment of the RCA and conversely, for its termination and return to "normal" allotment status. A separate plan, the RCA Management Plan would be developed to provide for the operation of the RCA (see question 14, below).

In a variation on this model, a qualified individual, group or organization could become a permittee by acquiring preference for permitted use in an allotment and then propose that allotment for RCA designation. Addressing base property sales or leases through preference transfer is a common occurrence in the normal course of BLM grazing administration. In 2002, BLM approved 1076 preference transfers.

Model 2 - BLM Sponsored RCA:

Upon forage availability created upon cancellation of permitted use within an allotment, and if there were no other livestock forage obligations within or practicably near the allotment (i.e. suspended use of another

To understand how RCA's could be created within the context of BLM's permit and lease grazing administrative system, it is helpful to understand some fundamentals regarding BLM's grazing permit administration.

BLM Grazing Administration Fundamentals

All allowed uses on BLM lands are described in land use plans. Currently, BLM land use plans provide that about 160 million acres in the west will include livestock grazing as one of those uses. The instrument that authorizes grazing use is called a grazing permit or lease. A BLM grazing permit/lease authorizes a permittee (or lessee) to graze livestock on one or more grazing administrative units called allotments. Permittees or lessees can be individual citizens or business entities such as corporations, associations and partnerships. Allotments range in size from small (1000 acres or less) to vast (over a million acres).

With the passage of the Taylor Grazing Act in 1934, Congress instructed that the government is to determine, basically, for the western public lands, how much forage is available for livestock grazing, who should get the grazing permits, and how grazing is to occur. Congress said that preference in the receipt of permits should be given to nearby landowners engaged in the livestock business, settlers, those who owned water or water rights and other stockowners as necessary to permit the proper use of the owned land or water. They said that once established through the grazing permit system, the privilege to graze on public lands was to be adequately safeguarded in-so-far as it comported with sound land management practices, meaning that upon permit expiration if grazing continued to be an appropriate use of the land permittees who complied with their permits and other applicable rules and regulations should receive first priority for renewal of those grazing permits.

In carrying out this Congressional mandate, the government developed a system to keep the records regarding who has priority for grazing privileges on public lands: this being the attachment of the preference for "permitted use" (a forage quantity expressed in Animal Unit Months

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permittee who was already authorized to use that allotment or who could reasonably use that allotment), BLM could propose amending the applicable land use plan to provide that the allotment will be managed as an RCA, rather than award the available forage to a new applicant.

Model 3 - Other Party Sponsored RCA

This could be established on an area where BLM lands were either a minor component or not present, in cooperation with another agency or a private entity. The BLM would facilitate BLM operator participation in the use this type of RCA. For example, the NRCS has an option to graze Conservation Reserve Program (CRP) lands under emergency conditions.

All of these models honor existing BLM forage obligation

- AUM's) on public lands to private property (land or water) owned or controlled by the permittee or lessee (base property). This preference is granted to whoever owns or controls the base property to which the permitted use is attached. This system also allows for preference to be transferred from one property to another, or from one person to another.

The amount of forage that a permittee may graze on an allotment each year is called "active use," which is "permitted use" less any "suspended use," and which is expressed in AUMs. BLM considers the "active use" as a forage obligation on BLM administered lands. When the owner or lessee of that base property applies for grazing use, they are issued a permit that specifies how the active use will be made (e.g. which allotment(s), how many livestock, when they can graze, and other management terms and conditions). Often, there is a specific plan, called an "Allotment Management Plan" (AMP) that describes in detail how grazing is to occur on a specific allotment. When they exist, the AMP becomes a part of the grazing permit or lease.

Sometimes, operators do not wish to graze all of the active use allowed by their permits/leases. When this happens, BLM has the option of temporarily authorizing another operator to make that use through a nonrenewable permit, unless BLM has approved the nonuse to help conserve resources. Sometimes, due to good growth years, forage is temporarily available on the range that exceeds the amount of permitted use obligated to a permittee. When this occurs, BLM may temporarily authorize grazing use that exceeds the established level of permitted use.

BLM allows operators the flexibility to graze livestock owned by another person or company on their permitted allotments. When this happens, they must submit a livestock control agreement to BLM. BLM charges the operator an extra fee for grazing use made by livestock owned by someone other than the permittee or lessee.

BLM can cancel a permit or lease and the preference for the permitted use that was attached to the base property because of grazing rules violations. BLM also can cancel a permit or lease and the preference for the permitted use that was attached to the base property when the base property owner fails to apply for the permitted use. This happens in limited cases but, when it does, BLM may award the forage to a new applicant.

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6. Would the establishment and operation of an RCA result in economic loss?

There could be a slight reduction in local economic activity generated by raising and selling livestock in the region of the RCA area because you cannot stock an allotment to its capacity and then take in the neighbor's livestock too. However, in the situation such as wildfire rehabilitation, if there was no RCA, this reduction in activity would be occurring anyway because the burned allotment would not be stocked. If the RCA existed, the opportunity for moving displaced livestock to the RCA could be available, and that reduction may not occur. Over the long-term, the establishment and use of an RCA would be expected to result in less fluctuation of public land livestock forage availability on a regional or landscape basis and therefore less fluctuation in economic sectors that rely on public lands for livestock production.

LAND USE PLANNING AND NEPA COMPLIANCE QUESTIONS

7. Would an RCA still be subject to multiple-use management by BLM?

Yes. The act of designating a reserve common allotment for grazing administrative purposes would not affect other land use planning decisions such as management of wild horses and burros and wildlife habitat that also may be applicable to the area.

8. What factors would be considered when deliberating whether to designate an RCA?

When determining the need for an RCA, the manager would review the current and anticipated demand for "replacement" forage based on current and anticipated landscape restoration activities that would displace livestock in the regional area that the proposed RCA would be expected to serve. The manager could also wish to consider the average acreage that is burned each year. The manager would seek advice from the Resource Advisory Council, the permittees/lessees and the public regarding RCA designation.

9. How would BLM ensure that the action of designating an RCA conforms with the Land Use Plan?

Prior to establishing an RCA, the manager would ensure that the action conforms with the existing Land Use Plan. It would not be necessary to amend a land use plan to designate a permittee-sponsored RCA if the land use plan already provides that the area will be managed for livestock grazing uses.

However, when considering the BLM-sponsored RCA model, the manager would determine whether the land use plan indicates that newly available permitted use will be competitively allocated in accordance with the grazing rules, or if it is silent on this topic. If the former case applies, then the land use plan would be amended to indicate that although the allotment will continue to be managed for livestock grazing use, the permitted use available in the allotment will not be permanently allocated to an individual permittee or lessees. If the latter case applies and the plan is silent, then a land use plan amendment would not be necessary because the grazing rules provide that permanent

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reallocation of newly available forage that occurs on allotments where there is no applicant with preference for the permitted use in that allotment is discretionary to BLM (see 43 CFR 4110.3-1 and 4130.1-2(c)(3)). However, for the purposes of clear communication and documenting the record regarding BLM's decision to designate the allotment as an RCA, a land use plan amendment would be desirable. The manager would consult Section VII of BLM's Land Use Planning Handbook (H-1601-1) for land use plan amendment guidance and procedure and determine if the plan should be amended, in accordance with 43 CFR 1610.5-5.

10. If an RCA was established, when would National Environmental Policy Act (NEPA) compliance documentation be needed?

NEPA compliance documentation would be completed before issuing a decision to amend the land use plan and/or a decision to implement a newly-created or modified RCA Management Plan or to amend an AMP to create an RCAMP.

11. What consultation needs would be associated with the establishment of an RCA and implementation of a RCA management plan?

In accordance with public involvement and consultation and cooperation provisions of FLPMA (as amended by Section 8 of PRIA), as expressed in BLM's planning and grazing regulations, the manager would conduct appropriate levels of consultation, cooperation and coordination with affected permittees/lessees, landowners involved, any State having lands or responsible for managing resources within the area, and the interested public. Section 7 ESA consultation also may be needed. Consultation with Native American tribes, local government officials, other interested and affected federal agencies and the Resource Advisory Council would also occur.

12. Should there be a limit to the number of RCA's that could be designated, and if so, how should they be limited?

It may be that a limit to the number of RCA's would be appropriate. Practicality, need, common sense and reasonable expectations should primarily influence the decision regarding how many RCA's are sufficient for any particular region. The nature of the limit could be expressed as maximum number of AUM's within RCA's or maximum number of acres within a defined region or administrative boundary.

IMPLEMENTATION QUESTIONS

13. What would be some "common sense" characteristics of an RCA?

Some questions that would need to be addressed if an allotment was being considered for RCA designation are listed below. Likely, consultation will result in other questions that should be adequately addressed before committing to an RCA designation.

- Is the area meeting Rangeland Health Standards (e.g. Are riparian areas and upland in good condition? Are there weed concerns? Are there T&E species concerns?)

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- Is the recognized livestock grazing capacity of the allotment proposed for designation sufficient to support the typical herd size for a typical grazing season in the region that would be served by the RCA?
- Does the allotment's livestock management infrastructure (fences, waters, corrals) support proper use and compliance and are the structural improvements in good condition and adequately maintained?
- Is the allotment suited for "general" use by livestock unfamiliar with the area, or, are there circumstances, such as poor access, rough topography, seasonally toxic vegetation, etc., that require foreknowledge and/or special techniques to be able to manage successfully?
- Are there other land use concerns, such as demands on the forage from wild horses/burros or wildlife?

14. What would be the essential elements of an RCA management plan (RCAMP)?

Essential elements of the RCA management plan could be grouped into two basic categories:

- Management provisions that are required of all allotment management plans under 43 CFR 4120.2, such as livestock management practices to achieve specific resource objectives, limits of flexibility regarding adjustment of grazing operations without further approval of BLM, and monitoring; and,
- Management provisions regarding the business practices of the RCA including finances and accounting, manner of selection of successful applicants for grazing use, management of daily operations, and the construction and maintenance of range improvements.

The management plan could provide for a RCA steering committee to provide oversight and advice regarding RCA management and operation. The need for a steering committee would be determined through consultation and would depend on the RCA sponsorship model employed, the size of the RCA and the expectations of the involved parties.

15. If there already was an AMP on the allotment proposed for designation as an RCA, would this AMP be sufficient to serve as the RCAMP?

It is doubtful that the AMP as written would address all the essential elements of an RCAMP because AMP's generally would not be expected to address business management practices as outlined in the previous question. However, BLM, with appropriate consultation, cooperation and coordination, can review, modify and amend an AMP to create an RCAMP.

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16. Who should have priority for RCA use?

Eligibility and priority for RCA use would be specified in the RCA Management Plan. For example, the RCAMP could provide that only after local demands (as defined in the plan) for replacement forage within the jurisdiction of the field office where the RCA is located are met should the RCA be made available to other participants. Eligibility and priority could be further refined to provide that when scheduling RCA use, the RCA sponsor / manager should seek to satisfy, in the following order of priority, the replacement forage needs of permittees and lessees:

1. Whose customary allotments are under an BLM approved rangeland restoration / recovery project;
2. Whose customary allotments are temporarily unavailable for grazing due to emergency conditions such as wildfire; and,
3. Whose customary allotments are temporarily unavailable for grazing because of lack of adequate forage due to naturally recurring conditions such as drought.

17. Under BLM's grazing permit and lease system, how could grazing be authorized in an RCA, and how would this affect the permit/lease of participating operator's "home allotment"?

Permittee-Sponsored RCA

In a permittee-sponsored RCA, there are two methods that could be used to authorize grazing use. These methods have different implications, advantages and limitations as outlined below.

Authorization Method One

Actions

- a. The RCA sponsor agrees to care and be responsible for others' livestock, pursuant to a livestock control agreement allowed under 43 CFR 4130.7(d), while they graze the RCA under the RCA sponsor's permit or lease.
- b. The RCA participant then either applies for non-use (see 43 CFR 4130.2(g)(2)) or voluntarily agrees to have BLM temporarily suspend the active use on their home allotment(s) which are undergoing restoration or recovery practices (see 43 CFR 4110.3-2(a) and 4110.3-3(a)).

Administrative implications, advantages and limitations

1. Under action "a," above, the RCA sponsor would be subject to the surcharge grazing fee required by 43 CFR 4130.8-1(d) unless the exception in that rule for sons and daughters applies. But, the regulatory limitation of nonuse to 3 consecutive years would not apply.
2. Under action "b," above, if nonuse is requested, the RCA participant is limited to 3 consecutive years of nonuse of their permit for their "home" allotment.

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Alternatively, the RCA participant could agree to a voluntary suspension of their permitted use in their home allotment for the period for which they would be using the RCA. There is no regulatory limit to temporary suspension of permitted use, however, the period of suspension should not be longer than needed to allow for recovery of the home allotment.

Authorization Method Two

Actions

- a. The RCA sponsor applies to BLM for nonuse of the permitted use recognized on the RCA allotment and BLM issues the RCA participant a nonrenewable permit (see 43 CFR 4130.6-2) for use of the RCA.
- b. The RCA participant then either applies for non-use or voluntarily agrees to have BLM temporarily suspend the active use on their home allotment(s) as under Authorization Method One, above.

Administrative implications, advantages and limitations

1. The RCA sponsor is limited by rule to 3 consecutive years of approved nonuse.
2. As an alternative for those situations when recovery of the RCA participant's "home" allotment is expected to take longer than 3 years and therefore run up against the limitation of the RCA-sponsor taking nonuse, the RCA sponsor could apply for nonuse for 3 consecutive years, then take responsibility for care and control of the RCA participant's livestock under a livestock control agreement for one year.

BLM-Sponsored RCA

BLM could issue nonrenewable grazing permits under 43 CFR 4130.6-2 to authorize use on the BLM-sponsored RCA. The RCA-participant could be authorized nonuse for up to 3 consecutive years on their "home" allotment. If the expected recovery of the "home" allotment is expected to take longer than 3 years, the RCA-participant may voluntarily agree to a temporary suspension of the active use authorized in their home allotment under 43 CFR 4110.3-2(a) and 4110.3-3(a).

The preferred method for authorizing grazing use would depend on the RCA model involved, and the interests and needs of the parties involved in each individual situation. There also would be operational (on-the-ground) implications that will be unique to each situation. Within the framework of applicable regulation, BLM could tailor the authorization of use and nonuse to the administrative and operational needs, circumstances and desires of the respective permittees / lessees

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SUSTAINING WORKING LANDSCAPES COMMENT RESPONSES QUESTIONS AND ANSWERS

Rangeland Conservation Partnerships
Reserve Common Allotments

➔ Section 3: Voluntary Allotment Restructuring

Landscape Habitat Improvement

1. What would Voluntary Allotment Restructuring consist of?

Voluntary Allotment Restructuring (VAR) would be the administrative merger of two or more allotments on a short-term (3-5 years) or long-term (6-10 years) basis, by voluntary agreement of fixed duration, to provide for increased grazing management options and flexibility over the merged area as a whole and to facilitate achievement of management objectives. The VAR would be described in a VAR Rangeland Conservation Partnership Agreement (RCPA), which would be initiated by the grazing permittees and lessees (henceforth called operators).

2. What needs could Voluntary Allotment Restructuring address?

Voluntary Allotment Restructuring would offer grazing operators an opportunity to develop partnerships with federal/state/local agencies using Rangeland Conservation Partnership Agreements, to create working landscapes that meet multiple economic and conservation objectives. BLM and operators must ensure that grazing management is compatible with achievement of rangeland health standards. Options for strategic grazing management can be limited by the size and/or existing management infrastructure of a single allotment. Constrained management options may result in management actions that lead to only piecemeal progress toward meeting landscape level land use plan objectives and may present inflexible management options for the dependant ranching operation. Voluntary allotment restructuring would be a tool that can expand available grazing options by providing more land area within which to develop landscape-based grazing management strategies. Depending on the management objectives being pursued, these strategies could include, for example,

- joining allotments of two or more operators into one rotational grazing system that provides for sequential grazing by their combined herds to achieve defined resource management objectives; or,
- providing that one operator not use all or a part of the livestock forage allocation (active permitted use) in their allotment while the other operator grazes the number of livestock permitted in their individual allotment in both allotments used simultaneously or under a defined grazing strategy.

3. What purposes could Voluntary Allotment Restructuring serve?

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Expanding grazing management options and flexibility through the use of VAR could result in:

- Enhanced vegetation vigor and reproductive success.
- Reserve forage in anticipation of periods of general reduced forage availability due to long term drought, range restoration, or wildfire.
- Improved riparian conditions.
- Compliance with relevant water quality standards.
- Facilitation of meeting livestock forage and wildlife habitat needs, including the requirements of special status species and/or wildlife population enhancements or introduction.
- Solutions for seemingly intractable management conflicts and continuing, rather than foregoing, livestock grazing to sustain working landscapes.

4. What circumstances might lead BLM, operators and potential operators to consider the use of VAR?

VAR could be considered when grazing management actions or systems that require livestock management operational space larger than what exists within the confines of one allotment are needed to help address resource management needs or issues. These may include:

- Failure to make progress toward achievement of rangeland health standards including those addressing the habitat of threatened, endangered, or sensitive species and species of concern and those standards addressing water quality.
- Conflict resolution between livestock and wildlife and/or wild horses or burros.
- Rangeland restoration.
- Seasonal water availability issues.

5. BLM has already established allotment boundaries and may adjust these boundaries under 43 CFR 4110.2-4. How would this be different?

The grazing regulations provide authority for BLM to adjust allotment boundaries by agreement or decision. By inference, these boundary changes are intended to be permanent or semi-permanent. Although VAR can encompass permanent boundary changes, expansion of management options using VAR does not necessarily require a permanent change in allotment boundaries. Whether the allotments are merged for the short-term, long-term or permanently depends upon the resource management objectives, and the personal circumstances and cooperative relationships of the involved parties.

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Here is an example of how VAR might be used. Suppose that although the current forage utilization objective in an allotment is moderate (based on meeting soil cover and plant reproductive needs), the objective must be changed to seasonally light grazing to respond to a recently identified need for standing vegetation habitat for upland birds during nesting season. Suppose also that an adjacent operator is willing to take less use than authorized by their permit or lease in order to meet this conservation objective. Rather than reduce either the season of use or livestock number of affected allotments to provide for light grazing use during nesting season, VAR, through partnership with an adjacent operator and BLM, could provide a more extensive area for the affected permittee to graze during the nesting period thereby achieving the light utilization objective and meeting the seasonal habitat needs. Because the partnering operator was willing to take nonuse of all or a portion of the permitted AUM's in their allotment, BLM was able to authorize the affected operator to use their forage allocation within the larger area made up of the merged allotments.

This is one example. There are numerous possible land management needs such as riparian area improvement, seasonal wildlife and livestock forage competition, improvements in livestock forage quality and availability, and so on, where expanded management options and the increased flexibility offered by VAR could further conservation outcomes and facilitate improved grazing management, thus helping to maintain a working landscape.

6. What would be included in an agreement to use Voluntary Allotment Restructuring?

VAR would be considered along with other possible management tools that do not involve VAR when examining grazing management needs in consultation, cooperation and coordination with operators, interested publics, and/or federal/state/local agencies.

If it appears to the operators and BLM that expansion of management options using VAR is feasible and desirable, then VAR is proposed by the parties desiring the partnership using a Rangeland Conservation Partnership Proposal (RCCP - See Section for the elements of a RCCP). Elements of the RCCP that would be specific to the VAR (and which would be described in the "management practices" portion of the RCCP) are identified below.

- Description of allotments and/or portions (e.g. pastures) of allotments involved.
- Listing of the current permitted use in each allotment or portions thereof.
- Description of the disposition and use of the permitted use for each allotment during the term of the partnership, which may include:
 - livestock number, period(s) of use, and places of use (e.g. allotments or portions, thereof) listed by livestock owner or controlling party.
 - grazing strategies that address pasture rotation and desired forage use levels.
 - provisions for voluntary nonuse of permitted use.
 - provisions for temporary suspension of permitted use to facilitate range improvement.

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- Provisions that address the use and maintenance of range improvements and, if needed, range improvement construction.
- Other provisions as may be applicable to the situation such as livestock husbandry practices, control and identification.

7. Following approval of a voluntary allotment restructuring, how would BLM authorize grazing use in the affected allotments?

If the VAR RCPA provides that operator A is allowed use within operator B's allotment, and operator B has agreed to voluntary nonuse of all or a portion of their permitted use to facilitate the purposes of the agreement, then:

- BLM would authorize Operator A nonuse of their permit/lease to the extent of the permitted use authorized in operator B's allotment for purposes of conservation and protection of the range, and would issue Operator A a nonrenewable permit for the use in Operator B's allotment.
- BLM would authorize Operator B nonuse of their permitted use for personal or business reasons to the extent that the VAR RCPA provides for use of those AUM's by Operator A. Operator B also would indicate through grazing application annually their intended use of the remaining permitted use allowed in their allotment, if any.

The terms and conditions of both permits would be modified to state that use is authorized in accordance with, and pursuant to the provisions of the VAR RCPA. BLM's approval of nonuse of permitted use for conservation and protection of the range means that BLM concurs that nonuse is warranted and therefore will not allow that nonuse to be activated later in the grazing season by the current operator or authorize that use by another operator.

If the VAR RCPA provides that operator's herds will be combined for the purposes of facilitating a rotational grazing system through allotments, and each allotment is used during the rotation then:

- The mandatory terms and conditions of the permit or lease of each participating operator would not be changed. The other terms and conditions would include a provision that authorized use as reflected by the mandatory terms and conditions is modified annually to the extent that use is made in accordance with the provisions of the VAR RCPA.

Although this authorization process may be cumbersome, it is necessary for purposes of local, state and national record keeping and proper distribution of grazing fee receipts to States. It is necessary to modify the permit or lease to reference the VAR RCPA to make its provisions enforceable in the event there are compliance issues.

8. BLM grazing rules limit authorized nonuse of a permit to 3 consecutive years. What if planned nonuse is an element of the VAR RCPA and the objectives intended through the use of VAR need more than 3 years to be achieved?

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The grazing rules also provide that permitted use may be temporarily suspended in whole or in part through documented agreement to facilitate installation, maintenance, or modification of range improvements, which include treatments to restore, protect and improve the condition of rangeland ecosystems to benefit livestock, wild horses and burros and fish and wildlife. Should all involved parties concur that the grazing treatments enabled through the use of VAR will take longer than 3 years to be successful, then the voluntary suspension of permitted use, with a specified date certain or specific criteria for restoration of the suspended AUM's to active status, can be included in the proposed VAR RCPA.

9. If, during the period when the VAR RCPA is in effect, one of the operators who is a party to the agreement transfers his preference, what would be the effect on the VAR RCPA?

The transferor should provide the transferee a copy of the VAR RCPA. BLM then should provide the transferee the opportunity to become a party to it. They should be informed of the resource issues leading up to development of the VAR RCPA, and of the terms and conditions of the permit or lease that was in place prior to modification under the VAR RCPA. They may decline to become a party to the VAR RCPA and apply for the grazing permit or lease under the terms and conditions of the permit or lease as it existed prior to the VAR RCPA. Then, assuming the transferee meets qualifications specified in the rules, BLM would transfer the preference and would engage in full processing of the application for the permit or lease in accordance with established procedure.

10. If we were to employ VAR and change management, how would we determine if we are successful?

VAR could be considered simply as a mechanism to expand grazing management options and flexibility. The management need and objectives for VAR would be articulated in the VAR RCPA. The VAR RCPA would provide that monitoring be undertaken that is at a level commensurate with the need to determine if desired progress towards resource objectives is occurring at an acceptable rate. The VAR RCPA should also provide for evaluation of resource conditions and how and within what timeframe appropriate management adjustments would be developed if the changed management was not achieving the desired results.

11. VAR could be "short-term" or "long-term" and based on a voluntary agreement of a set duration. What if the participants wanted to make the changes permanent?

If the evaluation of resource conditions finds that modified grazing practices arising from the VAR are achieving or making progress towards achieving the desired outcomes, and the parties want to make the management changes permanent, BLM would consult with the participating operators and enter into a Range Line Agreement (using BLM form 4120-10) that combines, in whole or in part, the affected allotments. Concurrent modification of the permits or leases that reflect the changed allotment boundaries would

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occur by grazing decision to ensure public involvement and afford all parties their right to administrative review of BLM's decision.

12. Would a VAR RCPA agreement be subject to the applicable land use plan and the requirements of NEPA?

Yes. The actions contemplated by a potential VAR RCPA would be reviewed for conformance with the applicable land use plan. Changes in grazing management arising from a VAR RCPA that result in permit or lease modifications would be subject to the requirements of NEPA, including consultation under ESA as warranted. It is expected that in most cases, the action to modify a grazing permit or lease that arises from a VAR would be considered an "implementation decision" for purposes of achieving the broader land use plan objectives and therefore conform to the decisions set forth in the land use plan (refer to H-1601-1 Land Use Planning Handbook for discussion and comparison of land use plan decisions and implementation decisions). If, however, the actions do not implement actions that serve to further the purposes of applicable land use plan decisions, but are seen as desirable and warrant changing the land use plan decisions to accommodate the actions, then BLM would engage NEPA analysis to simultaneously address the amendment of the affected land use plan decisions and the site specific impacts of the actions anticipated by the VAR RCPA.

13. Who would be responsible for approving a VAR RCPA?

BLM Manual 1203 currently delegates all authority for actions that would be undertaken through the use of VAR from the Director to the State Directors (see BLM Manual 1203, Appendix 1, pp. 47 and 48). In turn, State Directors, in conformance with Bureau policy to delegate authority to the lowest organizational level possible, consistent with efficient program management, have delegated these authorities to either the District Manager or Field Manager. Therefore, the Field Manager or the District Manager would be responsible for approving a VAR RCPA.

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SUSTAINING WORKING LANDSCAPES COMMENT RESPONSES QUESTIONS AND ANSWERS

Rangeland Conservation Partnerships
Reserve Common Allotments
Voluntary Allotment Restructuring

➔ Section 4: Landscape Habitat Improvement

1. Is there a relationship between the concepts behind Sustaining Working Landscapes tools and landscape scale habitat improvement efforts?

The Secretary seeks to manage public rangelands in a fashion that provides for healthy rangelands and the sustained viability of public land grazing. Public lands provide habitat for many species for which BLM has habitat management responsibility. Managing these habitats for special status species and other regionally important flora and fauna species is often best addressed on a landscape scale, rather than on an allotment basis or other small geographic area, as has been traditionally done. A collaborative landscape approach, which may involve private and/or state lands on a voluntary basis, allows managers and operators to focus important conservation actions on key areas, thus reducing burdens elsewhere. The tools described previously (RCP's, RCA's, and VAR) could facilitate Landscape Habitat Improvement (LHI). LHI is intended to promote the conservation of species and facilitate the Endangered Species Act (ESA) consultation process.

BLM managers would encourage the use of Rangeland Conservation Partnership Agreements, Reserve Common Allotments and Voluntary Allotment Restructuring to address species conservation and other landscape scale issues so that sustainable working landscapes are maintained.

When focusing on species conservation efforts, these tools could be used to partner with permittees and lessees and others such as the U.S. Fish and Wildlife Service (FWS), National Oceanic and Atmospheric Administration-Fisheries (NOAA-F), and interested publics to cooperatively explore management options that meet conservation and restoration needs, and to identify strategies and mechanisms that provide incentive for stakeholders to maintain or improve habitat quality while maintaining the vitality of ranching.

Field Offices would work collaboratively with state, federal, local officials, non-government organizations (NGO's), public and range users in identifying opportunities to use these tools in the development of landscape scale habitat improvement strategies and site specific plans for meeting resource and user needs. Partnership proposals to develop RCPA's, RCA's, or to use VAR to facilitate the development of landscape scale habitat improvement strategies, could have the potential of expediting the consultation process with FWS and NOAA-F.

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Landscape scale habitat improvement strategies involving lands under multiple ownerships could become more competitive for funding under the Cooperative Conservation Initiative (CCI), the Environmental Quality Incentives Program (EQIP) and EPA Section 319(h), as well as local, regional and national privately funded grant programs.

Development and implementation priorities of LHI would be based on criteria that include:

- The presence of special status species.
- Identification of key and/or critical habitats with partners.
- Potential for the development of partnerships.
- Potential for sustaining long term conservation and recovery.
- Available funding/support (internal and external).

Successful collaborative efforts are generally characterized by the voluntary participation of affected parties, identifiable benefits to species and/or their habitat, as well as benefits to the affected parties, such as more management flexibility and facilitated ESA consultation. The benefit to this approach is that voluntary conservation efforts would promote the conservation of species while providing substantial options for sustaining rangelands and increasing management flexibility for range users.

LCS is not envisioned as requiring an additional level of land use planning.