



File Code:

Date: July 3, 2008

CERTIFIED MAIL #

7006 2150 0002 9092 5459

This letter documents our meeting held on June 27, 2008, and will serve as your annual operating instructions (AOI) for the 2008 grazing season on the Cameron Canyon S&G and portions of the Tamarack S&G Allotments on the Bridgeport Ranger District. This AOI also includes the minimizing measures, terms and conditions, and reporting requirements from the Biological Opinion for Domestic Sheep Grazing in 2008 in Cameron Canyon and portions of the Tamarack Allotments, Humboldt-Toiyabe National Forest, Mono County, California. In attendance were Fred Fulstone, Marianne Leinassar, and Kris Leinassar (permittee), Cheryl Probert, Amy Baumer, and Rixey Jenkins (Forest Service).

DUNDERBERG S&G

There will be no domestic sheep grazing on the National Forest System (NFS) lands within the Dunderberg S&G Allotment.

- **The Dunderberg Unit of the Dunderberg S&G allotment is not authorized for use in 2008.**
- **Jordan Basin Unit-** The consultation process with the USFWS, Reno Office regarding domestic sheep grazing in Jordan Basin identified several actions to be taken in order to graze in close proximity with Sierra Nevada Bighorn Sheep, which, as you know are listed as endangered under the Endangered Species Act.
- 1. **The Jordan Basin unit of the Dunderberg S&G allotment will be rested this grazing season.** Rest is required to comply with the United States Fish and Wildlife Service informal consultation issued on September 19, 2000: "If Sierra Nevada Bighorn Sheep are sighted north of the Lundy Canyon Road prior to domestic sheep entering the Jordan Basin Unit, the Humboldt-Toiyabe National Forest will not allow the permittee to place domestic sheep in the unit until such time as reasonable assurance can be given by California Department of Fish and Game and the U.S. Fish and Wildlife Service concurs that Sierra Nevada Bighorn Sheep are south of the Lundy Canyon Road and are unlikely to return northward until the following year."



AUTHORIZED USE FOR CAMERON CANYON/TAMARACK S&G ALLOTMENT

ALLOTMENT	NUMBER & CLASS	SEASON	DAYS
Cameron Canyon/Tamarack S&G (summer)	900 e/l	7/01-9/30 ¹	92

2008 BIOLOGICAL OPINION MANAGEMENT REQUIREMENTS

These allotments will be grazed with one band of 900 ewes and their nursing lambs. The majority of these ewes will be lactating anoestrus; however there may be some dry ewes on these allotments. Elevations grazed will range from approximately 7,000 to 10,000 feet from June 28th to August 31st (Table 2). No domestic sheep grazing will occur above 10,000 feet for both allotments. After September 1st the permittee is required to move his sheep to lower elevations ranging from approximately 7,000 to a maximum of 9,000 feet (Map 3). The general pattern of use for these allotments is to begin in the Tamarack allotment and move east toward the higher elevations as the range is ready, then moving back from the Cameron Canyon allotment west moving toward lower elevations and finishing in the Tamarack allotment.

Due to suitable SNBS summer, early breeding and winter habitat located within the Cameron Canyon and Tamarack allotments, two elevational lines were created to manage for domestic sheep grazing during the 2008 season. Suitable SNBS winter habitat occurs above 10,000 feet within these allotments. Within the 9,000 to 10,000 foot elevations there is suitable summer and early breeding habitat; therefore a line was drawn at the 9,000 foot elevation.

Tamarack S&G Management Line

Due to the presence of suitable SNBS summer, early breeding and winter habitat present within the higher elevations of the Tamarack allotment a management line was drawn to reduce the use by domestic sheep within these areas. SNBS have also been observed within the Tamarack allotment; in 2006 a ram was located on Monument Ridge, just inside the allotment boundary. This observation occurred in March, when no domestic sheep were located on the allotment. The management line was drawn based on "on-the-ground" knowledge of the allotment and SNBS suitable summer, early breeding and winter habitats. The management line follows the 10,000 foot elevational line on the eastern side of the allotment boundary and runs north following the Tamarack trail. To allow for domestic sheep use along Tamarack Creek a 1/8 mile buffer was created surrounding the creek. Then physical features were used to finish the management line. These features include drainages other creeks and ridges (See Map 3). Domestic sheep grazing will not be authorized west of this management line.

Management Definitions for Elevational Lines

If the permittee is grazing in the high elevations of the Cameron Canyon or Tamarack allotments (between 9,000 and 10,000 feet; Map 3), between August 1st and August 31st, two full counts of every individual sheep (ewes and lambs) will be required. These counts will occur as the permittee moves into and exits this area. The permittee will not be required to move the herd to corrals nor will he be required to set up temporary corrals; the full count

¹ Actual on date yet to be determined. This date is dependant on receiving the most current SNBS location information from CDFG and the time it will take the permittee to trail his band of sheep to the allotment. It is required as part of the Biological Opinion that the permittee notify the FS 48 hours before he enters the allotment.

will be conducted onsite where the band is located at that time. The full count will be reported by the end of the day to the Bridgeport District Ranger or Natural Resources Staff Officer. The Cameron Canyon allotment offers suitable summer and early breeding habitat above 9,000 feet; this elevation line keeps domestic sheep from grazing potential SNBS habitat during the early rutting season. Within both the Cameron Canyon and Tamarack allotments there is suitable SNBS summer and some wintering habitat above the 10,000 foot elevation. This area will not be grazed during the 2008 grazing season to reduce the potential of contact between domestic and bighorn sheep during the early breeding season.

Table 2. Elevations authorized to graze for the 2008 grazing season on the Cameron Canyon S&G and Tamarack S&G Allotments.

Allotment Name	Date Authorized to Graze	Elevations Grazed
Cameron Canyon S&G	June 28 th to August 31 st	7,000 to 10,000 feet
“	September 1 st to September 30 th	7,000 to 9,000 feet
Tamarack S&G	June 28 th to August 31 st	7,400 to 10,000 feet
“	September 1 st to September 30 th	7,400 to 9,000 feet

Due to concern of possible direct contact between domestic sheep and SNBS that could result in the possible transmission of disease, the following minimizing measures must be followed during the 2008 grazing season.

The following minimizing measures are applicable to the **Cameron Canyon/Tamarack Allotment (Summer Use)**:

The following section has been copied from the 2008 BO.

Measures identified in the proposed action section to minimize the likelihood of contact between domestic sheep and SNBS will be implemented by the FS and the permittee. These efforts, in combination, are intended to reduce the likelihood of direct contact between domestic sheep and SNBS thus reducing the likelihood of disease transmission from domestic sheep to SNBS. The anticipated effectiveness of these measures is presented below.

A. The permittee proposes to graze Rambouillet sheep on the allotment. They have a strong flocking instinct (American Sheep Industry Association, Inc. 2002), which will assist in reducing the possibility of individuals straying from the band and coming into direct contact with SNBS during the 2008 grazing season. This will reduce the likelihood of disease transmission between domestic sheep and SNBS.

B. The proposed grazing period does not permit domestic sheep to graze after September 30 on the allotment. Removing the domestic sheep from the allotment prior to the rut minimizes the likelihood of attraction and contact between SNBS rams and domestic sheep thus reducing the likelihood of disease transmission.

C. The elevational restrictions (Map 3) for the Cameron Canyon/Tamarack Allotment do not permit domestic sheep to graze higher elevations after September 1 within potentially suitable SNBS habitat during the early rutting season for SNBS. This minimizes the likelihood of contact occurring between domestic sheep and SNBS thus reducing the likelihood of disease transmission.

D. Prior to the 2008 grazing season, FS employees and the permittee, and his employees if possible, will meet to discuss the AOI. This meeting is to ensure that all measures to reduce possible contact between domestic sheep and SNBS as described in the **final BO** are fully understood and implemented by the permittee and his employees. It is the responsibility of the permittee to follow the terms and conditions of their term grazing permit. If the permittee does not follow their term grazing permit, the FS will take appropriate permit action. The first step is a Notice of Non-Compliance in which the violation is clearly defined, suggestions on how to remedy the situation are given, and a time frame to fix the non-compliance is indicated. We anticipate that fully understanding the issue, the proposed action, the individual minimizing measures, participants' roles and responsibilities, the Escape Management Plan/Communication Protocol, and the implementation of the Service's Terms and Conditions will reduce the likelihood of the domestic sheep and SNBS coming into direct contact during the 2008 grazing season on the allotment thus reducing the likelihood of disease transmission between the two species.

E. Within forty-eight (48) hours of the date the permittee is to enter the allotment, the FS will contact the CDFG for all SNBS location information available as of the date of the call. If SNBS are located north of the Trigger Line for the allotment (Map 2) or in the allotment, the permittee will be contacted immediately and domestic sheep will **not** enter the allotment on the date of expected entry. Not allowing domestic sheep on the allotment with SNBS sighted nearby will reduce the opportunity for direct contact between the two species at the onset of the 2008 grazing season reducing the likelihood of disease transmission between domestic sheep and SNBS.

Domestic sheep will not be authorized to enter the allotment until such time as SNBS have moved south of the Trigger Line for a period of 2 weeks or two sightings. These sightings will be based upon CDFG aerial flights or ground surveys to confirm SNBS have moved south of the Trigger Line for this length of time. If the SNBS remains south of the Trigger Line, the permittee is allowed to graze the allotment within the area as originally permitted for 2008 and indicated in Table 1 and Map 3. Not authorizing domestic sheep on the allotment until SNBS have moved south of the Trigger Line for a specified time period or sightings based on CDFG information reduces the opportunity for direct contact between the two species by increasing the distance between them. Specifying a length of time that the SNBS is south of the Trigger Line indicates less likelihood that it might return north of the Trigger Line during the remainder of the grazing season. Increasing the distance and the amount of time at this distance assists in reducing the opportunity for direct contact between the two species and therefore reducing the likelihood of disease transmission.

F. The permittee will notify the FS by telephone or in person, at least 24 hours before entering and exiting the allotment in order to fully document the actual season of use. This early notification allows the FS time to contact the CDFG for the latest SNBS sightings and ensure that they are not in the allotment or north of the Trigger Line at the time of entry. We expect that this measure will reduce the likelihood of contact between domestic sheep and SNBS and thus reduce the likelihood of disease transmission because domestic sheep and SNBS will not be nearby or sharing the same area at the same time.

G. The permittee will graze primarily lactating anoestrus ewes and their nursing lambs on the Cameron Canyon/Tamarack Allotment. This is anticipated to reduce the attractiveness of SNBS rams to domestic sheep ewes on the allotment. This will reduce the likelihood of contact and disease transmission between domestic sheep and SNBS.

H. The permittee will remove from the band prior to entering the allotment any domestic sheep that is incapacitated. The permittee also will immediately remove from the band any domestic sheep that becomes incapacitated after it has entered the allotment's area of use. We anticipate that removing these individuals from the allotment will reduce the likelihood of one being left behind when the band is moved thus reducing the likelihood of contact with SNBS and thus disease transmission.

I. The permittee will use a marker sheep ewe at a ratio of at least 1 to 20 while in the allotment. The use of marker sheep in domestic sheep bands facilitates counting by increasing the number of identifiable domestic sheep within the herd. The number of counts to occur are discussed below. Domestic sheep herds will also contain naturally-colored black sheep and individuals with bells. In addition, the permittee will complete a marker count any time the herds are scattered by predators on the allotment. The permittee will provide records of the counts to the FS once a week. Conducting marker counts will facilitate immediate searches in the event it is determined that domestic sheep are missing from the band. We anticipate that these counts and searches will minimize the likelihood of contact and disease transmission between domestic sheep and SNBS by reducing the likelihood of unrecorded strays occurring.

J. In the proposed action, the permittee will count all ewes including their accompanying lambs upon entering and exiting the allotment. Full counting of sheep upon entering the allotment provides a number which will serve as a baseline number for the herder to ensure that, as the season progresses, he can account for all of the sheep in the herd. If domestic sheep are discovered missing during the grazing season or at the end of the season, a search will be initiated immediately as discussed below. Full off counts reduce the likelihood of domestic sheep being left unnoticed on the allotment at the end of the season. We anticipate conducting full on and off counts will reduce the likelihood of domestic sheep coming into direct contact with SNBS as they will be accounted for reducing the likelihood of disease transmission between the two species.

K. The permittee will place and keep one sheepherder with domestic sheep while on each allotment. We anticipate that the presence of a sheepherder (7 days a week, 24 hours a day) who is knowledgeable about the band of sheep they manage, who can visually identify inconsistencies within the band, who easily recognizes behavior in the herd to know if a lamb has become separated from its mother, or if sheep have become separated from the herd will minimize the opportunity for contact and disease transmission between domestic sheep and SNBS by increasing the likelihood that there will be an accounting of domestic

sheep. If a domestic sheep is missing from the band, a search will be initiated as described below.

L. The permittee will place and keep two herding dogs with domestic sheep while on the allotment. Herding dogs are bred and trained to keep the band together and alert herders. We expect herding dogs will reduce the likelihood of individual sheep straying from the band minimizing the likelihood of contact with SNBS thus reducing the likelihood of disease transmission between domestic sheep and SNBS.

M. The permittee will place and keep two guard dogs with domestic sheep while on the allotment. Guard dogs are bred and trained to protect the band from predators/intruders. The permittee utilizes a "reticular activating system" (F. Fulstone, F.I.M., pers. comm. 2006a, cited in Murphy 2008). It is currently unknown whether a guard dog will alert the herd dogs/herder that a SNBS is entering the area, but due to the nature of guard dogs it is anticipated that the guard dog will perceive the SNBS as an intruder or threat to the domestic sheep and if a SNBS approaches the herd it will bark alerting the herd dogs/herder of its presence (Murphy 2008).

We expect the presence of dogs and their barking will disturb/discourage SNBS from approaching and mixing with the domestic sheep band and instead should cause the SNBS to move away from the domestic sheep thus minimizing the likelihood of contact thus reducing the likelihood of disease transmission. It is also possible that the guard dogs may chase/follow wildlife (McGrew undated, Timm and Schmitz undated, Black and Green 1984, Coppinger et al. 1988, Green 1999, Hansen and Smith 1999, Marker et al. 2005). We anticipate that the adverse effect of barking/chasing/following by guard dogs of SNBS could result in tripping or falling, resulting in injuring or subsequent death of the SNBS in its efforts to move away during a barking/chasing/following guard dog incident. We anticipate that the incidence would be low because only three SNBS are in the vicinity, minimizing measures will be implemented to reduce the likelihood of contact, and SNBS normally elude predators/threats by running away into rocky, steep terrain. This would be incidental to the proposed action.

N. The permittee will conduct marker counts twice a day, once in the morning and once in the afternoon on the allotment during the entire grazing season. A marker sheep count will also be required, as soon as practical after a predation or weather event in which the herd is "scattered." "Scattered" is defined as more than sight or sound distance between groups of sheep. Marker counts facilitate accounting for domestic sheep and early detection if one has wandered off. This will facilitate immediate searches in the event it is determined that domestic sheep have strayed from the band thus reducing the likelihood that contact with SNBS will occur. We anticipate that this will reduce the likelihood of contact and the likelihood of disease transmission by reducing the likelihood of unrecorded strays occurring.

O. The domestic sheep grazing season for the Cameron Canyon/Tamarack Allotment is extended to the end of September which approaches the SNBS breeding season.

If the permittee grazes the higher elevations of the Cameron Canyon/Tamarack Allotment [between 9,000 and 10,000 ft (2,743 and 3,048 m); Map 3] between August 1 and August 31, two full counts of every individual sheep (ewes and lambs) will be required during the month. The full counts will be reported by the end of the day to Bridgeport Ranger District personnel. The full off count will occur on the last day of occupancy and will reduce the likelihood of domestic sheep being left unnoticed on the allotment at the end of this

particular grazing period. If domestic sheep are discovered missing during the grazing season, a search will be initiated immediately as discussed earlier. We anticipate this measure will reduce the likelihood of domestic sheep coming into direct contact with SNBS as they will be accounted for thus reducing the likelihood of disease transmission.

P. After September 1, the permittee will only graze at lower elevations (below 9,000 ft, 2,743 m), as defined in the project description and indicated in Table 1, of the Cameron Canyon/Tamarack Allotment. We anticipate grazing at lower elevations as the SNBS breeding season nears will reduce the likelihood of contact and thus reduce the likelihood of disease transmission between the two species because the distance from the SNBS's higher elevation habitat to domestic sheep grazing areas will increase.

Q. The FS will coordinate at least weekly with CDFG to obtain information so that the permittee is aware of SNBS sightings in the Mount Warren Herd Unit, especially north of Lundy Canyon. We anticipate that providing the latest information on the locations of SNBS in relation to domestic sheep locations will allow the permittee and agency staff to anticipate and make informed decisions related to the minimizing measures that will reduce the likelihood that the two species will come into contact with each other thus reducing the likelihood of disease transmission.

R. The FS conduct increase allotment administration to maintain close contact/coordination with the permittee during the 2008 grazing season to ensure fulfillment of the permittee's responsibilities. Increased allotment administration means visiting the allotment on average once every 2 weeks, documenting domestic sheep locations, monitoring permittee's compliance with the minimizing measures, herding and guard dogs, and checking forage utilization levels. The FS will also schedule field visits with the permittee to verify compliance with the various minimizing measures. We anticipate that fully cooperating with implementation of proposed minimizing measures will reduce the likelihood of the domestic sheep and SNBS coming into direct contact during the 2008 grazing season on the allotment, reducing the likelihood of disease transmission.

S. If at any time during the grazing season, a domestic sheep is missing from the allotment, the permittee will notify the FS (District Ranger or Natural Resource Officer) immediately as defined in the Escape Management Plan/Communication Protocol. The FS will notify the Service and CDFG. The permittee will immediately initiate a comprehensive search (hiking, driving, horseback) as defined in the Escape Management Plan/Communication Protocol for the stray(s) which will conclude when the stray(s) are accounted for and will immediately report the results to the FS. The FS will forward the results of the search to the Service and CDFG. If after 3 days the sheep are still unaccounted for, the FS will call the Service. We anticipate that the use of marked sheep to facilitate counting, the actual counting of sheep, the notification procedures and initiation of searches will minimize the likelihood of contact between domestic sheep and SNBS because the measures will reduce the likelihood of sheep wandering from the band undocumented and, if a domestic sheep is documented as missing, a search will be immediately initiated and continued until the stray is located and its location evaluated in relation to SNBS locations. Knowing that a stray(s) domestic sheep has separated from the herd, allows for search efforts to begin immediately to find the stray(s) and return it to the band as quickly as possible.

We anticipate that this will reduce the likelihood that domestic sheep and SNBS will come into contact with each other by reducing the time a domestic sheep's location is unknown thus reducing the likelihood of disease transmission between the two species. If the sheep

is unaccounted for after 3 days, we will assume for this analysis that the animal has been lost to predation. This assumption is supported by information collected during the 2005 and 2006 grazing seasons when no domestic sheep were reported as missing; any discrepancies between on and off counts were attributed to documented mortalities (FS, *in litt.*, 2005, 2008) and incapacitated animals being removed (FS, *in litt.*, 2006, 2008).

T. If at any time a SNBS is observed by FS, CDFG, or other agency personnel north of the Cameron Canyon/Tamarack Allotment Trigger Line (Map 2), while domestic sheep are on the allotment, the Escape Management Plan/Communication Protocol will be initiated immediately. The herder will immediately move the domestic sheep to lower elevations [below 7,800 ft (2,377 m)] away from the SNBS to increase their separation. The permittee or herder may also approach the SNBS and attempt to re-direct it away from the domestic sheep to avoid contact. Detection and reporting of SNBS sightings near the allotment to the FS and permittee will result in the permittee moving the domestic sheep to an area further away from any SNBS that crosses the Trigger Line. We expect this will provide assistance in reducing the likelihood that the species will come into contact with each other thereby reducing the likelihood of disease transmission. We anticipate that the adverse effect of redirection/movement of SNBS to reduce the likelihood of contact could result in disruption of their normal behavior patterns in terms of foraging and traveling activities. We anticipate that the incidence would be low and not likely to be a major disruption as only three SNBS are known to be in the vicinity, they would be able to move into other areas with little forage competition, and be able to move along a different route. In addition, we anticipate that the adverse effect of redirect/movement by people could result in tripping or falling, resulting in injuring or subsequent death of SNBS in its efforts to move away during a redirection/movement event. We anticipate that the incidence would be low because there are only three SNBS known to be in the vicinity, minimizing measures will be implemented to reduce the likelihood of contact, and SNBS normally elude predators/threats by running away into rocky, steep terrain. This would be incidental to the proposed action.

U. If at any time a SNBS is observed or located within the allotment boundary (official, legal boundary) during the grazing season by the permittee, his employees, FS, CDFG, or other agency personnel, the permittee/herder will remove the domestic sheep from the allotment within 24 hours of being notified or of the permittee/herder's own sighting. Domestic sheep will not be allowed to return to the allotment during the 2008 grazing season. We anticipate the quick removal of all domestic sheep off of the allotment if a SNBS enters it will reduce the likelihood of direct contact and thus disease transmission between the two species.

The above measures are intended to work in concert with each other to reduce the likelihood that direct contact between domestic sheep and SNBS will occur during the entire grazing season. We anticipate these measures will reduce the likelihood of direct contact between domestic sheep and SNBS such that the potential disease transmission is not reasonably likely to occur.

Do to the limited number of SNBS currently inhabiting the Northern Recovery Unit, their location within the herd units, and the limited elevation and area that domestic sheep are proposed to be permitted to graze within the allotment, we do not expect forage competition between the two species will result in measurable effects to SNBS.

We expect that SNBS could be interrupted during foraging or traveling activities by people during a redirection/movement action. The impact to SNBS through interruption of normal behavior patterns such as foraging or traveling activities is not likely to be a major disruption because there are only three SNBS known to be in the vicinity and they would be able to move into other areas with little competition, and be able to move along a different route.

While at times, small numbers of SNBS may have been documented loosely grouped together based on CDFG monitoring data in the Northern Recovery Unit, it has been a single individual that has traveled northward in close proximity to domestic sheep grazing allotments. As a result, we expect that one SNBS could be injured or die as a result of interactions with guard dogs and people. The injury or loss of one SNBS will not appreciably reduce the likelihood of survival or recovery of the species because the injury or loss of one individual would represent about 4 percent (1/24) of the number of SNBS in the Northern Recovery Unit and about 0.3 percent (1/400) of the species throughout its range.

CONCLUSION

After reviewing the current status of the SNBS, the environmental baseline, the effects of the proposed action, and the cumulative effects, it is the Service's biological opinion that the FS's proposal to graze domestic sheep in the areas of use in the Cameron Canyon/Tamarack Allotment during the 2008 season is not likely to jeopardize the continued existence of SNBS.

The Service based this conclusion on the following: (1) the minimizing measures that will be implemented by the FS and the permittee; (2) the FS's coordination with CDFG's SNBS location monitoring efforts and resultant minimizing measures that will assist in further reducing the likelihood for contact between the two species; (3) the low numbers of SNBS (three) that have been observed in or north of Lundy Canyon in 2008; (4) that the barking/chasing/following by dogs of SNBS and any resulting injury or subsequent death will not appreciably reduce the species' survival in terms of reproduction, numbers, or distribution in the wild; (5) the redirecting/moving of SNBS by permittee/herder/agency employees and any resulting injury or subsequent death will not appreciably reduce the species' survival in terms of reproduction, numbers, or distribution in the wild; (6) the low level of forage competition between the two species is unmeasurable and will not appreciably reduce the species' survival in terms of reproduction, numbers, or distribution in the wild; and (7) this BO is limited to this year's grazing season from June 28 to September 30, 2008.

Critical habitat for SNBS was proposed in 12 units in California (72 FR 40956). These 12 units (Mount Warren, Mount Gibbs, Convict Creek, Wheeler Ridge, Taboose Creek, Sawmill Canyon, Mount Baxter, Mount Williamson, Big Arroyo, Mount Langley, Laurel Creek, and Olancha Peak) occur in portions of the Sierra Nevada in Tuolumne, Mono, Fresno, Inyo, and Tulare Counties. However, no proposed critical habitat occurs within the action area. The Mount Warren proposed critical habitat unit is the nearest unit to the action area and is located about 2.5 mi (4 km) to the south at its nearest point. Therefore, the proposed action is not likely to appreciably reduce the conservation value of proposed critical habitat such that destruction or adverse modification of proposed critical habitat would occur.

The following section has been copied from the 2008 BO.

INCIDENTAL TAKE STATEMENT

Section 9 of the Act prohibits taking and Federal regulation pursuant to section 4(d) of the Act prohibits the take of endangered and threatened species, respectively, without special exemption. Take is defined as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or attempt to engage in any such conduct. Harm is further defined by the Service to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering. Harass is defined by the Service as intentional or negligent actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to breeding, feeding, or sheltering. Incidental take is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Under the terms of section 7(b)(4) and section 7(o)(2), taking that is incidental to and not intended as part of the agency action is not considered to be prohibited taking under the Act provided that such taking is in compliance with the terms and conditions of the Incidental Take Statement.

The measures described below are non-discretionary and must be undertaken by the FS so that they become binding conditions of any grant or permit issued to F.I.M. Corporation, as appropriate, in order for the exemption in section 7(o)(2) to apply. The FS has a continuing duty to regulate the activity covered by this Incidental Take Statement. If the FS (1) fails to assume and implement the terms and conditions or (2) fails to require the permittee to adhere to the terms and conditions of the Incidental Take Statement through enforceable terms that are added to the permit or grant document, the protective coverage of section 7(o)(2) may lapse. In order to monitor the impact of incidental take, the FS must report the progress of the action and its impact on the species to the Service as specified in the Incidental Take Statement.

The take exemption provided in this Incidental Take Statement extends to all participants in this action, including CDFG, provided they carry out the action as proposed and comply with the reasonable and prudent measures and terms and conditions of the Incidental Take Statement.

Amount or Extent of Take Anticipated

The Service anticipates the following forms of incidental take may occur as a result of the proposed action evaluated in this BO. Incidental take of SNBS could be in the form of harm (injury and death) or harass during the 2008 grazing season (June 28 to September 30) on the Cameron/Tamarack Allotment due to guard dog barking/chasing/following and during redirection/movement away from domestic sheep by agency personnel, the permittee, or his employees. Numerous minimizing measures have been proposed in the action such that the incidences for guard dog barking/chasing/following and redirection/movement of SNBS and thus incidental injury or subsequent death of SNBS would be low. Take of one SNBS in this manner during more than one incident or take of multiple SNBS during one incident would necessitate reinitiation of consultation.

Effects of the Take

Incidental take of SNBS could be in the form of harm (injury and death) or harass during the 2008 grazing season (June 28 to September 30) on the Cameron Canyon/Tamarack Allotment due to guard dog barking/chasing/following and during redirection/ movement away from

domestic sheep by agency personnel, the permittee, or his employees. This could result in the harm (injury and death) or harassment of one SNBS. In the accompanying BO, the Service determined that this level of anticipated take is not likely to result in jeopardy to the species.

This level of anticipated take will not result in destruction or adverse modification of critical habitat since critical habitat does not occur within the action area and no indirect impacts are anticipated.

Reasonable and Prudent Measure

The Service believes that the following reasonable and prudent measure is necessary and appropriate to minimize the impact of incidental take of SNBS:

1. Measures shall be taken to minimize the injury or subsequent death of SNBS during the 2008 grazing season (June 28 to September 30) on the Cameron Canyon/Tamarack Allotment.

Terms and Conditions

In order to be exempt from the prohibitions of section 9 of the Act, the FS and permittee must comply with the following terms and conditions as appropriate which implement the reasonable and prudent measure described above and outline reporting/monitoring requirements. These terms and conditions are non-discretionary.

1. To implement Reasonable and Prudent Measure 1, the following terms and conditions shall be implemented:
 - (a) The FS will provide a copy of the Escape Management Plan/Communication Protocol to and discuss it with the appropriate CDFG and BLM offices or other agency offices/personnel likely to be in the area. This will facilitate having these entities contact the FS if SNBS are sighted on the Bridgeport Ranger District north of the Trigger Line for the Cameron Canyon/Tamarack Allotment. The FS will supply copies of appropriate maps to these agencies.
 - (b) District personnel, during allotment administration duties, will assess the effectiveness of the guard and herding dogs. If problems are identified, the District will notify the permittee and he will replace the dog immediately within 24 hours. In order to decrease distractions for male dogs that are on the allotment, no female dogs that are in heat will be placed on the allotment. If a female dog comes into heat during the grazing season, she will be immediately removed and replaced with another dog within 24 hours.
 - (c) Agency personnel and the herder may actively redirect/move SNBS away from domestic sheep. The permittee's herder, their dogs, and/or agency employees may approach the SNBS but only on foot to reduce the possibility for a sudden, panicked escape by the SNBS which may result in injury or subsequent death.

The Service believes that no more than the take previously stated will occur as a result of the proposed action. The reasonable and prudent measure, with its implementing terms and conditions, is designed to minimize the impact of incidental take that might otherwise result from the proposed action. If, during the course of the action, this level of incidental take is exceeded,

such incidental take represents new information requiring reinitiation of consultation and review of the reasonable and prudent measure provided. The FS must immediately provide an explanation of the causes of the taking and review with the Service the need for possible modification of the reasonable and prudent measure.

REPORTING REQUIREMENTS

The FS will provide the Service with a copy of the final AOI **prior** to the permittee's entry onto the allotment.

The FS will provide the Service a report within 30 days of the removal of domestic sheep from the allotment summarizing the effectiveness of implementing the above minimizing measures by the FS and the permittee and suggesting recommendations for future management actions, if necessary. This report will include, as an attachment, the documentation for allotment administration efforts.

Upon locating dead, injured, or sick SNBS, initial notification must be made to the Service's Division of Law Enforcement in Reno, Nevada, at (775) 861-6360, and Torrence, California at (310) 328-1516 and the Nevada Fish and Wildlife Office within 3 working days. Instructions for proper handling and disposition of such specimens may be obtained from the Service at (775) 861-6300. Care must be taken in handling sick or injured individuals to ensure effective treatment and best possible state. In conjunction with the care of sick or injured individuals, or the preservation of biological materials from a dead individual, the FS has the responsibility to ensure that information relative to the date, time, and location of the listed species when found, and possible cause of injury or death of each individual, be recorded and provided to the Service.

GENERAL MANAGEMENT REQUIREMENTS

Allotment maps and management requirements, including improvement maintenance, salting, camping, and bedding for those allotments you are permitted to graze have been provided to you. We are providing a map that displays the appropriate management and trigger lines described in the 2008 BO as part of this AOI.

Range improvements listed under part three in your term permit must be maintained before livestock enter allotments. The maintenance standards, also listed in part three of your permit, must be followed when maintaining improvements. Range improvements must be maintained even when there is **non-use or rest** on an allotment; **for whatever reason**.

Sheep may use a bedding/nooning area no more than **once** per season. "Good bedground management" was highlighted in your 1974 Sheep Management and Development Plan. We discussed with you areas that district resource personnel observed during the 2007 grazing season.

Place salt at least ¼ mile from water, roads, and trails. If there are specific areas that require salt placement outside these guidelines, you must obtain approval from this office prior to salting. Haul dead livestock at least 100 yards from roads, trails, and water. All garbage and debris associated with managing your livestock on Forest Service allotments must be removed from the National Forest.

If you or your employees spot a wildfire on any of your allotments, report it immediately to the Interagency Dispatch Center in Minden, NV at **(775) 883-5995**.

Invasive weeds are becoming a serious threat to the welfare of our rangelands. Your assistance is needed to identify new outbreaks of weed populations and to prevent the establishment of weeds on the forest. Pay particular attention to areas where stock are concentrated such as loading/unloading areas, water developments, and salting areas. A Noxious Weed Free Hay order has been implemented on our Forest. This requires any hay that is brought onto the National Forest must be certified free from noxious weeds. All livestock entering the National Forest are recommended to be fed **Certified Noxious Weed Free Forage** for at least 2 days prior to entering the Forest. Pelletized feed is not affected by this order. The applicable Standards and Guidelines for the Toiyabe National Forest Land and Resource Management Plan are incorporated into the management standards for these allotments.

Sierra Nevada Forest Plan Amendment approved by the Regional Foresters in Regions Four and Five on January 12, 2001 and Supplement to the Sierra Nevada Forest Plan Amendment approved by the Regional Foresters in Regions Four and Five on January 21, 2004 is incorporated into the management standards for allotments west of Highway 395 on the Bridgeport Ranger District. This document is applicable to the Cameron Canyon S&G and Tamarack S&G allotments, west of Highway 395. Standards and guidelines applicable to your allotment(s) include the following:

Disturbance of meadow-associated **streambanks** and natural lake and pond **shorelines** is **not to exceed 20 percent** of the stream reach or **20 percent** of the natural lake or pond shoreline.

In meadows that are in **early** seral status (an early stage of succession in a plant community or vegetation type, generally characterized by plant species that are adapted to colonizing disturbed areas with a high proportion of bare soil) livestock utilization of grass and grass-like plants must be limited to **30 percent** (or minimum **six-inch stubble height**).

In meadows that are in **late** seral status (fifty percent or more of the relative cover of the herbaceous layer is late seral with high similarity to the potential natural community, a diversity of age classes of hardwood shrubs is present, and regeneration is occurring) livestock utilization of grass and grass-like plants must be limited to a maximum of **40 percent** (or minimum **four-inch stubble height**).

In meadows that are **degraded** (such as those in early seral status with a greater than **ten percent** meadow area in **bare soil and active erosion**) **total rest** from grazing is required until they have recovered and have moved to a mid or late seral status.

In riparian areas browsing on mature riparian **shrubs** (including willow and aspen) is **not to exceed 20 percent** of the annual leader growth and is not to exceed more than **20 percent** of individual seedlings.

40% use on grass species in aspen, sagebrush, and mountain brush sites
20% use on shrub species in aspen, sagebrush, and mountain brush sites

35% maximum soil disturbance

You are responsible for determining when allowable use has been reached and for moving your sheep to the next unit to be used or off the allotment when the last unit has been grazed. The Forest Service is responsible for monitoring your compliance with allowable use standards. If you need assistance determining forage use or streambank disturbance levels, contact Amy and she will help you. Please keep in mind the lack of precipitation this area is experiencing and how this will affect management of your allotment.

If you have questions, or need additional copies of any of this information, please contact Amy.

REPORTING

The log book for each allotment will be provided to the District Ranger or Natural Resources Officer one a week for the entire season on the allotment (Measure I). This log book can be faxed, mailed or hand delivered to the office. Allotment summary forms, for reporting actual use and maintenance costs are included. Please complete these forms and return them to this office by *November 15, 2008*. Thank you for returning last year's actual use and improvement maintenance forms in a timely manner.

BILLING

Allotments that have been combined in terms of management are not necessarily reflected in the annual bill for collection. Numbers and seasons in your grazing bill reflect the total head months of use on permitted allotments, but not necessarily the planned use on the ground. In cases where the bill differs from these instructions, the annual operating instructions are the authorized use patterns to be implemented on the ground. The FS must have confirmation that payment has been transmitted prior to livestock entering the allotments.

The grazing fee for 2008 is \$0.27 per head month.

Amy will continue to administer your permit. Please continue to use her as your contact on the district. I trust that you will contact me any time you have a question so that we may keep our communication open. If you have any questions on the management of the above allotments, please feel free to contact myself or Amy at 760-932-5852.

Sincerely,

/s/ Cheryl F. Probert
CHERYL F. PROBERT
District Ranger