

United States Department of the Interior
Bureau of Land Management
Lander Field Office
1335 Main Street
P.O. Box 589
Lander, Wyoming 82520
(307-332-8400)

WY 050
4160
4010
GR No. 37__
GR No. 38__

April 3, 2009

CERTIFIED MAIL NO. _____
RETURN RECEIPT REQUESTED

Ranch Name
c/o Name
Address
City, WY Zip

NOTICE OF FIELD MANAGER'S PROPOSED DECISION

Dear Mr./Mrs. _____:

INTRODUCTION

The following is my Proposed Decision to issue new (ten year) grazing permits on the Green Mountain Common Allotment (GMCA) pursuant to 43 Code of Federal Regulations (CFR) Subparts 4100 and 4130 of the grazing regulations. The GMCA Proposed Grazing Management Environmental Assessment for this action (WY-050-EA07-153) was prepared to analyze the impacts within the GMCA associated with re-issuing 19 grazing permits for a new, 10-year period. This analysis identified the appropriate terms and conditions to be included in the grazing permits and is on file at the Lander Field Office (LFO) and is also available on line at http://www.blm.gov/wy/st/en/info/NEPA/lfodocs/greenmtn_common.html.

BACKGROUND

The GMCA is a common use allotment encompassing approximately 522,000 total acres in southern Fremont County and portions of Sweetwater County. Bureau of Land Management-administered public lands in the GMCA are primarily used for livestock grazing, wild horses, wildlife habitat, mineral exploration and production, and recreation. Other uses include rights-of-

way for transportation, communication, and utility systems, and timber production on Green Mountain.

Sixteen individuals share livestock grazing use within the allotment on 19 grazing permits. Prior to 1999, no formal livestock management system had been in place throughout the allotment's previous 100 years of use. Internal fencing has been limited to small pastures of mostly private and state land.

In 1996, the BLM initiated a large-scale planning effort involving the general public, local government, special interest groups, and permittees to address the varied and sometimes conflicting uses of the GMCA. This planning effort considered requests to convert the remaining sheep grazing use to cattle grazing and was intended to mitigate the known resource conflicts within the allotment. The planning effort identified a number of management issues and developed a list of goals and objectives to resolve the issues. An analysis documented in an EA (No. WY-050-EA9-039) resulted in the BLM's August 31, 1999 decision for managing livestock grazing on the Green Mountain Common Allotment. The goals and objectives covered in that earlier analysis established that there is a need to:

1. Improve or maintain riparian areas.
2. Maintain wild horses within appropriate management levels.
3. Improve the distribution of water sources.
4. Improve the distribution of grazing animals.
5. Maintain the open spaces and natural character of the allotment and the uses that are dependent on these values.
6. Maintain public access and dispersed recreational opportunities while respecting private property in the allotment.
7. Maintain big game populations near objective levels established by the Wyoming Game and Fish Department.
8. Maintain or improve habitat quality for plant and animal populations and communities.
9. Provide adequate forage and water on a sustained-yield basis to satisfy the present management levels of livestock, wild horses and big game animals.
10. Provide workable solutions that encourage positive economic impacts on the multiple uses.
11. Maintain and improve soil productivity and minimize soil erosion.

12. Improve or maintain upland plant communities so that they are diverse and able to recover from disturbance.
13. Manage the public lands in a manner that will protect and improve the quality of the water resources.
14. Share expenditures on rangeland improvements among all concerned interests wherever possible.
15. Maintain open, honest, and constructive communication among the interested and affected parties including the public. Foster understanding, involvement, and cooperation in resource management.

On July 23, 1999, coincident with the development of BLM's EA, the Lander Field Office made a determination that not all of the Wyoming Standards for Rangeland Health were being met on the GMCA.

"Appropriate actions" were identified pursuant to 43 CFR 4180.2(c) to correct the failure of the allotment to meet all of the Standards. These appropriate actions were included in the BLM's Final Decision of August 31, 1999, EA No. WY-050-EA9-039. The 1999 Decision is the management plan that continues to be in effect today.

The 1999 Decision renewed six GMCA grazing permits for a term of 10 years beginning October 1, 1999 and ending September 30, 2009. The 1999 Decision set initial use levels of 35,910 AUMs for cattle and 11,451 AUMs for sheep. The season of use was changed to yearlong for sheep. Frequent riding and herd movement were to be used in controlling livestock distribution.

The grazing management actions were to be implemented in three phases: initial, interim, and long-term. The initial phase was provided as an intensive effort by the BLM and the permittees to get started on livestock management, herding, and the construction of rangeland improvements necessary to meet the 15 management goals listed above. The interim phase was designed to achieve full implementation and monitoring, and to allow for the adjustments necessary in meeting the goals and objectives. The long-term phase of management was intended for monitoring, adjustments, and implementation.

Full implementation of the 1999 Decision's management actions was to be accomplished over a ten year period with specific actions and rangeland improvements being phased in to provide the best chance to achieve resource objectives for the Green Mountain Common Allotment. Some of the first actions included water developments, riparian pastures, and herding to improve distribution throughout the use areas and pastures.

An AMP was to be prepared in consultation with the permittees and other interested publics following implementation of the final decision. An AMP contains the necessary guidelines for the management of livestock grazing on public lands to meet resource conditions, sustained yield, multiple uses, economic, and other objectives. However, the AMP was never completed

due to grazing management changes implemented by BLM in response to persistent drought conditions which began in October 1999 and have lasted through 2007.

In 2002, a comprehensive rangeland health assessment and evaluation report was completed to determine whether public lands within the Green Mountain Common Allotment were meeting the standards for rangeland health. The evaluation concluded that rangeland health standards were not being met. In particular, riparian health was determined to be the highest priority goal and the biggest rangeland health issue on the allotment.

In 2005, the BLM renewed two GMCA permits under the authority provided under Public Law 108-108 (appropriation rider). Appeals to the Interior Board of Land Appeals were filed protesting the renewal of permits without an environmental assessment (EA). An EA (WY-050-EA07-153) was prepared as part of a stipulated settlement of those appeals and was designed to identify, develop and describe vital information and data that has been utilized to assist the interdisciplinary team and the decision-maker in making this decision that is “based on understanding of environmental consequences, and take actions that protect, restore and enhance the environment.” CEQ 1500.1(c).

In April, 2008 the LFO prepared an environmental assessment (EA) to describe and analyze four alternatives for the development of an allotment management plan (AMP) for the Green Mountain Common Allotment. An AMP enables the Bureau of Land Management (BLM) to properly manage the public land and resources under its jurisdiction; to maintain stability in the livestock industry dependent on public lands; and to provide for the orderly use, improvement, development, and reclamation of public lands, consistent with multiple-use objectives. This responsibility and authority evolves from a series of legal mandates, including the Taylor Grazing Act, the National Environmental Policy Act (NEPA), the Wild and Free-Roaming Horse and Burro Act, the Federal Land Policy and Management Act (FLPMA), and the Public Rangelands Improvement Act.

PROPOSED DECISION

My proposed decision is to implement a combination of Alternatives One, Two, Three, and Four described in EA No. WY-050-EA07-153. Specifically, my proposed decision is described below:

1. The 2009 livestock grazing use and management for the GMCA will be governed by the Lander Field Manager’s Final Decision of August 31, 1999 (1999 Decision).
2. This decision will split (without fencing) the existing GMCA into three new allotments: Antelope Hills, Arapahoe Creek Common including the Alkali Creek Sheep Use Area, and Green Mountain using the 1999 Decision use area boundaries.
3. The 2010-2012 livestock (cattle and sheep) grazing use and management will be governed by the August 31, 1999 Final Decision as modified by this proposed decision, which includes the implementation of a one herd, modified four pasture, deferred-rotation grazing system on the Arapahoe Use Area and seasonal spring and fall sheep grazing on

the Alkali Creek Sheep Use Area, for the new Arapahoe Creek Common Allotment (ACCA).

4. The 2010-2012 livestock (cattle and sheep) grazing use and management will be governed by the August 31, 1999 Final Decision as modified by this proposed decision, which includes the implementation of a one herd, modified three pasture, deferred-rotation grazing system on the Happy Springs Use Area for the new Arapahoe Creek Common Allotment (ACCA).
5. The proposed grazing plan will be implemented for three years and then evaluated during the winter of 2012-2013. If grazing plan adjustments are necessary, the adjustments will be made prior to the 2013 grazing season.
6. This proposed grazing plan will become a term and condition of permits. An AMP will not be developed. The grazing plan is based on this proposed decision and the August 31, 1999 Final Decision and will be implemented through the annual operating plan.
7. The Arapahoe Creek Common Allotment will have seven pastures using the 1999 Decision boundaries with some modifications for the Magpie Riparian Pasture and Crooks Creek Riparian Pasture Fences.
8. The Crooks Creek Riparian Pasture Fence will have approximately six miles of a permanent barbed and smooth wire standard with double gates in important locations on the east-west portion to facilitate winter wildlife and wild horse movement.
9. The cattle season of use for the 2010-2012 grazing seasons will be from May 1 or 16 to October 31 or November 15 for a total of 184 days. The turnout date may vary depending on spring growing conditions and will be established at the BLM pre-turnout meeting held in mid-April each year.
10. The sheep season of use for the 2010-2012 grazing seasons will be from March 1 to February 28 for a total of 365 days.
11. The attached Arapahoe Creek Allotment Proposed Permitted Use Summary table shows the specific cattle and sheep numbers and authorized AUMs proposed for each permit. Fifty percent of the current permitted use is proposed to be suspended by this decision to accelerate attainment of the rangeland health standards.

12. Increasing authorized use in the long term depends on permittee commitment to stewardship including, meeting rangeland health standards, effective herding and meeting the 50 percent cost share for new water developments.
13. The proposed sheep grazing plan will require that the two lambing areas (East Alkali Creek and Lost Creek) are rotated each year with one being rested. Once the lambing season is completed (generally by June 20th), the sheep band will follow the same pasture rotation schedule as the cattle and camps will be located a minimum of 1.5 miles from water sources. Sheep camps will be moved every seven days to prevent overutilization of the vegetation in any given location.
14. The pasture rotation sequence will be scheduled each year at the BLM pre-turnout meeting. This initial schedule may be modified prior to the second pasture rotation based on late spring growing conditions.
15. More specific resource objectives will be developed from the existing base line objectives for each key area. These resource objectives will focus on desired plant community descriptions for riparian areas (wetland sedges) and upland sites (cool season bunchgrasses). These resource objectives will be developed cooperatively and completed prior to the 2010 grazing season.
16. The following table shows the pasture rotation (use level) indicators and stubble heights that will be applied on each pasture.

Proposed Forage Utilization Levels

Plant Community Type and Monitoring Method	* Forage Utilization Standard	When Would Standard be Implemented?	If in Non-Compliance
Riparian Vegetation (Stubble Height Method)	6 Inch Stubble Height within key areas	During the last two pastures of the grazing rotation	10% suspension of AUMs if standard is not met
Willows (Browse Method)	35-45% use on leader growth (not all key areas would be monitored for willow use. Site-specific locations would be identified).	During the last two pastures of grazing rotation	10% suspension of AUMs if standard is exceeded
Upland Vegetation (Height-Weight Method)	35-45% use on herbaceous key species within key areas	35% use during the last two pastures of the grazing rotation	10% suspension of AUMs if standard is exceeded

*Stubble height monitoring would be conducted during the grazing season and again after livestock are removed from their respective allotments. During the time livestock are in each pasture of the rotation schedule, stubble height monitoring would be used as a move indicator. If livestock are in the last pasture of the rotation sequence, and stubble height monitoring indicates the utilization standard has been reached, livestock would be moved off the allotment.

17. Rangeland monitoring and permit compliance checks by BLM personnel will occur throughout the grazing season. Unauthorized use will be dealt with promptly and on a case-by-case basis.

18. Residual cover standards will apply to all pastures at the end of grazing season. The actual cover measurements will be presented and discussed at the post season BLM meeting to be held before January 31st each year.

RATIONALE

The proposed decision is consistent with the Lander Resource Management Plan, approved on June 9, 1987, and will fulfill a need that has been expressed by the public.

The RMP identified several resource problems, as did members of the Green Mountain Working Group (GMWG) at many meetings conducted prior to issuance of the August 31, 1999 final decision. The GMWG identified a number of management issues and developed a list of goals and objectives already discussed above to resolve the issues.

The primary problems identified were: 1) the poor condition of the riparian areas on the allotment and conflicts between livestock grazing and wildlife and wild horses; 2) poor livestock distribution and season-long use by livestock on the allotment; 3) problems with unauthorized use by livestock; and 4) a lack of upland water sources.

In 2002, a comprehensive rangeland health assessment and evaluation report was completed to determine whether public lands within the Green Mountain Common Allotment were meeting the standards for rangeland health. The evaluation concluded that rangeland health standards were not being met. In particular, riparian health was determined to be the highest priority goal and the biggest rangeland health issue on the allotment.

The BLM's Proper Functioning Condition (PFC) assessment of riparian habitat conducted during 1994-2001 indicated that 88 percent of lotic (flowing water) and 78 percent of lentic (standing water) riparian habitats were determined to be non-functional or functional-at-risk with a downward or static trend.

In April, 2008 the LFO prepared an environmental assessment (EA) to describe and analyze four alternatives for the development of an allotment management plan (AMP) for the Green Mountain Common Allotment. This proposed decision has been developed from this analysis,

public comments on the EA, and further consultation with the grazing permittees and interested publics.

AUTHORITY FOR THIS DECISION

The Bureau of Land Management has authority to renew these grazing permits consistent with the provisions of the Taylor Grazing Act, Public Rangelands Improvement Act, Federal Land Policy and Management Act, and the Lander Resource Management Plan, approved on June 9, 1987. Further, an approved grazing permit is required to authorize grazing use on public lands and this authority is contained in the following sections of the 43 Code of Federal Regulations (CFR):

43 CFR 4130.2(a) which states.

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

43 CFR 4110.3-2(b) which states.

(b) When monitoring or field observations show grazing use or patterns of use are not consistent with the provisions of subpart 4180, or grazing use is otherwise causing an unacceptable level or pattern of utilization, or when use exceeds the livestock carrying capacity as determined through monitoring, the authorized officer shall reduce permitted grazing use or otherwise modify management practices.

43 CFR 4110.3-3(a) which states.

(a) After consultation, cooperation, and coordination with the affected permittee, the State having lands or managing resources within the area, and the interested public, reductions of permitted use shall be implemented through a documented agreement or by decision of the authorized officer. Decisions implementing 4110.3-2 shall be issued as proposed decisions pursuant to 4160.1.

43 CFR 4120.2(a)(1)(2)(3)(4) which states.

(1) include terms and conditions under 4130.3, 4130.3-1, 4130.3-2, 4130.3-3, and subpart 4180 of this part;

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

(3) Specify the limits of flexibility...

(4) Provide for monitoring to evaluate the effectiveness of management.

43 CFR 4130.3-1(a) which states.

(a) The authorized officer shall specify the kind and number of livestock, the period(s) of use, and the amount of use for every grazing permit.

43 CFR 4130.3-2 (c)(f) which states.

The authorized officer may specify in grazing permits other terms and conditions which will assist in achieving management objectives, provide for proper range management or assist in the orderly administration of the public rangelands. These may include but are not limited to:

(c) Authorization to use, and directions for placement of supplemental feed, including salt, for improved livestock and rangeland management on the public lands.

(f) Provisions for livestock grazing temporarily to be modified to allow for the restoration of vigor of plants, provide for the improvement of riparian areas.

43 CFR 4130.2(d)(4) which states.

(d) The terms of grazing permits or leases authorizing livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management shall be 10 years unless--

(4) The authorized officer determines that a permit or lease for less than 10 years is in the best interest of sound land management.

43 CFR 4130.6-1(a) which states.

(a) An exchange-of-use grazing agreement may be issued to an applicant who owns or controls lands that are unfenced and intermingled with public lands in the same allotment when use under such an agreement will be in harmony with the management objectives for the allotment and will be compatible with the existing livestock operations.

43 CFR 4180.1 (b)(d) which states.

The authorized officer shall take appropriate action under subpart 4110, 4120, 4130, and 4160 of this part as soon as practicable but no later than the start of the next grazing year upon determining that existing grazing management needs to be modified to ensure that the following conditions exist.

(b) Ecological processes, including the hydrologic cycle, nutrient cycle, and energy flow, are maintained,

(d) Habitats are, or are making significant progress toward being, restored, or maintained for

Federal threatened and endangered species.

43 CFR § 4130.7(c) (e) which states:

(c) The authorized officer may require counting and/or additional special marking or tagging of the authorized livestock in order to promote the orderly administration of the public lands.

(e) The brand and other identifying marks on livestock controlled, but not owned, by the permittee or lessee shall be filed with the authorized officer.

RIGHT OF PROTEST AND/OR APPEAL

Any applicant, permittee, lessee or other interested public may protest a proposed decision under Sec. 43 CFR 4160.1 and 4160.2, in person or in writing to Lander Field Manager, Bureau of Land Management, 1335 Main or P.O. Box 589, Lander, Wyoming 82520, within 15 days after receipt of such decision. The protest, if filed, should clearly and concisely state the reason(s) why the proposed decision is in error.

In accordance with 43 CFR 4160.3 (a), in the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice unless otherwise provided in the proposed decision.

In accordance with 43 CFR 4160.3 (b) upon a timely filing of a protest, after a review of protests received and other information pertinent to the case, the authorized officer shall issue a final decision.

Any applicant, permittee, lessee or other person whose interest is adversely affected by the final decision may file an appeal in accordance with 43 CFR 4.470 and 43 CFR 4160.3 and 4160 .4. The appeal must be filed within 30 days following receipt of the final decision, or within 30 days after the date the proposed decision becomes final. The appeal may be accompanied by a petition for a stay of the decision in accordance with 43 CFR 4.471 and 4.479, pending final determination on appeal. The appeal and petition for a stay must be filed in the office of the authorized officer, as noted above. The appellant must serve a copy of the appeal by certified mail on the Office of the Field Solicitor, Rocky Mountain Region, 755 Parfet Street Suite 151, Lakewood, Colorado, 80215 and person(s) named (43 CFR 4.421(h)) in the Copies sent to: section of this decision.

The appeal shall clearly and concisely state the reasons why the appellant thinks the final decision is in error, and otherwise complies with the provisions of 43 CFR 4.470.

Should you wish to file a petition for a stay, see 43 CFR 4.471 (a) and (b). In accordance with 43 CFR 4.471(c), a petition for a stay must show sufficient justification based on the following standards:

(1) The relative harm to the parties if the stay is granted or denied.

- (2) The likelihood of the appellant's success on the merits.
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

As noted above, the petition for stay must be filed in the office of the authorized officer and served in accordance with 43 CFR 4.473.

Any person named in the decision that receives a copy of a petition for a stay and/or an appeal see 43 CFR 4.472(b) for procedures to follow if you wish to respond.

If you have any questions regarding this proposed decision, please contact John Likins at 307-332-8411, or myself at 307-332-8435.

Sincerely,

James A. Cagney
Acting Field Manager

Copies sent to:

Interested Publics (attached mailing list)
Wyoming State Lands & Investment Office

**ARAPAHOE CREEK COMMON ALLOTMENT
PROPOSED PERMITTED USE SUMMARY
(04/03/09)**

	Permit Number	Livestock Number (cattle)	Livestock Number (sheep)	Kind of Livestock	Authorized Use Period	Percent Public Land Use	Active Use AUM's	Suspended Use AUM's
	0240	201		cattle	05/01-10/31	100	1,217	1,217
	3713	315		cattle	05/01-10/31	100	1,909	1,908
	0264	309		cattle	05/16-11/15	94	1,757	1,758
	3771		1,011	sheep	03/01-02/28	100	2,427	2,427
	3771		238	sheep	05/01 – 10/31	Exchange of Use	570	
	3791	51		cattle	05/16-11/15	69	212	212
	3783	50		cattle	05/01-10/31	83	251	251
	3854	107		cattle	05/01-10/31	100	650	650
	3851	444		cattle	05/01-10/31	92	2,471	2,472
	3092	80		cattle	05/16-11/15	100	483	482
	3841	171		cattle	05/01-10/31	91	940	940
	3841		729	sheep	10/01-02/28	91	659	658
	3792	87		cattle	05/01-10/31	100	525	525
	3795	322		cattle	05/01-10/31	90	1,755	1,755
	12615	8		cattle	05/01 – 10/31	100	50	50
TOTALS (30,611 P.L. AUMs)		2,145	1,740 238			Exchange of Use	15,306 570	15,305