

**U.S. Department of the Interior
 Bureau of Land Management
 White River Field Office
 220 E Market St
 Meeker, CO 81641**

DETERMINATION OF NEPA ADEQUACY (DNA)

NUMBER: DOI-BLM-CO-N05-2014-0063-DNA

PROJECT NAME: Grazing Permit Issuance and Change in Livestock Type in the West Shutta Allotment #06604

LEGAL DESCRIPTION:

Allotment		BLM Acres	Township	Range	Section(s)/Lots or Portions Of
Name	No.				
West Shutta	06604	~2,418	2N	96W	18-20, 29, 30
			2N	97W	12, 13, 24, 25

APPLICANT: LK Ranch Livestock LLC

DESCRIPTION OF PROPOSED ACTION: The Proposed Action is to issue a one-year nonrenewable livestock grazing permit to LK Ranch Livestock LLC based on its recently obtained grazing preference in the West Shutta Allotment #06604. This permit will result in a change in class of livestock from horses back to cattle as previously authorized. This permit will be for one year only, from March 1, 2015 through February 28, 2016. This will allow time for analysis of a revised grazing schedule to be proposed by LK Ranch that would integrate smoothly with their (adjacent) grazing permit on the Blacks Gulch allotment for the long term. Proposed cattle grazing in 2015 has been modified from, but will be consistent with, what was previously authorized in the West Shutta Allotment #06604 which was 150 cattle from April 20 to June 10 for a total of 241 Animal Unit Months (AUMs) and 100 cattle from November 20 through January 15 for a total of 176 AUMs. Livestock numbers and dates below have been modified to better meet the operational needs of LK Ranch Livestock for 2015 grazing.

Proposed Temporary (2015) Grazing Permit (LK Ranch) for West Shutta Allotment								
Allotment No. 06604	Livestock		Date		% PL	BLM AUMs scheduled	Suspended AUMs	Total AUMs
	#	Kind	On	Off				
West Shutta (spring)	200	C	04/20	5/25	100	237	0	237
West Shutta (fall)	150	C	11/10	12/15	100	178	0	178

Grazing Schedule for Proposed Temporary (2015) Grazing Permit West Shutta Allotment 06604							
Pasture Name	Livestock		Date		Days Grazed	% PL	BLM AUMs scheduled
	#	Kind	On	Off			
South	200	C	4/20	4/30	11	100	72
Middle	200	C	5/1	5/19	19	100	125
North	200	C	5/20	5/25	6	100	39
North	150	C	11/10	11/15	6	100	30
Middle	150	C	11/16	12/5	20	100	99
South	150	C	12/6	12/15	10	100	49
Total							415

Design Features: For the 2015 grazing season livestock will rotate through three separate pastures to limit the duration of grazing use in each pasture. Overall grazing use will be consistent with the level previously authorized.

The long term permit will be analyzed during the winter of 2015. Additionally the proposed permit will incorporate a grazing rotation to meet the rest periods and be implemented to achieve growing season utilization levels of 40 percent or less as stated in the 1997 White River ROD/RMP.

Decision to be Made: The BLM will decide whether or not to issue a one-year non-renewable grazing permit to LK Ranch Livestock LLC with similar applicable terms and conditions as previously authorized for the West Shutta allotment #06604.

PLAN CONFORMANCE REVIEW:

Name of Plan: White River Record of Decision and Approved Resource Management Plan (ROD/RMP).

Date Approved: July 1, 1997

Decision Number/Page: 2-22 through 2-26

Decision Language: Livestock grazing will be managed as described in the 1981 Rangeland Program Summary (RPS). That document is the Record of Decision for the 1981 White River Grazing Management Final Environmental Impact Statement (Grazing EIS).

REVIEW OF EXISTING NEPA DOCUMENTS:

List by name and date all existing NEPA documents that cover the Proposed Action.

Name of Document: White River Resource Area Proposed Resource Management Plan and Final Environmental Impact Statement (PRMP/FEIS).

Date Approved: June 1996

Name of Document: Grazing Permit Renewal and Change in Kind of Livestock on West Shutta allotment #06604 and Change in Kind of Livestock on Colorow allotment #02926.

Date Approved: September 23, 2008

NEPA ADEQUACY CRITERIA:

1. Is the new Proposed Action a feature of, or essentially similar to, an alternative analyzed in the existing NEPA document? Is the project within the same analysis area, or if the project location is different, are the geographic and resource conditions sufficiently similar to those analyzed in the existing NEPA document? If there are differences, can you explain why they are not substantial?

Yes. Most recently this allotment has been authorized to allow grazing by horses as analyzed in NEPA document CO-110-2007-098-EA that also analyzed grazing by cattle. The grazing permit to be issued to LK Livestock will authorize cattle grazing essentially the same as that previously authorized to Grady Ranches #0501468. This grazing was determined to be in conformance with NEPA and the Land Use Plan in January 1997 and was also analyzed in CO-110-2007-098-EA. Proposed livestock grazing use (2015) will adhere to the grazing schedule outlined above that will limit the duration of livestock use in each pasture of the allotment.

2. Is the range of alternatives analyzed in the existing NEPA document appropriate with respect to the new Proposed Action, given current environmental concerns, interests, and resource values?

As stated in CO-110-2007-098-EA, the West Shutta allotment is a Maintain category allotment having no specific management or resource concerns. This categorization remains valid and existing NEPA analysis in CO-110-2007-098-EA, which includes a Proposed Action alternative, Continuation of Current Management alternative, and a No Grazing alternative, remains appropriate and adequate. This EA document analyzed grazing use by either horses or cattle. No reasons were identified to analyze additional alternatives and these alternatives are considered to be adequate and valid for the Proposed Action.

3. Is the existing analysis valid in light of any new information or circumstances (such as, rangeland health standard assessment, recent endangered species listings, updated lists of BLM-sensitive species)? Can you reasonably conclude that new information and new circumstances would not substantially change the analysis of the new Proposed Action?

On March 5, 2010, the US Fish and Wildlife Service (FWS) concluded that the greater sage-grouse warranted listing as an endangered species under the Endangered Species Act, but that listing was precluded by the need to complete listing actions of higher priority. Range-wide, this species is considered a candidate for listing – a designation that affords management attention equivalent to that of species considered “sensitive” by the BLM. Sage-grouse were managed as a sensitive species by the BLM prior to this listing and the existing analysis reflects this and would remain valid in light of the recent listing.

In 2007, the nearest known lek was 6.5 miles from the northern edge of the allotment boundary. Since then, a new lek has been documented within one mile of the southern boundary of the allotment and although male attendance is low (2 – 5 birds) it has consistently supported sage-grouse over the past several years. Similar to the discussion in the existing EA, it is unlikely this area supports strong populations of sage-grouse. The existing analysis adequately addresses impacts from grazing on sage-grouse nesting and brood-rearing habitats and the analysis would remain valid in light of this newly documented lek.

Land health assessments, riparian assessments, and rangeland monitoring conducted for the 2007 analysis remain adequate and valid. Actual use data has been submitted showing use consistent with that previously authorized in the West Shutta Allotment. It is expected that the Colorado Public Land Health Standards would continue to be met under the Proposed Action alternative.

4. Are the direct, indirect, and cumulative effects that would result from implementation of the new Proposed Action similar (both quantitatively and qualitatively) to those analyzed in the existing NEPA document?

Under the Proposed Action, livestock grazing in the West Shutta allotment will be essentially the same as authorized prior to 2007 that permitted livestock grazing of 150 cattle from April 20 to June 10 and 100 cattle from November 20 through January 15. Proposed cattle grazing use will be limited to defined use periods in each pasture to reduce grazing duration and better control overall use and utilization throughout the allotment. Proposed livestock use is similar to that previously authorized and analyzed hence there would be no change to direct, indirect or cumulative effects.

5. Is the public involvement and interagency review associated with existing NEPA documents adequate for the current Proposed Action?

The public involvement and interagency review associated with the existing NEPA document CO-110-2007-098-EA are adequate for the current proposal of issuing a one

year non-renewable permit to this livestock operator and switching the class of livestock back to cattle as previously authorized.

INTERDISCIPLINARY REVIEW:

The Proposed Action was presented to, and reviewed by, the White River Field Office interdisciplinary team on April 1, 2014. A complete list of resource specialists who participated in this review is available upon request from the White River Field Office. The table below lists resource specialists who provided additional remarks concerning cultural resources and special status species.

Name	Title	Resource	Date
Brian Yaquinto	Archaeologist	Cultural Resources, Native American Religious Concerns	8/7/2014
Lisa Belmonte	Wildlife Biologist	Special Status Wildlife Species	7/6/2014
Heather Woodruff	Ecologist	Special Status Plant Species	4/1/2014

REMARKS:

Cultural Resources: There are no cultural-related issues or concerns associated with the Proposed Action. A review of the BLM, WRFO files and the Colorado Office of Archaeology and Historic Preservation (OAHP) Compass on-line database indicate that there has been 112 inventories for cultural resources in the West Shutta allotment, primarily from energy development, resulting in the identification of 28 archaeological sites, 1 paleontological site, and 18 isolated occurrences. Current GIS data shows a total of 1,979 acres of the allotment have been surveyed to date covering 82 percent of the allotment. However, these surveys do not necessarily represent Class III surveys that were done to current standards. The most recent Class III inventory in the allotment occurred in 2011 (The White River Dome 3D Geophysical Exploration Project).

Out of the 28 sites in this allotment, 2 are Eligible or field Eligible, and 9 are potentially Eligible, which indicates a high potential for finding Historic Properties within this allotment. During the fieldwork conducted in the allotment during 2014, BLM archaeologist Brian Yaquinto (8/6/14) visited 5RB238 and 5RB2246 in order to better understand existing conditions on the ground. Yaquinto did not observe any noteworthy grazing impacts to either site. Recognizing that this document is for a one-year nonrenewable permit, when a ten year permit is issued both sites should be monitored before the end of that regular permit period. Additionally, during the current file search site 5RB216 was identified as field Eligible. Because a fence runs through the center of this site and the fence line may serve as a travel corridor for livestock the BLM should visit this site to assess it for impacts before the end of a regular ten year permit period when issued. The results of the cultural resource assessments are summarized in the table below.

CULTURAL RESOURCE LITERATURE REVIEW RESULTS					
Allotment Number	Percent of Allotment Previously Inventoried	Number of Sites Known in Allotment	Additional Inventory Required	High Potential of Historic Properties	Number of Historic Properties to be Visited
06604	~ 82 %	28	No	yes	2
Management Recommendations (Additional inventory required and/or historic properties to be visited).			Two sites (5RB 238 and 5RB 2264) were revisited to assess grazing impacts, both of which had minimal impacts from grazing activities. It is recommended that these sites and 5RB216 be revisited before the end of the regular ten year permit period (ideally within 8 years) to ensure grazing activities are not impacting these sites.		

Native American Religious Concerns: No Native American religious concerns are known in the area, and none have been noted by Northern Ute Tribal authorities. Should recommended inventories or future consultations with Tribal authorities reveal the existence of such sensitive properties, appropriate mitigation and/or protection measures may be undertaken.

Threatened and Endangered Wildlife Species: There are no threatened or endangered animal species that are known to inhabit or derive important use from the project area. Approximately 1,600 acres, confined to the South and Middle pastures, is located in Preliminary General Habitat (PGH) for greater sage-grouse. The North pasture is not within mapped sage-grouse range and would not be expected to support sage-grouse as it is predominantly pinyon-juniper woodlands. The greater sage-grouse is a candidate species under the Endangered Species Act and is also considered a BLM sensitive species. Based on recent Colorado Parks and Wildlife (CPW) mapping efforts, sage-grouse habitat has been classified into two types: 1) preliminary priority habitat (PPH) and 2) preliminary general habitat (PGH). PPH is defined by BLM as those areas having the highest conservation value to maintaining sustainable greater sage-grouse populations. These areas would include breeding, late brood-rearing, and winter concentration areas. PGH is defined by the BLM as greater sage-grouse occupied range outside of PPH. Isolated areas with low activity are typically considered to be general habitat. Although the area is classified as PGH, the habitat in and around the allotment is considered to be breeding habitat due to its proximity to a newly-documented active lek (see below).

Historically this area has supported sage-grouse use. A pair of adults was observed in 2000 and several broods have been documented within the allotment since the 1990's, indicating that this area is capable of supporting sage-grouse nesting and brood-rearing functions. In 2010 an active lek was documented within one mile of the southern boundary of the allotment. This lek has consistently supported birds over the last five years. Roughly 80 percent of nesting occurs within four miles of leks. Good quality breeding habitat generally has sufficient sagebrush canopy cover; however, herbaceous ground cover is extremely important as well. Herbaceous understory (both the height and horizontal component) appear to be an important factor in nest success. Furthermore, because few herbaceous plants are growing when nesting begins in April, it is important that adequate residual herbaceous cover remains to provide concealment from predators during the early nesting period.

Annual spring/fall use in most instances is not compatible with maintaining sage-grouse breeding (nesting and brood-rearing) habitat primarily because the residual (forage) component is greatly

reduced, leaving little herbaceous ground cover for concealment prior to effective spring growth. It is unlikely the proposed grazing schedule will have a substantial influence on sage-grouse or sage-grouse habitat as 1) the allotment did not receive any grazing use during the 2014 season and 2) the permit (authorizing spring/fall use) is valid for one year only. The proposed grazing schedule that will be submitted by the LK Ranch will need to be analyzed to determine if it meets the requirements for maintaining or enhancing sage-grouse breeding habitat and may require modification to meet the habitat requirements for this species. Based on analysis in CO-110-2007-098-EA, current herbaceous conditions contain a strong component of undesirable species such as cheatgrass and to a lesser extent Kentucky bluegrass. A proposal involving long-term annual spring/fall use would only be expected promote non-native species and further reduce the vigor and production of native perennial bunchgrasses and forbs as effective ground cover and forage substrate.

Threatened and Endangered Plant Species: There are no special status plant species issues or concerns associated with the Proposed Action.

MITIGATION:

The following applicable mitigation from DOI-BLM-CO-110-2007-098-EA and from authorization number 0501410 has been carried forward:

1. Cultural resource inventory will be required for any range improvement projects determined necessary to manage the allotment including any new proposed mineral block locations.
2. In the event the Permittee suspects that there has been a release/spill of any chemical, oil, solid waste, petroleum product, or sewage in the allotment, contact the BLM WRFO Hazardous Materials Coordinator at (970) 878-3800 and/or the Colorado Department of Public Health and Environment (CDPHE) through the 24-hour spill reporting line at 1 (877) 518-5608.
3. An Actual Use report must be submitted within 15 days after the end of each grazing period.
4. The permittee is responsible for informing all persons who are associated with any project within or associated with this allotment that they will be subject to prosecution for knowingly disturbing archaeological sites or for collecting artifacts.
5. If any archaeological materials are discovered as a result of operations under this authorization, activity in the vicinity of the discovery will cease, and the BLM WRFO Archaeologist will be notified immediately. Work may not resume at that location until approved by the Authorized Officer (AO). The permittee will make every effort to protect the site from further impacts including looting, erosion, or other human or natural damage until BLM determines a treatment approach, and the treatment is completed. Unless previously determined in treatment plans or agreements, BLM will evaluate the cultural resources and, in consultation with the State Historic Preservation Office (SHPO), select the appropriate mitigation option within 48 hours of the discovery. The permittee, under guidance of the

BLM, will implement the mitigation in a timely manner. The process will be fully documented in reports, site forms, maps, drawings, and photographs. The BLM will forward documentation to the SHPO for review and concurrence.

6. Pursuant to 43 CFR 10.4(g), the permittee must notify the AO, by telephone and written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and (d), the permittee must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the AO.
7. The permittee is responsible for informing all persons who are associated with allotment/project operations that they will be subject to prosecution for disturbing or collecting vertebrate or other scientifically-important fossils, collecting large amounts of petrified wood (over 25lbs./day, up to 250lbs./year), or collecting fossils for commercial purposes on public lands. If any paleontological resources are discovered as a result of operations under this authorization, the permittee/applicant must immediately contact the appropriate BLM representative.

COMPLIANCE PLAN: On-going compliance inspections, surveys, and monitoring will be conducted by the BLM White River Field Office staff periodically. Specific mitigation developed in this document will be followed. Refer to Monitoring and Evaluation section within the Proposed Action of CO-110-2007-098-EA for a detailed description.

NAME OF PREPARER: Mary Taylor

NAME OF ENVIRONMENTAL COORDINATOR: Heather Sauls

CONCLUSION

Based on the review documented above, I conclude that this proposal conforms to applicable land use plan and that the NEPA documentation fully covers the Proposed Action and constitutes BLM's compliance with the requirements of the NEPA.

SIGNATURE OF AUTHORIZED OFFICIAL:

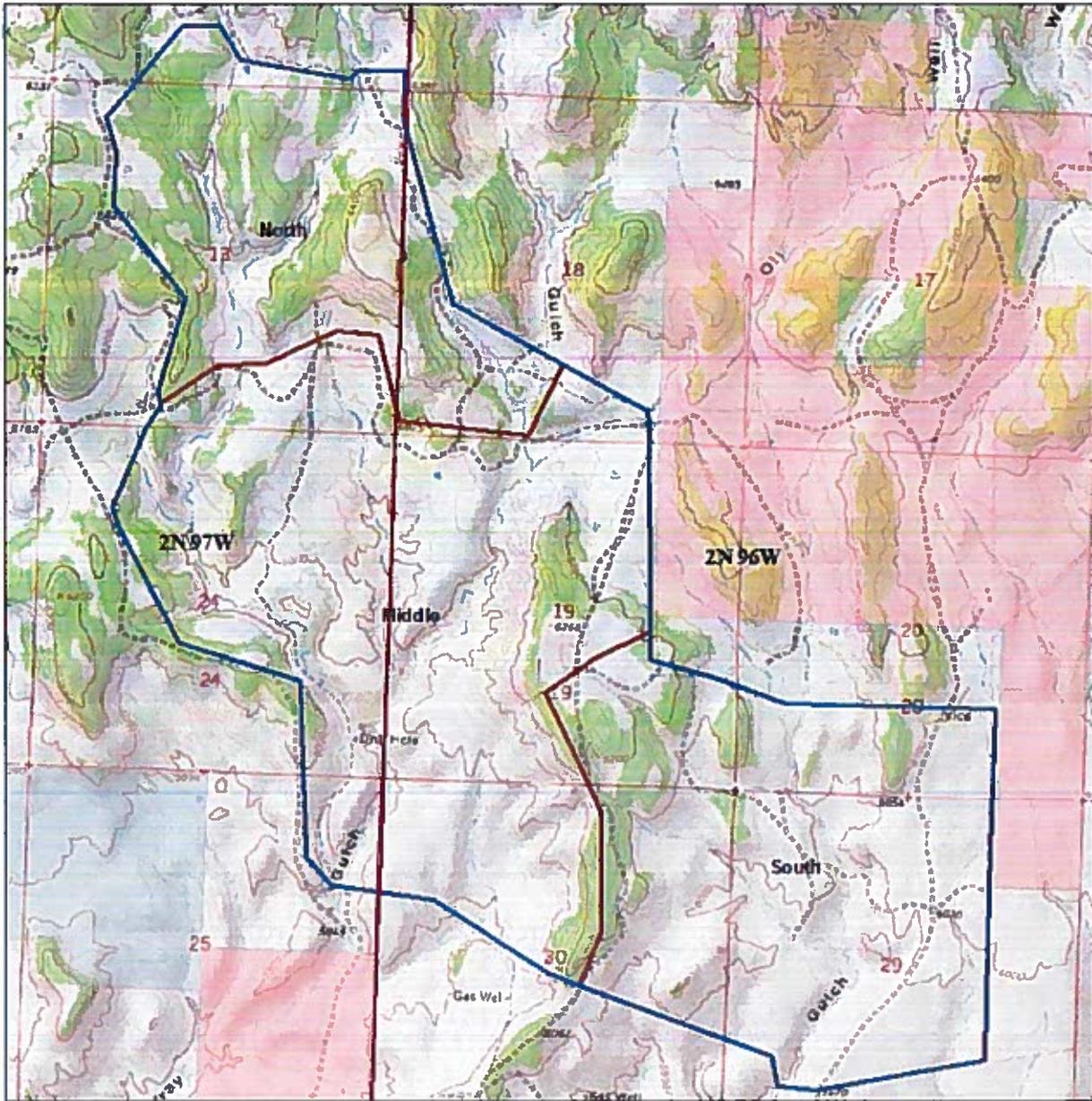


Field Manager

DATE SIGNED: 08/26/2014

ATTACHMENTS: Attachment 1: Map of West Shutta Allotment 06604

Note: The signed Conclusion in this DNA Worksheet is part of an interim step in the BLM's internal decision process and does not constitute an appealable decision. However, the lease, permit, or other authorization based on this DNA is subject to protest or appeal under 43 CFR Part 4 and the program-specific regulations.



- Allotment Boundaries
- Grazing Pastures
- BLM
- CO W
- CO J12
- USFS
- AP E
- M J
- BTH

Source: BLM USGS, CNR, etc.

Disclaimer: Although the data presented within this map, and the map itself, have been prepared or updated by an employee of BLM, no warranty, expressed or implied, is made by BLM regarding the use of the map or the data represented, nor does the distribution constitute an approval of any data shown.



August 2014 M Tj / br





**U.S. Department of the Interior
Bureau of Land Management
White River Field Office
220 East Market Street
Meeker, CO 81641**



CO-110 (WRFO)
Sec 3. CF 0504375

Certified Mail No. 7011 0470 0002 4568 7615
Return Receipt Requested

August 25, 2014

LK Ranch Livestock LLC
c/o Lenny Klingsmith
P.O. Box 1404
Meeker, CO 81641

NOTICE OF PROPOSED DECISION

Dear Lenny:

Bureau of Land Management (BLM) White River Field Office (WRFO) has received your application for a grazing permit on the West Shutta allotment #06604. The application has been reviewed for conformance with 43 CFR 4110.1(b)(2)(i), 4110.1(b)(2)(ii), and 4110.1(b)(2)(iii).

A one-year non-renewable grazing permit is being offered to you based on your recent transfer of grazing preference on the West Shutta Allotment. This permit will authorize livestock grazing for the 2015 grazing season only. To comply with the National Environmental Policy Act of 1969, as amended, this office has reviewed the proposed grazing schedule developed by yourself and WRFO and found it to be consistent with that previously authorized. As part of this review previous NEPA analysis including land health assessments, field observations, and other information has been evaluated and reviewed for this allotment. Information provided by you through consultation was also considered in development of the proposed grazing permit.

The BLM understands that you will submit a grazing application that more closely reflects your grazing preference (416 AUMs) with revised grazing schedules on the West Shutta Allotment. That application and grazing schedules will be analyzed in an environmental assessment document during the winter of 2015 so a ten year grazing permit can be issued to you in time for the 2016 grazing season.

The table below outlines the permit and grazing schedule that is being offered to you for the 2015 grazing year.

PROPOSED DECISION

In conformance with 43 CFR 4160.1, my proposed decision is to implement the Proposed Action, as mitigated in DNA number DOI-BLM-CO-N05-2014-063-DNA for authorization of livestock grazing use in the West Shutta Allotment for a period of one year expiring on February 28, 2016 as supported by 43 CFR 4130.2(d)(3)].

Proposed Temporary (2015) Grazing Permit (LK Ranch) for West Shutta Allotment								
Allotment No. 06604	Livestock		Date		% PL	BLM AUMs scheduled	Suspended AUMs	Total AUMs
	#	Kind	On	Off				
West Shutta (spring)	200	C	04/20	5/25	100	237	0	237
West Shutta (fall)	150	C	11/10	12/15	100	178	0	178

Grazing Schedule for Proposed Temporary (2015) Grazing Permit W Shutta Allotment 06604							
Pasture Name	Livestock		Date		Days Grazed	% PL	BLM AUMs scheduled
	#	Kind	On	Off			
South	200	C	4/20	4/30	11	100	72
Middle	200	C	5/1	5/19	19	100	125
North	200	C	5/20	5/25	6	100	39
North	150	C	11/10	11/15	6	100	30
Middle	150	C	11/16	12/5	20	100	99
South	150	C	12/6	12/15	10	100	49
Total							415

Grazing Permit Terms and Conditions: The following applicable mitigation from DOI-BLM-CO-110-2007-098-EA and from authorization number 0501410 has been carried forward as Other Terms and Conditions:

1. Cultural resource inventory will be required for any range improvement projects determined necessary to manage the allotment including any new proposed mineral block locations.
2. In the event the Permittee suspects that there has been a release/spill of any chemical, oil, solid waste, petroleum product, or sewage in the allotment, contact the BLM WRFO Hazardous Materials Coordinator at (970) 878-3800 and/or the Colorado Department of Public Health and Environment (CDPHE) through the 24-hour spill reporting line at 1 (877) 518-5608.
3. An Actual Use report must be submitted within 15 days after the end of each grazing period.
4. The permittee is responsible for informing all persons who are associated with any project within or associated with this allotment that they will be subject to prosecution for

knowingly disturbing archaeological sites or for collecting artifacts.

5. If any archaeological materials are discovered as a result of operations under this authorization, activity in the vicinity of the discovery will cease, and the BLM WRFO Archaeologist will be notified immediately. Work may not resume at that location until approved by the Authorized Officer (AO). The permittee will make every effort to protect the site from further impacts including looting, erosion, or other human or natural damage until BLM determines a treatment approach, and the treatment is completed. Unless previously determined in treatment plans or agreements, BLM will evaluate the cultural resources and, in consultation with the State Historic Preservation Office (SHPO), select the appropriate mitigation option within 48 hours of the discovery. The permittee, under guidance of the BLM, will implement the mitigation in a timely manner. The process will be fully documented in reports, site forms, maps, drawings, and photographs. The BLM will forward documentation to the SHPO for review and concurrence.
6. Pursuant to 43 CFR 10.4(g), the permittee must notify the AO, by telephone and written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and (d), the permittee must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the AO.
7. The permittee is responsible for informing all persons who are associated with allotment/project operations that they will be subject to prosecution for disturbing or collecting vertebrate or other scientifically-important fossils, collecting large amounts of petrified wood (over 25lbs./day, up to 250lbs./year), or collecting fossils for commercial purposes on public lands. If any paleontological resources are discovered as a result of operations under this authorization, the permittee/applicant must immediately contact the appropriate BLM representative.

Grazing Permit Terms and Conditions: The following Standard Terms and Conditions as required by 43 CFR 4130.3 would be included in the grazing permit issued under this alternative:

1. It is unlawful for the permittee, agents or employees to knowingly disturb or collect cultural, historical or paleontological materials on public lands. If cultural, historical or paleontological materials are found, including human remains, funerary items or objects of cultural patrimony, the permittee is to stop activities that might disturb such materials, and notify the authorized officer immediately.
2. The permittee or lessee must provide reasonable administrative access across private and leased lands to the BLM for the orderly management and protection of the public lands, as outlined in 43 CFR 4130.3-2(h).
3. Grazing permit or lease terms and conditions and the fees charged for grazing use are established in accordance with the provisions of the grazing regulations now or here after approved by the Secretary of the Interior.

4. Permits are subject to cancellation, in whole or in part, at any time because of:
 - a. Noncompliance by the permittee/lessee with rules and regulations.
 - b. Loss of control by the permittee/lessee of all or a part of the property upon which it is based.
 - c. A transfer of grazing preference by the permittee/lessee to another party.
 - d. A decrease in the lands administered by the Bureau of Land Management within the allotment(s) described.
 - e. Repeated willful unauthorized grazing use.
5. They are subject to the terms and conditions of allotment management plans if such plans have been prepared. Allotment management plans **MUST** be incorporated in permits or leases when completed.
6. Livestock use will occur as outlined in the Grazing Schedule in the Proposed Action portion of DOI-BLM-CO-N05-2014-063-DNA for the West Shutta Allotment in accordance with 43 CFR 4120.2(d).
7. Those holding permits or leases **MUST** own or control and be responsible for the management of livestock authorized to graze.
8. The Authorized Officer may require counting and/or additional or special marking or tagging of the livestock authorized to graze.
9. In order to improve livestock distribution on the public lands, no salt blocks and/or mineral supplements will be placed within 1/4 mile of any riparian area, wet meadow, or watering facility (either permanent or temporary) unless stipulated through a written agreement or decision in accordance with 43 CFR 4130.3-2(c).
10. The permittee's/lessee's grazing case file is available for public inspection as required by the Freedom of Information Act.
11. Grazing permits or leases are subject to the nondiscrimination clauses set forth in the Executive Order 11246 of September 24, 1964, as amended. A copy of this order may be obtained from the Authorized Officer.
12. Livestock grazing use that is different from that authorized by a permit or lease **MUST** be applied for prior to the grazing period and **MUST** be filed with and approved by the Authorized Officer before grazing use can be made.
13. Billing notices are issued which specify fees due. Billing notices, when paid, become a part of the grazing permit or lease. Grazing use cannot be authorized during any period of delinquency in the payment of amounts due, including settlement for unauthorized use.
14. Grazing fee payments are due on the date specified on the billing notice and **MUST** be paid in full within 15 days of the due date, except as otherwise provided in the grazing

permit or lease. If payment is not made within that time frame, a late fee (the greater of \$25 or 10 percent of the amount owed but not more than \$250 will be assessed.

15. No Member of, or Delegate to, Congress or Resident Commissioner, after his/her election of appointment, either before or after he/she has qualified, and during his/her continuance in office, and no officer, agent, or employee of the Department of the Interior, other than members of Advisory committees appointed in accordance with the Federal Advisory Committee Act (5 U.S.C. App.1) and Sections 309 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) shall be admitted to any share or part in a permit or lease, or derive any benefit to arise therefrom; and the provision of Section 3741 Revised Statute (41 U.S.C 22), 18 U.S.C. Sections 431-433, and 43 CFR Part 7, enter into and form a part of a grazing permit or lease, so far as the same may be applicable.

This proposed decision is being issued to you as an affected party under authority of 43 CFR 4160.1, and as a qualified applicant under 4130.2(a) and (e). Changes being made to the existing permit, in the proposed grazing schedule are supported by regulation 43 CFR 4180.1(a) and (b) and 4180.2(c) which direct the Authorized Officer to take appropriate action as soon as practicable but not later than the next grazing year upon determination that existing grazing management needs to be modified to ensure the Fundamentals of Rangeland Health and Standards and Guidelines are being met. Proposed changes are also supported by 43 CFR 4180.2 (e) (1-7) and (10-12). The Proposed Action is subject to and has been reviewed for conformance with the following plan (43 CFR 1610.5, BLM 1617.3); White River Record of Decision and Approved Resource Management Plan (ROD/RMP), approved: July 1, 1997, pages 2-10 through 2-14, 2-22 through 2-26.

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 Kent Walter, Field Manager White River Field Office, 220 E. Market Street, Meeker, CO 81641 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 writing*) in accordance with 43 CFR 4.470 and 43 CFR 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 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 person/party must also serve a copy of the appeal on the Office of the Solicitor, Rocky Mountain Region, Denver Field Office, U.S. Department of the Interior, 755 Parfet Street, Room 151, Lakewood, CO 80215.

The appeal shall state the reasons, clearly and concisely, 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 4.471.

Any person named in the decision who 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, contact either Mary Taylor, Rangeland Management Specialist at 878-3807, or myself at 878-3800.

Sincerely,



Kent E. Walter
Field Manager