



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
High Desert District
Kemmerer Field Office
430 North Highway 189
Kemmerer, Wyoming 83101-9711

In Reply Refer To:
4160 (WYD09)

March 16, 2015

CERTIFIED-RETURN RECEIPT REQUESTED

NOTICE OF THE FIELD MANAGER'S PROPOSED DECISION

Issue Livestock Grazing Permit (#4904112) on the Leroy Allotment #11320 With Modified Terms and Conditions

Environmental Assessment DOI-BLM-WY-D090-2009-0097-EA

Dear Permittees and Interested Publics:

The following is my Proposed Decision to re-issue grazing permit (#4904112) for the Leroy Allotment with modifications to terms and conditions as described below (under **PROPOSED DECISION**). There is also an exchange of use permit (#4900072) on the allotment that is discussed.

BACKGROUND:

On September 30, 2008 a scoping letter was sent to all operators and agencies/individuals who expressed an interest in the management of the Leroy Allotment. This scoping letter requested any information or comments concerning issuance of grazing permits on the Leroy Allotment. The BLM received a letter in response to this scoping notice from the Wyoming Game and Fish Department which stated there were no terrestrial or aquatic wildlife concerns pertaining to the renewal of the grazing permits; and one letter from Western Watersheds Project in relation to the purpose and need, alternatives, and cumulative impacts; the letter did not offer any site-specific information regarding the allotment considered in this EA.

Comments relating to pertinent issues such as water quality, BLM sensitive species, soils, vegetation, and socio-economics, as well as purpose and need, alternatives and cumulative impacts are addressed in EA# DOI-BLM-WY-D090-2009-0097-EA.

The Leroy Allotment contains two lotic (flowing) systems, Muddy Creek and Soda Hollow Creek. Assessments completed in 2001 and 2010 showed Soda Hollow Creek as being in PFC.

In 2013, a Standards for Healthy Rangelands assessment was completed for the Leroy Allotment. The Conformance Review Summary determined that the allotment was meeting every standard for rangeland health with the exception of Standard #2 (riparian and wetland vegetation) although raw banks were healing and riparian communities had improved from previous assessments. Standard #2 was also noted

as not being met during a Draft Standards Conformance Review in 2001, and during Proper Functioning Assessments conducted in 2010 and 2011. BLM staff noted that the number and length of segments along Muddy Creek with riparian vegetation along the greenlines increased noticeably after 2009, and in 2010 Muddy Creek was rated as Functioning at Risk with an upward trend, an improvement from the previous assessments. Increases in the number and density of riparian species present, as well as the size of the vegetated segments of streambank were noted, accounted for the upward PFC trend in 2010. The primary cause for non-conformance with the land health standard for Muddy Creek was determined to be insufficient amounts of wetland vegetation to provide adequate protection from high water flows and/or livestock impacts. There are several raw banks along the entrenched portions of Muddy Creek, though most appear to be healing and the riparian plant communities along Muddy Creek appear to be increasing in size and number. Most point bars were revegetating with riparian species.

The Leroy allotment riparian systems weathered high runoff years in both 2010 and 2011 without notable erosion or instability. Assessments indicate there is a diverse age class and composition of woody and herbaceous riparian-wetland vegetation. Riparian plant species present indicate proper soil moisture characteristics. Nebraska sedge (*Carex nebrascensis*) and beaked sedge (*Carex utriculata*) are becoming established along several stretches of Little Muddy where they previously did not exist. Much of the Little Muddy channel immediately south and north of the interstate has only baltic rush present, but the known presence of the mineral springs and soil salinity indicate that the sedges are limited by alkalinity, not livestock impacts.

The willows encountered in the Leroy Allotment were all found in, or next to, Little Muddy Creek's current channel. All were moderately to severely hedged due to browsing by herbivores. Though all were physically short in stature, some had very thick basal stems (3/4" to 1" in diameter) indicating that the plants were mature in age.

From 2011 to 2013 the Bureau of Land Management (BLM) Kemmerer Field Office (KFO) analyzed the grazing permits (active and exchange of use) on the Leroy Allotment. The BLM – KFO analysis for issuing grazing permits on this allotment is described in Environmental Assessment DOI-BLM-WY-D090-2009-0097-EA.

*To access Environmental Assessment DOI-BLM-WY-D090-2009-0097-EA and associated Finding of No Significant Impact go to the following internet address:

<http://www.blm.gov/wy/st/en/info/NEPA/documents/kfo/grazing.html>

If you do not have internet access and would like a paper copy mailed to you, please contact Travis Chewning, Planning and Environmental Coordinator, (307) 828-4518.

PROPOSED DECISION:

My Proposed Decision is to issue grazing permit #4904112 on the Leroy Allotment with modified terms and conditions which address the non-conformance with Standard #2 of the Wyoming Rangeland Standards.

The active grazing permit for the Leroy Allotment (#4904112) will be issued for a period of ten (10) years and will incorporate the following terms and conditions:

Permitted Livestock Use

Authorization	Number	Kind	Begin	End	% public land	AUMs
4904112 (active)	197	cattle	05-01	05-31	49	98
	293	cattle	06-01	07-31	49	288
	252	cattle	08-01	10-31	49	373

- The term of the active permit (4904112) is from March 1, 2015 to February 28, 2025, consistent with 43 CFR 4130.2(d)(3).
- Authorization is for standard livestock grazing only. Any related projects (e.g. fence lines, water pipelines and troughs, spring developments, reservoirs, etc.) and locations for feed supplements (e.g. “crystalix” & other mineral feed supplements, etc.) within the allotment boundaries require separate authorizations.
- Locate livestock salt or mineral supplements a minimum of ¼ mile away from water sources, riparian areas, and aspen stands.

A number of studies have shown that strategic supplement placement can be used to manipulate livestock distribution, thereby reducing use and stress on riparian systems (Bailey & Welling 1999, Bailey et al 2001, McDougald et al 1989, McInnis & McIver 2001). This would likely lead to a reduction in the intensity of use in the riparian zones and an improvement in the condition of riparian systems within this allotment.

- Adaptive management will be utilized by the permittee as discussed with the BLM to continue to improve both upland and riparian communities. Water sources in the northwest pasture will be investigated for livestock distribution.
- To address riparian concerns, all livestock will be moved off the riparian areas after watering to prevent overuse of riparian plant species.
- BLM and the permittee will participate in rangeland monitoring according to guidelines in the Wyoming Rangeland Monitoring Guide: A Cooperative and Voluntary Approach to Monitoring Rangelands (BLM 2001).
- An upland utilization rate of 50% of herbaceous species (by weight) will be used as a pasture move criteria.
- A riparian key sedge species or stubble height of 4-6 inches or floodplain bluegrass (where present) of 1-1.5 inches will be used as a pasture move criteria.
- All utilization (actual use reports) and monitoring data from the permittee/lessee is due no later than 15 days after the end of the grazing season.
- Failure by any permittee to provide required actual use (or monitoring reports) may be considered grounds for withholding permits from that permittee for the following grazing year.
- Fences and other developments must be functional prior to livestock entering the allotment for the season. Permittee will conduct all required maintenance and will notify the BLM when maintenance activities are completed.
- If future grazing activity within the allotment boundaries should expose previously undetected cultural resources or if BLM determines that significant historic properties are being damaged by grazing activities within the allotment boundaries, the terms and conditions of this permit will be amended to protect any such historic properties until such time as protective barriers and/or mitigation of these adverse impacts can be conducted.
- Cooperative monitoring between the BLM and the permittees will determine when the new grazing utilization standards have been met. When the grazing standards have been met, the cattle

will be moved to the next pasture so riparian areas have a chance to improve (standard #2).

The four-pasture deferred rotation system will continue to be implemented. The stubble heights on riparian grasses and sedges will be monitored to move livestock to another pasture when minimum average stubble heights are equal to or less than the minimum allowed heights.

The Exchange of Use permit #4900072 (spring sheep use), will also be modified to include the terms and conditions detailed above for a period equal to the remaining portion of Larson Livestock's lease with Western Wyoming Range L.P. (landowner). Sheep will be trailed to water and promptly moved back to the uplands after watering. Sheep camps will not be allowed on public lands without prior written approval.

E/U Permitted Livestock Use (Larson Livestock Inc.)

Authorization	Number	Kind	Begin	End	% public land	AUMs
4900072	43	sheep	03-01	02-28	100	103

RATIONALE:

The decision to issue this grazing permit is in compliance with the Kemmerer Resource Management Plan (RMP), signed May 24, 2010, which identifies this allotment as being open for livestock grazing and falling within the authority of the Taylor Grazing Act of 1934, the Federal Land Policy and Management Act of 1976, and the Grazing Administration regulations under 43 CFR 4100. The grazing permits have been reviewed to determine if they conform to the Land Use Plan (LUP) terms and conditions as required by 43 CFR 1610.5. All qualifications of 43 CFR 4110.1, 4110.2-1 and 4110.2-2 are being met and the issuance of these grazing permits is consistent with 43 CFR 4130.2, 4130.3-1 and 4130.3-3.

The decision to issue grazing permits on the allotment, with the given terms and conditions that address the nonconformance with Standard #2, has been made in consideration of the environmental impacts listed in the Proposed Action alternative given in DOI-BLM-WY-D090-2009-0097-EA.

Specifically, this decision will allow continued livestock grazing on this allotment, (which meets the BLM's multiple use resource objectives, as per the Federal Land Policy and Management Act of 1976 (FLPMA)), while promoting an improvement in ecological conditions of both upland sites and riparian areas by incorporating permit terms and conditions that improve livestock distribution.

The proposed action/decision has been analyzed for consistency with WY-IM-2012-019 "Greater Sage-Grouse Habitat Management Policy on Wyoming BLM Administered Public Lands" and WO-IM-2012-043 "Greater Sage-Grouse Interim Management Policies and Procedures."

The Resource Management Plan (RMP) for the Kemmerer Field Office is currently undergoing amendment as part of the Wyoming Greater Sage-Grouse Land Use Plan Amendment (Amendment). The Draft Amendment and Environmental Impact Statement were released in December 2013.

The proposed action/decision was screened against the Draft Amendment to ensure that the proposed action/decision would not preclude BLM's ability to select any alternative in a Record of Decision. The proposed action/decision was also determined to not be inconsistent with the direction outlined in the Amendment's Preferred Alternative.

With application of Standard Operating Procedures, applied mitigation, required Best Management Practices and Conditions of Approval identified for Greater Sage-Grouse under the proposed action/decision, impacts caused by surface-disturbing and disruptive activities would be minimized.

AUTHORITY:

The authority to issue, manage and modify grazing permits or leases on public land is provided by the Taylor Grazing Act of 1934, the Federal Land Policy and Management Act of 1976 and the following Code of Federal Regulations (CFR):

43 CFR 4100.0-8 which states:

"The authorized officer shall manage livestock grazing on public lands under the principle of multiple use and sustained yield, and in accordance with applicable land use plans. Land use plans shall establish allowable resource uses (either singly or in combination), related levels of production or use to be maintained, areas of use, and resource condition goals to be obtained. The plans also set forth program constraints and general management practices needed to achieve management objectives. Livestock grazing activities and management actions approved by the authorized officer shall be in conformance with the land use plan as defined at 43 CFR 1601.0-5(b)."

43 CFR 4110.1(b) (1) (i) which states:

"Applicants for the renewal or issuance of new permits and leases and any affiliates must be determined by the authorized officer to have a satisfactory record of performance.

43 CFR 4110.2-2(a) which states in pertinent part:

"...Permitted livestock use shall be based upon the amount of forage available for livestock grazing as established in the land use plan...."

43 CFR 4130.2(b), (d) & (f) which state in pertinent part:

(b) "The authorized officer shall consult, cooperate and coordinate with affected permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public prior to the issuance or renewal of grazing permits and leases."

(d)(3) "The term of the 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...

(3)"The term of the base property lease is less than 10 years, in which case the term of the Federal permit or lease shall coincide with the term of the base property lease;

(f) The authorized officer will not offer, grant or renew grazing permits or leases when the applicants, including permittees or lessees seeking renewal, refuse to accept the proposed terms and conditions of a permit or lease.

43 CFR 4130.3 which states:

"Livestock grazing permits and leases shall contain terms and conditions determined by the authorized officer to be appropriate to achieve the management and resource condition objectives for the public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with the provisions of subpart 4180 of this part."

43 CFR 4130.3-1(a) which states:

"The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the amount of use, in animal unit months, for every grazing permit or lease. The authorized livestock grazing use shall not exceed the carrying capacity of the allotment."

43 CFR 4130.3-2 which states in pertinent part:

"The authorized officer may specify in grazing permits or leases 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..."

RIGHT OF PROTEST AND/OR APPEAL:

Any applicant, permittee, lessee or other interested party may protest a proposed decision under 43 CFR 4160.2, in person or in writing to:

William A. Mier, Field Manager
Bureau of Land Management
Kemmerer Field Office
430 North Highway 189
Kemmerer, Wyoming 83101

Protests must be received within 15 days after receipt of the 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 pending appeal, in accordance with 43 CFR 4.471. The appeal and petition for a stay must be filed in person or in writing to the address given above.

The appellant must serve a copy of the appeal by certified mail on the Office of the Field Solicitor, Rocky Mountain Region, at 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 must clearly and concisely state the reasons why the appellant thinks the final decision is wrong and must otherwise comply with the provisions of 43 CFR 4.470.

Should you wish to file a petition for a stay, you must comply with the provisions at 43 CFR 4.471. Among other things, that regulation requires that a petition for a stay 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.

Any person named in the decision from which an appeal is taken who wishes to file a response to the petition for a stay may file with the Hearings Division a motion to intervene in the appeal, together with

the response, within 10 days after receiving the petition. The person must serve copies of the motion to intervene and response on the appellant, the Office of the Solicitor and any other person named in the decision (43 CFR 4.472(b)).

Please contact Bailey Terry, Range Management Specialist, at (307) 828-4500, if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "William A. Mier". The signature is written in a cursive style with a large, sweeping initial "W".

William A. Mier
Field Manager

Copies Sent To:

Peremittes:

Larson Livestock
c/o Carl Larson
PO Box 395
Lyman, WY 82937

Micheli Hereford Ranch
c/o Joe Micheli
Box 15
Fort Bridger, WY 82933

Interested Publics:

Western Watersheds Projects
c/o Johnathan Ratner
PO Box 1160
Pinedale, WY 82941

Wyoming Farm Bureau
PO Box 1348
Laramie, WY 82073

DEQ - Administration
Herschler Building 4th Floor West
122 West 25th Street C
Cheyenne, WY 82002

Wyoming Livestock Board
1934 Wyott Drive
Cheyenne, WY 82002

Wyoming Game and Fish Dept
Attn: Mark Zornes
351 Astle Ave
Green River, WY 82935

State Planning Office
Herschler Building 1st Floor East
122 West 25th Street
Cheyenne, WY 82002

Wyoming Business Council
West Central Region
213 West Main Street, Suite C
Riverton, WY 82501

Wyoming Game and Fish Dept.
5400 Bishop Blvd.
Cheyenne, WY 82006

DEQ – Water Quality Division
Herschler Building 4th Floor West
122 West
Cheyenne, WY 82002

State Hist. Presev. Office
Barrett Building, 3rd Floor
122 West 25th Street
Cheyenne, WY 82002

Office of State Lands & Invest.
Herschler Building 3rd Floor West
122 West 25th Street
Cheyenne, WY 82002

Wyoming Dept. of Agriculture
c/o Justin Williams
2219 Carey Avenue
Cheyenne, WY 82002

U.S. Fish and Wildlife Service
5353 Yellowstone Road, STE 308A
Cheyenne, WY 82009

Wyoming State Grazing Board
P.O. Box 1202
Lander, WY 82520

DEQ - Water Quality Division
Herschler Building 4th Floor West
122 West 25th Street
Cheyenne, WY 82002