

# United States Department of the Interior Bureau of Land Management

## Proposed Decision Record Environmental Assessment DOI-BLM-WY-D090-2010-129-EA

### EVALUATION OF LIVESTOCK GRAZING IMPACTS:

Crawford Mountain Allotment (01465)  
Cumberland Flats Allotment (01458)  
Cumberland/Uinta Allotment (01206)  
Elk Mountain Pasture Allotment (11209)  
Elkol Allotment (01460)  
and  
Byrne Creek Allotment (21505)  
Rock House Allotment (11503)

**Location:** Lincoln and Uinta Counties, Wyoming and Rich County, Utah

#### ***Applicant list:***

Backward S LLC  
Bear River Land and Grazing Co.  
Bell Butte Grazing Partnership  
B&H Ranching Co, Inc  
C Seven Bar Inc.  
Circle 7 Land & Lvst Inc  
Cornia, Helen K  
Cornia, William D Estate  
Ellis, Silas H Living Trust  
Hatch, Douglas and Joanna  
Hatch Land & Lvst Co.  
Hatch, G&J Ranch LLC  
Hopkin, J Vern & Alonza  
Jackson Land & Lvst Co. LLC  
J.F. Ranching Co, Inc.

J.W. Cattle Co. Inc.  
Julian Land and Lvst Corp  
K-Ron Ranch LLC  
Lazy S Ranching Co. Inc  
Rees Land & Lvst  
Schulthess, Wallace & Jeanette  
Sims Lvst  
Stuart, Kent  
Stuart, Ronald & Kathleen  
Telford, Roger  
Thoman, W&M, LLC  
Uinta Lvst Graz Partn.  
Wilson, Steve  
Wilson Ranch

July 2013

High Desert District  
Kemmerer Field Office  
312 Highway 189 North, Kemmerer, Wyoming 83101-9711



The BLM's multiple-use mission is to sustain the health and productivity of the public lands for the use and enjoyment of present and future generations. The Bureau accomplishes this by managing such activities as outdoor recreation, livestock grazing, mineral development, and energy production, and by conserving natural, historical, cultural, and other resources on public lands.

**BLM/WY/PL-13/031+1020**

**DOI-BLM-WY-D090-2010-129-EA**

**PROPOSED DECISION RECORD**  
**Environmental Assessment**  
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**BACKGROUND**

Under consideration is the reissuance of 35 grazing permits or leases to 29 permittees/lessees under the National Environmental Policy Act (NEPA), for ten years. The seven Cumberland area allotments (Cumberland) encompass a total of 432,35 acres in southern Lincoln County and northern Uinta County, Wyoming and eastern Rich County, Utah.

**PROPOSED DECISION**

The action, as outlined under 43 CFR subparts 4160 and 4120.2 (c), is to reissue the 35 grazing permits/leases on the Cumberland with modified terms and conditions as described in Alternative 1 of the Environmental Assessment (EA). The EA can be viewed at the following website:

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

Alternative 1 of the EA addresses the current permit conditions with modified terms and conditions required by the Kemmerer Resource Management Plan.

**RATIONALE**

The permits and leases are being proposed to be reissued under the current permit conditions as range conditions meet standards or are improving. Byrne Creek (21505), Crawford Mountain (01465), Cumberland Flats (01458) and Elk Mountain (11209) allotments meet the *Standards for Healthy Rangelands and Guidelines for Livestock Grazing Management for the Public Lands Administered by the BLM in the State of Wyoming*. For the Elkol (01460) allotment, public lands in the allotment only account for 18% of the total land area of the allotment. The Cumberland/Uinta (01206) and Rock House (11503) allotments are managed under the current CMP (USDI BLM 2000b) which has helped to improve riparian areas and is making progress to meet Standard #2 as outlined in the *Standards for Healthy Rangelands and Guidelines for Livestock Grazing Management for the Public Lands Administered by the BLM in the State of*

*Wyoming.* In addition, the CMP outlines that the livestock carrying capacity of the allotment was 244,000 AUMs, and of this total production 20% was allocated to livestock with the remaining 80% being reserved for plant health, watershed and soil protection, wildlife habitat and aesthetic purposes (USDI BLM 2000b).

We are modifying the Terms and Conditions in order to comply with the Kemmerer Resource Management Plan and to facilitate improvement in the condition of the riparian communities to distribute any impacts along the landscape.

The following utilization criteria are designed to maintain or improve both upland and riparian plant health, leading to healthy communities.

### **Compliance and Monitoring:**

The following Terms/Conditions/Stipulations are applicable to Federally-owned lands within the Cumberland under the specific season, animal type or conditions designated:

The proposed action re-authorizes livestock grazing permits/leases for the Byrne Creek (21505), Crawford Mountain (01465), Cumberland Flats (01458), Cumberland/Uinta (01206), Elk Mountain Pasture (11209), Elkol (01460) and Rock House (11503) allotments with the same terms and conditions as the existing authorizations (Appendix 2 of the EA) plus the addition of the following term and condition:

Locate salt and/or mineral supplement placement at least ¼ mile away from water troughs, riparian areas, aspen stands, sensitive plant species, and historic trails and monuments.

The grazing permits/leases, which were issued under Public Law 108-108 or Section 426, Public Law 111-8, would be renewed with the modification listed above to the terms and conditions. These allotments would be managed in accordance with the Standards for Healthy Rangelands and Guidelines for Livestock Grazing Management for the Public Lands Administered by the BLM in the State of Wyoming.

There would be no change from current management on any of the seven allotments, the season of use, or the number of livestock, and the Animal Unit Months (AUMs) would remain the same.

### **Mandatory Terms and Conditions**

The authorized officer for the BLM will specify the mandatory terms and conditions for each authorization, i.e., the allotment, the kind and number of livestock, the period(s) of use, the type of use and AUMs (Appendix 2 of the EA). The authorized livestock grazing use shall not exceed the livestock carrying capacity of the allotment. Other Administrative Terms and Conditions contained in BLM grazing permits are incorporated by reference. The current grazing permits can be viewed at <http://www.blm.gov/ras/>. The following is a summary of allotment specific terms and conditions.

Allotment Specific Terms and Conditions (Appendix 2 of the EA)

Byrne Creek Allotment, 21505:

The Byrne Creek allotment is managed as a Category M (maintain) allotment, therefore the season of use and number or kind of livestock are not restricted, as long as the health of the federal range is maintained.

Crawford Mountain Allotment, 01465:

The Crawford Mountain allotment is managed as a Category C (custodial) allotment, therefore the season of use and number or kind of livestock are not restricted, as long as the health of the federal range is maintained.

Cumberland Flats Allotment, 01458:

The Cumberland Flats allotment is managed as a Category M (maintain) allotment. Wyoming State Law requires trichomoniasis testing for bulls in common use allotments. Documentation of trichomoniasis tests must be filed with the BLM at least 20 days prior to turn-out or bulls will not be authorized in accordance with 43 CFR 4130.7(b).

Cumberland/Uinta, 01206 and Rock House, 11503:

The Cumberland/Uinta allotment is managed as a Category I (improve) allotment. The Rock House allotment is managed as a Category M (maintain) allotment. The Rock House Allotment is combined with the Bell Butte pasture in the Cumberland/Uinta allotment. The Bell Butte pasture and the Rock House allotment are managed as one large pasture within the Cumberland/Uinta allotment. Grazing use in the Cumberland/Uinta and Rock House allotments shall be in accordance with the Cumberland/Uinta Cooperative Management Plan dated January 2000 (USDI BLM 2000a).

Wyoming State Law requires trichomoniasis testing for bulls in common use allotments. Documentation of trichomoniasis tests must be filed with the BLM at least 20 days prior to turn-out or bulls will not be authorized in accordance with 43 CFR 4130.7(b).

Actual use reports are required on all "I" category allotments within 15 days after the grazing season.

Elk Mountain Pasture Allotment :

The Elk Mountain Pasture allotment is managed as a Category M (maintain) allotment, with livestock kind not restricted as long as the health of the federal range is maintained.

Utilization levels on the federal range will be held to 50%. The following options are allowed for the grazing on the Elk Mountain Pasture allotment:

69 Sheep, 5/1 to 11/30 at 38% PL (public land) for 37 AUMs or

14 Cattle, 5/1 to 11/30 at 38% PL for 37 AUMs or

14 Horses, 5/1 to 11/30 at 38% PL for 37 AUMs.

## Elkol Allotment

The Elkol allotment is managed as a Category C (custodial) allotment. There are no allotment specific terms and conditions.

### **General Terms and Conditions incorporated into all permits to protect Cultural Resources:**

- 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.
- In order to protect the remaining National Historic Trail (NHT) corridors within the Cumberland, all stockherder camps, supplemental feed, salt/mineral blocks, and any other measures that would artificially concentrate livestock in one place are prohibited within the designated ¼ mile buffer zone along the NHT corridor. This stipulation applies specifically to federal surface as listed in the cultural clearance. In addition, adherence to this ¼ mile buffer is recommended along those segments of the NHT located on non-federal surface. Alternatively, a Class III inventory could be conducted on any proposed camp, feed, or salt/mineral block site within ¼ mile of the trail in order to minimize new impacts to the trail setting.
- In order to ensure that historic properties are not being impacted by livestock grazing, periodic inspections of known historic properties will be required. In addition, Rangeland Management Specialists will keep the Cultural Resources staff fully informed concerning areas of livestock congregation and all areas subject to impacts. This information will be disclosed to the Cultural Resources staff members as these areas become known.
- 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.

### **PLAN CONFORMANCE AND CONSISTENCY:**

The proposed action and alternatives have been reviewed and found to be in conformance with one or more of the following BLM Land Use Plans and the associated decision(s): Taylor Grazing Act, Public Rangelands Improvement Act, Federal Land Policy and Management Act, and the Kemmerer Resource Management Plan and ROD, approved May 2010.

### **Alternatives Identified and Considered Other Than the Proposed Action (Alternative 1):**

**Alternative 2 – Continuation of Current Permits (No Action)**

This alternative would re-authorize all currently existing grazing permits (see Appendix 2, EA) for the Cumberland with the current terms and conditions. Existing Terms and Conditions attached to the current permits would be carried forward without modification.

### **Alternative 3 – No Grazing**

Under this alternative, the existing Cumberland grazing permits/leases would be canceled or allowed to expire without renewal and the BLM would require the permittees to remove livestock from the public lands in the allotments. Under this alternative, livestock grazing on the Cumberland would not be authorized by the BLM and none of the available forage on BLM lands would be allocated to livestock. BLM would not collect fees associated with the grazing permits.

### **Considerations:**

A scoping letter was sent out to current permittees and interested publics in 2009 (see Section 1.4 of the EA). As a result of the scoping comments received (as well as the internal scoping process), the three alternatives analyzed in the EA were identified (see Chapter 2 of the EA for full description of each alternative).

### **Alternatives Considered but not Analyzed**

#### 1. Reduce Stocking rate on allotments by 50%

In this alternative, the KFO defines a reduction of stocking rate as a decrease in livestock numbers by 50%.

For Byrne Creek (21505), Crawford Mountain (01465), Cumberland Flats (01458) and Elk Mountain (11209) allotments, a reduction of stocking rate is not necessary. All of the aforementioned allotments meet the Standards for Healthy Rangelands and Guidelines for Livestock Grazing Management for the Public Lands Administered by the BLM in the State of Wyoming. For the Elkol (01460) allotment, public lands in the allotment only account for 18% of the total land area of the allotment; a reduction in stocking rate would not be an effective tool. For the Cumberland/Uinta (01206) and Rock House (11503) allotments the KFO seriously considered this alternative. However, the current CMP (USDI BLM 2000a) has more than adequately approached the concerns of the riparian areas. All riparian areas in the allotment are improving and making progress to meet Standard #2 as outlined in the Standards for Healthy Rangelands and Guidelines for Livestock Grazing Management for the Public Lands Administered by the BLM in the State of Wyoming. In addition, the CMP outlines that the livestock carrying capacity of the allotment was 244,000 AUMs, and of this total production 20% was allocated to livestock with the remaining 80% being reserved for plant health, watershed and soil protection, wildlife habitat and aesthetic purposes (USDI BLM 2000a). In addition there are five sheep permits currently authorized on the allotment. Of these five permits, three are currently held in voluntary non-use status, involving 4,015 federal AUMs. This represents 8% of the total AUMs allocated to the allotment. The reduction of the stocking rate for the Cumberland/Uinta and Rock House allotments is deemed unnecessary.

2. Separate the common-use Cumberland/Uinta and Rock House Allotments by providing for a four pasture deferred rotation grazing plan in each allotment.

The KFO received a request to consider splitting the Cumberland/Uinta and Rock House allotments into two separate allotments and develop within each a four pasture deferred rotation grazing plan. The request did not identify, within the confines of the borders of the current allotments, where appropriate boundaries might be established for additional pastures, nor did the request come accompanied by any additional water developments for livestock or wildlife. The request did not advise the KFO what permits currently authorized for the allotments would be in each of the two allotments. During review, the KFO could not identify potential impacts to any resource due to the proposed 'split' that would not have been approached in the proposed action. The development of plans for two allotments was deemed unnecessary.

### **Authorities:**

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 publics may protest a proposed decision under Sec. 43 CFR 4160.2, in person or in writing to:

Jeromy Caldwell  
Field Manager  
Bureau of Land Management  
Kemmerer Field Office  
312 Hwy 189 North  
Kemmerer, WY 83101

The protest must be filed 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.

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.

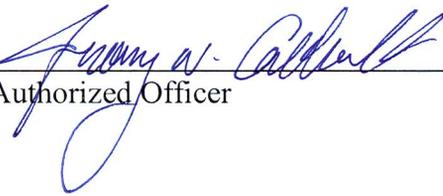
Any applicant, permittee, lessee or other person whose interest is adversely affected by the final decision may file an appeal in accordance with 43 CFR 4.470 and 43 CFR 4160.1-4. The appeal may be accompanied by a petition for a stay of the decision in accordance with 43 CFR 4.21, pending final determination on appeal. The appeal and petition for a stay must be filed in the office of the authorized officer, as noted above, within 30 days following receipt of the final decision, or within 30 days after the date, the proposed decision becomes final. 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 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)).

  
\_\_\_\_\_  
Authorized Officer

7-30-13  
\_\_\_\_\_  
Date