



## United States Department of the Interior

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



In Reply Refer To:  
4160 (WYD09)

June 9, 2014

CERTIFIED-RETURN RECEIPT REQUESTED

### NOTICE OF THE FIELD MANAGER'S PROPOSED DECISION

***Issue Livestock Grazing Permits (#4904116, #4903845, #4900209, #4904188, #4904025 and 4904026) on the Dempsey Basin Allotment #21038 With Modified Terms and Conditions***

***Environmental Assessment DOI-BLM-WY-D090-2012-158-EA***

Dear Permittees and Interested Publics:

#### **INTRODUCTION**

The following is my Proposed Decision to re-issue grazing permits (#4904116, #4903845, #4900209, #4904188, #4904025, #and 4904026) for the Dempsey Basin allotment with modifications to terms and conditions as described below (under **PROPOSED DECISION**).

#### **BACKGROUND**

On November 29, 2010 a scoping letter was sent to all operators and agencies/individuals who expressed an interest in the Dempsey Basin allotment. This scoping letter requested any information or comments concerning issuance of grazing permits on the Dempsey Basin allotment. The BLM received one letter in response to this scoping notice, from the Wyoming Game and Fish Department. Comments from these letters are addressed in EA# DOI-BLM-WY-D090-2012-EA-158, page 3.

In 2013 a Standards for Healthy Rangelands assessment was completed for the Dempsey Basin allotment. The Conformance Review Summary (dated August 7, 2012) determined that the allotment was not meeting the standards for healthy rangelands related to soils and riparian/wetland areas. Intermittent streams and practices on private land were determined to be the primary cause for non-conformance with the land health standards. The assessment determined that livestock were not a significant causal factor for not meeting the land health standards.

From 2011 to 2013 the Bureau of Land Management (BLM) Kemmerer Field Office (KFO) analyzed the grazing permits on the Dempsey Basin allotment. This analysis utilized the Standards for Healthy Rangelands assessment data, as well as information gathered from the scoping letters. The BLM – KFO analysis for issuing grazing permits on these allotments is described in Environmental Assessment DOI-BLM-WY-D090-2012-EA-158.

\*To access Environmental Assessment DOI-BLM-WY-D090-2012-EA-158 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 Carl Bezanson, Rangeland Management Specialist at (307) 828-4522.

**PROPOSED DECISION**

My Proposed Decision, which is both a NEPA Decision and a Proposed Grazing Decision as outlined under 43 CFR subparts 4160 and 4120.2 (c), is to issue grazing permits (#4904116, #4903845, #4900209, #4904188, #4904025, #and 4904026) on the Dempsey Basin (#21038) allotment with modified terms and conditions.

The grazing permits (#4904116, #4903845, #4900209, #4904188, #4904025, #and 4904026) for the Dempsey Basin allotment will be issued for a period of ten (10) years and will incorporate the following terms and conditions:

<b><u>Permittee(s) and Case File Number</u></b>	<b><u>Allotment Name and Number</u></b>	<b><u>Kind/Livestock</u></b>	<b><u>Season of Use</u></b>	<b><u>Percent Public Land</u></b>	<b><u>Number of AUMs</u></b>
Nate 's 4904116	Dempsey Basin 21038	Cattle	5/25 to 9/30	34	144
4904835		Cattle	5/25 to 9/30	65	121
4900209		Cattle	5/25 to 9/30	23	101
4904188		Cattle	5/25 to 9/30	242	924
Carrollo's 4904025	Dempsey Basin 21038	Cattle	5/25 to 9/30	140	594
4904026		Cattle	7/14 to 9/30	16	42
		Cattle	5/25 to 9/30	76	193
		Cattle	7/15 to 9/30	5	5

- The term of this permit is from March 01, 2015 to April 28, 2025, consistent with 43 CFR 4130.2(d)(3).
- Assigned range improvements (i.e. fences, water developments, etc...) shall be maintained on a regular basis, and must be functional prior to the start of grazing each year. Permittee will inform the BLM when all maintenance activities have been completed.
- 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.
- All supplemental feed, salt/mineral blocks, or any other measures that would artificially concentrate livestock in one place should be kept a minimum of ¼ mile from the Dempsey-Hockaday Cutoff NHT and the Sublette Cutoff NHT segments located in the southern portion of this grazing allotment.
- 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.
- If conditions warrant, livestock will be herded away from the riparian areas once the utilization requirements are met, so that uplands are utilized. Supplements may be strategically placed in the uplands as an incentive for livestock to utilize upland vegetation.

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.

## **RATIONALE:**

The decision to issue these grazing permits is in compliance with the Kemmerer Resource Management Plan (RMP), signed May 24, 2010, which identifies these allotments 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 with 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, has been made in consideration of the environmental impacts listed in the Proposed Action alternative given in EA WY-090-EA12-158. This decision will provide the best balance of physical, biological, and social benefits.

Specifically, this decision will allow continued livestock grazing on these allotments, (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 by requiring the strategic placement of salt blocks.

## **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 Mack, Jr. (Acting Field Manager)  
Bureau of Land Management  
Kemmerer Field Office  
312 Highway 189 North  
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 Carl Bezanson, Rangeland Management Specialist, at (307) 828-4522, if you have any questions.

Sincerely,

 /s/ **William Mack**  
William Mack, Jr.  
Acting Field Manager

**Copies Sent To:**

Nate Livestock, LLC  
c/o Randall and Pamela Nate  
PO Box 52  
Cokeville, WY 83114

Nate Family Trust Lease  
c/o Linda R. Nate  
PO Box 152  
Cokeville, WY 83114

George or Julia Carrollo  
5061 Hamsfork Road  
Kemmerer, WY 83101

Arron and Kristy or DeWayne Carollo  
2067 Hamsfork Hwy 233  
Kemmerer, WY 83101

**Interested Publics:**

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

Twin Creeks Open Range, LLC  
c/o Jerry Pierce  
7148 McGinnis Meadows Road  
Libby, MT 59923-7941

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

Jerry R. Kennedy  
8287 Viscounti Drive  
Sandy, UT 84093

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 4<sup>th</sup> Floor W.  
Cheyenne, WY 82002

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

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

Wyoming Dept. of Agriculture  
2219 Carey Avenue  
Cheyenne, WY 82002

U.S. Fish and Wildlife Service  
5353 Yellowstone Road, STE 308A  
Cheyenne, WY 82009  
Patrick Netherly  
2916 North, 2600 East  
Twin Falls, ID 83301

Wyoming State Grazing Board  
P.O. Box 1202  
Lander, WY 82520  
DEQ - Water Quality Division  
Herschler Building 4<sup>th</sup> Floor W.  
122 West 25<sup>th</sup> Street  
Cheyenne, WY 82002

Wyoming Livestock Board  
1934 Wyott Drive  
Cheyenne, WY 82002

Lincoln County Conservation District  
c/o DeMont Grandy  
P.O. Box 98  
Cokeville, WY 83114-0098

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