

**United States Department of the Interior  
Bureau of Land Management**

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**Decision Record  
Environmental Assessment  
WY-090-EA09-131**

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**August, 2012**

**EVALUATION OF LIVESTOCK GRAZING IMPACTS:**

**Carter Lease Allotment**

***Location:*** Lincoln and Uinta Counties, Wyoming

***Applicant/Address:***

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

Tripp Family Trust  
Dora L. Tripp, Trustee  
PO Box 160  
Granger, WY 82934

J.R. Broadbent  
Grazing Association  
c/o Dave Darley  
PO Box 58627  
Salt Lake City, UT 84158

Painter and Co., Inc.  
c/o Brad P. Fearn  
PO Box 194  
Evanston, WY 82930

Jerry and Christine Gillins-  
Aimone  
PO Box 65  
Fort Bridger, WY 82933

FishHook Livestock, LLC  
c/o Rex Weston  
409 Eagle Lane  
Lyman, WY 82937-6401

Sims Livestock  
521 Almy Rd, #107  
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Julian Land and Livestock  
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High Desert District  
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**DECISION RECORD**  
**Environmental Assessment**  
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**EVALUATION OF LIVESTOCK GRAZING IMPACTS:**  
**Carter Lease Allotment #11306**

**BACKGROUND**

Under consideration is the reissuance of 18 grazing permits to ten permittees under the National Environmental Policy Act (NEPA). These permits are due to expire in the next few years, beginning in the fall of 2012. The Carter Lease Allotment encompasses a total of 257,313 acres (402 square miles) in southern Lincoln County and northern Uinta County, Wyoming.

**PROPOSED DECISION**

The action, as outlined under 43 CFR subparts 4160 and 4120.2 (c), is to reissue the grazing permits (#4900005, 4900132, 4900235, 4904064, 4904105, 4904119, 4904121, 4904166, 4904197, 4904204, 4904207, 4912976, 4912938, 4913076, 4913903, 4913904, 4914306, 4914307) on the Carter Lease Allotment with modified terms and conditions as described in Alternative 4 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>

**RATIONALE**

We are modifying the Terms and Conditions because of continuing concerns about the riparian and upland communities.

- Western Wyoming Range, Limited Partnership's (WWR, LP) monitoring of 27 upland transects on their private lands inside Carter Lease indicate that 21 of the 27 transects (77.77%) showed static or downward trends (see Section 3.1.c in the EA).
- The 2010 Proper Functioning Condition assessment showed improving trend on Little Muddy Creek, while Muddy Creek's trend was Not Apparent and Blacks Fork River showed a declining trend.
- Nearly all of the Carter Lease springs failed to meet the Standards and Guidelines for Rangeland Health in both 2003 and 2010.

Though the 2010 Standards and Guidelines Assessment indicates that these upland and riparian systems are functioning, they are functioning at less than fully healthy levels. The utilization criteria are designed to protect both upland and riparian plant health, leading to healthier communities and, given time and compliance, will increase forage quality and overall production per unit area for both community types.

Alternative 4 of the EA also addresses one permittee's (Larson Livestock, Inc.) and one shareholder's (DJR L&L) requests for livestock kind conversions. Converting permit #4900132

from summer cattle to spring/summer sheep use will improve Larson Livestock's operational flexibility and eliminate the need for continued Temporary Non Renewable (TNR) conversions. Converting one share of WWR, LP (the entity that owns the private land inside Carter Lease) will allow DJR L&L to make direct use of their preference. Utilization of portable steel tanks meets the alternative water source criteria required by the Kemmerer Resource Management Plan.

Carter Lease summer cattle use under permit #4900132 will be converted to spring and summer sheep use at a ratio of eight sheep (1.6 sheep AUM) to one cow (1 cow AUM).

The preference attached to one of DJR L&L's four shares of WWR, LP will be converted from winter sheep only to dual use (winter sheep or summer cattle, but not both, in any one grazing year). The grazing year is March 1-February 28. Permits are issued for a minimum of three years, therefore the use of winter sheep (December 1-April 30) or summer cattle (May 16-October 15) will be constant for a minimum of three years before another conversion can be made.

### **Compliance and Monitoring:**

1. The cattle authorized by the sheep to dual-use conversion (applicable to permits #s 4913903, 4913904, 4914306, 4914307) would utilize portable steel tanks for water-controlled movement under DJR L&L's current, operator-committed use during past TNR conversions (see Section 3.3.a.i in the EA).
2. The Bureau of Land Management (BLM) Kemmerer Field Office (KFO) would authorize converting one of the requested four WWR, LP share's worth of preference to dual-use under (applicable to permit #s 4913903, 4913904, 4914306, 4914307) at the rate of 1.8 sheep AUMs to one cow AUM. This authorizes the applicant to run 133 cattle over a 169-day grazing season (5/16 – 10/30). The cattle would consume a total of 744 cattle AUMs. When multiplied by 43% (public land), 320 public cattle AUMs would be available should the applicant choose to make use of the cattle option.
3. The KFO will train any prospective cattle permittee utilizing this sheep to cattle conversion in the landscape appearance monitoring method and provide a copy of the Wyoming Rangeland Monitoring Guide (WRMG). The KFO and DJR L&L will cooperatively establish permanent monitoring transects at appropriate sites throughout the proposed DJR L&L use area to monitor utilization levels of the upland vegetation. The applicant will monitor the utilization levels in the current use area at least weekly when water is transported to the tanks. The cattle will be moved when the calendar move date arrives or the average utilization level (along any transect in the current use area) reaches the point where the description is transitioning from the 21-40% to the 41-60% use categories as described in the WRMG. When the season end date arrives, or use in the final pasture of that year's rotation reaches the move criteria, the livestock will be removed from the allotment.
4. Established WWR, LP monitoring transects in the proposed use area would be read every four to five years to monitor long-term trend. If it is determined that additional transects

may be necessary, the permittees, any consultant they may hire, and BLM would cooperate in the site selection.

5. The permittee will photograph water tank sites from a minimum of two different perspectives prior to tank placement and following tank removal and submit the photographs to the KFO, along with GPS coordinates, within 15 days of the end of the season (10/31).
6. If apparent signs of resource damage or decline are observed, the BLM would suspend further use of the cattle permit (based on the authorized conversion) and cause the livestock to be removed immediately. At the discretion of the Authorized Officer, the permit would either be suspended until the resource has recovered, or converted back to winter sheep use at the original authorized level of 576 public sheep AUMs. In this instance, an apparent sign of resource damage or decline is defined as: Composition of indicator grass species shows a decrease equal to or greater than 10%, or an increase in % bare ground equal to or greater than 10% from the 2007 readings on existing WWR, LP transects in the proposed use area due to cattle use.

This alternative also incorporates Annual Grazing Adaptive Management by adding the following (see Terms/Conditions/Stipulations below) In-Season Triggers and Endpoint Monitoring Indicators to the Carter Lease permit language for spring sheep and summer cattle:

**New Terms/Conditions/Stipulations for summer cattle use:**

- An average of 5 – 7 inch stubble height of sedges (*Carex spp.*) and rushes (primarily *Juncus spp.*) in riparian/wetland areas should remain at the end of the summer grazing season. If the riparian stubble height reaches the move-on-use or end-of-season trigger point(s) prior to the traditional end-of season date, the permittees will move or remove their livestock immediately. This is supported by Clary and Leininger (2000) which states that if maintaining a certain riparian stubble height is not producing the desired management goals, raising the target riparian stubble height may be appropriate.
- Livestock will be moved to a different location or removed from the allotment when floodplain bluegrass stubble height drops to between two inches and one inch. Hall and Bryant (1995) show that cattle grazing habits begin to change after bluegrass stubble height drops below three inches and unacceptable impacts begin when the stubble height reaches  $\frac{3}{4}$  of an inch.
- Upland community grass utilization shall not exceed an average of 30%-40% (by weight) of that season's potential vegetative growth for key grass species at the end of the summer grazing season. If the utilization levels for the Key Upland Species (Indian Ricegrass (*Oryzopsis hymenoides*), Needle & Thread grass (*Heterostipa comata*) and Thickspike Wheatgrass (*Elymus lanceolatus*) reach the move-on-use or end-of-season trigger point(s) prior to the calendar move or end-of season date, the permittees will move or remove their livestock immediately.

**New Terms and Conditions are incorporated to control or mitigate potential impacts that may result from either winter or spring/summer sheep use:**

- Sheep camps and salt and/or mineral supplement placement sites will be located at least ¼ mile away from water troughs, riparian areas, sensitive plant species, and historic trails and monuments or other identified culturally important areas. No supplemental feeding or roughage will be allowed on public lands except where emergency conditions exist; then only by written permission from the Authorized Officer.
- Sheep herds will not be allowed to loiter in riparian areas. If watering at springs or creeks is necessary, the herders may bring the flock in to water. They will then push the animals well away from the riparian area once all the animals have watered. Sheep watering will be avoided at springs measured as FAR with a downward trend. The only springs not included in this category are Roberson Spring and the unnamed/unused spring in SE NE S4-T18N-R116W.

No sheep camps or other disruptive human activity will be permitted within six tenths (0.6) mile of active sage-grouse leks between 8 pm and 8 am during the March 1 – May 15 lekking season to prevent disruption of grouse display and breeding activities.

- Cattle use will be coordinated on an annual basis to provide the users with alternatives for watering sources that will provide adequate water sites away from the Little Muddy and Muddy Creeks. As a goal, combined use of upland species such as Indian Ricegrass, Needle and Thread Grass, and Thickspike Wheatgrass will be limited to Moderate levels (30-40% by weight) as determined by The Landscape Appearance Method as described in the Wyoming Rangeland Monitoring Guide. If grazing use consistently exceeds appropriate levels, or any of Standards 1-4 of the Wyoming Standards for Healthy Rangelands are not met, or if trend monitoring indicates that the condition of range resources is declining and it is determined to be primarily due to livestock management, adjustments to livestock management will be made based on a site-specific analysis.
- Riparian vegetation utilization levels shall be set at 5-7 inch stubble height for sedge species as a move indicator to prevent overuse of sedge species and excessive streambank trampling. If grazing use consistently exceeds appropriate levels, any of Standards 1-5 of the Wyoming Standards for Healthy Rangelands are not met, or if trend monitoring indicates that the condition of range resources is declining and it is determined to be primarily due to livestock management, adjustments to livestock management will be made based on a site specific analysis.

**New Terms and Conditions are incorporated to protect sage grouse during critical lekking and nesting periods:**

- Sage-grouse leks inside core areas: Surface disturbing activity or surface occupancy is prohibited or restricted on or within a six tenths (0.6) mile radius of the perimeter of occupied or undetermined sage-grouse leks.

Disruptive activity is restricted on or within six tenths (0.6) mile radius of the perimeter of occupied or undetermined sage-grouse leks from 6 pm to 8 am from March 1 – May 15.

- Sage-grouse leks outside core areas: Surface disturbing activity or surface occupancy is prohibited or restricted on or within one quarter (0.25) mile radius of the perimeter of occupied or undetermined sage-grouse leks.

Disruptive activity is restricted on or within one quarter (0.25) mile radius of the perimeter of occupied or undetermined sage-grouse leks from 6 pm to 8 am from March 1 – May 15.

- Sage-grouse nesting/early brood-rearing habitat inside core areas: Surface disturbing and/or disruptive activities are prohibited or restricted from March 15–July 15.
- Sage-grouse nesting/early brood-rearing habitat outside core areas: Surface disturbing and/or disruptive activities are prohibited or restricted from March 15–July 15 within mapped habitat important for connectivity or within two miles of any occupied or undetermined lek.
- Sage-grouse winter habitat/concentration areas: Surface disturbing and/or disruptive activities in mapped or modeled sage-grouse winter habitats/concentration areas that support core area populations, are prohibited or restricted from November 15–March 14.

#### **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.

#### **Other Alternatives Considered:**

##### **Alternative 1 – Continuation of Current Permits (No Action)**

This alternative would re-authorize all currently existing grazing permits (see Table 2, p. 39) for the Carter Lease with the current terms and conditions. TNR permits converting the summer cattle use authorized by permit #4900132 to spring and summer sheep use at a rate of eight sheep per one cow (1.6 sheep AUM per 1 cow AUM) would continue to be considered. Existing Terms and Conditions attached to the current permits would be carried forward without modification.

##### **Alternative 2 – Continuation of Current Permits and Adoption of Past Permit Changes**

This alternative would re-authorize or convert the existing grazing permits (see Table 2, p. 39) for the Carter Lease with the current Terms and Conditions, and make permanent the summer cattle to spring and summer sheep use authorized by the TNR conversions of permit #4900132 at a rate of eight sheep per one cow (1.6 sheep AUM per 1 cow AUM). The conversion of the

permit also shifts the beginning of the grazing season from May 16 to May 1 while similarly shifting the end of the season from Oct 15 to Sept 30.

### **Alternative 3 – Increase Summer Cattle Use**

This alternative would maximize summer cattle use by (Part 1) denying the requested cattle-to-sheep conversion of permit # 4900132 (47 cattle; 235 AUMs) at 100% public land (PL) and (Part 2) authorizing the current DJR L&L-requested conversion to convert four WWR, LP shares' worth of winter sheep use (5360 sheep, 2288 public AUMs at 43% PL) to dual use (either sheep or cattle). These shares are currently leased to sheep producers and are represented by permits #4914307, #4913076 and #4913903. If the applicant were to use the entire conversion for cattle, it would authorize a maximum of 532 cattle (1271 public AUMs at 43% PL). The livestock kind conversion would be in compliance with the RMP ROD Decision 6017 (p. 2-45) because the existing, operator-committed method of utilizing portable steel tanks (see Section 3.3.a.i) filled by a water truck provides the necessary means to maintain or improve the existing riparian conditions.

### **Alternative 5 - No Grazing**

Under this alternative, the existing Carter Lease grazing permits would be canceled or allowed to expire without renewal and the BLM would require the permittees to remove livestock from the allotment. Under this alternative, livestock grazing on the Carter Lease 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:**

Two scoping letters were sent out to current permittees and interested publics in 2009 (see Chapter 1 of EA). As a result of the scoping comments received (as well as the internal scoping process), the five alternatives analyzed in the EA were identified (see Chapter 2 of the EA for full description of each alternative).

### **Other Alternatives Considered:**

#### **Alternative 1 – Continuation of Current Permits (No Action)**

This alternative does not consider either the conversion from sheep to cattle or the sheep to dual-use conversion requested in response to the first scoping letter.

Current management practices on the Carter Lease have not produced readily-identified problems on the allotment. The allotment's condition, depending upon location, varies from slightly upward to static to slightly declining conditions in both the uplands and riparian areas. Range conditions on the Carter Lease continue to meet the criteria for category "M"—Maintain Existing Resource Conditions.

Because indicators are mixed, it is believed that continuation of current management would not continue to provide the stability that the "M" category requires. The slight modifications designed to protect the vegetation should produce subsequent benefits in stream stability, water quality and soil stability (both riparian and upland). Alternative 1 is likely to produce lower

impact levels than Alternative 3, yet is likely to provide less protection and potential benefits to riparian and upland resources than Alternatives 4 and 5.

### **Alternative 2 - Continuation of Current Permits and Adoption of Past Permit Changes**

This alternative differs from Alternative 1 only in that it makes the conversion of summer cattle to spring/summer sheep permanent.

The other shortcomings and all anticipated impacts of this alternative are identical to Alternative 1.

### **Alternative 3 – Increase Summer Cattle Use**

This alternative rejects the summer cattle to spring/summer sheep conversion, and grants the entire (four WWR, LP shares' worth) sheep to dual-use conversion that was requested in the first round of scoping comments.

This alternative would reduce anticipated impacts from winter sheep use and raise the level of summer cattle impacts dramatically.

Analysis of this alternative found that the anticipated forage needs of all four shares' worth of cattle would exceed the production within the anticipated use area. This alternative is also considered more likely to increase livestock impacts to the creeks and springs in the Carter Lease.

Given the mixed trend results from both upland and riparian monitoring and the anticipated increase in growing season impacts from cattle on both riparian and upland areas, analysis of this alternative indicated that it was likely to produce higher impact levels than the other alternatives.

### **Alternative 5 - No Grazing**

This alternative would probably provide the greatest benefits to the resources on the public land within the Carter Lease when compared to the other alternatives. This alternative is not in conformance with the 2010 Approved Resource Management Plan (RMP) and Record of Decision (ROD) for the Kemmerer Resource Area, Decision #6023. Implementation of this alternative would require an amendment to the RMP and ROD.

In addition, this alternative would not affect the intermingled private and state lands within the Carter Lease which would probably continue to be used. Selection of this alternative could also lead to erection of fences (which could hinder or injure wildlife) to prevent livestock trespass onto public lands.

## **Alternatives Considered but not Analyzed**

### **Continuation of Current Permits with no Modifications**

This alternative would have held the permittees to the Terms and Conditions of the permits as they are currently written without allowing any conversions in the future. It was barred from further consideration because the current permit requirements do not meet the needs of the permittees and WWR, LP shareholders. Similarly, residue requirements do not meet the needs

for allowing grazing and sustaining habitat and rangeland health standards. Permit modifications or the issuance of TNR have occurred regularly on the Carter Lease since 2004.

### **EA Comments**

The EA was released to the public for comment on July 22, 2011. A total of 113 separate comments were identified from the responses made by WWP, WWR, LP, WWR, LP, William (Bill) Laycock, Steve DeCecco, Wyoming Department of Agriculture and Michael A. Smith (University of Wyoming). The comments were separated into the following categories:

- AUMs (Animal Unit Months)
- Cultural
- Erosion
- Existing Data
- Legal
- Opinion
- Riparian
- Upland
- Water
- Watershed
- Wildlife

Please see Appendix 8 of the EA for comments and BLM responses.

### **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..."

**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:

Jeromy W. Caldwell (Field Manager)  
Attention: Carter Lease Allotment Permit Renewal  
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 of 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)).

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Authorized Officer

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Date