

WY 050
4160
4010
GR No. _____

March 3, 2010

CERTIFIED MAIL NO.:
RETURN RECEIPT REQUESTED

Ranch Name
C/O Name
Address
City, WY Zip

NOTICE OF FIELD MANAGER'S FINAL DECISION

Dear Mr./Mrs. _____:

INTRODUCTION

On April 3, 2009, I issued a proposed decision regarding the renewal of your grazing permit which authorizes grazing use on the Green Mountain Common Allotment (GMCA) within the Lander Field Office.

I received letters of protest in late April, 2009 from Charles McIntosh, Ellen Fox, Sid Baldwin, Joshua Anderson and Robert and Judy Whitlock. These protest letters were timely received and a summary of the substantive points of protest along with the Bureau of Land Management (BLM) responses are attached.

I also received Western Watersheds Project Wyoming Office Director, Jonathan Ratner's letter of protest dated May 11, 2009, for my proposed decision on the GMCA Grazing Management Environmental Assessment (WY-050-EA07-153). I have reviewed his protest points and have taken them into consideration in my final decision. A response to the substantive points of protest is attached.

This decision is one of three that will split (without fencing) the existing GMCA into three new allotments: Antelope Hills, Arapahoe Creek Common and Green Mountain. The following is my final decision to issue nine new (ten year) grazing permits on the **Arapahoe Creek Common Allotment** (ACCA) pursuant to 43 Code of Federal Regulations (CFR) Subparts 4100 and 4130 of the grazing regulations. The other two decisions are also attached for your information.

**ARAPAHOE CREEK COMMON ALLOTMENT
PERMITTED USE SUMMARY
(03/03/10)**

Ranch /Permit Name Authorized Agent	Permit Number	Livestock Number (cattle)	Livestock Number (sheep)	Kind of Livestock	Authorized Use Period	Percent Public Land Use	Active Use AUM's	Suspended Use AUM's
	0240	201		cattle	05/01-10/31	100	1,217	1,217
	3713	315		cattle	05/01-10/31	100	1,909	1,908
Joshua Anderson Ranch Management, LLC	0264	309		cattle	05/16-11/15	94	1,757	1,758
Alkali Creek Grazing Association, LLC	3771		1,011	sheep	03/01-02/28	100	2,427	2,427
	3771		238	sheep	05/01 –10/31	Exchange of Use	570	
Arapaho Grazing Association, LLC	3791	51		cattle	05/16-11/15	69	212	212
Green Mountain 46 Ranch, Inc.	3783	0		cattle	05/01-10/31	83	0	4 56
Quarter Circle Block, LLC	3854	107		cattle	05/01-10/31	100	650	650
Quarter Circle Block, LLC	3851	444		cattle	05/01-10/31	92	2,471	2,472
Stewart Creek LLC	3092	80		cattle	05/16-11/15	100	483	482
Walking S Grazing Association, LLC	3841	171		cattle	05/01-10/31	91	940	940
	3841		729	sheep	10/01-02/28	91	659	658
	3792	87		cattle	05/01-10/31	100	525	525
	3795	322		cattle	05/01-10/31	90	1,755	1,755
	12615	8		cattle	05/01 – 10/31	100	50	50
TOTALS (30,611 P.L. AUMs)		2,095	1,740 238			Exchange of Use	15,055 570	15,556

The GMCA Grazing Management Environmental Assessment (EA) for this action was prepared to analyze the environmental impacts within the GMCA associated with re-issuing 19 grazing permits for a new, 10-year period. This analysis identified the appropriate terms and conditions to be included in the grazing permits and is on file at the Lander Field Office (LFO). The EA is also available on-line at http://www.blm.gov/wy/st/en/info/NEPA/lfodocs/greenmtn_common.html.

FINAL DECISION

My final decision is to implement a combination of Alternatives One, Two, Three, and Four described in EA No. WY-050-EA07-153. Specifically, my final decision is described below:

1. This decision will split (without fencing) the existing GMCA into three new allotments: Antelope Hills, Arapahoe Creek Common and Green Mountain using the use area boundaries from the Lander Field Manager's Final Decision of August 31, 1999 (1999 Decision).
2. Cattle and sheep grazing use and management in the Arapahoe Use Area will be governed by the 1999 Decision as modified by this final decision, which includes the implementation of a one herd, modified four pasture, deferred-rotation grazing system and seasonal spring and fall sheep grazing on the Alkali Creek Sheep Use Area for the new ACCA.
3. Cattle and sheep grazing use and management in the Happy Springs Use Area will be governed by the 1999 Decision as modified by this final decision, which includes the implementation of a one herd, modified three pasture, deferred-rotation grazing system.
4. These 15 decision points and the "additional terms and conditions" listed later in this decision will become terms and conditions on the new permits. An AMP will not be developed at this time. The grazing plan is based on this decision and will be implemented through the annual operating plan (AOP). This decision allows for an AMP to be developed if necessary after the allotment is evaluated.
5. The Arapahoe Creek Common Allotment will have seven pastures using the 1999 Decision boundaries with some modifications for the Magpie Riparian Pasture and Crooks Creek Riparian Pasture Fences. The seven pastures are: Warm Springs, Haypress, Crooks Mountain, East Alkali, Bare Ring Butte, Lost Creek and Eagles Nest.
6. The Crooks Creek Riparian Pasture Fence will have approximately six miles of a permanent barbed and smooth wire standard with double gates in important locations on the east-west portion to facilitate winter wildlife and wild horse movement.

7. The cattle season of use will be from May 1 or 16 to October 31 or November 15 for a total of 184 days. The turnout date may vary depending on spring growing conditions and will be established at the BLM pre-turnout meeting held in mid-April each year.
8. The sheep season of use will be from March 1 to February 28 for a total of 365 days.
9. The attached Arapahoe Creek Allotment Permitted Use Summary table shows the specific cattle and sheep numbers and authorized AUMs for each permit. The table reflects a 50 percent reduction of the current permitted use to accelerate attainment of the rangeland health standards.
10. The pasture rotation sequence will be scheduled each year at the BLM pre-turnout meeting. This initial schedule may be modified prior to the second pasture rotation based on late spring growing conditions.
11. The proposed sheep grazing plan will require that the two lambing areas (East Alkali Creek and Lost Creek) are rotated each year with one being rested. Once the lambing season is completed (generally by June 20th), the sheep band will follow the same pasture rotation schedule as the cattle and camps will be located a minimum of 1.5 miles from water sources. Sheep camps will be moved every seven days to prevent overutilization of the vegetation in any given location.
12. Upland vegetation goals for the allotment relate primarily to maintaining the vigor and health of cool season bunchgrasses such as needle-and-thread, Indian ricegrass, bluebunch wheatgrass, and squirreltail. The livestock grazing management is designed to avoid a shift in the herbaceous vegetation from cool season bunchgrasses to smaller but more grazing resistant species such as threadleaf or needleleaf sedge, Sandberg bluegrass, or rhizomatous wheatgrasses. In riparian areas, the goals relate to maintaining or increasing the abundance, vigor and health of wetland sedges. The livestock grazing management is designed to avoid a shift in the vegetation community from wetland sedges to more grazing resistant species such as Kentucky bluegrass, mat muhly, and rose pussytoes. Measurable objectives will be developed cooperatively once a comprehensive monitoring program is established, and baseline data is available.
13. The following table shows the pasture rotation (use level) indicators and stubble heights that will be applied on each pasture.

Final Forage Utilization Levels/Rotation Indicators

Plant Community Type and Monitoring Method	Forage Utilization Standard	When Would Standard be Implemented?	If in Non-Compliance
Riparian Vegetation (Stubble Height Method)	6 inch greenline stubble height* within key areas	During the last two pastures of the grazing rotation	10% suspension of next year's AUMs if standard is not met
Riparian Vegetation (Stubble Height Method)	4 inch first terrace stubble height* within key areas	During the last two pastures of the grazing rotation	10% suspension of next year's AUMs if standard is not met
Upland Vegetation (Stubble Height Method)	5 inch residual herbaceous cover** within key areas	During the last two pastures of the grazing rotation	10% suspension of next year's AUMs if standard is not met
Willows (***)Leader Growth Utilization Method)	35% use on leader growth as measured in identified key areas	During the last two pastures of grazing rotation	10% suspension of next year's AUMs if standard is exceeded

*Stubble height monitoring would be conducted during the grazing season and again after livestock are removed from the allotment. During the time livestock are in last two pastures of the rotation schedule, stubble height monitoring would be used as a move indicator. If livestock are in the next to last pasture of the rotation sequence and monitoring indicates that the utilization standard has been reached, livestock will be moved to the last pasture. If livestock are in the last pasture of the rotation sequence, and stubble height monitoring indicates the utilization standard has been reached, livestock would be moved off the allotment.

**The rotation indicator for the residual herbaceous cover will be measured as "droop height"; the highest naturally growing portion of the plant (Connelly, et.al. 2000) for the key management grass species. The key species are bluebunch wheatgrass, Indian rice grass, squirreltail, and needle-and-thread grass. This means that the "droop height" includes leaves, culms, and/or seed heads (seed stalks) of these four key management species. The measurement of "droop height" is discussed in more detail on page 14 (Connelly, et. al. 2003).

The rotation indicator requires a **minimum** of 5 full inches. That means the average of the heights measured within the key area must be at least 5.0".

Literature Cited:

Connelly, J.W., M.A. Schroeder, A.R. Sands, and C.E. Braun. 2000. Guidelines to manage sage grouse populations and their habitats. The Wildlife Society. Wildlife Society Bulletin 2000, 28(4): 967-985 pp.

Connelly, J.W., K.P. Reese, and M.A. Schroeder. 2003. Monitoring of Greater Sage-grouse Habitats and Populations. University of Idaho, College of Natural Resources Experiment Station Bulletin 80. 50 pp.

***Willow leader growth utilization will be measured at the end of the grazing season after livestock are removed and again at the beginning of the grazing season to differentiate between use by livestock and use by other grazing animals. Utilization will be determined by the paired-plot method in which two similar study plots, one protected from all use and one unprotected, are compared to determine what percent of actual growth has been removed by livestock and what has been removed by other grazing animals. Leader growth will be estimated in both plots from photos of young willow plants or seedlings taken in front of a cover board. Although some overlap may occur, use measured at the end of the grazing season will be attributed to livestock and use measured in the spring prior to turnout will be attributed to other grazing animals. If livestock are in the next to last pasture of the rotation sequence and monitoring indicates that the willow use standard has been reached, livestock will be moved to the last pasture. If livestock are in the last pasture of the rotation sequence and monitoring indicates that the willow use standard has been reached, livestock will be moved off the allotment.

Residual cover standards shown in the above table will apply to all pastures at the end of grazing season. The actual cover measurements will be presented and discussed at the post season BLM meeting to be held before January 31st each year.

14. This final decision will be implemented for at least three years following completion of the Crook Creek Riparian Fence and the water wells identified in the EA and then evaluated. If grazing plan adjustments are necessary, the adjustments will be made prior to the 2013 grazing season. Increasing cattle herd size depends on permittee commitment to stewardship including, meeting rangeland health standards, effective control of livestock and meeting the permittee cost share for new water developments.
15. Rangeland monitoring and permit compliance checks conducted by BLM personnel will occur throughout the grazing season based upon available funding. Unauthorized use will be dealt with promptly and on a case-by-case basis.

ADDITIONAL TERMS AND CONDITIONS

Salt, Mineral Placement, and Supplemental Feeding

Salt and mineral supplements shall be located at least 0.5 mile from water sources to promote better livestock distribution and discourage livestock from concentrating near water sources.

Supplements or salt shall not be placed within 0.6 mile of all known sage-grouse strutting grounds unless the location is agreed to by the BLM. On rare occasions when emergency supplemental feeding is authorized, only certified weed-free forage shall be used on BLM-administered lands.

Drought Planning

Wyoming BLM has implemented a drought policy that addresses drought conditions on a case-by-case basis (Instruction Memorandum No. WY-2004-020: Drought Management). BLM would meet with the grazing permittee prior to livestock turn-out to consider proposed grazing plans and contingencies and would review range conditions with the permittee on the ground, as necessary. During emergency conditions related to drought, insect infestations, or wildfire, the BLM would close pastures or the allotment to livestock grazing.

BLM's Instruction Memorandum No. WY-2004-020 goes on to state:

“As we manage through [a] drought, the main focus of our actions should be to maintain the long-term health and productivity of Wyoming's public rangelands. We also need to keep in mind that every action taken may place a hardship on those who use, or rely on, the public lands for their livelihood. It is critically important that we communicate early and often with the permittees during these challenging times.

The importance of maintaining rangeland health cannot be over emphasized as consideration is given to returning uses to rangelands following the end of a drought.”

Predator Control

Predator control by the grazing permittee would be limited as follows: The permittee/lessee and/or his/her employees would not use or place poison or M-44 devices for prairie dog or predator control on BLM-administered public lands. Predation control actions would be carried out by the Animal and Plant Health and Inspection Service (APHIS), Wildlife Services (WS), or the Wyoming Game and Fish Department, or whoever has the responsibility for the offending species.

Sage-grouse Guidelines

Based on the most recent research and Wyoming BLM State Office direction (IM No. WY-2010-012) concerning the seasonal habitat needs of the greater sage-grouse and its response to disturbance, the following vegetation management objectives and restrictions would be applied to livestock management within the GMA:

1. No surface disturbing activity or surface occupancy within 0.6 mile radius of the identified perimeter of an occupied or undetermined sage-grouse lek.

2. No disruptive activity within 0.6 mile radius of the identified perimeter of a lek from 6 pm to 8 am from March 15 to May 15 (this restriction does not include casual use as described by the Code of Federal Regulations).
3. No surface disturbing or disruptive activities within suitable sage-grouse nesting/early brood-rearing habitat from March 15 to June 30. Such activities will be prohibited unless site-specific analysis indicates that they will not cause significant impacts to sage-grouse (this restriction does not include casual use as described by the Code of Federal Regulations).
4. Range improvement projects should not be located in areas that are detrimental to nesting/early brood-rearing habitat. If this is not possible, these projects should be located in areas that are deemed to be the least detrimental to these habitats.
5. Range improvement projects located inside suitable sage-grouse nesting/early brood-rearing habitat must be mitigated to prevent excessive predation on breeding or nesting/brood-rearing sage-grouse from perching raptors.
6. No vegetation manipulation within 0.6 miles radius of the identified perimeter of an occupied or undetermined sage-grouse lek or in identified winter concentration areas, unless the action would benefit sage-grouse habitat.
7. No surface disturbing or disruptive activities in identified winter concentration areas from November 15 to March 14 (this restriction does not include casual use as described by the Code of Federal Regulations).

Hazardous Materials

No hazardous materials/hazardous or solid waste/trash shall be disposed of on public lands. If a release does occur, it shall immediately be reported to this office at (307)332-8400.

Administrative Access

The permittee/lessee shall provide reasonable administrative access across private and leased lands to the BLM and its agents for the orderly management and protection of public lands.

Application of a chemical or release of pathogens or insects on public lands must be approved by the authorized officer.

Human Remains/Cultural Resources

Pursuant to 43 CFR 10.4(g), the holder of this authorization must notify the authorized officer, by telephone, with 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), you must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer.

All proposed actions with the allotment on public lands will have a cultural/paleontological resource evaluation completed by the field office archeologist and/or regional paleontologist. Standard cultural inventory and evaluation procedures will be followed. Appropriate inventories and mitigation measures, following 36 CFR 800, must be completed prior to project implementation.

Range Improvements

All range improvements will be maintained in accordance with cooperative range improvement agreements and range improvement permits on file with the Bureau of Land Management pursuant to 43 CFR 4120.3.

RATIONALE

This final decision is consistent with the Lander Resource Management Plan, approved on June 9, 1987, and will fulfill a need that has been expressed by the public.

The RMP identified several resource problems, as did members of the Green Mountain Working Group (GMWG) at many meetings conducted prior to issuance of the August 31, 1999 final decision. The GMWG identified a number of management issues and developed a list of goals and objectives discussed in my proposed decision to resolve the issues.

The primary problems identified were: 1) the poor condition of the riparian areas on the allotment and conflicts between livestock grazing, wildlife and wild horses; 2) poor livestock distribution and season-long use by livestock on the allotment; 3) problems with unauthorized use by livestock; and 4) a lack of upland water sources.

In 2002, a comprehensive rangeland health assessment and evaluation report was completed to determine whether public lands within the Green Mountain Common Allotment were meeting the standards for rangeland health. The evaluation concluded that rangeland health standards were not being met. In particular, riparian health was determined to be the highest priority goal and the biggest rangeland health issue on the allotment.

The BLM's Proper Functioning Condition (PFC) assessment of riparian habitat conducted during 1994-2001 indicated that 88 percent of lotic (flowing water) and 78 percent of lentic (standing water) riparian habitats were determined to be non-functional or functional-at-risk with a downward or static trend.

In April, 2008 the LFO completed an environmental assessment (EA) to describe and analyze four alternatives for the reissuance of 19 grazing permits on the Green Mountain Common Allotment. This final decision has been developed from this analysis, public comments on the EA, and further consultation with the grazing permittees and interested publics.

AUTHORITY

The Bureau of Land Management has authority to renew these grazing permits consistent with the provisions of the Taylor Grazing Act, Public Rangelands Improvement Act, Federal Land Policy and Management Act, and the Lander Resource Management Plan, approved on June 9, 1987. Further, an approved grazing permit is required to authorize grazing use on public lands and this authority is contained in the following sections of the 43 Code of Federal Regulations (CFR):

43 CFR 4130.2(a) which states.

(a) Grazing permits or leases shall be issued to qualified applicants to authorize use on the public lands and other lands under the administration of the Bureau of Land Management that are designated as available for livestock grazing through land use plans. Permits or leases shall specify the types and levels of use authorized, including livestock grazing and suspended use. These grazing permits or leases shall also specify terms and conditions pursuant to § 4130.3, 4130.3-1, and 4130.3-2.

43 CFR 4110.3-2(b) which states.

(b) When monitoring or field observations show grazing use or patterns of use are not consistent with the provisions of subpart 4180, or grazing use is otherwise causing an unacceptable level or pattern of utilization, or when use exceeds the livestock carrying capacity as determined through monitoring, the authorized officer shall reduce permitted grazing use or otherwise modify management practices.

43 CFR 4110.3-3(a) which states.

(a) After consultation, cooperation, and coordination with the affected permittee, the State having lands or managing resources within the area, and the interested public, reductions of permitted use shall be implemented through a documented agreement or by decision of the authorized officer. Decisions implementing 4110.3-2 shall be issued as final decisions pursuant to 4160.1.

43 CFR 4120.2 which states.

Allotment management plans or other activity plans intended to serve as the functional equivalent of allotment management plans may be developed by permittees or lessees, other Federal or State resource management agencies, and the Bureau of Land Management.

43 CFR 4120.2(a)(1)(2)(3)(4) which states.

- (1) include terms and conditions under 4130.3, 4130.3-1, 4130.3-2, 4130.3-3, and subpart 4180 of this part;
- (2) Prescribe the livestock grazing practices necessary to meet specific resource objectives;
- (3) Specify the limits of flexibility...
- (4) Provide for monitoring to evaluate the effectiveness of management.

43 CFR 4130.3-1(a) which states.

- (a) The authorized officer shall specify the kind and number of livestock, the period(s) of use, and the amount of use for every grazing permit.

43 CFR 4130.3-2 (c)(f) which states.

The authorized officer may specify in grazing permits 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. These may include but are not limited to:

- (c) Authorization to use, and directions for placement of supplemental feed, including salt, for improved livestock and rangeland management on the public lands.
- (f) Provisions for livestock grazing temporarily to be modified to allow for the restoration of vigor of plants, provide for the improvement of riparian areas.

43 CFR 4130.2(d)(4) which states.

- (d) The terms of 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--
- (4) The authorized officer determines that a permit or lease for less than 10 years is in the best interest of sound land management.

43 CFR 4130.6-1(a) which states.

- (a) An exchange-of-use grazing agreement may be issued to an applicant who owns or controls lands that are unfenced and intermingled with public lands in the same allotment when use under such an agreement will be in harmony with the management objectives for the allotment and will be compatible with the existing livestock operations.

43 CFR 4180.1 (b)(d) which states.

The authorized officer shall take appropriate action under subpart 4110, 4120, 4130, and 4160 of this part as soon as practicable but no later than the start of the next grazing year upon determining that existing grazing management needs to be modified to ensure that the following conditions exist.

(b) Ecological processes, including the hydrologic cycle, nutrient cycle, and energy flow, are maintained,

(d) Habitats are, or are making significant progress toward being, restored, or maintained for Federal threatened and endangered species.

43 CFR § 4130.7(c) (e) which states:

(c) The authorized officer may require counting and/or additional special marking or tagging of the authorized livestock in order to promote the orderly administration of the public lands.

(e) The brand and other identifying marks on livestock controlled, but not owned, by the permittee or lessee shall be filed with the authorized officer.

RIGHT OF APPEAL

Any applicant, permittee, lessee or other person whose interest is adversely affected by this 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. 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 stay must be filed in writing within thirty (30) days following the receipt of this final decision with James A. Cagney, Lander Field Manager, at the Lander Field Office, P.O. Box 589, 1335 Main Street, Lander, WY 82520.

The appeal must clearly and concisely state the reasons why the appellant thinks this final decision is wrong and must otherwise comply with the provisions of 43 CFR 4.470. 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.

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)).

If you have any questions regarding this decision, please contact me at 307-332-8400.

Sincerely,

James A. Cagney
Field Manager

5 Attachments:

- 1 - Green Mtn. Use Area/East Side Protest Response (9 pp.)
- 2 - Western Watersheds Project Protest Response (4 pp.)
- 3 - Green Mountain Final Decision (12 pp.)
- 4 - Antelope Hills Final Decision (21 pp.)
- 5 - West Side Grazing Assoc. Protest Response (6 pp.)

CC: Interested Publics (attached mailing list)