

**U.S. Department of the Interior
Bureau of Land Management**

**Decision Record for
Environmental Assessment
James Ryegrass Grazing Association, LLC**

DOI-BLM-WY-100-2014-06-EA

U.S. Department of the Interior
Bureau of Land Management
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BLM



Decision Record

Background Information

The Pinedale Resource Management Plan (RMP) Record of Decision (ROD) was finalized on November 26, 2008. The RMP provides overall direction for the management of all resources on BLM-administered lands in the Pinedale planning area.

The James Ryegrass Allotment is located approximately 18 miles west of Pinedale, Wyoming in Township 34 North, Range 112 West, Sections 19, 26, 27, 28, 29, and 30. The allotment includes 3,585 acres of public lands administered by the Bureau of Land Management.

The Webb Draw Pasture Allotment is located approximately 21 miles northwest of Pinedale, Wyoming in Township 35 North, Range 112 West, Sections 20, 21, 22, 27, 28, 29 and 34. The allotment includes 794 acres of private lands, and 1,550 acres of public lands administered by the Bureau of Land Management

The new permit includes terms and conditions for grazing use that conform to the Guidelines and will continue to achieve, or make progress towards achieving, the Wyoming Standards for Healthy Rangelands in accordance with all applicable laws, regulations, and policies; and in accordance with Title 43 CFR 4130.2(a) which states in part "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". This proposed decision specifically identifies management actions and terms and conditions that are appropriate to achieve management and resource condition objectives. The proposed action that was developed under this proposed decision executes actions that would ensure progress towards or continued achievement of the Wyoming Standards for Healthy Rangelands.

James Ryegrass Grazing Association, LLC is the sole grazing permittee in the James Ryegrass and Webb Draw Pasture Allotments. A review of the James Ryegrass Grazing Association, LLC case file indicates that they meet the mandatory qualifications to graze on public lands in accordance with 43 CFR 4110.1.

Conclusion of the Standards Determination Documents

Monitoring data was collected and reviewed and Rangeland Health Assessments were completed in 2013 for the James Ryegrass and Webb Draw Pastures. James Ryegrass met all of the standards for Rangeland Health, except for Standard 6- Air Quality. Webb Draw Pasture met standards except for Standard 2- Riparian/Wetland Health and Standard 6- Air Quality. For Standard 2- Riparian/Wetland Health, it was determined that livestock grazing is a significant factor in not achieving this standard. However, there are other factors that contribute to not meeting the standard. These are drought, historic irrigation alterations, road crossings, natural gas pipeline crossing, and wildlife use. The non- attainment of Standard 6 in both allotments was not due to livestock.

Guidelines: Since the Webb Draw Allotment is not meeting all of the standards for Rangeland Health the BLM looked at the Wyoming Guidelines for Livestock Grazing. Based on the guidelines we are in conformance with guidelines 1, 3, 4, 5, 6, 7, 8, 9. The lack of conformance with guideline 2 will be addressed in the Environmental Assessment (EA).

Consultation and Coordination

The term grazing permit renewal proposal was initially scoped internally by the Pinedale Field Office Interdisciplinary (ID) Team/Resource Specialists at the November 13, 2013 meeting to begin to identify any issues and/or resource concerns.

A letter notifying the permittee, interested publics, and the cooperating agencies was sent out on November 15, 2013. The purpose of the letter was to begin the scoping period and also set a meeting on December 4, 2013 to develop alternatives.

Tribal Coordination Letters were sent out on December 9, 2013 for this project notifying the tribes of Eastern Shoshone Tribe of the Wind River Reservation, Northern Arapaho Tribe, The Ute Tribe of the Uintah and Ouray Reservation, Shoshone-Bannock Tribes of the Fort Hall Reservation, and the Blackfeet Tribal Business Council of the proposed action and asking for comments. Follow up phone calls were also made on February 6, 2014 and messages were left. No comments were received.

The Preliminary EA, a means of soliciting public input to the NEPA process, along with the Rangeland Health Assessments, was posted to National NEPA Register and copies of the press release were sent notifying cooperators, and interested publics of a 30-day comment period were sent on February 18, 2014. Six comment letters were received.

LIVESTOCK MANAGEMENT PROPOSED DECISION

The issuance of the term grazing permit will be for a period of up to 10 years. This proposed decision will be effective upon the decision becoming final or pending final determination on appeal. If this grazing preference is transferred during the ten year period with no changes to the terms and conditions the new permit would be issued for the remaining term of the new permit.

Livestock grazing management practices on the new permit include the proposed action which would incorporate the Ball Horse Creek Allotment into the James Ryegrass Allotment. Previous allocated AUMs in the Ball Horse Creek Allotment will be incorporated into the James Ryegrass Allotment and the associated grazing permit (Table 1 & Table 2).

Table 1. Proposed Permitted Use

Allotment	Acres	Cattle	Active AUMs	Suspended AUMs	Permitted Use
James Ryegrass Ind.	3745	450	815	136	951
Ball Horse Creek	0	0	0	0	0

The Permits will include changes to the terms and conditions. Grazing will be permitted as shown in Table 2.

Table 2. Livestock grazing allotments and use, Proposed Action (Mandatory Terms and Conditions)

Allotment	Category	Livestock # and type		Dates of Use	BLM Acres	% Public Land	BLM Active AUMs
James Ryegrass Ind.	I	450	C	6/1 – 7/31	3745	100	815
Webb Draw Pasture	M	591	C	6/1 – 7/1	1550	66	417

The maximum grazing use in the allotments above in table 4 would be 1,232 AUMs.

James Ryegrass will have a rotational grazing system that follows Table 3. The dates of the permit will be 6/1- 7/31 annually. The rotation dates will be set yearly during an annual operating meeting but the rotation schedule will fall within the permitted dates.

Table 3. Deferred Rotation Schedule in James Ryegrass

Year	West Pasture	Middle Pasture	East Pasture
1	2	3	1
2	3	1	2
3	1	2	3
4	Repeat year 1		

Other Terms and Conditions:

1. The following changes to the grazing schedule may be allowed with approval by the authorized officer at the BLM. The request must be made at least 3 business days in advance.
 - a) The operator may change the permitted number of livestock and/or the date of livestock turn-out and/or removal as long as it does not exceed the permitted AUMs. If livestock numbers increase the period of use will be adjusted appropriately.
 - b) Livestock may be required to exit the allotment earlier than scheduled if grazing use reaches or exceeds stipulated levels. Extensions based on utilization need to be approved in advance by the authorized officer at the BLM.
 - c) Drought years with unfavorable climatic conditions that results in below average forage production or a reduction loss of reliable livestock water may require changes to the active preference or actual use that would occur in the allotment in any one year. Changes may include but are not limited to reduced livestock numbers, delayed turn-in dates, early turn-in and removal dates and potential pasture/allotment closures.
 - d) The operator may alter the order of rotation as long as each pasture receives deferment from growing season use within each (3) year cycle.
 - e) Non-use for resource protection may be authorized and encouraged beyond that scheduled in the rotation. This is to allow for maintenance and improvement in rangeland health and watershed condition.
2. Maximum allowable use levels will be as follows: Key upland forage and riparian species: 50% of the current year's growth. This is necessary to allow desirable key herbaceous species to 1) regenerate after defoliation and protect the plant's crown. 2) Residual material protects the soil from erosion. 3) Help in storing metabolic reserves in the soil. These three things will help enhance plant vigor, reproduction, and maintain or improve desirable perennial cover (Holechek et.al, 2004).
3. The permittee must properly complete, sign and date an Actual Grazing Use Report (BLM Form 4130-5) annually. The completed form(s) must be submitted to the BLM Pinedale Field Office within 15 days from the last day of annual authorized grazing use.
4. Salt and mineral blocks must be placed at least ¼ mile away from any riparian area, spring, stream, meadow, sensitive plant species, playa, sage-grouse lek, or water developments.
5. If grazing use consistently exceeds appropriate levels, or if any one of the Wyoming Standards for Healthy Rangelands are not met, or if trend monitoring indicates that the condition of range or riparian resources are declining and it is determined to be primarily due to livestock grazing, adjustments to livestock grazing management will be made as appropriate.
6. The permittee is responsible for all maintenance of assigned range improvements including wildlife escape ramps for both permanent and temporary water troughs. Maintenance must be completed prior to livestock turnout annually.

7. Flexibility in grazing seasons of up to 14 days outside of authorization will be allowed, not to exceed active AUMs, if requested by the permittee and approved by the BLM authorized officer.
8. In addition to the grazing use allowed in the Webb Draw Pasture Allotment (6/1 – 7/1). A trailing permit will be authorized for a 3 day period between July 25 and August 5. The additional days are to allow for unforeseeable delays in making use of the trailing permit.
9. Horse AUMs may be substituted for cow AUMs and must be approved by the authorized officer annually.

Monitoring

Upland trend and wildlife habitat monitoring will be conducted at existing monitoring sites at intervals of 5-10 years on each upland site, at a time when plant phenology allows for the greatest success in plant identification. Monitoring will be used to determine current status of objectives.

If it is determined those objectives are not being met then additional changes to the grazing practices will be implemented. These changes may include but not limited to; new water sources, changing the season of use, utilization levels, vegetation treatments and potentially a reduction in livestock numbers.

Currently there is no water in the Ball Horse Creek portion of the Allotment. Water would need to be developed to make this area useable by livestock. The existing water gap that is on private land in the James Ryegrass Allotment is being fenced off and will not be usable by livestock. Two new water wells will be drilled in the new James Ryegrass Allotment. The wells will operate using power from solar pumps and will be equipped with two troughs at each well. Locations of the wells were chosen based on consultant advice and permittee input. There will also be a mile of new fence constructed on the former Ball Horse Creek Allotment. The fence will be built to wildlife friendly specs and the purpose of the fence is to separate BLM land from the private land.

Mitigation Measures

Cultural and Paleontological Resources

- The BLM has formulated a plan for cultural compliance with regard to the renewal of this permit and has achieved concurrence on it with the Wyoming State Historic Preservation Office. The plan requires that locations where animals tend to concentrate, such as fence lines, artificial water sources, corrals, and salt/mineral blocks, will be inventoried at a Class III level by PFO cultural staff. In addition, areas with a high probability to contain cultural resources will also be inventoried at a Class III level by PFO cultural staff. These areas include natural water sources out to a distance of one quarter mile and along ridge tops and other landforms that may contain cairns or other cultural features significant to regional tribes. Finally, Class III inventory will be conducted by PFO cultural staff for two water wells that are currently planned for the James Ryegrass Allotment. Adverse effects to any eligible sites identified during these inventories will be mitigated in consultation with the SHPO. When possible, PFO cultural staff will monitor identified sites for damage and known heavy use areas for cultural remains.
- Concentrating animal use in outcrop areas can dislodge, rub out, and break cultural/fossil remains. Such areas should be inventoried prior to any development including fence placement, or trail and road construction/reclamation. Water wells/tanks/troughs and salt block locations should not be placed within known cultural sites or fossil localities due to the same effects mentioned above in other areas of animal concentration.

Weeds

- Treatment of weeds in the allotments is done by utilizing Integrated Pest Management techniques and is handled through a Cooperative Agreement between BLM and the Sublette County Weed & Pest District.

Visual Resource Management

- The application of best management practices would be required to mitigate visual impacts. These mitigations would include; proper facility placement and blending the facility into the landscape by painting with an approved earth color. With mitigation the project would comply with visual resource management class III objectives.

Wildlife and Fisheries Resources

Sage-grouse

- Proposed fence line within 0.6 miles of the nearest lek perimeter would be monitored and retrofitted with flight diverters. All construction and other disturbance activities would adhere to seasonal timing restrictions and the amount of disturbed sagebrush habitat would be minimized as practicable. In addition, existing fence lines throughout the allotment would be monitored and high risk fence lines would be identified and marked with strike diverters.
- Well facilities provide vertical structure on the landscape that serve as potential nesting and perching structures for predatory bird species. Vertical structures could also serve as a perceived threat to prey species thereby altering behavior by deterring use away from what could otherwise be suitable habitat. Utilization of solar panels instead of windmills may reduce these perching opportunities. All new water troughs would be fitted with escape ramps to minimize the potential for avian drowning. Ramps have already been installed in existing troughs. In accordance with Executive Order 2011-05 a Density Disturbance Calculation Tool consistency review is not necessary for construction of agricultural reservoirs less than 10 surface acres and drilling of agricultural water wells (including installation of tanks, water windmills and solar water pumps) within 0.6 miles of the perimeter of a lek provided that construction does not occur March 15 to June 30 and construction does not occur on the lek (Executive Order 2011-05, Attachment C). All management actions would comply with and incorporate the appropriate disturbance and timing restrictions relating to Core habitat set forth in BLM IM WY-2012-019 and Executive Order 2011-05.

Big Game

- New fence construction would adhere to BLM wildlife friendly specifications (BLM 1989).
- All construction and other disturbance activities would adhere to seasonal timing restrictions and the amount of disturbed sagebrush habitat would be minimized as practicable.

Pygmy Rabbit

- Proposed fence lines would be surveyed for the presence of occupied burrows. If occupied burrows are identified efforts to avoid structural damage would be employed.
- In order to reduce the potential impacts to habitat quality project locations would be identified that minimize sagebrush disturbance. In addition, occupancy surveys would be conducted within ¼ mile of potential locations. Utilization of solar panels instead of windmills would reduce perching opportunities for predators.

Sagebrush Obligate Songbirds

- Nesting surveys would be conducted prior to initiation of proposed construction activities in order to identify active nest locations.

Rationale

The James Ryegrass Allotment met all of the standards for Rangeland Health, except for Standard 6- Air Quality. The non- attainment of Standard 6 in this allotment was not due to livestock.

The deferred grazing system in place in the James Ryegrass Allotment will ensure that key plant species have the time for reproduction and restoration of plant vigor.

The proposed action in the James Ryegrass Allotment will enhance grazing management by providing new water wells. Currently there is no water in the Ball Horse Creek Allotment. Adding a water source in that section will make it useable by livestock. The addition of these new wells on the James Ryegrass Allotment will also enhance grazing management because the existing water gap that is on private land is being fenced off by the land owner and will not be usable by livestock in the allotment. The adequate supply of water at these sites could assist in keeping grazing animals in a better distribution pattern during the season of use. It will also provide flexibility to livestock operations by allowing the permittee to adjust their stocking density or turnout dates based on climatic and resource conditions

The Webb Draw Pasture Allotment met standards except for Standard 2- Riparian/Wetland Health and Standard 6- Air Quality. For Standard 2- Riparian/Wetland Health, it was determined that livestock grazing is a significant factor in not achieving this standard. However, there are other factors that contribute to not meeting the standard. These are drought, historic irrigation alterations, road crossings, natural gas pipeline crossing, and wildlife use. The non- attainment of Standard 6 in both allotments was not due to livestock.

Historically, the Webb Draw Pasture Allotment has been used by cattle for the month of June and then trailed to private pasture and then returned in late July or early August for 7-14 days. The late season removal of vegetation regrowth is one reason for the allotment not meeting Standard #2. A change in season of use and a designated timeframe for trailing will address the issues in the riparian areas that caused the allotment to fail Standard #2. The proposed action also provides flexibility to livestock operations by allowing the permittee to adjust their stocking density or turnout dates based on climatic and resource conditions

Land Use Plan Conformance

Land Use Plan Name: Pinedale Field Office Record of Decision and Approved Resource Management Plan

Date Approved: November 26, 2008

The proposed action is in conformance with the Pinedale Record of Decision and Approved Resource Management Plan signed in November 26, 2008, which states “Maintain, restore, or enhance livestock grazing to meet the Wyoming Standards for Rangeland Health and achieve allotment objectives (p 2-17)”.

This land use plan specifically provided for the following Management Decisions:

- h. The current grazing preference of 107,907 animal unit months (AUM) will be maintained, unless changes are warranted through site specific monitoring (p 2-18).
- k. Grazing systems will be designed to maintain or improve watershed function and range condition; for example, through changing seasons of use, implementing rotational or other grazing management systems, or developed infrastructure for livestock grazing management (p 2-18).

AUTHORITY: The authority for this proposed decision is contained in Title 43 of the Code of Federal Regulations, which states in pertinent part:

4100.0-8: “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 and objectives 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 CFR 601.0-5(b).”

4110.3: “The authorized officer shall periodically review the permitted use specified in a grazing permit or lease and shall make changes in the permitted use as needed to manage, maintain or improve rangeland productivity, to assist in restoring ecosystems to properly functioning condition, to conform with land use plans or activity plans, or to comply with the provisions of subpart 4180 of this part. These changes must be supported by monitoring, field observations, ecological site inventory or other data acceptable to the authorized officer.”

4110.3-2(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, ecological site inventory or other acceptable methods, the authorized officer shall reduce permitted grazing use or otherwise modify management practices.”

4130.2(a): “Grazing permits or leases shall be issued to qualified applicants to authorize use on public lands and other lands administered by the Bureau of Land Management that are designated as available for livestock grazing through land use plans.”

4130.3: “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 ensure conformance with the provisions of subpart 4180 of this part.”

4130.3-1(a): “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 livestock carrying capacity of the allotment.”

4130.3-1(c): “Permits and leases shall incorporate terms and conditions that ensure conformance with subpart 4180 of this part.”

4130.3-2: “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.”

4130.3-3: “Following consultation, cooperation, and coordination with the effected lessees or permittees, the State having lands or responsible for managing resources within the area, and the interested public, the authorized officer may modify terms and conditions of the permit or lease when the active use or related management practices are not meeting the land use plan, allotment management plan or other activity plan, or management objectives, or is not in conformance with

the provisions of subpart 4180 of this part.”

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.”

(b) “Upon the timely filing of protest, the authorized officer shall reconsider her/his proposed decision in light of the protestant’s statement of reasons for protest and in light of other information pertinent to the case. At the conclusion to her/his review of the protest, the authorized officer shall serve her/his final decision on the protestant or her/his agent, or both, and the interested public.”

(c): “A period of 30 days following receipt of the final decision, or 30 days after the date the proposed decision becomes final as provided in paragraph (a) of this section, is provided for filing an appeal and petition for stay of the decision pending final determination on appeal. A decision will not be effective during the 30-day appeal period, except as provided in paragraph (f) of this section. See Sec. Sec. 4.21 and 4.470 of this title for general provisions of the appeal and stay processes.”

4180.1: “The authorized officer shall take appropriate action under subparts 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.”

- (a) “Watersheds are in, or are making significant progress toward, properly functioning physical condition, including their upland, riparian-wetland, and aquatic components; soil and plant conditions support infiltration, soil moisture storage, and the release of water that are in balance with climate and landform and maintain or improve water quality, water quantity, and timing and duration of flow.”
- (b) “Ecological processes, including the hydrologic cycle, nutrient cycle, and energy flow, are maintained, or there is significant progress toward their attainment, in order to support healthy biotic populations and communities.”
- (c) “Water quality complies with State water quality standards and achieves, or is making significant progress toward achieving, established BLM management objectives such as meeting wildlife needs.”
- (d) “Habitats are, or are making significant progress toward being, restored or maintained for Federal threatened and endangered species, Federal Proposed, Category 1 and 2 Federal candidate and other special status species.”

RIGHT OF PROTEST AND/OR APPEAL

Any applicant, permittee, lessee, or other interested public may protest this proposed decision within 15 days following its receipt in accordance with 43 CFR 4160.2. The protest may be submitted in person or in writing to the Pinedale Field Office Manager, Bureau of Land Management, Pinedale Field Office P.O. Box 768, Pinedale, Wyoming 82941.

In the absence of a protest, this proposed decision shall constitute my final decision without further notice unless otherwise provided for in the proposed decision, in accordance with 43 CFR 4160.3(a). Should a timely protest be filed I will consider the points of the protest and other pertinent information and issue my final decision to all persons named in this decision in accordance with 43 CFR 4160.3(b).

Any applicant, permittee, lessee, or other person whose interest is adversely affected by the final BLM grazing decision may file an appeal for the purpose of a hearing before an administrative law judge in accordance with 43 CFR 4160.3(c), 4160.4, 4.21, and 4.470. The appeal must be filed within 30 days following receipt of the final decision or 30 days after the date the proposed decision becomes final. The appeal should state the reasons, clearly and concisely, why the appellant thinks the final BLM grazing decision is in error. A petition for a stay of the decision pending final determination of the appeal by the administrative law judge may also be submitted during this same 30 day time period. The appeal, or the appeal and petition for stay, must be in writing and delivered in person, via the United States Postal Service mail system, or other common carrier, to the Pinedale Field Office as noted above. The BLM does not accept appeals by facsimile or email.

Should you wish to file a petition for a stay in accordance with 43 CFR Section 4.471(c), the appellant shall 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.

Within 15 days of filing the appeal, or the appeal and petition for stay, with the BLM officer named above, the appellant must serve copies to any other person named in this decision and on the Office of the Regional Solicitor located at U.S. Department of the Interior, Rocky Mountain Region, 755 Parfet Street, Suite 151, Lakewood, CO 80215 in accordance with 43 CFR 4.470(a) and 4.471(b).

SIGNATURE

For 
Shane DeForest
Field Manager
Pinedale Field Office

4-15-14
Date