

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

**Decision Record for  
Grazing Permit Renewals  
Environmental Assessment  
Boulder Landscape**

**DOI-BLM-WY-100-2009-35-EA**

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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 Boulder landscape is located approximately 15 miles southeast of Pinedale, Wyoming. It is bounded on the north by Wyoming Highway 353 (the Boulder Highway), on the west by US Highway 191, on the south by the boundary between the Pinedale (PFO) and Rock Springs (RSFO) Field Offices of the BLM, and on the east by the Boulder Highway and the Bridger Teton National Forest (BTNF). The area includes 18,400 acres of private lands, 10,200 acres of State of Wyoming lands, and 72,000 acres of public lands administered by the Bureau of Land Management, for a total of 100,600 acres. The area is drained by Muddy Creek and the East Fork River, with few flowing waters located on public lands.

There are 16 grazing permits in the 18 allotments of the Boulder Landscape. The new permits include 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.

There are 16 grazing permittees in the 18 allotments of the Boulder Landscape. Reviews of case files indicate that all permittees 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 2009 for the allotments in the Boulder landscape. All 18 allotments met all of the standards for Rangeland Health, except for Standard 6- Air Quality. The non- attainment of Standard 6 in all allotments was not due to livestock grazing.

### **Consultation and Coordination**

The scoping process for the Boulder Landscape Plan began in March, 2009. To initiate the process and gather input from on the ground users, a meeting was held with grazing permittees on March 31, 2009.

A meeting was held with potential cooperating agencies on April 14, 2009. A notice that BLM intended to conduct Standards for Rangeland Health Assessments in the area was posted on

BLM's website. A letter was sent to the Shoshone, Arapaho, Bannock, and Ute tribes on May 28, 2009. BLM cultural staff met with representatives of the tribes on September 18, 2009. This meeting took place in the field. The Shoshone tribe recommended no oil and gas exploration in the Boulder Landscape area and complete avoidance of all features of cultural significance to the Eastern Shoshone Tribe.

A public scoping notice was released on April 17, 2009. A public meeting was held at the Pinedale BLM Field Office on April 27, 2009. A 30-day comment period was open until May 20, 2009. A total of 7 comment letters was received from private individuals, recreation and environmental groups, and government agencies.

A second public scoping notice was mailed out on April 12, 2011. The purpose of the second notice was to provide those interested in the Boulder landscape plan process with the monitoring and assessment information that BLM will use in this EA. Seven comment letters were received in response to this notice.

On July 2, 2012, a public meeting was held at the Boulder Community Center. Preliminary transportation planning scenarios were presented, and the public provided relevant comments.

The Rangeland Health Assessment for the Boulder Landscape was distributed on July 25, 2012. This document included the Health Assessment, as well as a Determination for 18 allotments regarding whether each allotment met the Standards for Rangeland Health as established by BLM for lands in Wyoming. Five comment letters on the Health Assessment were received.

In March, 2013, meetings were held at the Pinedale Field Office with permittees of the five largest allotments in order to document current allotment use, management needs, and operator preferences for future management.

The Preliminary EA, a means of soliciting public input to the NEPA process, 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 on January 13, 2014. Twenty comment letters were received. The EA was revised in response to these comments. The final EA and FONSI can be found at: <http://www.blm.gov/wy/st/en/info/NEPA/documents/pfo/grazing.html>.

## **PROPOSED DECISION**

### **Livestock Grazing**

Livestock grazing permits will be renewed for 10-year terms. This proposed decision will become final following the protest period, unless a protest is received. If a protest is received, the decision will become final upon completion of the appeal period. If any grazing preference is transferred during the ten year period with no changes to the terms and conditions, the new permit will be issued for the remaining portion of the term of the existing permit. According to the grazing regulations at 43 CFR 4100, permittees who are leasing the base property supporting the permit for a period less than 10 years will be issued a BLM grazing permit for the term of their private base property lease.

Permits will be renewed in 18 allotments, with a total of 8,099 permitted AUMs. If base property

for any permit is transferred during the ten year permit period, the new term permit will be issued for the remaining term of the permit with the same terms and conditions under the original authorization.

Permits will include changes to the terms and conditions. Grazing will be permitted as shown in Table 1:

**Table 1.** Livestock grazing allotments and use, Proposed Action (Mandatory Terms and Conditions)

Allotment	Category	Livestock # and type		Dates of Use	BLM Acres	% Public Land	BLM AUMs
Big Sandy Individual	M	6	C	7/1 – 11/30	280	100	30
Boulter Pasture	M	2	H	11/01 – 11/30	20	100	2
Butte Individual	M	Unallocated			70		7
Chalk Butte Common	M	167	C	5/10 – 6/30	3,445	100	244
Circle 9 Individual	M	67	C	5/1 – 6/10	520	71	63
Cowley Tract	M	5	C	5/6 – 7/5	80	100	10
East Fork Common	M	897	C	5/1 – 7/5	6,905	97/72	793
Fremont Butte Common*	M	839	C	5/1 – 7/5	21,015	100	1,822
Fremont Butte Individual	M	240	C	5/5 – 7/5	4,385	85	417
Individual Fenced	C	2	C	5/1 – 10/15	250	100	11
Irish Canyon Tracts Ind.	M	15	C	5/6 – 7/5	332	100	30
Muddy Meadows	M	4	C	5/1 – 9/30	40	100	20
North Pasture Individual	M	10	H	5/1 – 8/28	480	79	31
Sandy Fenced	M	150	C	6/2 – 9/30	250	5	30
Sandy Individual	C	4	C	5/1 – 8/15	120	100	14
Sandy Upper Muddy	M	7	C	5/1 – 10/15	660	100	47
Southwest Pasture Ind.	M	56	C	7/1 – 7/31	480	100	59
Square Top Common	I	2,370	C	5/1 – 9/30	38,509	100	4,469
		35	H	5/10 – 11/30			

\*The remaining 517 cattle/588 AUMs would be in the West Fremont Butte allotment in the Anticline landscape.

The maximum grazing use on 18 allotments in the Boulder Landscape area will be 8099 AUMs, the same as in the No Action alternative.

In the Square Top Common allotment, some horse AUMs will be converted to cattle AUMs. Three permittees currently have horse AUMs on the permit.

**Table 2.** Horse AUMs in the Square Top Common allotment

Permit	# of	Season of	AUMs	Future permit status
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	<b>horses</b>	<b>use</b>		
Mayo	25 H	5/1 – 11/15	164 AUMs	Remain as horse permit
Richie	22 H	5/1 – 11/30	155 AUMs	Convert to cattle use; 74 C 5/10 – 7/5
Jones	10 H	5/1 – 11/30	70 AUMs	Convert to cattle use; 32 C 5/10 – 7/5

164 AUMs of horse use on the Mayo permit will remain the same, with 25 horses using the allotment 5/1 – 11/15.

155 AUMs of horse use, currently authorized from 5/1 through 11/30 annually on the Richie permit, will be converted to cattle use. The season of use for these AUMs will also be changed to coincide with the current cattle grazing season in May and June. This will result in removing 111 AUMs of use from the traditional horse grazing period July through November. This will increase Richie’s permitted use in their 5/10 – 7/5 use period from 301 to 385 cattle. The total number of AUMs authorized on Richie’s grazing permit will stay the same at 758 AUMs.

70 AUMs of horse use, currently authorized from 5/1 through 11/30 annually on the Jones permit, will be converted to cattle use. The season of use for these AUMs will also be changed to coincide with the current cattle grazing season in May and June. This will result in removing 70 AUMs of use from the traditional horse grazing period July through November. This will increase Jones’s permitted use in their 5/10 – 7/5 use period from 384 to 416 cattle. The total number of AUMs authorized on Jones’s grazing permit will stay the same at 758 AUMs.

The Fremont Butte Common allotment will be separated into two allotments along the US Highway 191 corridor that splits the allotment naturally. The portion in the Boulder landscape will still be named Fremont Butte Common. The portion west of Hwy 191 will be renamed West Fremont Butte Common. The West Fremont Butte Common allotment will contain 5,883 BLM-administered acres and 588 BLM AUMs. The permits will be addressed, as appropriate, as part of the Anticline/Jonah landscape.

In the East Fork Common allotment, Permittee Brucellosis Herd Plans signed by each permittee with the Wyoming Livestock Board will guide livestock/elk separation as the allotment contains elk parturition areas.

No new grazing permit will be issued for the Butte Individual allotment at this time. If an application for a grazing permit is received in the future, it will be considered at that time.

Trailing use will be authorized in accordance with the grazing regulations. Trailing livestock will be required to be under direct supervision and making significant progress daily. Proper application for trailing use to the authorized officer at least 5 days before the requested trailing use will be required. If livestock are trailed within the timeframe of their permit, and on their permitted allotments, no additional trailing permits will be required.

**Terms and Conditions to Appear on Grazing Permits:**

1. 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 authorized annual grazing use.
2. Feed supplements such as salt and minerals may be allowed on the allotments to promote proper grazing distribution. If used, supplements will be located on ridge tops and/or approximately one-quarter mile away from any riparian habitat. Placement of supplements near water sources, such as wells and reservoirs, will consider rangeland objectives, such as grazing distribution, wildlife habitat requirements, and reclamation success. Salt or mineral supplement blocks will not be placed within one-quarter mile of an occupied sage-grouse lek or a known Special Status Plant Species. Supplemental forages including protein block and cottonseed cake are prohibited unless specifically approved by the Authorized Officer in an emergency situation. Placement of mineral blocks should be closely coordinated with the WYGF so as to avoid impacting sage-grouse leks, nesting and brood-rearing habitat and important habitats for big game.
3. Grazing use will be in accordance with the Standards for Rangeland Health and Guidelines for Grazing Management. Grazing use will also be in accordance with 43 CFR Subpart 4180 - Fundamentals of Rangeland Health and Standards and Guidelines for Grazing Administration.
4. If future monitoring data indicates that Standards and Guidelines for Grazing Administration are not being met, and livestock grazing is determined to be a causal factor, the permit will be reissued subject to revised terms and conditions.
5. 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, and periodically throughout the grazing period even if taking non-use for that grazing year.
6. Grazing permittees will meet with BLM twice annually at a minimum; before turnout to schedule maintenance activities and after the grazing season to discuss monitoring.
7. Maximum allowable use levels will be as follows: Key upland forage species: 50% of the current year's growth. Livestock will be moved to another authorized pasture or removed from the allotment when utilization objectives are met or no later than 3 days after meeting the utilization objectives.
8. Water wells/tanks/troughs and salt block locations should not be placed within known cultural sites or fossil localities or sage-grouse leks.
9. 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 must be approved in advance and as appropriate by the authorized officer at the BLM.
  - c) Drought years with unfavorable climatic conditions that result in below average

forage production or a reduction or 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) Voluntary and coordinated non-use for resource protection may be approved by the authorized officer if such use is determined to be in conformance with the applicable land use plan.

## **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 outlined in section 1.2. As necessary, existing inventory information from the North Wind data will be used to establish vegetation objectives for each monitoring site. The 4C's joint cooperative monitoring program will be continued.

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

## **Mitigation Measures**

### **Cultural and Paleontological Resources**

- 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.

### **Wildlife and Fisheries Resources**

#### **Sage-grouse**

- All construction and other disturbance activities will adhere to seasonal timing restrictions and the amount of disturbed sagebrush habitat will be minimized as practicable. Existing fence lines throughout the allotment will be monitored and high risk fence lines will be identified and marked with strike diverters.

#### **Big Game**

- All construction and other disturbance activities will adhere to seasonal timing restrictions and the amount of disturbed sagebrush habitat will be minimized as practicable.

## **Pygmy Rabbit**

- In order to reduce the potential impacts to habitat quality, surface disturbance will be targeted to minimize sagebrush disturbance. In addition, occupancy surveys will be conducted within ¼ mile of potential locations. Utilization of solar panels instead of windmills will reduce perching opportunities for predators.

## **Rationale**

The allotments of the Boulder landscape met all of the standards for Rangeland Health, except for Standard 6- Air Quality. The non-attainment of Standard 6 in the allotments was not due to livestock grazing.

The allotments of the Boulder landscape provide forage for 16 grazing permittees during an important part of the year. While continued grazing during the critical growth period in May and June may not allow for improvement in vegetation condition of community composition, the existing composition is stable and resistant to livestock grazing.

## **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

/s/ Shane DeForest  
Shane DeForest  
Field Manager  
Pinedale Field Office

6/16/2014  
Date