



# United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
Rock Springs Field Office  
280 Highway 191 North  
Rock Springs, Wyoming 82901-3447



In Reply Refer To:  
4160 (040)

DEC 10 2007

Certified - 7004 1350 0003 7853 5962 - Return Receipt Requested

Hellyer Limited Partnership  
560 Lyons Valley Road  
Lander, Wyoming 82520

## NOTICE OF THE FIELD MANAGER'S FINAL DECISION AND FINDING OF NO SIGNIFICANT IMPACT

Dear Hellyer Limited Partnership:

### INTRODUCTION:

The Bureau of Land Management (BLM), Rock Springs Field Office (RSFO) plans to allow the conversion of Hellyer Limited Partnership's permitted sheep use to cattle use, sheep use or a combination of both sheep and cattle on the Red Desert Allotment.

### BACKGROUND:

On July 21, 1998, Magagna Brothers submitted a request for a transfer and conversion of Animal Unit Months (AUMs) in the Continental Peak and Red Desert Allotments. They requested that the AUMs be transferred to Robert and Martha Hellyer (now Hellyer Limited Partnership) and that the AUMs be converted from sheep to cattle use, sheep use or a combination of both sheep and cattle. On March 3, 1999, a decision was issued denying the requested livestock conversion because the Continental Peak and Red Desert Allotments were within the area being analyzed in the Jack Morrow Hills Coordinated Activity Plan (JMH CAP). Such actions were on hold until the JMH CAP was completed (40 CFR 1506.1). The transfer, however, was completed on June 15, 1999. On May 12, 2004, Hellyer Limited Partnership and Magagna Brothers jointly sent a letter to the RSFO to again request a livestock conversion in the Continental Peak and Red Desert Allotments. Now that the Record of Decision for the JMH CAP is signed, the RSFO can proceed with the analysis of the requested livestock conversion. After discussions, BLM and Hellyer Limited Partnership have decided to consider both allotments separately, in terms of a livestock conversion. Therefore, this proposal is for the Red Desert Allotment only. The request is to convert existing sheep use under permit to the Hellyer Limited Partnership to cattle use, sheep use or to allow for a combination of both sheep and cattle use if desired. On June 15, 2007, the initial Environmental Assessment (EA) was sent out for public comment to interested publics and was posted on the BLM website. The comment period was open for 45 days. The comments received were taken into consideration in the completion of the EA. The BLM met with Hellyer Limited Partnership on several occasions during the comment period and after to address concerns and clarify the proposed action.

On August 2, 2007, Hellyer Limited Partnership met with BLM to discuss their comments on the EA and to review the proposed action. In a letter dated August 3, 2007 to the BLM, the Hellyer Limited Partnership stated their agreement to a conversion rate that differs from the conversion rate stated in the original Allotment Management Plan (AMP) and modified their proposed action as a result. The EA was completed in September 2007.

The Hellyer Limited Partnership, Magagna Bros Inc., and Western Watersheds Project provided protest comments on the September 14, 2007 Proposed Decision and EA for the Red Desert Allotment. The comments for each involved party are summarized in the following:

Hellyer Limited Partnership:

- Object to use levels; should remain the same as stated in the current AMP and use levels should only apply to the Western portion of the Pinnacles Pasture.

Magagna Bros Inc:

- Protests upland and riparian use levels

Western Watersheds Project:

- The EA violates the National Environmental Policy Act (NEPA) because the Continental Peak Allotment and the Red Desert Allotment are being analyzed in two separate NEPA documents.
- Conversion affects antelope and sage grouse
- 49.3 miles of riparian area are 'unrated'
- Wilderness Study Areas (WSAs) are not analyzed
- Protests methods of analysis for conversion and states 'lack of data' to conduct analysis
- Didn't analyze dietary overlap between cattle and sheep
- Analysis failed to discuss mitigation and all environmental impacts thoroughly
- The proposed action violates Federal Land Policy and Management Act (FLPMA) and the Multiple Use and Sustained Yield Act (MUSYA)
- The proposed action violates Federal Advisory Committee Act (FACA)

The BLM provides the following response to address all of the protest comments:

- The use levels in the current Allotment Management Plan will be used as a tool to move livestock and manage the resource. The use levels will be as follows for the Red Desert Allotment:
  - 60% of current year's growth on key riparian herbaceous species, or
  - 50% of current year's growth on key upland species, or
  - 30% of stems bitten on mountain shrub species in the Western portion of the Pinnacles pasture.
- Monitoring will be used to manage the resource. If at any point it is determined from monitoring data that a change in management is necessary, the use levels will be re-analyzed. Also, in reference to the current AMP, once 50% active use occurs in the Red Desert Allotment the AMP will be re-analyzed.

- The Red Desert and Continental Peak Allotment proposals are different and involve multiple criteria so they must be analyzed in two different EAs. The Red Desert is a common allotment with multiple permittees and the Continental Peak Allotment is a single permittee allotment.
- The Red Desert is a conversion to sheep use, cattle use, or a combination of both, whereas Continental Peak Allotment is a full conversion to cattle use. Each allotment has its separate boundaries, different vegetation, production, and water sources. Also, Continental Peak has a variety of proposed projects along with the conversion (i.e. fencing and water developments). Therefore, the two allotments need to be analyzed in two separate NEPA documents.
- There is no fencing proposed in the Red Desert EA so Antelope migration will not be affected. The Red Desert allotment represents less than .9% of the Sublette Herd Unit.
- The Rock Springs Field Office used the best data available: the current AMP, Proper Functioning Condition (PFC) data, actual use summaries, Standards and Guidelines (S&Gs), Landsat vegetation map, professional knowledge and technical references to conduct a scientific analysis. The PFC data, S&Gs and current resource data show the rangeland is sustainable and ecological resources are good. Based on previous observation, the 49.3 miles of stream that are 'unrated' were determined to not have riparian characteristics and were not analyzed using the PFC method. It is stated in the current AMP that when active use reaches 50%, then the AMP will be re-analyzed; until that level is reached it is determined that the rangeland is sustainable for livestock grazing.
- From discussion with the permittees and their knowledge of cattle grazing along with technical references (Holechek et al.) it was determined that cattle can travel up to two miles from water. Through further research and verifying water sources the Final EA was re-analyzed in light of the new information.
- The Red Desert is a common allotment with three permittees including the Hellyer Limited Partnership. The two other permittees are allowed to graze the entire Red Desert Allotment. Therefore, all forage must be taken into consideration when calculating available AUMs for the cattle conversion so current permitted use is not reduced.
- The BLM analyzed the dietary overlap between cattle and sheep. It has been referenced from technical sources that cattle and sheep have very similar dietary overlap. According to Holechek et al. the dietary overlap between cattle and sheep can range from 30% to 70%. Also, "dietary overlaps between different animal species vary with terrain, season of use, grazing system, stocking rate, and year to year weather fluctuations that affect forage production and species composition" (Holechek et al., 2004). From information gathered from technical references, professional knowledge and vegetation maps the BLM reduced AUMs by approximately 55% to account for cattle use. Monitoring will also assure the resource is not harmed from the conversion.

- A BLM ID team determined that the livestock conversion would have no effect on the management of WSAs.
- The analysis meets all of the NEPA requirements. An ID team thoroughly analyzed the proposed action in the EA, determined a FONSI, and then created a proposed decision. The use levels and monitoring are part of the proposed action as mitigation for the conversion. The proposed action with use levels and monitoring were analyzed and a FONSI was determined. The BLM ID team determined the proposed action was unreasonable without mitigation and therefore was not further analyzed. The utilization levels and monitoring requirements are part of the terms and conditions of this livestock conversion. Without these terms and conditions this livestock conversion would not be approved.
- The BLM did not violate FLPMA because there are many policies and mandates that qualify grazing as 'multiple use' on rangelands (i.e. Taylor Grazing Act 1934) and determine grazing will not damage the resource if properly managed. The BLM did not violate MUSYA because MUSYA was created as a guideline for multiple use on National Forests. Since the Red Desert Allotment has no National Forest land, MUSYA does not pertain to this decision.
- Finally, the BLM did not violate FACA because the Hellyer Limited Partnership is not a group or committee subject to FACA. The meetings with the permittee, discussing proposed actions, are not subject to FACA. Also, the Proposed Decision and the Red Desert EA were sent to all interested publics and posted online for review and comments.

#### FINAL DECISION:

My final decision is to implement the proposed action described in the EA #WY-040-06-067 allowing conversion of sheep use to cattle use, sheep use or both within the Red Desert Allotment, #13012, in your grazing permit/lease, #4904648, and to issue a new grazing permit.

The decision will be to convert the grazing permit as follows:

#### FROM

ALLOTMENT	LIVESTOCK NUMBER & KIND	GRAZING PERIOD	PERCENT FEDERAL	AUMs
Red Desert	3,660 Sheep	5/1-5/6 (trailing use)	100	144
	2,300 Sheep	5/1-12/15	91	3,152

#### TO

ALLOTMENT	LIVESTOCK NUMBER & KIND	GRAZING PERIOD	PERCENT FEDERAL	AUMs
Red Desert	732 Cattle or 3,660 Sheep	5/1-5/6 (trailing use)	100	144
	191 Cattle	5/1-12/15	91	1,337
	or 2,300 Sheep			3,152
	or a combination of sheep and cattle			not to exceed 1,337

The following terms and conditions will apply to the permit:

- Use within the Red Desert Allotment will be in accordance with the Red Desert AMP.
- Use within the Red Desert Allotment will be as follows:
  - a. 1,337 AUMs cattle, or
  - b. 3,152 AUMs sheep, or
  - c. a combination not to exceed 1,337 AUMs total.
- Livestock will be removed from the pasture or the allotment when the utilization levels reach:
  - a. 50% of current year's growth on key upland grass species, or
  - b. 60% of current year's growth on riparian herbaceous species, or
  - c. 30% of stems bitten on mountain shrub species in the Western portion of the Pinnacles pasture.
- Hellyer Limited Partnership has agreed to conduct joint utilization monitoring with the BLM.
- The terms and conditions of the permit may be modified if additional information indicates that revision is necessary to conform with 43 CFR 4180.

#### RATIONALE:

My decision is based on the following:

- The stocking rate in the Proposed Action would be at a level that will be sustainable over time on range in good condition. The area has limited water availability and the level of conversion is based on an appropriate distance from these waters as suitable for use by cattle.
- Utilization levels on current year's growth for upland and riparian species and mountain shrubs are being applied to protect vegetation.
- The competition for forage with big game and wild horses was taken into account.
- The Proposed Action will not have significant adverse effects on sensitive species. Habitat quality for sage-grouse would not be adversely impacted.
- Wyoming standards for healthy rangelands would be maintained under the stipulations imposed by the proposed action and AMP.
- This grazing design would meet the Wyoming guidelines for livestock grazing.

#### AUTHORITY:

This EA fulfills the National Environmental Policy Act (NEPA) requirement for site-specific analysis. The Proposed Action is in accordance with 43 CFR 1610.5-3(a); Federal Land Policy and Management Act (FLPMA) of 1976, as amended; Sandy Grazing Environmental Statement Record of Decision (1979); Taylor Grazing Act of 1934; and NEPA of 1969. The Wyoming Standards for Healthy Rangelands and Guidelines for Livestock Grazing Management were developed and approved by the Secretary of the Interior on August 12, 1997.

The Proposed Action is in conformance with the Record of Decision, Green River Resource Management Plan, approved August 8, 1997, the JMH CAP Record of Decision dated July 19, 2006, the land use plan terms and conditions as required by 43 CFR 1610.5-3(a), and the Red Desert AMP and revisions, dated March 7, 1984. The Green River RMP EIS and JMH CAP EIS analyzed the impacts of grazing.

This action is in conformance with 43 CFR 4130 authorizing grazing use on public lands.

### **Finding of No Significant Impact**

I have determined that the selected alternative is in conformance with the approved land use plan. I have reviewed this EA including the analyses of potentially significant environmental impacts. I have determined that the selected action will not have any significant impacts on the human environment and that an EIS is not required.

### **RIGHT OF APPEAL:**

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. 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 writing to:

Bureau of Land Management  
Rock Springs Field Office  
Attn: Field Manager  
280 Highway 191 North  
Rock Springs, WY 82901

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 cc sent to: section of this decision.

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

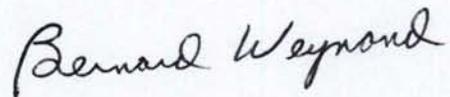
Should you wish to file a petition for a stay, you must comply with the provisions at 43 CFR 4.471. Among other things, that regulation requires that a petition for a stay show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied.
2. The likelihood of the appellant's success on the merits.
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

Any person named in the decision from which an appeal is taken who wishes to file a response to the petition for a stay may file with the Hearings Division a motion to intervene in the appeal, together with the response, within 10 days after receiving the petition. The person must serve copies of the motion to intervene and response on the appellant, the Office of the Solicitor and any other person named in the decision (43 CFR 4.472(b)).

If you have any questions contact Bob Price at (307) 352-0367.

Sincerely,

A handwritten signature in cursive script that reads "Bernard Weynand". The signature is written in dark ink and is positioned above the printed name and title.

Bernard Weynand  
Assistant Field Manager, Resources