

In Reply Refer To:
4120 (WYR01)
GR 4915438

November 7, 2012

**CERTIFIED MAIL NUMBER 7009 2250 0000 9897 2682 2774
RETURN RECEIPT REQUESTED**

Flitner Ranch
c/o David and Paula Flitner
P.O. Box 8
Shell, WY 82443

NOTICE OF PROPOSED DECISION

Dear Mr. and Mrs. Flitner:

Background

The permittee, Flitner Ranch, c/o David and Paula Flitner, have made an application to change the kind of livestock and season of use on the Potato Ridge Allotment #01537. Currently the Potato Ridge Allotment is permitted for winter sheep grazing but the permittee is not currently engaged in the sheep industry. The permittee would like to change the kind of livestock from sheep to cattle and change the season of use from winter to spring use.

An Environmental Assessment (EA) DOI-BLM-WY-R010-2012-0106-EA has been prepared to analyze the grazing impacts of the change in kind and season of use in the Potato Ridge Allotment. The following decision is based upon this analysis.

My Proposed Decision, pursuant to 43 Code of Federal Regulations 4160.1(a) and in accordance with 43 CFR 4130.2, as well as Worland Field Office Policy, is to:

- 1) Approve a Finding of No Significant Impact (enclosure 1) to EA: DOI-BLM-WY-R010-2012-0106-EA (enclosure 2), and
- 2) Authorize the Proposed Action: Issue a new ten year Grazing Permit (enclosure 3) to Flitner Ranch, c/o David and Paula Flitner for the Potato Ridge Allotment #01537 as analyzed within the Environmental Assessment DOI-BLM-WY-R010-2012-0106-EA. The grazing permit will be issued as follows:

01537 Potato Ridge

64 Cattle 05/01 to 06/20 100% Public Land 107 AUMs Active Use

Terms and Conditions:

The Potato Ridge Allotment will be grazed in a three year cycle with spring use (May 1 to June 20) one year and fall/winter use (October 16 to February 28) for two succeeding years. Spring grazing use will occur in 2013, 2016, 2019, and 2022.

Livestock numbers may vary within the spring use period (May 1 to June 20) and the fall/winter use period (October 16 to February 28) as long as the total number of AUMs does not exceed 107 public AUMs, as approved by the authorized officer.

Utilization on key forage plants would be limited to Light Use (21%-40%) and will not exceed 40 percent of current year's growth during the spring use period (May 1 to June 20). If utilization after grazing exceeds 40 percent the allotment will be totally rested the following year.

Utilization levels on key forage plant species during the fall/winter use period (October 16 to February 28) will be limited to 50 percent of current year's growth. If utilization after grazing exceeds 50 percent of current year's growth the allotment will be totally rested the following year.

The operator is responsible for informing all persons in the area who are associated with this project that they will be subject to prosecution for knowingly disturbing historic or archaeological sites, or for collecting artifacts. If historic or archaeological materials are uncovered during construction, the operator is to immediately stop work that might further disturb such materials, and contact the authorized officer (AO). Within five working days the AO will inform the operator as to:

-whether the materials appear eligible for the National Register of Historic Places;

-the mitigation measures the operator will likely have to undertake before the site can be used (assuming in situ preservation is not necessary); and,

-a timeframe for the AO to complete an expedited review under 36 CFR 800.11 to confirm, through the State Historic Preservation Officer, that the findings of the AO are correct and that mitigation is appropriate. The AO will provide technical and procedural guidelines for the conduct of mitigation. Upon verification from the AO that the required mitigation has been completed, the operator will then be allowed to resume construction measures.

Please review the Grazing Permit and if you accept the terms and conditions, sign and date where indicated and return both copies to this office within 45 days after receiving it. An approved copy of the permit will be returned to you for your records.

Provision for Protest and Appeal

Any applicant, permittee, lessee or other interested publics may protest a proposed decision under Sec. 43 CFR 4160.1 and 4160.2, in person or in writing to Worland Field Manager, Bureau of Land Management, 101 S. 23rd Street, Worland, Wyoming 82401 within 15 days after receipt of such decision. The protest, if filed, should clearly and concisely state the reason(s) as to why the proposed decision is in error.

In accordance with 43 CFR 4160.3 (a), in the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice unless otherwise provided in the proposed decision.

In accordance with 43 CFR 4160.3 (b) upon a timely filing of a protest, after a review of protests received and other information pertinent to the case, the authorized officer shall issue a final decision.

Any applicant, permittee, lessee or other person whose interest is adversely affected by the final decision may file an appeal in accordance with 43 CFR 4.470 and 43 CFR 4160.3 and 4160 .4. The appeal must be filed within 30 days following receipt of the final decision, or within 30 days after the date the proposed decision becomes final. The appeal may be accompanied by a petition for a stay of the decision in accordance with 43 CFR 4.471 and 4.479, pending final determination on appeal. The appeal and petition for a stay must be filed in the office of the authorized officer, as noted above. The person/party must also serve a copy of the appeal on any person named [43 CFR 4.421(h)] in the decision (see cc list following the signature line) and the Office of the Solicitor, 755 Parfet Street Suite 151, Lakewood, CO. 80215. The BLM does not accept appeals by facsimile or email.

The appeal shall state the reasons, clearly and concisely, why the appellant thinks the final decision is in error and otherwise complies with the provisions of 43 CFR 4.470.

Should you wish to file a petition for a stay, see 43 CFR 4.471 (a) and (b). In accordance with 43 CFR 4.471(c), a petition for a stay must 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.

As noted above, the petition for stay must be filed in the office of the authorized officer and serviced in accordance with 43 CFR 4.473. Any person named in the decision from which an appeal is taken (other than the appellant) 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. Within 15 days after filing the motion to intervene and response, the person must serve copies on the appellant, the Office of the Solicitor and any other person named in the decision (43 CFR 4.472(b)).

The Environmental Assessment and FONSI are available for your review on the Worland Field Office website: <http://www.blm.gov/wy/st/en/info/NEPA/documents/wfo/grazing-renewals.html>

If you have any questions, please contact Teryl Shryack at the above address or telephone (307) 347-5110.

Sincerely,

Rebecca A. Spurgin
Field Manager

Enclosures

1. Finding of No Significant Impact
2. EA DOI-BLM-WY-R010-2012-0106-EA
3. Grazing Permit

cc: **CERTIFIED MAIL NUMBER 7009 2250 0000 9897 2781**
RETURN RECEIPT REQUESTED
Western Watersheds Project
c/o Jonathan Ratner, Wyo. Director
P.O. Box 1160
Pinedale, WY 82941-1160

CERTIFIED MAIL NUMBER 7009 2250 0000 9897 2798
RETURN RECEIPT REQUESTED
Guardians of the Range
c/o Kathleen Jachowski
217 Rd. 6EH
Cody, WY 82414

CERTIFIED MAIL NUMBER 7009 2250 0000 9897 2804
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Wyoming Office of State Lands & Investments
c/o Marty Matsen
122 West 25th St.
Cheyenne, WY 82002

CERTIFIED MAIL NUMBER 7009 2250 0000 9897 2811
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Wyoming State Grazing Board
c/o Dick Loper
P.O. Box 1202
Lander, WY 82520

CERTIFIED MAIL NUMBER 7009 2250 0000 9897 2828
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Wyoming Game and Fish Department
c/o Vern Stelter
5400 Bishop Blvd
Cheyenne, WY 82006

CERTIFIED MAIL NUMBER 7009 2250 0000 9897 2835
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Sean Sheehan
1313 South Fork Road
Cody, WY 82414

CERTIFIED MAIL NUMBER 7009 2250 0000 9897 2842
RETURN RECEIPT REQUESTED
Wyoming Department of Agriculture
c/o Jessica Crowder
2219 Carey Ave.
Cheyenne, WY 82006

CERTIFIED MAIL NUMBER 7009 2250 0000 9897 2859
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Big Horn County Mapping and Planning Commission
c/o Jim Waller, County Planner
P.O. Box 29
Basin, WY 82410