



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Idaho Falls District
Upper Snake Field Office
1405 Hollipark Drive
Idaho Falls, Idaho 83401-2100

In Reply Refer To:
4100

October 30, 2012

CERTIFIED - RETURN RECEIPT REQUESTED

L&M Cattle Company
c/o Louis Merrill
440 North 4300 East
Rigby, ID 83442

NOTICE OF FIELD MANAGER'S PROPOSED DECISION

Dear Mr. Merrill:

Introduction

You were previously notified that we would be initiating an analysis process on an allotment basis to determine the environmental impacts of livestock grazing. An environmental assessment (EA) pursuant to the National Environmental Policy Act has been completed to determine if reissuance of your grazing permit will continue to provide a reasonable balance among competing resource values. Your allotments were analyzed in DOI-BLM-ID-I010-2012-0041-EA (copy attached). This grazing decision will renew your permit for ten years.

Background

Patelzik Creek and Southwest Allotments were evaluated in 2011 to assess whether the allotment was meeting the Idaho Standards for Rangeland Health and Guidelines for Livestock Grazing Management. In December 2011, you were sent a copy of the Evaluation of Achieving Standards for Rangeland Health for Patelzik Creek and Southwest Allotments. The Evaluation for Patelzik Creek Allotment identified that Standards 1 (Watersheds), 2 (Riparian Areas and Wetlands), 3 (Stream Channel/Floodplain), 4 (Native Plant Communities), 5 (Seeded Plant Communities), 7 (Water Quality), and 8 (Threatened and Endangered Plants and Animals) of the Idaho Standards of Rangeland Health were being met. Standard 6 does not apply to Patelzik Creek Allotment. The Evaluation for Southwest Allotment identified that Standards 1, 4, and 5

of the Idaho Standards of Rangeland Health were being met. Standards 2, 3, 6, and 7 do not apply to Southwest Allotment.

Proposed Decision

After careful consideration, it is my Proposed Decision to implement Alternative C of the attached environmental assessment EA # DOI-BLM-ID-I010-2012-0041-EA. A ten-year grazing permit will be issued from March 1, 2013 to February 28, 2022, with terms and conditions for Patelzik Creek and Southwest Allotments to L&M Cattle Company (operator number 1103176), as shown below.

The grazing permit will be renewed for a term of ten years. Should information collected subsequent to any renewal indicate that changes in management are needed to ensure the allotment is meeting or making significant progress toward meeting Standards and conforming to Guidelines, the permit may be modified at any time during the ten-year period.

Authorized Grazing Use Changes:

1. Adjust the season of use on Southwest Allotment from 2/15 – 4/30 to 3/1 – 5/10.
2. Divide Pasture B (lower) in Patelzik Creek Allotment into two use areas, Pasture B (lower) and Pasture B (middle).
3. Adjust the grazing rotation on Patelzik Creek Allotment to allow the Shivelys to use Pasture B (upper) and Pasture B (middle) instead of Pasture B (lower). L&M Cattle would use Pasture B (lower).
4. Adjust the percent public land (%PL) in Southwest Allotment to reflect that the allotment is entirely made up of public land. There is no exchange of use for this allotment and there are no private or other acres within the allotment boundary. The new %PL will be 100%. To account for this change in the percent public land, the livestock numbers will be adjusted accordingly.
5. Adjust authorized season on Patelzik Creek to close the existing gap in grazing use between 6/21 and 7/1 that exists for L&M Cattle Company. There will be no increase in AUMs. Season of use will change from 5/10-6/20 and 7/1 to 10/10 to 5/10-10/10.
6. Adjust the percent public land (%PL) on the permits for Patelzik Creek Allotment to more accurately reflect different amounts of public land in the pastures. The existing permit shows that all pastures used by L&M contain 76 percent PL, which is not accurate. Pasture G contains 22 percent PL, Pastures A and B (lower) contain 46 percent PL, and Pastures C and D contain 100 percent PL. The areas used in late fall will continue to be authorized at 76 percent PL.

Authorized Grazing Plan for Patelizek Creek Allotment:

Years 2013, 2015, 2017, 2019, 2021:

L&M Cattle Company

Pasture	Cattle #s	dates	days	% PL	AUMs
Pasture G	380	5/05 – 5/24	19	22	55
Pasture B (lower)	480	5/25 – 5/29	5	51	40
Pasture A	480	5/30 – 6/15	17	43	115
Pasture B (lower)	480	6/16 – 6/20	5	51	40
Pasture D	480	6/21 – 6/30	10	90	142
Pasture D	93	7/01 – 7/20	20	90	55
Pasture C	93	7/21 – 10/10	82	100	251
TOTAL		5/5 – 10/10		62	698

Years 2014, 2016, 2018, 2020, 2022:

L&M Cattle Company

Pasture	Cattle #s	dates	days	% PL	AUMs
Pasture G	380	5/05 – 5/24	19	22	55
Pasture B (lower)	480	5/25 – 5/29	5	51	40
Pasture A	480	5/30 – 6/15	17	43	115
Pasture B (lower)	480	6/16 – 6/20	5	51	40
Pasture C	480	6/21 – 6/30	10	100	158
Pasture C	93	7/01 – 7/20	20	100	61
Pasture D	93	7/21 – 10/10	82	90	226
TOTAL		5/5 – 10/10		62	695

L&M ranch would have exclusive use of pastures G and A.

Cattle are rotated through the pastures on the above schedule. The livestock operators notify BLM personnel of turnout date and move dates between pastures.

The basic billing schedule for Patelizek Creek Allotment will follow the above grazing plan.

Authorized Grazing Plan for Southwest Allotment:

The basic schedule for pasture rotation will be as outlined in the table below. Any changes to the basic schedule will be made through application prior to livestock turnout.

Cattle #s	dates	days	% PL	AUMs
135	3-01 – 3/25	25	100	111
225	3/26 – 4/25	31	100	229
415	4/26 – 5/10	15	100	205

Authorized Mandatory Terms and Conditions:

Southwest #06043

# / class of livestock	Season	%PL*	Type	AUMs
233 cows	3/1 – 5/10	100	ACTIVE	545

Patelzik Creek #06018

# / class of livestock	Season	%PL*	Type	AUMs
380 cows	5/10 – 5/24	22	ACTIVE	41
480 cows	5/25 – 6/20	46		196
480 cows	6/21 – 6/30	100		158
93 cows	7/01 – 10/10	100		312
300 cows	10/25 – 11/30	76		277

*Patelzik Creek Allotment is 61 percent Public Land. The allotment contains 10,307 acres, of which 6,308 acres are BLM land, 563 acres are State of Idaho land, and 3,437 acres are private land. The allotment contains 1,406 active BLM AUMs, 125 State AUMs, and 764 private AUMs. The differing amounts of %PL shown on the permitted use reflect the differing amounts of %PL in the pastures being used.

Other Terms and Conditions:

The following terms and conditions will be followed, in accordance with 43 CFR §4130.3-2, to assist in achieving management objectives for the allotments:

1. Annual use will follow the grazing plans shown above.
2. Permittee would be allowed to graze up to 460 cows in Southwest Allotment, as long as the above permitted AUMs are not exceeded.
3. Key herbaceous riparian vegetation will have a minimum stubble height of 4 inches on the streambank, along the greenline, after the growing season.
4. Key riparian browse vegetation will not be used more than 30 percent of the current annual twig growth that is within the reach of the animals.
5. No more than 20 percent of the streambanks will be sheared by livestock hoof action annually.
6. Range improvements must be maintained to BLM standards. All livestock water troughs must have a functional wildlife escape ramp and be appropriately floated. Installation

and maintenance of wildlife escape ramps and maintenance of range improvements are the responsibility of the permittee.

7. Distribution of livestock salt and mineral supplements will be at least ¼ mile from the nearest water source, unless prior approval is given by the authorized officer.
8. In connection with allotment operations under this authorization, if any human remains, cultural, archaeological, historical, paleontological, or scientific objects and sites are discovered, the permittee shall stop operations in the immediate area of the discovery, protect such resources, and immediately notify the BLM Authorized Officer (AO) of the discovery. The immediate area of the discovery must be protected until the operator is notified to resume operations by the AO.
9. If sage grouse fence strikes are documented on fences in the allotments, the fences will be modified using approved BLM methods to minimize sage grouse strikes.

Rationale

This decision is based on the findings of the interdisciplinary team on the evaluations, EA # DOI-BLM-ID-I010-2012-0041-EA, and monitoring and utilization studies. Implementation of the grazing permit terms and conditions and the grazing use indicators and criteria will help ensure that the applicable Idaho Standards for Rangeland Health continue to be met on the allotments.

The results of the environmental assessment indicate that the actions described in Alternative C will maintain or improve the existing conditions on the allotments. Patetzick Creek Allotment will continue to meet Standard 1 (*Watersheds*), 2 (*Riparian and Wetland Vegetation*), 3 (*Stream Channel and Floodplains*), 4 (*Native Plant Communities*), 5 (*Seeded Plant Communities*), 7 (*Water Quality*) and 8 (*Threatened, Endangered, and Sensitive Species Habitat*) meaning that the existing soil and site stability, hydrologic function, and biotic integrity will be maintained, resulting in healthy plant communities, riparian areas, and wildlife habitat. Southwest Allotment will continue to meet Standards 1, 4, 5, and 8 as well.

Alternative C will result in maintenance or improvement of the plant communities on Patetzick Creek and Southwest Allotments. Therefore, the ecological condition in the allotments will be expected to remain stable or improve. This in turn will allow the plant communities and special status species habitat on Patetzick Creek and Southwest Allotments to remain stable or improve to ensure the proper functioning of ecological processes and continued productivity and diversity of native plant species. Changes in grazing season on Southwest will have little effect on the crested wheatgrass seedings, and will be expected to remain in satisfactory condition. On Patetzick Creek, the management direction in Alternative C, along with terms and conditions limiting riparian vegetation disturbance, will allow the riparian-wetland areas that are currently

in PFC to remain so, and will allow the FAR reaches to continue making progress towards PFC. This alternative will protect riparian-wetland areas to a greater extent compared to Alternative A, but to a lesser extent compared to Alternative D.

Although Alternative D may impart many of the benefits of increased vigor and productivity of upland vegetation and maintenance or improvement of condition in the riparian-wetland areas, removing livestock grazing from the allotments may result in increased risk of wildfire on both allotments. Further, the economic impact of Alternative D on the operator would be substantial. Alternative C will impart similar benefits to the upland plant communities and wildlife habitat without the economic impacts of removing all the livestock from the allotment.

Authority

The authority under which this decision is made is found within the following 43 CFR citations:

- 4110.2-2 - Specifying permitted use
- 4110.3 - Changes in permitted use
- 4130.2 - Grazing permits or leases
- 4130.3 - Terms and conditions
- 4130.3-1 - Mandatory terms and conditions
- 4130.3-2 - Other terms and conditions
- 4130.3-3 - Modification of permits or leases
- 4180 - Fundamentals of Rangeland Health and S&G for Grazing Administration

Appeal Procedures

Any applicant, permittee, lessee or other interested public may protest a proposed decision under Sec. 43 CFR 4160.1 and 4160.2, in person or in writing to me at the address shown above 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 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 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 the office of the Solicitor, Boise Field Solicitors Office, University Plaza, 960 Broadway Avenue, Suite 400, Boise, ID 83706 and person(s) named [43 CFR 4.421(h)] in the Copies sent to: section of this decision.

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 4.471. Any person named in the decision that receives a copy of a petition for a stay and/or an appeal see 43 CFR 4.472(b) for procedures to follow if you wish to respond.

If you have any questions, feel free to contact either Juley Hankins Smith at 524-7523 or myself at 524-7555.

Sincerely,

Jeremy Casterson
Field Manager
Upper Snake Field Office

Enclosures: Environmental Assessment No. DOI-BLM-ID-I010-2012-0041-EA
Finding of No Significant Impact for EA # DOI-BLM-ID-I010-2012-0041-EA

Copies sent to:

Idaho Department of Agriculture, 2270 Old Penitentiary Road, Boise, ID 83707

Idaho Department of Fish and Game, 4279 Commerce Circle, Idaho Falls, ID 83401

Idaho Department of Lands, 3563 Ririe Highway, Idaho Falls, ID 83401

Northwest Band of Shoshone Nation, 505 Pershing, Suite 200, Pocatello, ID 83201

Chairman, Land Use, Shoshone-Bannock Tribes, Bldg. 82 East Agency Rd, Fort Hall, ID 83203

Chairman, Tribal Business, Shoshone-Bannock Tribes, Bldg. 82 East Agency Rd, Fort Hall, ID 83203

Western Watersheds Project, 126 Main, Suite B2, Hailey, ID 83333