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In Reply Refer To:
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4130/4160

FINDING OF NO SIGNIFICANT IMPACT (FONSI) AND PROPOSED DECISION
Tilly Creek, Gold Spring, Stateline and Modena Canyon Allotments

Transfer of Grazing Preference From
Leon and Bradley Bowler
To
L & B Farm and Cattle (c/o Bradley Bowler) (Case File No. 4304627)
and Issuance of a New Grazing Permit

INTRODUCTION

On June 17, 2015 Leon and Bradley Bowler (c/o Bradley Bowler) (Case File No. 4304627) submitted transfer documentation for the livestock grazing permittee name change transfer from Leon and Bradley Bowler (c/o Bradley Bowler) (Case File No. 4304627) to L & B Farm and Cattle (c/o Bradley Bowler) (Case File No. 4304627). Leon and Bradley Bowler have also, submitted an application for exchange of use on the Modena Canyon Allotment. The Exchange of use is for State leased areas within the allotment. The exchange of use will change the percent public land on the Modena Canyon Allotment from 100% public land to 62% public land. L & B Farm and Cattle (c/o Bradley Bowler) (Case File No. 4304627) applied for a ten year grazing permit for grazing privileges associated with the Tilly Creek, Gold Spring, Stateline and Modena Canyon Allotments. This Proposed Decision will authorize the transfer of the grazing preference and issuance of a ten year grazing permit to L & B Farm and Cattle (c/o Bradley Bowler) (Case File No. 4304627).

BACKGROUND

The Tilly Creek, Gold Spring, Stateline and Modena Canyon Allotments are located in Iron County, Utah. The Tilly Creek, Gold Spring, Stateline and Modena Canyon Allotments are located North and Northwest of Modena. The Tilly Creek, Gold Spring, Stateline and Modena Canyon Allotments are located within the Escalante Desert Hydrologic Unit (HUB) as determined by the USGS.

Following this analysis, a Finding of No Significant Impact (FONSI) and Grazing Permit Renewal Proposed Decision for the Tilly Creek, Gold Spring, Stateline and Modena Canyon Allotments were issued to the interested public. The Proposed Decision was issued for the 15-day protest and 30-day appeal period. The decision was not protested or appealed and became

final on April 13, 2008 (a copy of the final decision is available upon request at the CCFO). (This action will be referred to as EA/FONSI/DR throughout the rest of this document).

The following grazing management system and terms and conditions were issued through the 2008 Grazing Permit Renewal Decision.

- Establish the season of use for Leon and Bradley Bowler (c/o Bradley Bowler) (Case File No. 4304627) grazing permit from April 1st - October 15th.

- Implement the following grazing management system, which identifies the number of livestock, kind of livestock, season of use, percent public land, and AUMs:

ALLOTMENT	NUMBER OF CATTLE	BEGIN	END	PERCENT PUBLIC LAND	ACTIVE BLM AUMS
TILLY CREEK	**180**	**03/01**	**05/31**	**58**	**316**
GOLD SPRING	**133***	**04/01**	**10/15**	**67**	**580***
MODENA CANYON	**64**	**07/01**	**09/30**	**62**	**121**
STATELINE	**89**	**07/01**	**09/30**	**74**	**199**

Allotment Management and Rotational Grazing

Tilly Creek Allotment

The Tilly Creek Allotment consists of a three pasture rotation and is authorized for 182 cattle from March 1 until May 31.

Tilly Creek Allotment

	3/1	4/15 5/30
YEAR 1	Graze NW pasture with 182 C	
		Graze NE pasture with 182 C
	REST South pasture	
YEAR 2	Graze South pasture with 182 C	
		Graze NW pasture with 182 C
	REST NE pasture	
YEAR 3	Graze NE pasture with 182 C	
		Graze South pasture with 182 C
	REST NW pasture	
YEAR 4	Repeat beginning with YEAR 1	

Modena Canyon and Stateline Allotments

The grazing rotation for Modena Canyon and Stateline would be as shown below.

Proposed Grazing on Modena Canyon and Stateline Allotments.

		7/1	8/15 9/30
YEAR 1	Modena Canyon	Graze (53 BLM AUMs)	
	Stateline		Graze (39 BLM AUMs)

YEAR 2	Modena Canyon		Graze (53 BLM AUMs)
	Stateline	Graze (39 BLM AUMs)	

YEAR 3 – Sequence begins to repeat itself.

Gold Springs Allotment (Eight Mile Spring, Mt. Elinor, Rose Valley, Gold Springs Native and Gold Springs Seeding Pastures)

The grazing rotation for Gold Springs will be as shown below:

		4/1	6/1	7/1	10/1	10/15
YEAR 1	Eight Mile&Private*	GRAZE (52 BLM AUMs)				
	Mt. Elinor	REST				
	Rose Valley		GRAZE (28 BLM AUMs)			GRAZE (14 BLM AUMs)
	Gold Spring Native		REST			GRAZE (35 BLM AUMs)
	Gold Spring Seeding				GRAZE (87 BLM AUMs)	

Empty blocks denote periods of rest.

*Eight Mile and Private Pasture (not under exchange of use) will be grazed for only one month each on a rotating basis.

		4/1	6/1	7/1	10/1	10/15
YEAR 2	Eight Mile & Private	REST				
	Mt. Elinor	GRAZE (93 BLM AUMs)				
	Rose Valley		REST			GRAZE (14 BLM AUMs
	Gold Spring Native		GRAZE (28 BLM			GRAZE (35

			AUMs)		BLM AUMs)
	Gold Spring Seeding			GRAZE (87 BLM AUMs)	

- Grazing sequence repeats itself beginning on year 3.

Terms and Conditions

1. Grazing will be consistent with the Decision Record for Environmental Assessment number UT-040-07-03

2. Grazing fees will be due prior to livestock turnout. Failure to pay the grazing bill within 15 days of the due date specified on the bill shall result in a late fee assessment of $25 or 10 percent of the bill, whichever is greater, not to exceed $250. Payment made later than 15 days after the due date, shall include the appropriate late fee assessment [Title 43 CFR 4130.8-1(f)].

3. Actual use information must be reported within 15 days following completion of the grazing season.

4. Movement to the next scheduled pasture or allotment will occur on the specified dates, when allowable utilization on key species is attained, or when unusual climatic conditions dictate a move. Move dates will be adjusted as needed to balance utilization between areas on each allotment when monitoring indicates the need. A total of five days will be allowed to move from one pasture to another.

5. Supplemental feeding of roughage is prohibited on public lands unless emergency conditions exist, then only by written permission from the authorized officer [Title 43 CFR 4140.1 (a) (3)].

6. All salt/mineral supplements will be located at least ¼ mile or further distance from water sources.

7. Maintenance of all structural range projects is the responsibility of the grazing permittee. Maintenance will be in accordance with approved Cooperative Agreements for Range Improvements (Form 4120-6) or Range Improvement Permit (Form 4120-7). Failure to maintain assigned projects in satisfactory condition constitutes a violation in accordance with Title 43 CFR 4140.1 (a) (4) and may result in the suspension of your license until maintenance is completed.

8. Grazing will, by regulation, conform to the Fundamentals of Rangeland Health as well as Utah BLM's Standards and Guidelines for Grazing Management. Grazing will also be subject to standard terms and conditions for grazing on public lands. This permit, including the terms and conditions, may be modified if additional information indicates that revision is are necessary in order to conform with the Utah Standards and Guideline for Rangeland

Health, the Fundamentals of Rangeland Health, regulations at Title 43 CFR 4100 and allotment specific objectives.

9. Authorized use will be adjusted, as needed, based on annual climatic conditions, forage production and plant vigor.

10. No grazing is allowed within riparian exclosures without written permission from the BLM authorized officer.

Multiple Use Objectives

1. Range trend will, on average, be static to upward for all allotments.

2. Utilization on key herbaceous forage species in upland habitats (crested wheatgrass, smooth brome, Indian ricegrass, needle-and-thread grass and curly grass) should not exceed 50% utilization of the current year's vegetative growth.

3. Utilization on key shrub forage species in upland habitats (winterfat, cliffrose and antelope bitterbrush) should average no more than 40% of current year's growth.

4. Utilization on key herbaceous riparian forage species (Nebraska sedge and Baltic rush) should not exceed 4" stubble height when grazing ends before July 31. Utilization of these two species will be limited to 6" stubble height if grazing starts or extends after July 31.

5. Utilization on key riparian browse species (willows, cottonwoods) should not exceed 30% utilization of available stems.

6. Bank shear due to trampling and hoof action will average less than ten percent (ie less than 10 feet per 100 feet of riparian bank).

Documentation of Land Use Plan Conformance and a Determination of NEPA Adequacy (DOI-BLM-UT-C010-2013-0024-DNA) has been completed for the grazing allotment transfer and the issuance of a new ten-year term grazing permit to Leon and Bradley Bowler (c/o Bradley Bowler) (Case File No. 4304627). The DNA is tiered to the Grazing permit Renewal for the Tilly Creek, Gold Spring, Stateline and Modena Canyon Allotments (EA-UT-040-07-03). This EA analyzed the impacts of the grazing management decision, which identified season of use, kind and number of livestock, grazing management system, etc… The Grazing Permit Renewal Decision for the Tilly Creek, Gold Spring, Stateline and Modena Canyon Allotments became final on April 13, 2008 following the protest and appeal period.

Finding of No Significant Impact (FONSI) Determination

Based on the identification and analysis of potential environmental impacts contained in the attached DOI-BLM-UT-C010-2013-0024-DNA and referenced EA-UT-040-07-03, I have determined that the action will not have a significant effect on the human environment. Therefore, an Environmental Impact Statement (EIS) is not required.

Elizabeth R Burghard

Elizabeth R. Burghard
Field Office Manager

8/18/15
Date

PROPOSED DECISION

It is my proposed decision to transfer the grazing preference for the Tilly Creek, Gold Spring, Stateline and Modena Canyon Allotments from Leon and Bradley Bowler to L & B Farm and Cattle (c/o Bradley Bowler) (Case File No. 4304627), authorize a change in percent public land on the Modena Canyon Allotment from 100% public land to 62% public land and issue a new ten year grazing permit to L & B Farm and Cattle (c/o Bradley Bowler) (Case File No. 4304627). The ten year grazing permit will be issued consistent with the authorized use, grazing schedule and Terms and Conditions identified in the EA/FONSI/DR. The EA/FONSI/DR was issued for the 15-day protest and 30-day appeal period and became final on April 13, 2008 (a copy of these documents are available upon request at the CCFO). There was no protest or appeal received for the EA/FONSI/DR.

RATIONALE

In accordance with 43 CFR 4110.2-3(3), L & B Farm and Cattle (c/o Bradley Bowler) (Case File No. 4304627) has accepted the Terms and Conditions associated with the grazing preference and grazing permit for the Tilly Creek, Gold Spring, Stateline and Modena Canyon Allotments. After review of L & B Farm and Cattle (c/o Bradley Bowler) (Case File No. 4304627) transfer application, it has been determined that the transferee is a qualified applicant as specified in 43 CFR 4110. The permitted use along with the Terms and Conditions that will be specified on the grazing permits in accordance with the EA/FONSI/DR, Standards and Guidelines for Healthy Rangelands and the Fundamentals for Rangeland Health.

DECISION AUTHORITY: The authority for this decision is contained in Title 43 of the Code of Federal Regulations (CFR) including, but not limited to the following:

§43 CFR 4130.2(a): 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. Permits or leases shall specify the types and levels of use authorized, including livestock grazing, suspended use, and conservation use. These grazing permits and leases shall also specify terms and conditions pursuant to §§ 4130.3, 4130.3-1, and 4130.3-2.

§43 CFR 4130.2(b): The authorized officer shall consult, cooperate and coordinate with affected permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public prior to the issuance or renewal of grazing permits and leases.

§43 CFR 4130.2(d): The term of grazing permits or leases authorizing livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management shall be 10 years unless (1) The land is being considered for disposal; (2) The land will be devoted to a public purpose which precludes grazing prior to the end of 10 years; (3) The term of the base property lease is less than 10 years, in which case the term of the Federal permit or lease shall coincide with the term of the base property lease; or (4) The authorized officer determines that a permit or lease for less than 10 years is in the best interest of sound land management.

§4130.3: Livestock grazing permits and leases shall contain terms and conditions determined by the authorized officer to be appropriate to achieve management and resource condition objectives for the public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with the provisions of subpart 4180 of this part.

§4160.1(a): Proposed decisions shall be served on any affected applicant, permittee or lessee, and any agent and lien holder of record, who is affected by the proposed actions, terms or conditions, or modifications relating to applications, permits and agreements (including range improvement permits) or leases, by certified mail or personal delivery. Copies of proposed decisions shall also be sent to the interested public.

LIVESTOCK DECISION PROTEST/APPEAL PROCEDURES

In accordance with 43 CFR 4160.2, any applicant, permittee, lessee or other interested public may protest the Proposed Decision under 4160.1 of this title, in person or in writing to the authorized officer (Elizabeth R. Burghard, Field Manager), Cedar City Field Office, 176 East DL Sargent Drive, Cedar City, Utah 84721) within 15 days after receipt of such decision. The protest, if filed, must clearly and concisely state the reason(s) as to why the Proposed Decision is in error.

In accordance with 43 CFR 4160.3 (b), should a timely protest be filed with the authorized officer, the authorized officer, at the conclusion to his review of the protest shall serve his Final Decision on the protestant and the interested public.

In the absence of a protest, the Proposed Decision shall constitute my Final Decision without further notice unless otherwise provided in the Proposed Decision in accordance with 43 CFR 4160.3(a).

In accordance with 43 CFR 4.470, 4160.3(c), and 4160.4, any person whose interest is adversely affected by a final decision of the authorized officer may appeal the decision for the purpose of a hearing before an administrative law judge. The appeal must be filed within 30 days after the date the proposed decision becomes final or 30 days after receipt of the final decision. In accordance with 43 CFR 4.470, the appeal shall state clearly and concisely the reason(s) why the appellant thinks the final decision of the authorized officer is wrong.

Pursuant to 43 CFR 4.471 and 4160.3(c), an appellant also may petition for a stay of the final decision pending appeal by filing a petition for stay along with the appeal within 30 days after the date the proposed decision becomes final or 30 days after receipt of the final decision.

The appeal and any petition for stay must be filed at the office of the authorized officer (Elizabeth R. Burghard, Field Manager), 176 East DL Sargent Drive, Cedar City, Utah 84721). Within 15 days of filing the appeal and any petition for stay, the appellant also must serve a copy of the appeal and any petition for stay on any person named in the decision and listed at the end of the decision, and on the Office of the Solicitor, Regional Solicitor, 125 South State Street, Suite 6201, Salt Lake City, Utah 84138. Pursuant to 43 CFR 4.471(c), a petition for stay, if filed, 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.

43 CFR 4.471(d) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

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 in Salt Lake City, Utah, 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)).

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.422(c)(2)).

Elizabeth R Burghard

Elizabeth R. Burghard
Field Office Manager
Cedar City Field Office

8/18/15
Date