United States Department of the Interior

BUREAU OF LAND MANAGEMENT
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IN REPLY REFER TO:

UTC01000
4130/4160

Proposed Decision Term Grazing Permit Renewal for the Winsor Allotment (Livestock Permittee – Fenton Terry)

INTRODUCTION:

Monitoring data was collected to determine whether current livestock management practices and grazing systems are meeting Cedar Beaver Garfield Antimony (CBGA) Resource Management Plan (RMP) objectives and the Standards and Guidelines for Rangeland Health within the Winsor Allotment. Following the analysis of monitoring data management actions for livestock have been identified as an outcome of the evaluation of monitoring data.

Throughout the evaluation process the Cedar City Field Office (CCFO) has carefully considered the comments received. Following the analysis, interpretation and evaluation of monitoring data, it was determined, that the Standards and Guidelines for Healthy Rangelands were not being fully met within the Winsor Allotment. As a result of the evaluation of the monitoring data, management actions have been developed that will ensure that significant progress towards the attainment of the Standards and Guidelines for Healthy Rangelands occurs within the allotment.

The selected management actions are analyzed in the Grazing Permit Renewal for Winsor et al. Environmental Assessment (EA) – UT-C010-2015-0052 and Finding of No Significant Impact (FONSI). The analysis demonstrates the following Proposed Action specified in the decision will not have a significant impact on Air quality, ACECs, BLM Natural Areas, Cultural-Paleontological Resources, Greenhouse Gas Emissions, Environmental Justice, Farmlands (Prime or Unique), Fish and Wildlife, Floodplains, Fuels/Fire Management, Geology/Mineral Resources Energy Production, Hydrologic Conditions, Invasive Non-Native Species, Lands/Access, Livestock Grazing, Migratory Birds, Native American Religious Concerns, Paleontology, Rangeland Health Standards, Recreation, Socio-Economic, Soils, Threatened, Endangered, Candidate and/or Sensitive Species (Plants), Threatened, Endangered, Candidate and/or Sensitive Species (Animals), Wastes (Hazardous or Solid), Water Resources/Quality, Wetland and Riparian Zones, Wild and Scenic Rivers, Wilderness/WSA, Woodland/Forestry, Vegetation, USFW Designated Species, Visual Resources, Wild Horses and Burros and Areas with

Wilderness Characteristics; these documents are included for review.

At the conclusion of the 15-day protest period for the Proposed Decision (PD) process the Final Decision (FD) will be issued and serve as the Decision Record (DR) for the Winsor Allotment Environmental Assessment – EA-UT-C010-2015-0052. The Proposed Decision becomes the Final Decision without further notice in the absence of a timely protest. If the Proposed Decision becomes the Final Decision, there is a 30-day period within which to appeal and file a petition for stay.

BACKGROUND:

Through the evaluation of monitoring data within the Winsor Allotment Monitoring Report, it has been determined that the Standards and Guidelines for Healthy Rangelands were not being fully met for standard 3 within the allotment, utilization was conducted in 2009 that showed heavy use was occurring from wildlife the majority from wild horses and antelope within the area. Pinion-juniper has encroached onto the site with limited perennial grass understory, primarily Galleta grass. Wyoming big sagebrush present is beginning to show extreme decadence and poor health. Excessive amounts of invasive plant species are present within the allotment.

The Winsor Allotment livestock permittee has been contacted by the Bureau of Land Management on a continual basis throughout the permit renewal process. Discussions with the livestock permittee have focused on permittee livestock grazing operations and resource management issues within the allotment. These discussions have focused on the development of management alternatives that will ensure the attainment of the Standards and Guidelines for Healthy Rangelands and conform with the guidelines, while also maintaining the viability of their livestock operation. Livestock permittee and interested public coordination meetings will continue throughout the permit renewal process until the Proposed Decision becomes final.

The Winsor allotment is considered a custodial "C" allotment that consists of 119 public land acres and 89 private acres. The allotment has heavy pinyon/juniper encroachment on majority of allotment that is affecting the shrub and perennial grass community that should be present with the allotment. It is expected that the permittees current number of livestock, season of use from June 16th – August 31st and AUMs the allotment would likely maintain current conditions or may move toward meeting Standards and Guidelines with implementation of the Allotment Specific Objectives identified in the Proposed Action.

Allotment Specific Objectives for the Winsor Allotment

1. Range trend will be static to upward.

2. Utilization of "Key Upland Forage Species" will not exceed 50% utilization, by weight, of the current year's vegetative growth by the end of the authorized grazing season.

3. Utilization of "Key Shrub Species" will not exceed 40% utilization, by weight, of the current year's vegetative growth by the end of the authorized grazing season.

4. If utilization objectives reach specified objectives where measurable standards have been established, the permittee will be required to remove livestock from that area. The permittee will have 3-5 days upon notification to remove livestock.

5. The BLM will assess resource conditions through field inspections and determine, in consultation with the permittee, whether management changes (e.g., changes in livestock numbers, adjustment of move dates, or other changes of use within the parameters identified under this alternative) may be implemented prior to reaching maximum utilization. Move dates may be adjusted as needed when monitoring indicates maximum utilization has been reached, or due to unusual climatic conditions, fire, flood, or other act of nature. If maximum utilization is reached on key species/areas in the allotment before a scheduled move, the use of salt, herding, or other management options may be used to distribute livestock away from an area where maximum utilization has been reached, or livestock may be moved from the use area or allotment (after consultation with the permittee), as deemed necessary by the BLM.

6. In order to determine if these Allotment Specific Objectives are being met, monitoring studies will be conducted in accordance with Attachment 1 of the Grazing Permit Renewal for the Winsor Allotment UT-C010-2015-0052-EA.

FINDING OF NO SIGNIFICANT IMPACT (FONSI)
For
Term Grazing Permit Renewals for the
Winsor Allotment
Project Number: Environmental Assessment (EA) Number UT-C010-2015-0052

The Winsor Allotment Environmental Assessment – EA-UT-C010-2015-0052, dated June 2015 has been reviewed through an interdisciplinary team process. After consideration of the environmental effects described in the EA and supporting documentation, it has been determined that the Proposed Action identified in the EA is not a major Federal action and will not significantly affect the quality of the human environment, individually or cumulatively with other actions in the area. No effects identified in the EA meet the definition of significant in context or intensity as described in 40 CFR 1508.27. Therefore, the preparation of an Environmental Impact Statement (EIS) is not required as per Section 102 (2) of the National Environmental Policy Act.

It has been determined that the Proposed Action is in conformance with the approved Cedar Beaver Garfield Antimony Resource Management Plan and is consistent with the plans and policies of neighboring local, county, state, tribal and federal agencies and governments. This finding and conclusion is based on the consideration of the Council on Environmental Quality's (CEQ) criteria for significance (40 CFR 1508.27), both with regard to the context and the intensity of impacts described in the EA.

Context:

The Winsor Allotment is located approximately 3-5 miles northwest of Enterprise, UT. The Winsor Allotment is also located within the Escalante Desert Hydrologic Unit Boundary (HUB) as determined by the USGS. The term of the grazing permit within the allotment will be for a period of ten years. The Winsor Allotment consists of the following acres:

ALLOTMENT	PUBLIC ACRES	STATE ACRES	PRIVATE ACRES	TOTAL ACRES
Winsor	119	0	89	208

1. Impacts that may be both beneficial and adverse.

The Environmental Assessment considered both the beneficial and adverse impacts of the Proposed Action in the Environmental Assessment. The permitted use, season of use and identification of proper use levels in the Winsor Allotment will allow for the progress towards the attainment of the Standards and Guidelines for Healthy Rangelands. Refer to Grazing Permit Renewals for the Winsor Allotment Environmental Assessment (UT-C010-2015-0052.

No measurable impacts will occur to cultural resources, Native American Religious Concerns, lands, recreation, sensitive species, or ecosystem and biodiversity. None of the environmental impacts disclosed above and discussed in detail in the EA are considered significant.

2. **The degree to which the Proposed Action affects public health or safety.**

The Proposed Action will not result in potentially substantial or adverse impacts to public health and safety.

3. **Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.**

There are no park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas in the area of analysis. The EA did not identify any significant impacts to unique species or their habitats that occur on the allotment, or historical or cultural resources.

4. **The degree to which the effects on the quality of the human environment are likely to be highly controversial.**

Public input was requested during review of the EA and prior to the issuance of the Proposed Decision. All comments received were addressed and incorporated as pertinent. The effects of livestock grazing management practices are well known and documented, are not highly controversial, and are employed to meet resource objectives. The Proposed Action will maintain/improve rangeland health, provide for the long-term economic viability of the livestock operators and provide for the health of wildlife populations. (EA Chapter 4.0).

5. **The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.**

There are no known effects of the Proposed Action identified in the EA, which are considered uncertain or involve unique or unknown risks. The effects analysis demonstrates the effects are not uncertain, and do not involve unique or unknown risk (EA Chapters 4.0 & 5.0).

6. **The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.**

The Proposed Action will not establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration. Completion of the EA does not establish a precedent for other Grazing Permit Renewals and Decisions. Any future projects within the area or in surrounding areas will be analyzed on their own merits and implemented or not, independent of the actions currently selected.

7. **Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.**

Past and present activities within the Winsor Allotment include livestock grazing, hunting, firewood cutting, fire suppression activities, development of water sources, vegetation manipulations, road construction, and recreation.

No significant cumulative impacts have been identified in the EA. Past, present, and reasonably foreseeable future actions on-going in the cumulative impact assessment area will not result in cumulatively significant impacts (EA Chapter 5.0).

8. **The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the NRHP or may cause loss or destruction of significant scientific, cultural, or historical resources.**

The BLM Cedar City Field Office has determined that the continuation of grazing in the Winsor Allotment will have "no adverse" effect to significant cultural resources. The Utah State Historic Preservation Office has concurred with this determination of effect.

This determination was made by adhering to the guidance in the recent BLM Utah Instruction Memorandum (IM No. UT 2010-026) on *National Historic Preservation Act Requirements for Grazing Permit Renewal* (1/29/10) and the *Utah BLM Cultural Resources Handbook 8120 – Guidelines for Protecting Cultural Resources*. This guidance includes: a thorough review of all cultural resource inventories, sites and historical information of the allotment. A field inspection of those sites in the allotment that have been recommended eligible to the National Register of Historic Places and have grazing listed as an existing impact. Based on the existing site information and field inspections, continued grazing in this allotment will not alter the integrity of eligible cultural resources in this allotment.

The BLM Cedar City Field Office has determined that the continuation of grazing in the Winsor Allotment will have "no adverse" effect to significant cultural resources. The Utah State Historic Preservation Office has concurred with this determination of effect. This determination was made by adhering to the guidance in the recent BLM Utah Instruction Memorandum (IM No. UT 2010-026) on *National Historic Preservation Act Requirements for Grazing Permit Renewal* (1/29/10) and the *Utah BLM Cultural Resources Handbook 8120 – Guidelines for Protecting Cultural Resources*. This guidance includes: a thorough review of all cultural resource inventories, sites and historical information of the allotment. A field inspection of those sites in the allotment that have been recommended eligible to the National Register of Historic Places and have grazing listed as an existing impact. Based on the existing site information and field inspections, continued grazing in this allotment will not alter the integrity of eligible cultural resources in this allotment.

9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the ESA of 1973.

The Bald eagles occasionally fly over BLM lands administered by the Cedar City Field Office while searching for food during the winter. The United States Fish and Wildlife Service concurred with a Programmatic Biological Assessment that livestock grazing is not likely to adversely affect bald eagle habitat on May 6, 2006. The permitted use, grazing season of use and identification of proper use levels will lead to the protection of the upland resources. This will improve wildlife habitat throughout the allotments. No additional species listed under the ESA of 1973 are known to occur within the area of analysis; and therefore, the project will not result in impacts to any listed species or their habitat. The action complies with the Endangered Species Act, in that potential effects of this decision on listed species have been analyzed and documented. The action will not adversely affect any endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species act of 1973, as amended.

No additional species listed under the ESA of 1973 or BLM Special Status Species are known to occur within the area of analysis; and therefore, the project will not result in impacts to any listed species or their habitat. The action complies with the Endangered Species Act, in that potential effects of this decision on listed species have been analyzed and documented. The action will not adversely affect any endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species act of 1973, as amended.

10. Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

The Proposed Action will not violate or threaten to violate any Federal, State, or local law or requirement imposed for the protection of the environment. Applicable laws and regulations were considered in the EA. Refer to the Grazing Permit Renewal for the Winsor Allotment Environmental Assessment (EA-UT-C010-2015-0052).

Dan T Fletch

Dan T. Fletcher
Acting Field Office Manager
Cedar City Field Office

7-8-16
Date

PROPOSED LIVESTOCK GRAZING MANAGEMENT DECISION

Through the allotment evaluation process it was determined that the following management actions are appropriate to ensure the attainment of the Allotment Specific Objectives and Standards and Guidelines for Healthy Rangelands within the Winsor Allotment.

1. Establish the permitted use for the Winsor Allotment as follows:

PERMITTEE	ACTIVE AUMS	SUSPENDED AUMS
Fenton Terry	15	0

Rationale:

The Standards and Guidelines were not being fully met within the Winsor Allotment. Management actions including the identification of Allotment Specific Objectives and additional Terms and Conditions have been identified that will ensure that significant progress towards the maintenance/attainment of the Standard occurs.

It has been determined that the permitted use in addition to the implementation of management actions will ensure that significant progress toward the attainment of the Standards and Guidelines for Healthy Rangelands occurs. Monitoring data will continue to be collected to ensure that Allotment Specific Objectives are being attained within the Winsor Allotment. Refer to Attachment 1 of the Environmental Assessment (EA-UT-C010-2015-0052).

The management selection will implement Guidelines for Grazing Management, as identified in the Standards and Guidelines for Healthy Rangelands, including 1a, 1c, 1d, 4, 8, 9 and 11, 13.

2. Cancel the existing grazing permit and issue a new ten year grazing permit within the Winsor Allotment that will:

- Implement the following, which identifies the number of livestock, kind of livestock, season of use, percent public land and AUMs.

ALLOTMENT	PERMITTEE	NUMBER OF LIVESTOCK	KIND OF LIVESTOCK	SEASON OF USE	PERCENT PUBLIC LAND	AUMS
Winsor	Fenton Terry	10	Cattle	06/16 - 08/31	57%	15

Terms and Conditions for the Winsor Allotment

1. Livestock grazing use would be in accordance with the Livestock Decision and Environmental Assessment (UT-C010-2015-0052) for the Antelope, Blue Mountain, Burn Knoll, Hamilton Fort (Shurtz Canyon Pasture), Hole-In-The-Wall, Lower Meadow and Winsor Allotments dated July 8, 2016.

2. Grazing fees must be paid in full prior to livestock turnout. Actual use information must be reported within 15 days following the completion of the grazing season.

3. 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)]. Actual use information must be reported within 15 days following completion of the grazing season. Your paid bill is your authorization to turn out livestock on public lands. Livestock present on public lands without a paid bill are unauthorized and a trespass action would be initiated

4. Maintenance of all structural range projects are a responsibility of the permittees. Maintenance will be in accordance with the 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.

5. All salt/mineral supplements would be located at least ¼ mile or further distance from any riparian area, wet meadow or watering facility (either permanent or temporary) unless stipulated through a written agreement or decision.

6. The permittee would be allowed 3-5 days flexibility following the scheduled use dates to move livestock.

7. All exclosures on public land throughout the allotment(s) would be closed to livestock grazing unless grazing use is applied for by the permittee and is authorized in writing by the authorized officer.

8. Livestock are to be managed (herding, salting, water hauling or removal) to ensure that the allotment specific objectives are met.

9. Permits and leases would be subject to cancellation, suspension or modification for any violation of these regulations or of any term or condition of the permit.

10. If annual monitoring standards reach specified objectives where measurable standards have been set, the permittee would be required to remove livestock from that area. The permittee would have 3-5 days upon notification to remove livestock.

11. 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)].

12. The season of use in the allotments may be temporarily modified from the proposed grazing management system at the discretion of the authorized officer on an annual basis if monitoring data indicates that changes are necessary to meet multiple use objectives and the Standards for Rangeland Health. Any use in excess of the total permitted use for the permittee within any of the allotments would constitute temporary non-renewable use.

13. Grazing would, by regulation, conform to the Fundamentals of Rangeland Health as well as Utah BLM's Standards and Guidelines for Grazing Management. Grazing would also be subject to standard terms and conditions for grazing on public lands. This permit, including the terms and conditions, may be modified or withheld if additional information indicates that such actions are necessary in order to conform with the Utah Standards for Rangeland Health, the Fundamentals of Rangeland Health, regulations at Title 43 CFR 4100 and allotment specific objectives.

14. If utilization objectives reach or exceed specified objectives where measurable standards have been set, the permittee would be required to remove livestock from that area. If it is determined that utilization levels have been reached or exceeded the permittee would have 5 days upon notification to remove livestock.

15. Actual use information for each pasture within the allotments would be submitted to the authorized officer within 15 days of completing grazing use as specified on the grazing permit and/or grazing licenses.

16. All permits and leases shall be subject to cancellation, suspension or modification for any violation of these regulations or of any term and conditions of the permit or lease. The terms and conditions of this permit may be modified if additional information indicates that revision is necessary to conform to 43 CFR 4180.

17. In accordance with 43 CFR 4130.3-3: 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 plans, or management objectives, or is not in conformance with the provision of subpart 4180 RAC Standards and Guidelines.

18. In order to improve livestock and rangeland management on public lands, all salt and/or mineral supplements would not be placed with ¼ mile of any riparian areas,

wet meadow, or watering facility (either permanent or temporary) unless stipulated through a written agreement or decision.

19. An increase in livestock grazing preference may be authorized in the future through a re-evaluation if it is determined through further monitoring that additional forage has become available and CBGA RMP objectives, Standards and Guidelines for Healthy Rangelands, and multiple use objectives are being met. Any change in grazing preference must be supported by monitoring, field observations, production, or other data acceptable to the authorized officer. The authorization of a grazing increase would be dependent upon further monitoring, NEPA analysis and the issuance of a Decision or Agreement.

20. The Permittees' would provide access across their private or leased lands for the orderly management and protection of the public land. The BLM will contact the permittee and coordinate the necessary access.

Rationale:

Through the evaluation of monitoring data within the Winsor Allotment Monitoring Report, it has been determined that the Standards and Guidelines for Healthy Rangelands were not being fully met for standard 3 within the allotment. The casual factors for the non-attainment of the standards is p/j encroachment, utilization was conducted in 2009 that showed heavy use was occurring within this allotment from wild horses and antelope within the area the allotment.

The Winsor allotment is considered a custodial "C" allotment that consists of 119 public land acres and 89 private acres. The allotment has heavy pinyon/juniper encroachment on majority of allotment that is affecting the shrub and perennial grass community that should be present with the allotment. It is expected that the permittees current number of livestock, season of use from June 16th – August 31st and AUMs the allotment would likely maintain current conditions or may move toward meeting Standards and Guidelines with implementation of the Allotment Specific Objectives identified in the Proposed Action.

Issuance of a new ten year permit is based on the analysis of the management actions in the Grazing Permit Renewals for the Winsor Allotment Environmental Assessment EA-UT-C010-2015-0052 and the evaluation of monitoring data. The grazing management system and the Terms and Conditions will provide for the orderly administration of the range and ensure that significant progress towards the attainment of the Standards and Guidelines for Healthy Rangelands in the long term would occur throughout the Winsor Allotment. Furthermore, the Terms and Conditions will ensure compliance with all applicable laws and regulations governing livestock grazing on public lands. Monitoring data will continue to be collected to ensure that Allotment Specific Objectives are being attained within the allotments. Refer to Attachment 1 of the Environmental Assessment (UT-C010-2015-0052).

The management selection will implement Guidelines for Grazing Management, as identified in the Standards and Guidelines for Healthy Rangelands, including 1a, 1c, 1d, 4, 7, 8, 9 and 11.

AUTHORITY

The authority for this decision is contained in part in the following Agencies Appropriations Act (2000) and Title 43 of the Code of Federal Regulations (CFR), which state in pertinent parts:

§4100.0-8 Land Use Plans

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 43 CFR 1601.0-5(b).

§4110.3 Changes in Grazing Preference

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.

§4120.3-1 Conditions for Range Improvements

(a) Range improvements shall be installed, used, maintained, and/or modified on the public lands, or removed from these lands, in a manner consistent with multiple-use management.
(b) Prior to installing, using, maintaining, and/or modifying range improvements on the public lands, permittees or lessees shall have entered into a cooperative range improvement agreement with the Bureau of Land Management or must have an approved range improvement permit.
(c) The authorized officer may require a permittee or lessee to maintain and/or modify range improvements on the public lands under §4130.3-2 of this title.
(d) The authorized officer may require a permittee or lessee to install range improvements on the public lands in an allotment with two or more permittees or lessees and/or to meet the terms and conditions of agreement.

(e) A range improvement permit or cooperative range improvement agreement does not convey to the permittee or cooperator any right, title, or interest in any lands or resources held by the United States.
(f) Proposed range improvement projects shall be reviewed in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4371 *et seq.*). The decision document following the environmental analysis shall be considered the proposed decision under subpart 4160 of this part.

§4130.3 Terms and Conditions

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.

§4130.3-1 Mandatory Terms and Conditions

(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.
(b) All permits and leases shall be made subject to cancellation, suspension, or modification for any violation of these regulations or of any term or condition of the permit or lease.
(c) Permits and leases shall incorporate terms and conditions that ensure conformance with subpart 4180 of this part.

§4130.3-2 Other Terms and Conditions

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. These may include but are not limited to:
(a) The class of livestock that will graze on an allotment;
(b) The breed of livestock in allotments within which two or more permittees or lessees are authorized to graze;
(c) Authorization to use, and directions for placement of supplemental feed, including salt, for improved livestock and rangeland management on the public lands;
(d) A requirement that permittees or lessees operating under a grazing permit or lease submit within 15 days after completing their annual grazing use, or as otherwise specified in the permit or lease, the actual use made;
(e) The kinds of indigenous animals authorized to graze under specific terms and conditions;
(f) Provision for livestock grazing temporarily to be delayed, discontinued or modified to allow for the reproduction, establishment, or restoration of vigor of plants, provide for the improvement of riparian areas to achieve proper functioning condition or for the

protection of other rangeland resources and values consistent with objectives of applicable land use plans, or to prevent compaction of wet soils, such as where delay of spring turnout is required because of weather conditions or lack of plant growth;
(g) The percentage of public land use determined by the proportion of livestock forage available on public lands within the allotment compared to the total amount available from both public lands and those owned or controlled by the permittee or lessee; and
(h) A statement disclosing the requirement that permittees or lessees shall provide reasonable administrative access across private and leased lands to the Bureau of Land Management for the orderly management and protection of the public lands.

§4130.3-3 Modification of Permits or Leases

Following consultation, cooperation, and coordination with the affected 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. To the extent practical, the authorized officer shall provide to affected permittees or lessees, States having lands or responsibility for managing resources within the affected area, and the interested public an opportunity to review, comment and give input during the preparation of reports that evaluate monitoring and other data that are used as a basis for making decisions to increase or decrease grazing use, or to change the terms and conditions of a permit or lease.

§4160.1 Proposed Decisions

(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.
(b) Proposed decisions shall state the reasons for the action and shall reference the pertinent terms, conditions and the provisions of applicable regulations. As appropriate, decisions shall state the alleged violations of specific terms and conditions and provisions of these regulations alleged to have been violated, and shall state the amount due under §§4130.8 and 4150.3 and the action to be taken under §4170.1.
(c) The authorized officer may elect not to issue a proposed decision prior to a final decision where the authorized officer has made a determination in accordance with §4110.3-3(b) or §4150.2(d).

§4160.2 Protests

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 within 15 days after receipt of such decision.

§4160.3 Final Decisions

(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 a 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 §§4.21 and 4.470 of this title for general provisions of the appeal and stay processes.
(d) When the Office of Hearings and Appeals stays a final decision of the authorized officer regarding an application for grazing authorization, an applicant who was granted grazing use in the preceding year may continue at that level of authorized grazing use during the time the decision is stayed, except where grazing use in the preceding year was authorized on a temporary basis under §4110.3-1(a). Where an applicant had no authorized grazing use during the previous year, or the application is for designated ephemeral or annual rangeland grazing use, the authorized grazing use shall be consistent with the final decision pending the Office of Hearings and Appeals final determination on the appeal.
(e) When the Office of Hearings and Appeals stays a final decision of the authorized officer to change the authorized grazing use, the grazing use authorized to the permittee or lessee during the time that the decision is stayed shall not exceed the permittee's or lessee's authorized use in the last year during which any use was authorized.
(f) Notwithstanding the provisions of §4.21(a) of this title pertaining to the period during which a final decision will not be in effect, the authorized officer may provide that the final decision shall be effective upon issuance or on a date established in the decision and shall remain in effect pending the decision on appeal unless a stay is granted by the Office of Hearings and Appeals when the authorized officer has made a determination in accordance with §4110.3-3(b) or §4150.2(d). Nothing in this section shall affect the authority of the Director of the Office of Hearings and Appeals or the Interior Board of Land Appeals to place decisions in full force and effect as provided in §4.21(a)(1) of this title.

§4160.4 Appeals

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 by following the requirements set out in §4.470 of this title. As stated in that part, the appeal must be filed within 30 days after receipt of the final decision or within 30

days after the date the proposed decision becomes final as provided in §4160.3(a). Appeals and petitions for a stay of the decision shall be filed at the office of the authorized officer. The authorized officer shall promptly transmit the appeal and petition for stay and the accompanying administrative record to ensure their timely arrival at the Office of Hearings and Appeals.

§4180.1 Fundamentals of Rangeland Health

The authorized officer shall take appropriate action under subparts 4110, 4120, 4130, and 4160 of this part as soon as practicable but not 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.

§4180.2 Standards and Guidelines for Grazing Administration

(c) The authorized officer shall take appropriate action as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management practices or levels of grazing use on public lands are significant factors in failing to achieve the standards and conform with the guidelines that are made effective under this section. Appropriate action means implementing actions pursuant to subparts 4110, 4120, 4130, and 4160 of this part that will result in significant progress toward fulfillment of the standards and significant progress toward conformance with the guidelines. Practices and activities subject to standards and guidelines include the development of grazing-related portions of activity plans, establishment of terms and conditions of permits, leases and other grazing authorizations, and range improvement activities such as vegetation manipulation, fence construction and development of water.

LIVESTOCK DECISION PROTEST AND 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 (Dan T. Fletcher, Acting Field Office 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 (Dan T. Fletcher, Acting Field Office Manager, Cedar City Field Office, 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)).

AUTHORIZED OFFICERS SIGNATURE:

If future monitoring data indicates that the Allotment Specific Objectives or the Standards for Rangeland Health are not being achieved, adjustments will be made accordingly. Likewise, if future monitoring indicates that the Allotment Specific Objectives and the Standards for Rangeland Health are being met and that an increase in the number of AUMs are warranted, this decision will be evaluated and amended as appropriate.

The decision is consistent with 43 CFR 4180 and the Standards and Guidelines for Healthy Rangelands.

Dan T Fletcher

Dan T. Fletcher
Acting Field Office Manager
Cedar City Field Office

7-8-11
Date