



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Butte Field Office
106 North Parkmont
Butte, Montana 59701-9701
www.blm.gov/mt

In Reply Refer To:
4160 (MTB070)
Authorization #2507587

October 20, 2015

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Richard Diehl
Winston Livestock Company
P.O. Box 173
Winston, MT 59647

NOTICE OF FIELD MANAGER'S PROPOSED GRAZING DECISION

Dear Mr. Diehl:

The Bureau of Land Management (BLM) Butte Field Office proposes to issue a new grazing permit on the Whitehorse Allotment (#20222) and the Beaver Allotment (#20223). I have completed a review of livestock grazing on the allotment and have completed a determination on whether or not the allotment is meeting the Montana/Dakotas Standards for Rangeland Health (see enclosed Determination Documents for the Whitehorse and Beaver Allotments). In addition, an Environmental Assessment (EA) that analyzes grazing management within the Allotments was completed on July 1, 2015 (see Iron Mask Planning Area Environmental Assessment: DOI-BLM-MT-B070-2013-0019-EA at <http://www.mt.blm.gov/bdo/>).

The public was involved throughout the development of the Iron Mask Planning Area EA. Public participation started in December 2012 with a public scoping notice mailed to 28 individuals, organizations, and tribes. Additionally, a press release was put out that requested public input during the scoping period. Ten responses to the scoping letter were received that included comments on: travel and access; public involvement; recreation; wildlife, habitat and vegetation restoration; noxious weeds; livestock and forage reserve allotment; cultural resources; and the local economy. These scoping comments were then used to help BLM identify issues and alternatives for accomplishing management goals and objectives when preparing the June 2014 EA for public comment.

Informational public presentations were given for the Rocky Mountain Elk Foundation, the Elkhorns Restoration Committee, and the Townsend Rod and Gun Club.

On June 6, 2014, the BLM released the June 2014 Iron Mask Planning Area EA for public comment, along with an unsigned Finding of No Significant Impact (FONSI). The Draft EA and unsigned FONSI were available for public comment until August 6, 2014.

Following release of the Draft EA and unsigned FONSI, an open house was held in Townsend to collect public comments and answer questions about the EA.

The BLM received 12 comment letters on the Draft EA/unsigned FONSI. The BLM considered the comments received on the draft when completing the EA. In response to public comment, the EA was revised and the proposed action, alternatives, and environmental impacts were adjusted accordingly. Responses to substantive comments are included in Appendix A of the EA. This proposed decision is a grazing decision outlined under 43 CFR (Code of Federal Regulations) § 4160 and will identify the selected alternative and states the terms and conditions, which will be incorporated into grazing authorizations for the allotments.

The Final Iron Mask Planning Area EA and FONSI were completed on July 1, 2015.

BACKGROUND

Land health assessments were completed on the Whitehorse Allotment during the summers of 1999 and 2012 by interdisciplinary teams to determine whether Montana/Dakotas Standards for Rangeland Health were being met. Achieving or making significant progress towards these functions and conditions is required of all uses of public lands as stated in 43 CFR 4180.1.

In both 1999 and 2012, the Whitehorse Allotment met all applicable Land Health Standards (Upland, Air Quality, and Biodiversity) and current livestock grazing management has occurred at appropriate levels to support healthy, functioning habitats within the allotment. No riparian reaches have been identified on BLM lands within the allotment; therefore, the Riparian and Water Quality Standards do not apply.

A land health assessment was completed on the Beaver Allotment during the summer of 2008 by an interdisciplinary team to determine whether Montana/Dakotas Standards for Rangeland Health were being met. Follow up field reviews were conducted in 2012 to confirm the 2008 determinations. Achieving or making significant progress towards these functions and conditions is required of all uses of public lands as stated in 43 CFR 4180.1.

The Beaver Allotment met all applicable Land Health Standards (Upland, Water Quality, Air Quality, and Biodiversity) and current livestock grazing management has occurred at appropriate levels to support healthy, functioning habitats within the allotment. No riparian reaches have been identified on BLM lands within the allotment; therefore, the Riparian Standards do not apply.

PROPOSED DECISION

My proposed decision is to implement Alternative B as analyzed in the July 1, 2015, EA# DOI-BLM-MT-B070-2013-0019-EA to issue a new term grazing permit (authorization # 2507857) that will expire on February 28,, 2025, on the Whitehorse and Beaver Allotments. Your current grazing permit that expires on February 28, 2019 will be canceled and replaced with a new grazing permit as outlined in this proposed decision and the EA. This permit is being issued in compliance with 43 CFR 4110.1 (b)(1), which requires a satisfactory record of performance prior to renewal, and includes terms and conditions pursuant to 43 CFR 4130.3, 4130.3-1, and 4130.3-2.

FROM: Whitehorse and Beaver Allotments (Authorization #2507857)

Mandatory Terms and Conditions:

Allotment	Livestock #	Kind	Begin	End	% P. L.	Type Use	AUMS
Whitehorse	62	Cattle	6/10	10/5	36	Active	87
Beaver	21	Cattle	6/1	10/30	100	Active	105

Other Terms and Conditions:

Whitehorse Allotment: Livestock numbers may vary as long as 87 AUMs are not exceeded and the change is approved by the BLM before turnout.

Beaver Allotment: During the period shown, you may use this range in conjunction with your livestock operation so long as use is not detrimental to the condition of the public lands (livestock numbers will not be regulated).

The terms and conditions of your permit/lease may be modified if additional information indicates that revision is necessary to conform to the standards and guidelines for rangeland health (43 CFR 4180).

No livestock grazing will be allowed within any fenced spring or riparian area or vegetative study enclosure.

No salt and/or mineral blocks shall be placed within ¼ mile of livestock water, springs, meadows or streams on public lands. In the event that topography and/or available water sources do not allow for the ¼ mile requirement, coordination with BLM personnel is necessary prior to placement of salt or minerals.

You are required to perform normal maintenance on the range improvements to which you have been assigned maintenance responsibility as part of your signed cooperative agreements(s) or assignment of range improvement.

Motorized wheeled cross-country travel is limited to the administration of the lease or permit.

The begin/end grazing date may be adjusted by two weeks to account for annual weather variability. Adjustments must be approved by the BLM before turnout. Total grazing time is limited to 152 days for Beaver Allotment and 118 days for Whitehorse Allotment.

Active use is 88 AUMs for Whitehorse Allotment and 108 AUMs for Beaver Allotment. The grazing schedule shows smaller amounts (i.e. 87 and 105) because further livestock number increase for those grazing periods would exceed the active AUMs.

<u>Allotment Summary</u>	<u>Active AUMs</u>	<u>Suspended AUMs</u>	<u>Permitted Use</u>
Whitehorse	88	0	88
Beaver	108	0	108

TO: Whitehorse and Beaver Allotments (Authorization #2507857)

(Changes highlighted in gray.)

Mandatory Terms and Conditions:

Allotment	Livestock #	Kind	Begin	End	% P. L.	Type Use	AUMS
Whitehorse	62	Cattle	6/10	10/5	36	Active	87
Beaver	21	Cattle	6/1	10/30	100	Active	105

Other Terms and Conditions:

Whitehorse Allotment: Livestock numbers may vary as long as 87 AUMs are not exceeded and the change is approved by the BLM before turnout.

Whitehorse Allotment: The begin/end grazing date may be adjusted by two weeks to account for annual weather variability. Adjustments must be coordinated with approved by the BLM before turnout. Total grazing time is limited to 152 days for Beaver Allotment and 118 days for the Whitehorse Allotment.

Whitehorse Allotment: Active use is 88 AUMs for the Whitehorse Allotment and 108 AUMs for Beaver Allotment. The grazing schedule shows a smaller amounts (i.e. 87 and 105) because any further livestock number increases for those grazing periods will exceed the active AUMs.

Beaver Allotment: ~~During the period shown, you may use this range~~ This allotment will be used in conjunction with your normal livestock operation, during the period shown, so long as such use is not detrimental to the condition of the public lands (livestock numbers will not be regulated) and fees are paid prior to turnout.

Beaver Allotment: The begin/end grazing date may be adjusted by two weeks to account for annual weather variability. Adjustments must be coordinated with approved by the BLM before turnout. Total grazing time is limited to 152 days for the Beaver Allotment and 118 days for Whitehorse Allotment.

Beaver Allotment: Active use is 88 AUMs for Whitehorse Allotment and 108 AUMs for the Beaver Allotment. The grazing schedule shows a smaller amounts (i.e. 87 and 105) because any further livestock number increases for those grazing periods will exceed the active AUMs.

No salt and/or mineral blocks shall be placed within ¼ mile of livestock water, springs, meadows or streams on public lands. In the event that topography and/or available water sources do not allow for the ¼ mile requirement, coordination will be done with BLM personnel is necessary prior to placement of salt or minerals each year.

You (permittee/lessee) are required to perform normal maintenance on the range improvements to which you have been assigned maintenance responsibility as part of your signed range improvement permit(s), cooperative agreement(s) or assignment of range improvements agreement.

The Terms and Conditions of your permit/lease may be modified if additional information indicates that revision is necessary to conform to the Standards and Guidelines for Rangeland Health (43 CFR 4180).

No livestock grazing will be allowed within any fenced spring or riparian area, or vegetative study enclosure.

Motorized wheeled cross-country travel is limited to the administration of the lease or permit.

After consultation with the BLM, and written approval, permittees/lessees may be required to adjust the pre-planned pasture grazing sequence identified in an Allotment Management Plan (AMP) or other management plan due to drought or other unforeseen natural events.

With prior BLM approval, more livestock may be grazed for a shorter period within the authorized season of use. However, the maximum authorized AUMs, or season of use, as specified in the term grazing permits/leases cannot be exceeded by allowing this flexibility.

Livestock may need to be removed from a specific pasture prior to the maximum number of days specified in the grazing schedule. If this occurs, the time allocated in subsequent pastures would be adjusted proportionally.

<u>Allotment Summary</u>	<u>Active AUMs</u>	<u>Suspended AUMs</u>	<u>Permitted Use</u>
Whitehorse	88	0	88
Beaver	108	0	108

RATIONALE

Montana Standards for Rangeland Health were assessed on the Whitehorse and Beaver Allotments. The upland, air quality, and habitat standards were met on both allotments. The riparian and water quality standards were not applicable on the Whitehorse Allotment, as there are no riparian areas or surface water identified within the allotment on public land. The water quality standard was met on the Beaver Allotment, and the riparian standard was not applicable. Some small seeps were found on the Beaver Allotment, but were not evaluated as riparian reaches.

This proposed decision will allow for the continuation of livestock management on the Whitehorse and Beaver Allotments in a sustainable manner that meets or allows significant progress to be made towards meeting Montana Dakotas Standards for Rangeland Health. This proposed decision meets the purpose and need from the EA (DOI-BLM-MT-B070-2013-0019-EA), to restore and maintain riparian, wetland, aquatic and upland habitats through existing and revised grazing management and structural projects in accordance with applicable laws and regulations, in a manner that will achieve or make significant progress toward achieving Western Montana Standards for Rangeland Health and Guidelines for Livestock Grazing Management within the Whitehorse and Beaver Allotments.

Continued management of the Whitehorse and Beaver Allotments will promote the existing healthy land conditions and ensure that the land health standards will continue to be met.

Renewing this grazing permit for ten years with additional terms and conditions, allowing more management flexibility, will ensure that the existing healthy land characteristics fostered by current management will continue.

AUTHORITY

The following sections of the Code of Federal Regulations, Chapter 43, provide authority for the actions proposed in this grazing decision. The language of the cited sections can be found at a library designated as a federal depository. The regulations may also be accessed at:

[http://www.blm.gov/wo/st/en/info/regulations/Instruction Memos and Bulletins/national instruction/2009/IM_2009-109.html](http://www.blm.gov/wo/st/en/info/regulations/Instruction_Memos_and_Bulletins/national_instruction/2009/IM_2009-109.html).

- 4110.2-2 - Specifying permitted use
- 4110.3 - Changes in permitted use
- 4120 - Grazing Management
- 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
- 4160 - Administrative remedies
- 4180 - Fundamentals of Rangeland Health and Standards and Guidelines for Grazing Administration

The proposed action is consistent with federal law including the Federal Land Policy and Management Act (FLPMA) of 1976, the Public Rangelands Improvement Act of 1978, the Taylor Grazing Act of 1934, the Endangered Species Act, the National Historic Preservation Act and the Clean Water Act, and applicable resource management plans for the Butte Field Office.

RIGHT OF PROTEST AND/OR APPEAL

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 Scott Haight, Field Manager, BLM Butte FO, 106 North Parkmont Street, Butte, MT 59701, within 15 days after receipt of such decision. The protest, if filed, should clearly and concisely state the reason(s) 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, or the appeal and petition for stay, must be in writing and delivered in person, via the United States Postal Service mail system, or other common carrier, to the Butte Field Office as noted above. The BLM does not accept appeals by facsimile or email. The appellant must serve a copy of the appeal by certified mail on the Office of the Solicitor, Billings Field Office, Rocky Mountain Region, Department of the Interior, 2021 4th Avenue North, Suite 112, Billings, MT 59101 and person(s) named [43 CFR 4.421(h)] in the Copies sent to: section of this decision letter.

The appeal shall clearly and concisely state the reasons 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 served in accordance with 43 CFR 4.473.

You will receive your new term grazing permit after the 45 day protest and appeal period has ended if no protests or appeals have been submitted. If you have any questions, please call Roger Olsen or Don Despain at 406-533-7600.

Sincerely,

//SIGNED//
Scott Haight
Field Manager

Enclosures

Copies Sent to: Josh Osher
Western Watersheds Project
P.O. Box 7681
Missoula, MT 59807

Michael Garrity
Alliance for the Wild Rockies
P.O. Box 505
Helena, MT 59624

Sara Jane Johnson
Native Ecosystems Council
P.O. Box 125
Willow Creek, MT 59760

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