

In Reply Refer To:

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GR No. \_\_\_\_

May 20, 2011

**CERTIFIED MAIL NO. \_\_\_\_\_**  
**RETURN RECEIPT REQUESTED**

Ranch Name

c/o Name

Address

City, Wyoming ZIP

## **NOTICE OF FIELD MANAGER'S FINAL DECISION**

Dear Mr./Mrs. \_\_\_\_:

### **INTRODUCTION**

The following is my Final Decision to issue new (ten year) grazing permits on the Green Mountain Common Allotment (GMCA) pursuant to 43 Code of Federal Regulations (CFR) Subparts 4100 and 4130 of the grazing regulations. The GMCA Proposed Grazing Management Environmental Assessment for this action (WY-050-EA11-5) was prepared to analyze the impacts within the GMCA associated with re-issuing 18 of 19 grazing permits for a new 10-year period. This analysis identified the appropriate terms and conditions to be included in the grazing permits and is on file at the Lander Field Office (LFO) and is also available on line at [http://www.blm.gov/wy/st/en/info/NEPA/lfodocs/greenmtn\\_common.html](http://www.blm.gov/wy/st/en/info/NEPA/lfodocs/greenmtn_common.html).

### **BACKGROUND**

The GMCA is a common use allotment encompassing approximately 522,000 total acres in southern Fremont County and portions of Sweetwater County (see Map 1). Bureau of Land Management-administered public lands in the GMCA are primarily used for livestock grazing, wild horses, wildlife habitat, mineral exploration and production, and recreation. Other uses include rights-of-way for transportation, communication, and utility systems, and timber production on Green Mountain. (¹Livestock grazing is authorized on 512,000 acres; the 522,000 acre figure includes lands that are located within the GMCA boundaries but which are not part of the allotment.)

Sixteen individuals share livestock grazing use within the allotment on 19 grazing permits. Prior to 1999, no formal livestock management system had been in place throughout the allotment's previous 100 years of use. Internal fencing has been limited to small pastures of mostly private and state land.

In 1996, the BLM initiated a large-scale planning effort involving the general public, local government, special interest groups, and permittees to address the varied and sometimes conflicting uses of the GMCA. This planning effort considered requests to convert the remaining sheep grazing use to cattle grazing and was intended to mitigate the known resource conflicts within the allotment. The planning effort identified a number of management issues and developed a list of goals and objectives to resolve the issues. An analysis documented in an EA (No. WY-050-EA9-039) resulted in the BLM's August 31, 1999 decision for managing livestock grazing on the Green Mountain Common Allotment. The goals and objectives covered in that earlier analysis established the need to:

1. Improve or maintain riparian areas.
2. Maintain wild horses within appropriate management levels.
3. Improve the distribution of water sources.
4. Improve the distribution of grazing animals.
5. Maintain the open spaces and natural character of the allotment and the uses that are dependent on these values.
6. Maintain public access and dispersed recreational opportunities while respecting private property in the allotment.
7. Maintain big game populations near objective levels established by the Wyoming Game and Fish Department.
8. Maintain or improve habitat quality for plant and animal populations and communities.
9. Provide adequate forage and water on a sustained-yield basis to satisfy the present management levels of livestock, wild horses and big game animals.
10. Provide workable solutions that encourage positive economic impacts on the multiple uses.
11. Maintain and improve soil productivity and minimize soil erosion.
12. Improve or maintain upland plant communities so that they are diverse and able to recover from disturbance.

13. Manage the public lands in a manner that will protect and improve the quality of the water resources.

14. Share expenditures on rangeland improvements among all concerned interests wherever possible.

15. Maintain open, honest, and constructive communication among the interested and affected parties including the public. Foster understanding, involvement, and cooperation in resource management.

On July 23, 1999, concurrent with the development of BLM's EA, the Lander Field Office made a determination that not all of the Wyoming Standards for Rangeland Health were being met on the GMCA.

"Appropriate actions" were identified pursuant to 43 CFR 4180.2(c) to correct the failure of the allotment to meet all of the Standards. These appropriate actions were included in the BLM's Final Decision of August 31, 1999, EA No. WY-050-EA9-039. The 1999 Decision is the management plan that continues to be in effect today.

The 1999 Decision renewed six GMCA grazing permits for a term of 10 years beginning October 1, 1999 and ending September 30, 2009. The 1999 Decision set initial use levels of 35,910 AUMs for cattle and 11,451 AUMs for sheep. The season of use was changed to be yearlong for sheep. Frequent riding and herd movement were to be used in controlling livestock distribution.

The grazing management actions were to be implemented in three phases: initial, interim, and long-term. The initial phase was provided as an intensive effort by the BLM and the permittees to get started on livestock management, herding, and the construction of rangeland improvements necessary to meet the 15 management goals listed above. The interim phase was designed to achieve full implementation and monitoring, and to allow for the adjustments necessary in meeting the goals and objectives. The long-term phase of management was intended for monitoring, adjustments, and implementation.

Full implementation of the 1999 Decision's management actions was to be accomplished over a ten year period with specific actions and rangeland improvements being phased in to provide the best chance to achieve resource objectives for the Green Mountain Common Allotment. Some of the first actions included water developments, riparian pastures, and herding to improve distribution throughout the use areas and pastures. While the management actions in the 1999 Decision have resulted in many of the goals and objectives having been achieved, some of the objectives have not been accomplished.

An allotment management plan (AMP) was to be prepared in consultation with the permittees and other interested publics following implementation of the final decision. An AMP enables the Bureau of Land Management (BLM) to properly manage the public land and resources under its jurisdiction; to maintain stability in the livestock industry dependent on public lands; and to provide for the orderly use, improvement, development, and reclamation of public lands,

consistent with multiple-use objectives. This responsibility and authority evolves from a series of legal mandates, including the Taylor Grazing Act, the National Environmental Policy Act (NEPA), the Wild and Free-Roaming Horse and Burro Act, the Federal Land Policy and Management Act (FLPMA), and the Public Rangelands Improvement Act. However, the AMP was never completed due to grazing management changes implemented by BLM in response to persistent drought conditions which began in October 1999 and lasting through 2007.

In 2002, a comprehensive rangeland health assessment and evaluation report was completed to determine whether public lands within the Green Mountain Common Allotment were meeting the standards for rangeland health. The evaluation concluded that rangeland health standards were not being met. In particular, riparian health was determined to be the highest priority goal and the biggest rangeland health issue on the allotment.

In 2005, the BLM renewed two GMCA permits under the authority provided under Public Law 108-108 (appropriation rider). Appeals to the Interior Board of Land Appeals were filed protesting the renewal of permits without an environmental assessment (EA). An EA (WY-050-EA7-153) was prepared as part of a stipulated settlement of those appeals and was designed to identify, develop and describe vital information and data that has been utilized to assist the interdisciplinary team and the decision-maker in making this decision that is “based on understanding of environmental consequences, and take actions that protect, restore and enhance the environment.” CEQ 1500.1(c).

In April, 2008 the LFO completed the EA which described and analyzed four alternatives for the development of an AMP.

On April 3, 2009 a Notice of Field Manager’s Proposed Decision was mailed for GMCA Proposed Grazing Management Environmental Assessment (WY050-EA07-153) to issue new ten-year grazing permits.

On April 19, 2009 protests were received from Charles McIntosh, Ellen Fox, Sid Baldwin, Joshua Anderson and Robert and Judy Whitlock on the proposed Arapahoe Creek Common Allotment decision. Protests were also received from Charles McIntosh and Sid Baldwin on proposed Green Mountain Allotment decision. No protests were received from West Side GMCA permittees for the proposed Antelope Hills Allotment decision.

On May 11, 2009 a protest letter was received from WWP’s Wyoming Office Director, Jonathan Ratner on all three proposed decisions for the Green Mountain, Arapahoe Creek Common and Antelope Hills Allotments.

On March 3, 2010 a Notice of Field Manager’s Final Decision was mailed for GMCA Proposed Grazing Management Environmental Assessment (WY050-EA07-153) to issue new ten-year grazing permits.

On April 6, 2010 a Notice of Appeal and Statement of Reasons and Petition for Stay of Final Decisions for GMCA was filed by Natalie J. Havlina, attorney for Western Watersheds Project, with the LFO.

On May 19, 2010 an Office of Hearings and Appeal (OHA) Order issued by Administrative Law Judge (ALJ), Harvey C. Sweitzer, granting WWP's Petition for a Partial Stay, denying Anderson's Petition for Partial Stay, setting Deadline for Filing Regarding Supplemental Statement of Reasons and giving Notice of Telephonic Conference.

On June 8, 2010 a Motion for Remand and Dismissal of grazing appeals WY-050-10-02, WY 050-10-03 and WY-050-10-04 was filed by John Retrum, attorney for BLM, with OHA.

On June 9, 2010 a Motion for Remand and Dismissal of grazing appeal WY-050-10-05 was filed by John Retrum, attorney for BLM, with OHA.

On June 11, 2010 an operating plan letter for the 2010 grazing season was sent to GMCA grazing permittees/interested publics by the BLM-LFO.

On June 25, 2010 an OHA Order was issued by ALJ, Harvey C. Sweitzer, granting BLM's motions in that the appealed decisions are vacated, the appeals dismissed, and the matters remanded to BLM.

On July 27, 2010 a Notice of Intent to Sue regarding the Green Mountain Common Allotment letter was mailed to Wyoming State Office c/o Don Simpson, BLM State Director, from Natalie J. Havlina, attorney for Western Watersheds Project, Advocates for the West.

On August 20, 2010 a letter of reply to the Notice of Intent to Sue regarding the Green Mountain Common Allotment was sent from Don Simpson, BLM Wyoming State Director, to Natalie J. Havlina, attorney for Western Watersheds Project, Advocates for the West.

In 2010, the BLM updated the rangeland health assessment with additional monitoring data collected to date. The assessment determined that the SHR Standards 1 (soil), 2 (riparian and wetland vegetation), 3 (upland vegetation in the transition zones), and 4 (wildlife and plants) were not being met in some areas; these findings are discussed in Chapter Three, Affected Environment of the EA (WY-050-EA11-5). Standards 5 and 6 were determined to be unknown.

On January 24, 2011 an opening Brief in Support of Motion for Preliminary Injunction Under First Claim for Relief was filed by Natalie J. Havlina, attorney for Western Watersheds Project, Advocates for the West with U.S. District Court for the District of Wyoming, Case No. 10-CV-284-NDF. In addition, a motion for Preliminary Injunction Under First Claim for Relief was filed by Natalie J. Havlina, attorney for Western Watersheds Project, Advocates for the West with U.S. District Court for the District of Wyoming, Case No. 10-CV-284-NDF. Also declarations of Bruce P. Van Haveren, Jill Morrow, PhD, Charles D. Clarke and Jonathan B. Ratner were filed by Natalie J. Havlina, attorney for Western Watersheds Project, Advocates for the West with U.S. District Court for the District of Wyoming, Case No. 10-CV-284-NDF.

On February 3, 2011 an Order Granting Request for a Hearing and Setting Response Deadline was issued by Nancy D. Freudenthal, U.S. District Judge, Case No. 10-CV-284-F for March 14, 2011, for defendant's response to plaintiff's motion for summary judgment and April 13, 2011,

for hearing on motion for preliminary injunction.

On February 22, 2011 the GMCA Proposed Grazing Management Environmental Assessment No. WY-050-EA11-5 was released on BLM-LFO website for public review for 30 days and “Dear Reader” letter mailed to interested publics and grazing permittees.

On March 24, 2011 the 30-day public comment period on the GMCA Proposed Grazing Management Environmental Assessment No. WY-050-EA11-5 closed. Numerous comments in the form of letters and e-mails were received from interested publics including the grazing permittees

On April 6, 2011 a Notice of Field Manager’s Proposed Decision was mailed for GMCA Proposed Grazing Management Environmental Assessment (WY050-EA11-5) to issue new ten-year grazing permits.

The purpose of the GMCA Proposed Grazing Management Environmental Assessment No. WY-050-EA11-5 was to determine if livestock grazing should be authorized in the GMCA on 18 of 19 permits and, if livestock grazing is to be authorized, the appropriate terms and conditions necessary to achieve land use plan objectives including the Standards for Rangeland Health (SRH). The need for this action is that fundamentals of rangeland health are not being met based on the analysis recently completed in this EA.

## **FINAL DECISION**

This decision is one of three that will split (without fencing) the existing GMCA into four new allotments: Antelope Hills, Arapahoe Creek, Alkali Creek Sheep and Mountain. The following is my final decision to issue seven new (ten year) grazing permits on the **Antelope Hills Allotment** (AHA) pursuant to 43 Code of Federal Regulations (CFR) Subparts 4100 and 4130 of the grazing regulations. The Arapahoe Creek and Alkali Creek Sheep Allotments decisions are attached for your information. The decision for the Mountain Allotment is expected to be issued later in June after the EA has been completed.

My final decision is to implement the Proposed Action (Alternative Two) described in EA No. WY-050-EA11-5. Specifically, my final decision is described below:

The 2011 livestock grazing use and management for the GMCA will be governed by the Lander Field Manager’s Final Decision of August 31, 1999 (1999 Decision) until such time as my Final Decision is implemented.

1. This decision will split the existing GMCA into four smaller allotments with a total of 19 pastures (Maps 2 and 3). The four new allotments are: Antelope Hills, Arapahoe Creek, Alkali Creek Sheep and Mountain using the 1999 Decision use area boundaries. These allotments will not be separated by fences.

2. The 2011-2020 livestock (cattle and sheep) grazing use and management will be governed by this proposed plan which includes the implementation of a modified four pasture, deferred-rotation grazing system on the new Antelope Hills Allotment (AHA).
3. Upland vegetation goals for the allotment relate primarily to maintaining the vigor and health of cool season bunchgrasses such as needle-and-thread, Indian ricegrass, bluebunch wheatgrass, and squirreltail. The livestock grazing management is designed to avoid a shift in the herbaceous vegetation from cool season bunchgrasses to smaller but more grazing resistant species such as threadleaf or needleleaf sedge, Sandberg bluegrass, or rhizomatous wheatgrasses. In riparian areas, the goals relate to maintaining or increasing the abundance, vigor and health of wetland sedges. The livestock grazing management is designed to avoid a shift in the vegetation community from wetland sedges to more grazing resistant species such as Kentucky bluegrass, mat muhly, and rose pussytoes. Measurable objectives will be developed cooperatively once a comprehensive monitoring program is established, and baseline data is available.
4. Prior to the implementation of riparian fences, management would be based on rigid adherence to stubble height standards measured at key areas (Table 1). The observation of stubble heights will be used to determine the appropriate time to move livestock. If use levels are heavy (61%-80%), or the stubble heights are not met, the Authorized Officer will close portions of the allotment or the entire allotment if necessary. Prior to the beginning of the next grazing season, permitted use numbers will be re-evaluated and reduced to meet stubble height objectives.

**Table 1. Forage Utilization Levels/Rotation Indicators**

<b>Plant Community Type and Monitoring Method</b>	<b>Forage Utilization Standard</b>	<b>When Will Standard be Implemented?</b>
Riparian Vegetation (Stubble Height Method)	6 inch greenline stubble height within key areas	At the end of the season of use for each pasture. Monitoring will occur periodically throughout the grazing season to ensure use levels do not exceed acceptable limits.
Riparian Vegetation (Stubble Height Method)	4 inch first terrace stubble height within key areas	At the end of the season of use for each pasture. Monitoring will occur periodically throughout the grazing season to ensure use levels do not exceed acceptable limits.
Upland Vegetation (Stubble Height Method)	6 inch residual herbaceous cover** within key areas	At the end of the season of use for each pasture. Monitoring will occur periodically throughout the grazing season to ensure use levels do not exceed acceptable limits.

\*\*The rotation indicator for the residual herbaceous cover will be measured as "droop height"; the highest naturally growing portion of the plant (Connelly, et.al. 2000) for the

key management grass species. The key species are bluebunch wheatgrass, Indian rice grass, squirreltail and needle-and-thread grass. This means that the "droop height" includes leaves, culms, and/or seed heads (seed stalks) of these four key management species. (Connelly, et. al. 2003).

The rotation indicator requires a **minimum** of 6 full inches. That means the average of the heights measured within the key area must be at least 6.0 inches.

### **Literature Cited:**

Connelly, J.W., M.A. Schroeder, A.R. Sands, and C.E. Braun. 2000. Guidelines to manage sage grouse populations and their habitats. The Wildlife Society. Wildlife Society Bulletin 2000, 28(4): 967-985 pp.

Connelly, J.W., K.P. Reese, and M.A. Schroeder. 2003. Monitoring of Greater Sage-grouse Habitats and Populations. University of Idaho, College of Natural Resources Experiment Station Bulletin 80. 50 pp.

Residual cover standards shown in the above table will apply to all pastures at the end of grazing season. The actual cover measurements will be presented and discussed at the post season BLM meeting to be held before December 31<sup>st</sup> each year.

5. In addition to the stubble height criteria shown in Table 1, the use levels on willows and stream bank trampling will also be observed. Table 2 summarizes the monitoring protocol that will be used under this Final decision:

**Table 2. Monitoring Protocol To Be Used Until Fences and Water Developments Are Completed**

Key Site	Monitoring Timeframe	Protocol Used	Trigger Point
Willows	Approximately Every 15 days	Browse Method	35% use on leader growth
Stream Bank Trampling	Approximately Every 15 days	Stream Bank Alteration Method	When stream bank alteration exceeds 15%

In addition to stubble height, willow utilization and stream bank stability the BLM will monitor trend, actual use and precipitation data, in cooperation and consultation with the grazing permittees and interested publics.

6. Upon construction of the riparian pastures and the implementation of the grazing strategies, stubble height measurements will be taken at the end of the grazing season for each pasture. Monitoring will occur throughout the grazing season to ensure that use levels do not exceed acceptable levels. The objective is to observe stubble height levels over 3-5 years and determine an average stubble height over the analysis period rather than attempt to address every pasture - every year - while the cattle are still present. If use levels are heavy (61%-80%), and there is no longer reason to believe that stubble



height objectives will be achieved over the analysis period, the Authorized Officer will accelerate the evaluation schedule to revise the long term management, including reductions in season of use, numbers, or grazing management strategies to occur no later than the next grazing season.

7. These 20 decision points and the “additional terms and conditions” listed later in this decision will become terms and conditions on the new permits. They will serve as the functional equivalent of an allotment management plan (AMP) in accordance with 43 CFR subpart 4120.2(e). A separate AMP will not be developed as part of this decision. The grazing management is based on this decision and will be implemented through the annual operating plan. This decision is designed to meet the letter and spirit of the BLM’s commitment to develop an allotment management plan.
8. The Antelope Hills Allotment will have four pastures using the 1999 Decision boundaries with some modifications for the Granite Creek-Rocks Pasture Fence. The four pastures are: Granite Creek-Rocks, Alkali Creek, Daley Lake and Picket Lake (see Maps 3 and 4).
9. The Granite Creek-Rocks Pasture Fence (GCRPF) will be constructed to approximately 27.5 miles in length. It will consist of 8.1 miles of lay-down permanent electric fence, with required removal of the posts. This standard is in east/west section and will only be in place for up to 63 days each year. After the cattle have been moved out of the pasture, the wires will be unfastened from the posts and placed directly on the ground or removed by the permittees. The wooden corner and stress-panel braces will be permanent and left in place. The fiberglass line posts, stays and any wire will be removed and stored at the brace locations. In addition to the lay-down electric fence, three miles of this east/west section will be permanent barbed and smooth wire construction with double gates in important locations.

A 1.4 mile temporary electric section on the east side will cross the Seminole Cutoff segment of the National Historic Trail (NHT). NHT management guidelines require that the entire fence be completely removed except for a period of less than 35 days annually. The remaining 15 mile north/south section will be permanent barbed and smooth wire construction with double gates in important locations. Approximately 4.5 miles of the north/south section near Ladysmith Spring and Draw will be constructed by BLM contract (labor and materials). The remaining portion of the GCRPF, approximately 23 miles, will be constructed by the permittees with BLM providing the materials. Maintenance of the **entire** fence project will be the responsibility of the grazing permittees and will be assigned by a cooperative range improvement agreement (see Map 4).

10. The top wire of new permanent fencing constructed within suitable sage-grouse nesting/brood-rearing habitat and all new electric fencing with markers patterned after those developed by Sutton Avian Research Center.
11. A total of four new water wells and five spring protection fences will be constructed. Map 4 shows the locations of these proposed projects. The purpose of these water developments is to improve livestock distribution by having cattle and sheep use more of the upland range land and take grazing pressure off of sensitive riparian areas. These projects are needed to assure that the designated pastures are able to support the approved livestock use for the number of days designated in the grazing management strategy. Table 3 below identifies the name and type of project to be developed or constructed under this Final decision.

**Table 3. Proposed Water Developments**

<b>Project Name</b>	<b>Type of Improvement</b>	<b>New Development or Reconstruction</b>
Circle Bar Well	Water Well	New Construction
North Horse Track Well	Water Well	New Construction
Monument Well	Water Well	New Construction
Smiley Well	Water Well	New Construction
Granite Spring	Spring Protection Fence	New Construction
Upper Ladysmith Spring	Spring Protection Fence	New Construction
Lower Wager Meadows Spring	Spring Protection Fence	New Construction
Twin Springs	Spring Protection Fence	New Construction
Mud Spring	Spring Protection Fence	New Construction

In accordance with BLM policy, cooperative range improvement agreements will be developed. Maintenance, operation and cost sharing requirements will be outlined in these cooperative agreements and will be assigned to the grazing permittees or other primary beneficiary. Cooperative agreements must be properly executed before any range improvement projects are constructed.

12. The total BLM permitted cattle herd size will be 1580 head (including bulls).
13. The cattle season of use will be from May 20 to September 20 for a total of 124 days. The turnout date may vary depending on spring growing conditions and will be established at the BLM pre-turnout meeting held in mid-April each year.
14. The total authorized sheep herd size will be 2400 head (including bucks).
15. The sheep season of use will be from May 1 to October 1 for a total of 154 days. The turnout date may vary depending on spring growing conditions and will be established at

the BLM pre-turnout meeting held in mid-April each year. The off-date will coincide with the cattle rotation in the fourth pasture. A total of 5 days will be allowed to trail off the Antelope Hills Allotment.

16. The attached Antelope Hills Allotment Final Permitted Use Summary table shows the specific cattle and sheep numbers and authorized AUMs for each permit. Forty-five percent of your current permitted use in AHA will be cancelled by this decision to accelerate attainment of the rangeland health standards.
17. This final decision will implement a four pasture deferred-rotation grazing system (graze 30 days per pasture and four days for trailing on and off allotment) with a total grazing season of 124 days. Permitted cattle will turnout in the Granite Creek-Rocks Pasture first each year for the 2010-2012 grazing seasons to accelerate riparian area recovery. The pasture rotation sequence will be scheduled each year at the BLM pre-turnout meeting. This initial schedule may be modified prior to the second pasture rotation based on late spring growing conditions.
18. This decision will require that the three sheep lambing areas (Alkali Creek, East Alkali Creek and Sulphur Creek) be rotated each year with one being rested. Once the lambing season is completed (generally by June 20<sup>th</sup>), the two sheep bands will follow the same pasture rotation schedule as the cattle and camps will be located a minimum of 1.5 miles from water sources. Sheep camps will be moved every seven days to prevent overutilization of the vegetation in any given location.
19. This decision will be implemented for three years following completion of the Granite Creek-Rocks Pasture Fence and then evaluated. The grazing plan will be adjusted as necessary. Increasing cattle herd size depends on permittee commitment to stewardship including, meeting rangeland health standards, effective control of livestock and permittee cost share for new water developments. Cooperative rangeland monitoring and permit compliance checks will occur throughout the grazing season based upon available funding.
20. A comprehensive long term allotment monitoring plan will be developed in consultation and coordination with the Wyoming Office of State Lands and Investments, permittees and other interested publics within six months from the implementation of this final decision. This monitoring plan will include identification of additional upland key areas with specific resource objectives, appropriate monitoring methods and a schedule for both short (annual) and long term monitoring techniques.

## **ADDITIONAL TERMS AND CONDITIONS**

### **Herding**

Livestock herding (both cattle and sheep) is an essential part of the management prescription and must be a part of the annual operating plan. Several of the allotments will require moving cattle or sheep from one pasture to the next. Range improvements would be installed to make the herding program more manageable. Pasture moves would be a phased movement of livestock from one pasture to the next occurring over a three day period. Herding would be needed to move cattle into the upland pastures and riparian management pastures at the beginning of the prescribed season of use. Most importantly, herding would keep livestock, particularly cattle, properly distributed during the hot grazing season (June 15 to September 15). It is during this portion of the grazing season, that cattle most concentrate their grazing use on riparian areas. Herding would also be essential to completely remove cattle and sheep from upland pastures and riparian pastures at the end of the prescribed season of use.

### **Off Highway Use**

The use of Off Highway Vehicles, such as ATVs, would be allowed to conduct basic operations such as maintenance of range projects. Off road herding of livestock would be prohibited during sage-grouse nesting season ending July 15. After sage-grouse nesting season, this use would be allowed as a necessary action provided that no resource damage is occurring. Appendix Six in the GMCA Proposed Grazing Management Environmental Assessment No. WY-050-EA11-5 identifies the process the BLM would invoke if there is reason to believe that resource damage is taking place.

### **Salt, Mineral Placement, and Supplemental Feeding**

Salt and mineral supplements shall be located at least 0.5 mile from water sources to promote better livestock distribution and discourage livestock from concentrating near water sources. Supplements or salt shall not be placed within 0.6 mile of all known sage-grouse strutting grounds unless the location is agreed to by the BLM. On rare occasions when emergency supplemental feeding is authorized, only certified weed-free forage shall be used on BLM-administered lands.

### **Drought Planning**

Wyoming BLM has implemented a drought policy that addresses drought conditions on a case-by-case basis (Instruction Memorandum No. WY-2004-020: Drought Management). BLM will meet with the grazing permittee prior to livestock turn-out to consider proposed grazing plans and contingencies and will review range conditions with the permittee on the ground, as

necessary. During emergency conditions related to drought, insect infestations, or wildfire, the BLM will close pastures or the allotment to livestock grazing.

BLM's Instruction Memorandum No. WY-2004-020 goes on to state:

“As we manage through [a] drought, the main focus of our actions should be to maintain the long-term health and productivity of Wyoming's public rangelands. We also need to keep in mind that every action taken may place a hardship on those who use, or rely on, the public lands for their livelihood. It is critically important that we communicate early and often with the permittees during these challenging times.

The importance of maintaining rangeland health cannot be over emphasized as consideration is given to returning uses to rangelands following the end of a drought.”

### Predator Control

Predator control by the grazing permittee will be limited as follows: The permittee/lessee and/or his/her employees will not use or place poison or M-44 devices for prairie dog or predator control on BLM-administered public lands. Predation control actions will be carried out by the Animal and Plant Health and Inspection Service (APHIS), Wildlife Services (WS), or the Wyoming Game and Fish Department, or whoever has the responsibility for the offending species.

### Sage-grouse Guidelines

Based on the most recent research and Wyoming BLM State Office direction (IM No. WY-2010-012) concerning the seasonal habitat needs of the greater sage-grouse and its response to disturbance, the following vegetation management objectives and restrictions would be applied to livestock management within the AHA:

1. Within Core Area surface disturbing activities and/or surface occupancy is prohibited or restricted on or within six tenths (0.6) mile radius of the perimeter of occupied sage-grouse leks. Disruptive activity is restricted on or within six tenths (0.6) mile radius of the perimeter of occupied sage-grouse leks from 6 pm to 8 am from March 1<sup>st</sup> through May 15<sup>th</sup>.
2. Outside of Core Area surface disturbing activity or surface occupancy is prohibited or restricted on or within 0.25 mile radius of the perimeter of occupied sage-grouse leks. Disruptive activity is restricted on or within one quarter (0.25) mile radius of the perimeter of occupied or undetermined sage-grouse leks from 6 pm to 8 am from March 1<sup>st</sup> through May 15<sup>th</sup>.

3. Within Core Area surface disturbing and/or disruptive activities are prohibited or restricted from March 1<sup>st</sup> through July 15<sup>th</sup>. Restriction applies to suitable nesting and early brood-rearing habitat.
4. Outside of Core Area surface disturbing and/or disruptive activities are prohibited or restricted from March 1<sup>st</sup> through July 15<sup>th</sup>. Restriction applies to sage-grouse nesting and early brood-rearing habitat within 2 miles of the perimeter of any occupied lek.
5. No vegetation manipulation allowed in mapped winter concentration areas. Surface disturbing and/or disruptive activities in mapped sage-grouse winter habitat concentration areas that support Core Area populations, are prohibited or restricted from November 15<sup>th</sup> to March 1<sup>st</sup>. (Note: A few winter concentration areas were mapped by the WGFD in 2008, but this was not a complete survey of winter concentration areas in the GMCA.)

#### Hazardous Materials

No hazardous materials/hazardous or solid waste/trash shall be disposed of on public lands. If a release does occur, it shall immediately be reported to this office at (307)332-8400.

#### Administrative Access

The permittee/lessee shall provide reasonable administrative access across private and leased lands to the BLM and its agents for the orderly management and protection of public lands.

#### Noxious/Invasive Weeds

Application of a chemical or release of pathogens or insects on public lands must be approved by the authorized officer.

#### Human Remains/Cultural Resources

Pursuant to 43 CFR 10.4(g), the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and (d), you must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer.

All proposed actions with the allotment on public lands will have a cultural/paleontological resource evaluation completed by the field office archeologist and/or regional paleontologist. Standard cultural inventory and evaluation procedures will be followed. Appropriate inventories and mitigation measures, following 36 CFR 800, must be completed prior to project implementation.

#### Range Improvements

All range improvements will be maintained in accordance with cooperative range improvement agreements and range improvement permits on file with the Bureau of Land Management pursuant to 43 CFR 4120.3.

## **RATIONALE**

This final decision is consistent with the Lander Resource Management Plan, approved on June 9, 1987, and will fulfill a need that has been expressed by the public.

The RMP identified several resource problems, as did members of the Green Mountain Working Group (GMWG) at many meetings conducted prior to issuance of the August 31, 1999 final decision. The GMWG identified a number of management issues and developed a list of goals and objectives already discussed above to resolve the issues.

The primary problems identified were: 1) the poor condition of the riparian areas on the allotment and conflicts between livestock grazing and wildlife and wild horses; 2) poor livestock distribution and season-long use by livestock on the allotment; 3) problems with unauthorized use by livestock; and 4) a lack of upland water sources.

In 2002, a comprehensive rangeland health assessment and evaluation report was completed to determine whether public lands within the Green Mountain Common Allotment were meeting the standards for rangeland health. The evaluation concluded that rangeland health standards were not being met. In particular, riparian health was determined to be the highest priority goal and the biggest rangeland health issue on the allotment.

The BLM's Proper Functioning Condition (PFC) assessment of riparian habitat conducted during 1994-2001 indicated that 88 percent of lotic (flowing water) and 78 percent of lentic (standing water) riparian habitats were determined to be non-functional or functional-at-risk with a downward or static trend.

In February, 2011 the LFO prepared an environmental assessment (EA) to describe and analyze three alternatives for the proposed grazing management for the Green Mountain Common Allotment. On April 6, 2011, a FONSI was signed and a proposed decision was issued which was developed from this analysis, public comments on the EA, and further consultation with the grazing permittees and interested publics. Design features of the proposed action and mitigation measures (WY-050-EA11-5 pg. 4-43) identified through this analysis minimize impacts resulting from the proposed action to a level of no significance, and are part of the rationale for this decision.

## **AUTHORITY FOR THIS DECISION**

The Bureau of Land Management has authority to renew these grazing permits consistent with the provisions of the Taylor Grazing Act, Public Rangelands Improvement Act, Federal Land Policy and Management Act, and the Lander Resource Management Plan, approved on June 9, 1987. Further, an approved grazing permit is required to authorize grazing use on public lands and this authority is contained in the following sections of the 43 Code of Federal Regulations (CFR):

43CFR 4130.2(a) which states.

(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 and suspended use. These grazing permits or lease shall also specify terms and conditions pursuant to § 4130.3, 4130.3-1, and 4130.3-2.

43 CFR 4110.3-2(b) which states.

(b) When monitoring or field observations show grazing use or patterns of use are not consistent with the provisions of subpart 4180, or grazing use is otherwise causing an unacceptable level or pattern of utilization, or when use exceeds the livestock carrying capacity as determined through monitoring, the authorized officer shall reduce permitted grazing use or otherwise modify management practices.

43 CFR 4110.3-3(a) which states.

(a) After consultation, cooperation, and coordination with the affected permittee, the State having lands or managing resources within the area, and the interested public, reductions of permitted use shall be implemented through a documented agreement or by decision of the authorized officer. Decisions implementing 4110.3-2 shall be issued as proposed decisions pursuant to 4160.1.

43 CFR 4120.2(a)(1)(2)(3)(4) which states.

(1) include terms and conditions under 4130.3, 4130.3-1, 4130.3-2, 4130.3-3, and subpart 4180 of this part;

(2) Prescribe the livestock grazing practices necessary to meet specific resource objectives;

(3) Specify the limits of flexibility...

(4) Provide for monitoring to evaluate the effectiveness of management.

43 CFR 4130.3-1(a) which states.

(a) The authorized officer shall specify the kind and number of livestock, the period(s) of use, and the amount of use for every grazing permit.

43 CFR 4130.3-2 (c)(f) which states.



The authorized officer may specify in grazing permits 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:

(c) Authorization to use, and directions for placement of supplemental feed, including salt, for improved livestock and rangeland management on the public lands.

(f) Provisions for livestock grazing temporarily to be modified to allow for the restoration of vigor of plants, provide for the improvement of riparian areas.

43 CFR 4130.2(d)(4) which states.

(d) The terms 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--

(4) The authorized officer determines that a permit or lease for less than 10 years is in the best interest of sound land management.

43 CFR 4130.6-1(a) which states.

(a) An exchange-of-use grazing agreement may be issued to an applicant who owns or controls lands that are unfenced and intermingled with public lands in the same allotment when use under such an agreement will be in harmony with the management objectives for the allotment and will be compatible with the existing livestock operations.

43 CFR 4180.1 (b)(d) which states.

The authorized officer shall take appropriate action under subpart 4110, 4120, 4130, and 4160 of this part as soon as practicable but no 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.

(b) Ecological processes, including the hydrologic cycle, nutrient cycle, and energy flow, are maintained,

(d) Habitats are, or are making significant progress toward being, restored, or maintained for Federal threatened and endangered species.

43 CFR § 4130.7(c) (e) which states:

(c) The authorized officer may require counting and/or additional special marking or tagging of the authorized livestock in order to promote the orderly administration of the public lands.

(e) The brand and other identifying marks on livestock controlled, but not owned, by the permittee or lessee shall be filed with the authorized officer.

## **RIGHT OF APPEAL**

Any applicant, permittee, lessee or other person whose interest is adversely affected by this 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. The appeal may be accompanied by a petition for a stay of the decision pending appeal, in accordance with 43 CFR 4.471. The appeal and petition for stay must be filed in writing within thirty (30) days following the receipt of this final decision with Rubel Vigil, Jr., acting Lander Field Manager, at the Lander Field Office, 1335 Main Street, Lander, WY 82520.

The appeal must clearly and concisely state the reasons why the appellant thinks this final decision is wrong and must otherwise comply with the provisions of 43 CFR 4.470. The appellant must serve a copy of the appeal by certified mail on the Office of the Field Solicitor, Rocky Mountain Region, 755 Parfet Street Suite 151, Lakewood, Colorado, 80215 and person(s) named (43 CFR 4.421(h)) in the "Copies sent to:" section of this decision.

Should you wish to file a petition for a stay, you must comply with the provisions at 43 CFR 4.471. Among other things, that regulation requires that a petition for a stay 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.

Any person named in the decision from which an appeal is taken who wishes to file a response to the petition for a stay may file with the Hearings Division a motion to intervene in the appeal, together with the response, within 10 days after receiving the petition. The person must serve copies of the motion to intervene and response on the appellant, the Office of the Solicitor and any other person named in the decision (43 CFR 4.472(b)).

If you have any questions regarding this final decision, please contact Curtis Bryan at 307-332-8425 or John Likins at 307-332-8411.

Sincerely,

Rubel Vigil, Jr.  
Acting Field Manager

Attachments: (5)

- 1- Maps (5)
- 2- Antelope Hills Final Permitted Use Summary
- 3- Proposed Decision Protest Responses

- 4- Arapahoe Creek Allotment Final Decision
- 5- Alkali Creek Sheep Allotment Final Decision

Copies sent to:

Interested Publics (attached mailing list)  
Wyoming State Lands & Investment Office

# ANTELOPE HILLS ALLOTMENT

## FINAL PERMITTED USE SUMMARY (05/20/11)

Ranch /Permit Name Authorized Agent	Permit Number	Livestock Number (cattle)	Livestock Number (sheep)	Kind of Livestock	Authorized Use Period	Percent Public Land Use	Active Use AUM's	Suspended Use AUM's
Abernathy Ranches, LLC (Farmland Reserve Inc. Lease) c/o Tom Abernathy	3821	812		cattle	05/20-09/20	81	2,681	2,197
Abernathy Ranches, LLC (Mitten Ranch Lease) c/o Tom Abernathy	3794	34		cattle	05/20-09/20	100	139	113
	3794	216		cattle	05/20-09/20	Exchange of Use	644	
Armstrong Ranch Inc. c/o Jean Armstrong	3703	119		cattle	05/20-09/20	100	485	395
Alkali Creek Grazing Association, LLC c/o Stan Cole, Manager	3771		2,868	sheep	05/01 –10/01	100	2,904	2,376
	3771		574	sheep	05/01 –10/01	Exchange of Use	581	
Armstrong, John D. & or William L. Bregar	3833	74		cattle	05/20-09/20	35	106	86
Jolley Livestock Grazing Assoc., LLC c/o William Jolley	3043	41		cattle	05/20-09/20	72	120	97
David, Lyle E. & Colleen M. (Finlayson, Hyde/Harris Family Lease)	3747	101		cattle	05/20-09/20	99	412	332
Poor Farm LLC c/o Don Abernathy	3756	400		cattle	05/20-09/20	95	1,549	1,285
TOTALS (15,277 P.L. AUMs)		1,581 158	2,868 574			Exchange of Use	8,396 1,225	6,881

