

DECISION MEMO

Gilbert Peak and Hessie Lake - Henrys Fork Livestock Grazing Allotments

Summit County, Utah
USDA Forest Service
Mountain View Ranger District
Wasatch-Cache National Forest

BACKGROUND

The Mountain View Ranger District proposes to reauthorize livestock grazing on 25,200 acres of National Forest System Lands on the Gilbert Peak and Hessie Lake-Henrys Fork Sheep and Goat (S&G) Allotments located within the Mountain View Ranger District of the Wasatch-Cache National Forest. Livestock grazing would be reauthorized using current Forest Plan standards and guidelines and desired conditions to manage livestock use. It is expected that this by continuing to follow this direction rangelands will be maintained at current desired conditions or continue to move them towards desired conditions. This proposal recognizes the continuing need for forage production from Forest Service administered lands as identified in the Forest Plan.

The Gilbert Peak Allotment is approximately 11,100 acres and the Hessie Lake-Henrys Fork Allotment is approximately 14,100 acres of National Forest System land. The allotments occur within Summit County, Utah. The allotments are located in the Smiths Fork, Upper Henrys Fork, and Joulious Creek subwatersheds approximately 25 miles south of Mountain View, Wyoming. These allotments are located in the High Uintas Wilderness.

DECISION AND RATIONALE

I have decided to reauthorize grazing allotments on the Gilbert Peak and Hessie Lake - Henrys Fork Allotments.

The 2006 range Studies Evaluations (Zobell 2006, 2006a) for the Gilbert Peak and Hessie Lake - Henrys Fork summarizes long-term trend and monitoring data. The reports conclude that current management is meeting or is satisfactorily moving toward objectives. Objectives, as it is used here, is defined as meeting the Forest Plan standards and guidelines for livestock grazing.

Forest wide management direction for rangelands was first incorporated into Allotment Management Plans and existing livestock grazing permits after the Rangeland Health EIS was approved in 1996 and then again after the 2003 Revised Forest Plan was approved (USDA 2004). The Forest Plan direction and previous management direction has resulted in the lands within these allotments demonstrating success in meeting or satisfactorily moving toward desired conditions and achieving site-specific desired ecological objectives. Livestock are currently grazing on rangelands within these allotments and the desired condition is to continue livestock grazing as directed by the Forest Plan while maintaining or moving existing resource conditions toward desired conditions. This decision will implement P.L. 104, the 1995 Rescissions Act, by having sufficient environmental analysis to support livestock grazing.

Grazing permits allow the number, kind, and class of livestock, period of use, and grazing allotment specified in the permit to be modified when determined by the Forest Service to be needed for resource protection (FS-2200, clause 8,b). The Forest Plan for the Wasatch-Cache National Forest specifies an objective of monitoring 10% of allotments annually to assess/validate existing conditions and continue establishing long-term trends (USDA 2003).

SCOPING AND PUBLIC INVOLVEMENT

The proposal was provided to the public and other agencies for comment during a scoping period from August 26 to September 23, 2005. It was sent directly to organizations, Native American tribes, and individuals. It was available on the Wasatch Cache National Forest (WCNF) website at the following address: <http://www.fs.fed.us/r4/wcnf/projects/proposed/index.shtml>. Additionally, it was available for review at the Mountain View and Evanston District Offices. As a result of scoping, eighteen comment letters were received. The respondents raised concerns about: 1) the impacts and potential negative impacts of grazing, 2) Forest Service authority to categorically exclude the project, 3) monitoring data, and 4) impacts of the allotments on wilderness and wilderness experiences. All of these concerns are addressed as part of this decision or are included in the project file. Documentation of public scoping is in the project file and available for review through the Mountain View Ranger District.

REASON FOR CATEGORICALLY EXCLUDING THE PROPOSED ACTION

My decision is consistent with agency policy concerning extraordinary circumstances as outlined in FSH 1909.15 Section 30.3 Item 2. Potential extraordinary circumstances were considered during the analysis and are presented in the following paragraphs. The mere presence of one or more of these resource conditions does not preclude use of a categorical exclusion. It is the degree of the potential effect of a proposed action on these resource conditions that determines whether extraordinary circumstances exist (FSH 1909.15 Section 30.3 Item 2).

Forest Service resource specialists have visited these allotments, completed specialist reports (Condrat 2007, Cowley 2006, Flanigan 2006, Flood 2007, Jauregui 2007), a biological evaluation and assessment, and have determined that the environmental effects will be minor. There were no extraordinary circumstances related to the decision (as defined in FSH 1909.15) that may result in a significant individual or cumulative effects on the quality of the human environment.

a. Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing of proposed critical habitat, or Forest Service sensitive species.

Terrestrial Wildlife: A Biological Assessment (BA) was completed for terrestrial wildlife species. The wildlife biologist determined that there would be no effect due to lack of habitat on the following Federally listed species: bald eagle (threatened), black-footed ferret (endangered), or western yellow-billed cuckoo

(proposed/candidate). It was also determined that grazing “may affect, but is not likely to adversely affect” the Canada lynx (threatened). (Jauregui 2006). The US Fish and Wildlife Service concurred with these determinations (USFWS 2006). There are five Forest Service sensitive species identified in the Biological Evaluation (BE) that may be affected by this project: wolverine, boreal owl, northern goshawk, northern three-toed woodpecker, and the great gray owl. The wildlife biologist determined that the project “may impact individuals or their habitat, but will not likely contribute to a trend towards Federal listing or loss of viability to the population or species” of the five sensitive species. (Jauregui 2006a).

Aquatic and Semi-aquatic Species: There are no endangered or threatened aquatic or semi-aquatic species on the Wasatch-Cache National Forest. Forest Service Sensitive Species on the Forest include the spotted frog and Bonneville cutthroat trout, neither of which is found in the Colorado River Drainage of which the Henrys Fork Drainage is a part of it. Therefore, there would be no impact to these two species. Colorado Cutthroat trout are also a Sensitive Species on the Forest and are found in the project area and in the drainage. This project “may impact individuals or habitat, but will not likely contribute to a trend towards federal listing or cause a loss of viability to the population or species.” (Cowley 2007).

Plants: No plant taxon is listed as Endangered for the Wasatch-Cache National Forest. These allotments are well outside the range of threatened plants Maguire’s primrose (*Primula maguieri*) and Ute ladies’-tresses (*Spiranthes diluvialis*). Based on this information a determination of “no effect” is made for Threatened and Endangered plant species. A “no impact” determination was made for the following sensitive species: Spruce wormwood (*Artemisia norvegica* var. *piceetorum*), Clustered lady’s slipper (*Cypripedium fasciculatum*), Rockcress draba [*Draba globose* (*D. densifolia* var. *apiculata*)], and Arctic poppy (*Papaver radicum* ssp. *kluanense*, *P. uintaense*) (Goodrich 2006a).

- b. Flood plains, wetlands or municipal watersheds.** The Forest Hydrologist completed a Water Resources report for both the Gilbert Peak and Hessie Lake-Henrys Fork Allotments (Condrat 2007). There are no municipal watersheds within the allotment or in the watersheds that drain the allotment. Floodplains in the allotments are functioning properly and are not impacted by sheep grazing or other uses in these drainages. Sheep grazing has very little effect on wetlands in the allotments. (Condrat 2007).
- c. Congressionally designated areas, such as Wilderness, Wilderness Study Areas, or National Recreation Areas.** These allotments are located in the High Uintas Wilderness area. The Forest Plan allows grazing in Wilderness as long as standards and guidelines are met (Chapter 4-63). The High Uintas Wilderness has had authorized grazing since it was created in 1984. This decision does not change the status quo and therefore does not create new, additional, or amplified impacts to the wilderness resource (Asay 2006).
- d. Inventoried Roadless Area.** The project is within an inventoried roadless area. A small portion of the High Uintas Roadless Areas occurs within the allotments. No new road construction or timber harvesting will occur as part of this decision.
- e. Research Natural Areas.** There are no Research Natural Areas in these allotments.
- f. American Indians and Alaska Native religious or cultural sites.** The Forest

Archeologist, working with the Utah State Historic Preservation Office determined that the continued livestock grazing would have no adverse effect on American Indian and Alaska Native religious or cultural sites and documentation is included in the project file (Flanigan 2006, 2006a).

g. Archeological sites, historic properties or areas. Same as above.

Based upon the findings described herein, I have determined that these actions are consistent with the types of actions described in Section 339 of the FY 2005 Consolidated Appropriations Act (P.L. 108-447). This legislation provides that certain decisions to authorize allotment grazing shall be categorically excluded (CE) from documentation in environmental assessments and environmental impact statements under the National Environmental Policy Act (NEPA). The full text follows:

SEC. 339. For fiscal years 2005 through 2007, a decision made by the Secretary of Agriculture to authorize grazing on an allotment shall be categorically excluded from documentation in an environmental assessment or an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if: (1) the decision continues current grazing management; (2) monitoring indicates that current grazing management is meeting, or satisfactorily moving toward, objectives in the land and resource management plan, as determined by the Secretary; and (3) the decision is consistent with agency policy concerning extraordinary circumstances. The total number of allotments that may be categorically excluded under this section may not exceed 900.

All three conditions for application of this authority have been met:

1. There are no changes to the current grazing management on these allotments.
2. The range Studies Evaluation indicates that current grazing is meeting or moving toward desired conditions and objectives in the Forest Plan (Zobell 2006).
3. As noted above, a BA/BE was prepared as well as specialist reports from the Forest Hydrologist, Fisheries Biologist, Soils Scientist, Archeologist and Zone Wildlife Biologist. There were no significant impacts to extraordinary circumstances identified in these reports.

As such, this decision will be categorically excluded from documentation in an Environmental Assessment or Environmental Impact Statement. Based on past experience with similar management activities, and upon the environmental analysis that has been conducted of this project, the effects of implementing this action will be of limited context and intensity.

CONSIDERATION OF BEST AVAILABLE SCIENCE

In making this decision I have considered the best available science as the basis for this decision. My conclusion is based on a review of the project record that shows a thorough review of relevant scientific information, a consideration of responsible opposing views, and the acknowledgment of incomplete or unavailable information, scientific uncertainty, and risk. The project record contains specialist reports on vegetation, wildlife, fisheries, watershed, and soils. These reports contain documentation of field visits to the allotments and contain the specialist's assessment of conditions found on the allotments. I consider these on-the-ground visits by knowledgeable resource specialists to be the application of the best available science along with the scientific methods they applied and the literature they reviewed.

On other decisions to permit sheep grazing on allotments (West Fork Blacks Fork and the 6 allotments being analyzed in 2007) on the Evanston and Mountain View Districts the public has provided their own observations. Specifically, Dr. John Carter provided a report “Watershed Conditions Uintas Wilderness, Utah” (Carter 2007). Specialist from the Interdisciplinary Team representing hydrology (Condrat 2007b), fisheries (Cowley 2007d), and range ecology (Goodrich, 2006 2007a, Goodrich and Zobell 2006) reviewed this report and considered it when they were determining what science to use. I considered Dr. Carter’s report and those of the Forest Service specialists in reaching my decision. I believe the Forest Service specialist have used the science that best represents the conditions they have observed and studied in the Uinta Mountains.

I have also considered the work that has been done recently in the Uintas to understand alpine plant communities. The work done by Goodrich, Zobell and Brown in reviewing the literature, conducting new studies, developing Power Point presentations, and authoring documents has led to a better understanding of alpine communities and the impacts of grazing in the Uinta Mountains (Brown, 2006, Zobell 2006, 2006a, 2007, Goodrich 2004, 2005-2006, 2006, 2007a, and other Goodrich papers and Power Point presentations in the Project Record).

FINDINGS REQUIRED BY OTHER LAWS

My decision will comply with all applicable laws and regulations. I have summarized pertinent ones below.

National Forest Management Act (Forest Plan Consistency) - This Act requires the development of long-range land and resource management plans and requires that all projects and activities are consistent with the Forest Plan.

Early in 2007 a court ruling enjoined the Forest Service from implementing the 2005 planning rule. As a result, the Forest Service is operating under the 2000 rule’s transition provisions and the 2004 interpretive rule.

I have reviewed the Wasatch-Cache National Forest Land and Resource Management Plan (Forest Plan). The actions in this project comply fully with the goals of the Forest Plan, the "Management Area Direction" and the "Forest-Wide Standards and Guidelines" (See Chapter 4 of the 2003 Forest Plan).

The livestock grazing allotments are within the following management prescriptions: **(1.2, and 1.3)** Existing Wilderness, Opportunity Classes II, and III; **(2.6)** Special Management Area, Undeveloped Areas; **(3.1a)** Protection, Maintenance or Restoration of Aquatic/Watershed Integrity; and **(5.1 and 5.2)** Multiple Resource Use, Forested Vegetation Management Emphasized which all allow livestock grazing to meet desired conditions. The actions in this project are consistent with the types of activities permitted under the Management Prescriptions 1.2, 1.3, 2.6, 3.1a, 5.1, and 5.2 and comply fully with the goals of the Forest Plan, the Eastern Uintas Management Area, and the Forest-Wide Standards and Guidelines (See Chapter 4 of the 2003 Forest Plan).

Trends for Management Indicator Species are identified in the Management Indicator Species of the Wasatch-Cache National Forest report (USDA 2006a). A Management Indicator Species Population trend effects analysis was completed for the Hessie Lake –Henry's Fork, Gilbert Peak, Red and Poison Mountain Allotments. This analysis along with a review of available information by a fisheries biologist determined that the continued grazing of livestock within the four allotments is not likely to affect the population trend for snowshoe hares, beavers, goshawks or Colorado Cutthroat trout (Jauregui 2006b, Cowley 2007c).

The document, Assessment of Management Indicator Species Capability and Suitability on the Wasatch-Cache National Forest with the Management and Restoration Direction (USDA 2007) documents how the 2003 Wasatch-Cache Forests Plan identifies and restores Management Indicator Species habitat with regard to grazing.

The Forest Plan identified 289,800 acres of land that are suitable for livestock grazing (Table RN-4) in the FEIS of the plan (USDA 2003a). The Gilbert Peak and Hessie Lake – Henry's Fork allotments contains lands that are suitable for livestock grazing as specified in the 2003 Forest Plan (Zobell, 2007b). A tentative grazing capacity for the allotments was determined in the 1960s using range analysis data. Recent utilization monitoring conducted on these allotments indicates light to moderate utilization levels as a result of the current stocking rates and management (Zobell, 2006b).

National Environmental Policy Act - This Act requires public involvement and consideration of potential environmental effects. The Decision Memo is in compliance with NEPA and the Council on Environmental Quality (CEQ regulations 40 CFR 1500-1508) for implementing NEPA.

Endangered Species Act - This Act directs that all Federal departments and agencies shall seek to conserve endangered, and threatened (and proposed) species of fish, wildlife and plants. This obligation is further clarified in a National Interagency Memorandum of Agreement (dated August 30, 2000), which states our shared mission to "...enhance conservation of imperiled species while delivering appropriate goods and services provided by the lands and resources." (See "Reasons for Categorically Excluding the Proposed Action" section of this document.)

Clean Water Act - This Act includes direction to restore and maintain the integrity of waters. The Forest Service complies with this Act through the use of Best Management Practices. This decision incorporates Best Management Practices to ensure protection of soil and water resources.

The State of Utah has designated the streams draining the Henry's Fork watersheds above the National Forest boundary as Antidegradation Segments. This indicates that the existing water quality is better than the established standards for the designated beneficial uses. In addition, the State of Utah has determined that the waters draining these watersheds fully meet the beneficial uses for which they are classified. (Condrat 2007).

Executive Order 11990 (Wetlands) - This order requires the Forest Service to take action to minimize destruction, loss, or degradation of wetlands and to preserve and enhance the natural and beneficial values of wetlands. In compliance with this order, Forest Service direction requires that analysis be completed to determine whether adverse impacts would result. (See “Reasons for Categorically Excluding the Proposed Action” section of this document.)

Executive Order 11988 (Floodplains) - This order required the Forest Service to provide leadership and take action to (1) minimize adverse impacts associated with occupancy and modification of floodplains and reduce risk of flood loss, (2) minimize impacts of floods on human safety, health and welfare, and (3) restore and preserve natural and beneficial values served by floodplains. (See “Reasons for Categorically Excluding the Proposed Action” section of this document.)

Wild and Scenic Rivers Act - There are no congressionally designated wild, scenic, or recreational rivers or streams within the Allotments. In August of 1999, the Wasatch-Cache National Forest found several watercourse segments to be free-flowing with at least one outstandingly remarkable value and thus considered “eligible” for the National Wild and Scenic Rivers System. The eligible segment is Henrys Fork (Henrys Fork Lake to Trailhead) located on part of the Gilbert Peak and HESSIE Lake-Henrys Fork Allotment.

Livestock grazing has been occurring within and adjacent to this river for many years and the findings of that study determined it met the criteria for eligibility. Grazing intensity has decreased in these allotments since before the study concluded in 1999.

Since there are no plans to increase grazing intensity or to change the general management of these allotments which would effect the direction and standards for Wild and Scenic River listed above, there will be no effect on this rivers’ eligibility for the National Wild and Scenic Rivers System due to the continuation of livestock grazing (Asay 2006a).

Clean Air Act - I have determined there would be no measurable effects to air quality relative to the decision. The proposed action is not expected to effect air quality on the allotment because there is no change to the management of livestock that would cause additional pollutants to be released to the atmosphere.

National Historic Preservation Act - See “Reasons for Categorically Excluding the Proposed Action” section of this document.

Civil Rights and Executive Order 12898 of February 16, 1994 (Federal Actions to Address Environmental Justice on Minority Populations and Low-income Populations) - This order requires federal Agencies to the extent practicable and permitted by law to make achieving environmental justice part of its mission by identifying and addressing as appropriate disproportionately high and adverse human health effects, of its programs and policies and activities on minorities and low-income populations in the United States and territorial possessions. This decision complies with this Act. In compliance with this Executive Order the Wasatch-Cache National Forest through scoping and public involvement attempted to identify interested and affected parties, including minorities and low-income populations for this project.

No minorities and low-income populations were identified during public involvement activities. This decision is not expected to adversely impact minority or low-income populations.

Based on comments received during scoping, no conflicts have been identified with: other Federal, State, or local agencies; Native Americans; minorities including women; or the civil rights of any United States citizen.

Wilderness Act – These Allotments are located in the High Uintas Wilderness Area established by act of Congress in 1984. The presence of livestock grazing within wilderness areas is addressed in Section 4(d)(4)(2) of the Wilderness Act which states: “the grazing of livestock, where established prior to the effective date of this Act, shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture.” Forest Service regulation (36 CFR 393.7) also states that grazing in wilderness areas will be controlled under the general regulations governing the grazing of livestock on National Forests.

The Utah Wilderness Act of 1984 designated the High Uintas Wilderness. The Utah Wilderness Act incorporated Section 108 of the Colorado Wilderness Act which included House Committee Report Language stating: “...there shall be no curtailment of grazing permits or privileges in an area simply because it is designated as wilderness.” Grazing is a historical use in the High Uintas Wilderness. In addition, Section 303 of the Utah Wilderness Act of 1984 noted that recreation conflicts alone would not be the determining factor in the removal of livestock from those newly established Wilderness Areas...” (RFP 2003, Appendix B9-3).

The High Uintas Wilderness has had authorized grazing since it was created in 1984. This decision does not change the status quo and therefore does not create new, additional, or amplified impacts to the wilderness resource. (See “Reasons for Categorically Excluding the Proposed Action” section of this document.)

IMPLEMENTATION DATE

This decision is not subject to appeal pursuant to 36 CFR 215.12(f). The proposal is not one of the activities subject to appeal under the 215 rules as clarified on October 19, 2005, by the Federal District Court for the Eastern District of California in *Earth Island Institute v. Ruthenbeck*. This decision will be implemented by validating that Forest Plan management direction is included in Allotment Management Plans and Term Grazing Permits starting with the 2008 grazing season.

This decision is subject to appeal pursuant to 36 CFR 251.82 by those who hold a written authorization to occupy and use National Forest System lands, if that authorization would be affected by this decision. Notice of appeal must be postmarked or received by the Appeal Reviewing Officer within 45 days of this decision. The notice of appeal should be sent to: Faye L. Krueger, Forest Supervisor, 8236 Federal Building, 125 South State Street, Salt Lake City, UT 84138. A copy of the notice of appeal must be filed simultaneously with Stephen M. Ryberg, District Ranger, 1565 Highway 150, Suite A, Evanston, WY 82930. Appeals must meet the content requirements of 36 CFR 251.90.

CONTACT PERSON

For further information contact Richard Zobell, Rangeland Management Specialist, at:

Mountain View Ranger District
P.O. Box 129
Mountain View, WY 82939
(307) 782-6555

/s/ Stephen M. Ryberg

9/30/07

STEPHEN M. RYBERG
District Ranger

DATE

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