Decision Memo

September 2007

For the Reauthorization of Grazing on the Mountain Lion S&G, Cottonwood – Gooseberry, Swens, and Beaver Dam - Boulger Allotments

Ferron and Price Ranger Districts
Emery County
Ferron, UT

John Healy
Range Management Specialist
Ferron and Price Ranger Districts

I. DECISION TO BE IMPLEMENTED

A. Description of the Decision

It is my decision to authorize continued livestock grazing on the Mountain Lion S&G, Cottonwood – Gooseberry, Swens, and Beaver Dam – Boulger Allotments in accordance with P.L. 108-447, SEC. 339 which provides that decisions to authorize grazing on an allotment shall be categorically excluded (CE) from documentation in an environmental assessment (EA) or environmental impact statement (EIS) 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.

Three allotments covered by this Decision are located in upper Huntington Canyon near Electric Lake, approximately 20 miles northwest of Huntington, Utah. Mountain Lion S&G is located east of Smiths Reservoir on Skyline Drive. Gooseberry-Cottonwood, Beaver Dams-Boulger and Swens Canyon allotments are located west of Electric Lake and run to the forest boundary near the town of Fairview, UT as displayed in project area map (Attachment 1).

My decision incorporates the following elements of existing management, which comply with current direction in the Forest Plan, and project monitoring, which have determined to be meeting or moving existing conditions toward desired resource conditions.

- Elements of the current Allotment Management Plan are consistent with direction for the Proposed Action for Grazing Authorization in FSH 2209.13, Chapter 90 (see AMP in the project record).
- Existing management has been defined in terms of grazing use standards, practices, grazing indicators, BMP's, and scheduled mitigation measures such as range improvements that have been analyzed in accordance with NEPA, and have an agency decision in place to support implementation (see project record).
- The current grazing system, permitted numbers and season of use are working well to maintain desirable resource conditions on the allotment.

An adaptive management strategy has set defined limits that can be checked through monitoring to determine if actions prescribed were followed, and if changes are needed in management. Administrative actions within the defined limits of the resultant NEPA decision can then be implemented without additional NEPA. These administrative decisions include:

Mountain Lion

- A currently approved grazing season of July 5 to October 5.
- An approved stocking rate of 1,000 head of ewe/lamb pairs.
- An approved Allotment Management Plan incorporating a three pasture deferred rotation grazing system.
- Permanently established monitoring range condition and trend studies used to make adjustments in management over time (see project record).

Gooseberry - Cottonwood

- A currently approved grazing season of July 6 to September 30.
- An approved stocking rate of 900 head of ewe/lamb pairs.
- An approved Allotment Management Plan incorporating a three pasture deferred rotation grazing system.
- Permanently established monitoring range condition and trend studies used to make adjustments in management over time (see project record).

Beaver Dams - Boulger

- A currently approved grazing season of July 6 to October 5.
- An approved stocking rate of 1,200 head of ewe/lamb pairs.
- An approved Allotment Management Plan incorporating a three pasture deferred rotation grazing system.
- Permanently established monitoring range condition and trend studies used to make adjustments in management over time (see project record).

Swens Canyon

- A currently approved grazing season of July 1 to September 30.
- An approved stocking rate of 559 head of ewe/lamb pairs.
- Incorporation of a deferred rotation grazing system.
- Permanently established monitoring range condition and trend studies used to make adjustments in management over time (see project record).

This decision will be implemented through management direction incorporated in existing grazing permit(s) in compliance with P.L. 104 of the 1995 Rescissions Act, and meets the requirements of the decision and Forest Service regulations. Where clarifications to existing management direction are warranted from this decision or adjustments to management direction are warranted based on the Adaptive Management Process, the existing permits will be modified to incorporate appropriate adjustments in management direction.

B. The Purpose and Need for this project is to:
Comply with P.L. 104 of the 1995 Rescissions Act, which requires that all grazing allotments have NEPA completed to continue grazing.

II. REASONS FOR CATEGORICALLY EXCLUDING THE DECISION

These allotments were initially included in a larger grazing NEPA evaluation, referred to as the Wasatch Sheep Grazing EIS (Environmental Impact Statement). The Wasatch Sheep Grazing EIS was scoped in June 2001, after which, Congress passed Public Law 108-447 in 2005. This law provided new tools for the Forest Service to use for re-authorizing grazing on allotments that met the criteria of the law (which has been discussed previously in this document). After deliberating on how to proceed and reviewing the supporting range documentation, I determined that these allotments either meet or are moving towards the desired future conditions for range management outlined in the Forest Plan. We are approving the continuation of existing management. Finally, consideration for compliance with the extraordinary circumstances is discussed below.

I have concluded this decision meets the above requirements and is appropriately categorically excluded from documentation in an environmental impact statement or environmental assessment. I considered the following factors:

A. The decision continues current grazing management on the allotments;

B. My conclusion is based on a review of the 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.

C. Monitoring indicates that current grazing management is meeting, or moving toward, objectives in the land and resource management plan.

D. Relationship to Extraordinary Circumstances:

1. Threatened and Endangered Species and their Critical Habitat-

In accordance with Section 7(c) of the Endangered Species Act a list of proposed, threatened or endangered species that may be present in the project area was requested from the U.S. Fish & Wildlife Service (USFWS). The potential effects of this decision on listed species have been analyzed and documented in a Biological Assessment (BA). It was determined that this decision will not have an effect (BA/BE Project Record).

Sensitive Species: Manual direction requires analysis of potential impacts to sensitive species in addition to threatened or endangered species. Potential effects have been analyzed and documented in a Biological Evaluation (BE). It was determined that this decision “may impact individuals, but will not cause a trend toward federal listing” for Colorado River Cutthroat Trout on the Swens Canyon and Beaver Dams – Boulger allotments. The same may impact determination has been made for the Bonneville Cutthroat trout on the Mountain Lion allotment. Consultation with the U.S. Department of Fish and Wildlife is not required. There are "no impacts" to sensitive species on the Gooseberry – Cottonwood

allotment. Implementation of the activities authorized in my decision will not rise to the level where I would consider this to be an extraordinary circumstance that would preclude the use of a CE.

2. Floodplains, Wetlands, or Municipal Watersheds –

Floodplains: Executive Order 11988 is to avoid adverse impacts associated with the occupancy and modification of floodplains. Floodplains are defined by this order as, ". . . the lowland and relatively flat areas adjoining inland and coastal waters including flood prone areas of offshore islands, including at a minimum, that area subject to a one percent [l00-year recurrence] or greater chance of flooding in any one year."

There are floodplains or flood-prone areas in the project area, but no adverse effects are anticipated. This has been validated by map and site-review - (see hydrologist's report in the project record). This decision should not result in significant floodplain-related impacts. Field review (monitoring) of the project validates acceptable resource effects from similar activities.

Wetlands: Executive Order 11990 is to avoid adverse impacts associated with destruction or modification of wetlands. Wetlands are defined by this order as, ". . . areas inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds."

Wetlands are represented by small meadows and springs. Sheep do not prefer to graze in wet areas because sheep do not like to get their feet wet and the vegetation is generally less palatable than upland forage species. Monitoring shows that wetland vegetative cover is not impacted by sheep grazing. It can be impacted by sheep watering, however, the affected area is very small, about 20’x20’ and the impacts are localized, short term and can be mitigated with the installation of water developments such as troughs. For these reasons the impact is not significant. Often the damaged vegetation regrows during the same season. The nature and scale of the activity should also not have subsurface effects to the identified wetlands. To further ensure that wetlands-related impacts are minimized, applicable Best Management Practices will continue to be utilized. (Hydrologist Report)

Municipal Watersheds: Municipal watersheds are managed under multiple use prescriptions in land and resource management plans. Water from the allotments is used for culinary, industrial and agricultural purposes below the Forest boundary but the area has not been designated as a municipal watershed. This decision will not affect municipal watersheds.

3. Congressionally Designated Areas -Wilderness:

This decision does not affect Wilderness. The project is not in or near Wilderness.

Wilderness Study Areas:
There are no Wilderness Study Areas in the decision area. This decision will not affect Wilderness Study Areas.

National Recreation Areas:
There are no National Recreation Areas in the decision area. This decision will not affect National Recreation Areas.

4. Inventoried Roadless Areas-

Two of the allotments are located wholly or partially within the borders of an Inventoried Roadless Area. Mountain Lion is located in the Dairy Creek IRA and the Gooseberry – Cottonwood allotment is located partially in the Oak Creek IRA. After reviewing the IRA analysis I have determined that my decision to continue grazing will not affect possibility of being recommended to congress for designation as Wilderness. (IRA Analysis – project record)(Map 1 – Attachment 1). Any roads that are used for management are existing roads on the Forest Travel Plan.

5. Research Natural Areas -

There are no Research Natural Areas in the decision area.

6. American Indians and Alaska Native religious or cultural sites.

Please refer to the discussion present for compliance with extraordinary circumstance 7.

7. Archeological Sites or Historic Properties or Areas -

Section 106 of the National Historic Preservation Act requires federal agencies to take into account the effect of a project on any district, site, building, structure, or object that is included in, or eligible for inclusion in the National Register. Section 106 of the National Historic Preservation Act also requires federal agencies to afford the Advisory Council on Historic Preservation a reasonable opportunity to comment.

The Archaeological Resources Protection Act covers the discovery and protection of historic properties (prehistoric and historic) that are excavated or discovered in federal lands. It affords lawful protection of archaeological resources and sites

that are on public and Indian lands. The Native American Graves Protection and Repatriation Act covers the discovery and protection of Native American human remains and objects that are excavated or discovered in federal lands. It encourages avoidance of archaeological sites that contain burials or portions of sites that contain graves through "in situ" preservation, but may encompass other actions to preserve these remains and items. This decision complies with the cited Acts. Additionally, the Federal government has trust responsibilities to Tribes under a government-to government relationship to insure that the Tribes reserved rights are protected.

Consultation with tribes helps insure that these trust responsibilities are met. No tribal concerns were identified for this project.

The Utah National Forests have an MOU in place with SHPO (the State Historical and Preservation Office). The MOU allows for grazing to be re-authorized within the confines of the agreement without additional surveys. With consultation with the cultural resource specialist I have determined that the re-authorization of grazing on these allotments is consistent with the MOU.

A survey was conducted and no religious or cultural sites were identified on the allotments. Consultation and concurrence by the Utah State Historic Preservation Office is documented in the project record. This survey and concurrence comes from the Wasatch Plateau EIS documentation which included the 4 allotments.

III PUBLIC INVOLVEMENT

Publics were contacted for the Wasatch Plateau EIS for these same 4 allotments through several scoping letters and EIS reviews. Comments were considered and addressed in the project file by the appropriate resource specialist involved.

Comments were considered and addressed in the project record by the appropriate resource specialists involved.

IV. FINDINGS REQUIRED BY AND/OR RELATED TO OTHER LAWS AND REGULATIONS

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

Federal Land Policy and Management Act - This Act allows the granting of easements across National Forest System Lands. The regulations in 36 CFR 251 guide the issuance of permits, leases, and easements under this Act. Permits, leases, and easements are granted across National Forest System lands when the need for such is consistent with planned uses and Forest Service policy and regulations. This decision is consistent with this Act.

Forest Plan Consistency (National Forest Management Act) - This Act requires the development of long-range land and resource management plans (Plans). The Manti-La Sal National Forest Plan was approved in 1986, as required by this Act. It has since been amended several times. The amended plan provides for guidance for all natural resource management activities. The Act requires all projects and activities be consistent with the Plan. The Plan has been reviewed in consideration of this project. This decision is responsive to guiding direction contained in the Plan. This decision is consistent with the standards and guidelines contained in the Plan.

Endangered Species Act - See Section 11, Item C1 of this document. There are "no effects to endangered species.

Sensitive Species (Forest Service Manual 2670) - This Manual direction requires analysis of potential impacts to sensitive species, those species for which the Regional Forester has identified population viability is a concern. Potential effects of this decision on sensitive species have been analyzed and documented in a Biological Evaluation. This decision will have "no impact" on sensitive species.

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

Wetlands (Executive Order 11990) - See Section II, Item D2 of this document.
Floodplains (Executive Order 11988) - See Section II, Item D2 of this document.

Clean Air Act - Under this Act areas of the country were designated as Class I, II, or III airsheds for Prevention of Significant Deterioration purposes. Impacts to air quality are limited to the immediate area when trailing the animals from one point to another. The impacts are short term and limited in extent. I have determined that this decision will not have an impact on regional air quality.

National Historic Preservation Act - See Section II, Item D6 of this document.

Archaeological Resources Protection Act - See Section II, Item D6 of this document.
Native American Graves Protection and Repatriation Act - See Section II, Item D6 of this document. There are no known impacts.

Environmental Justice (Executive Order 12898) - This Order requires consideration of whether projects would disproportionately impact minority or low-income populations. This decision complies with this Act. Public involvement occurred for this project, the results of which I have considered in this decision-making. Public involvement did not identify any adversely impacted local minority or low-income populations. This decision is not expected to adversely impact minority or low-income populations.

National Environmental Policy Act - This Act requires public involvement and consideration of potential environmental effects. The entirety of documentation for this decision supports compliance with this Act.

V. ADMINISTRATIVE REVIEW OR APPEAL OPPORTUNITIES

This decision is not subject to an administrative review or appeal pursuant to 36 CFR 215(36 CFR 215.12(f)).

This decision is subject to appeal pursuant to 36 CFR 251.82(3). It may only be appealed by those who hold or, in certain circumstances, those who have applied for a written authorization to occupy and use National Forest System lands, if that authorization would be affected by this decision. Appeals must meet the content requirements of 36 CFR 251.90.

The appeal must be postmarked by the Appeal Reviewing Officer within 45 days of the date of notification of this decision. However, when the 45-day filing period would end on a Saturday, Sunday, or Federal Holiday, the filing time is extended to the end of the next Federal working day. The Notice of Appeal must be sent to: USDA, Forest Service, Manti-La Sal National Forest, ATTN: Forest Supervisor, Rod Player, 599 West Price River Drive, Price, UT 84501. The Notice of Appeal may alternatively be faxed to: the attention of the Forest Supervisor, Rod Player, at 435-637-4940. A copy of the appeal must simultaneously be sent to the District Ranger, Mesia Nyman, 115 West Canyon Road, PO Box 310, Ferron, UT, 84523 or Faxed to 435.384-3296. The Notice of Appeal may alternatively be e-mailed to the Forest Supervisor at rplayer@,fs.fed.us a copy of the appeal must also be e-mailed to the District Ranger at mnyman@fs.fed.us.

Additionally, if an appeal is filed, an oral presentation concerning the appeal (36 CFR 251.97) and/or stay of implementation (36 CFR 251.91) of the decision may be requested at any time prior to closing the appeal record. If an appeal is filed, I am willing to meet and discuss concerns.

IV. IMPLEMENTATION DATE

This decision may be implemented during the appeal process, unless the Reviewing Officer grants a stay (36 CFR 251.91).

VII. CONTACT PERSON

Further information about this decision can be obtained from the Ferron/Price Range Management Specialist, John Healy, during normal office hours (weekdays, 8:00 a.m. to 4:30 p.m.) at the Ferron/Price District Ranger office, 115 Canyon Road, PO Box 310, Ferron, Utah 84523; Phone: 435-636.3580; Fax: 1-435-384-3296; e-mail: jhealy@fs.fed.us.

VII. CONTACT PERSON

Further information about this decision can be obtained from the Ferron/Price Range Management Specialist, John Healy, during normal office hours (weekdays, 8:00 a.m. to 4:30 p.m.) at the Ferron/Price District Ranger office, 115 Canyon Road, PO Box 310, Ferron, Utah 84523; Phone: 435-636.3580; Fax: 1-435-384-3296; e-mail: jhealy@fs.fed.us.

VIII. SIGNATURE AND DATE

Mesia Nyman
District Ranger
Ferron and Price Ranger District

9/27/07
Date

Thomas Shore
District Ranger
Sanpete Ranger District

9/27/07
Date

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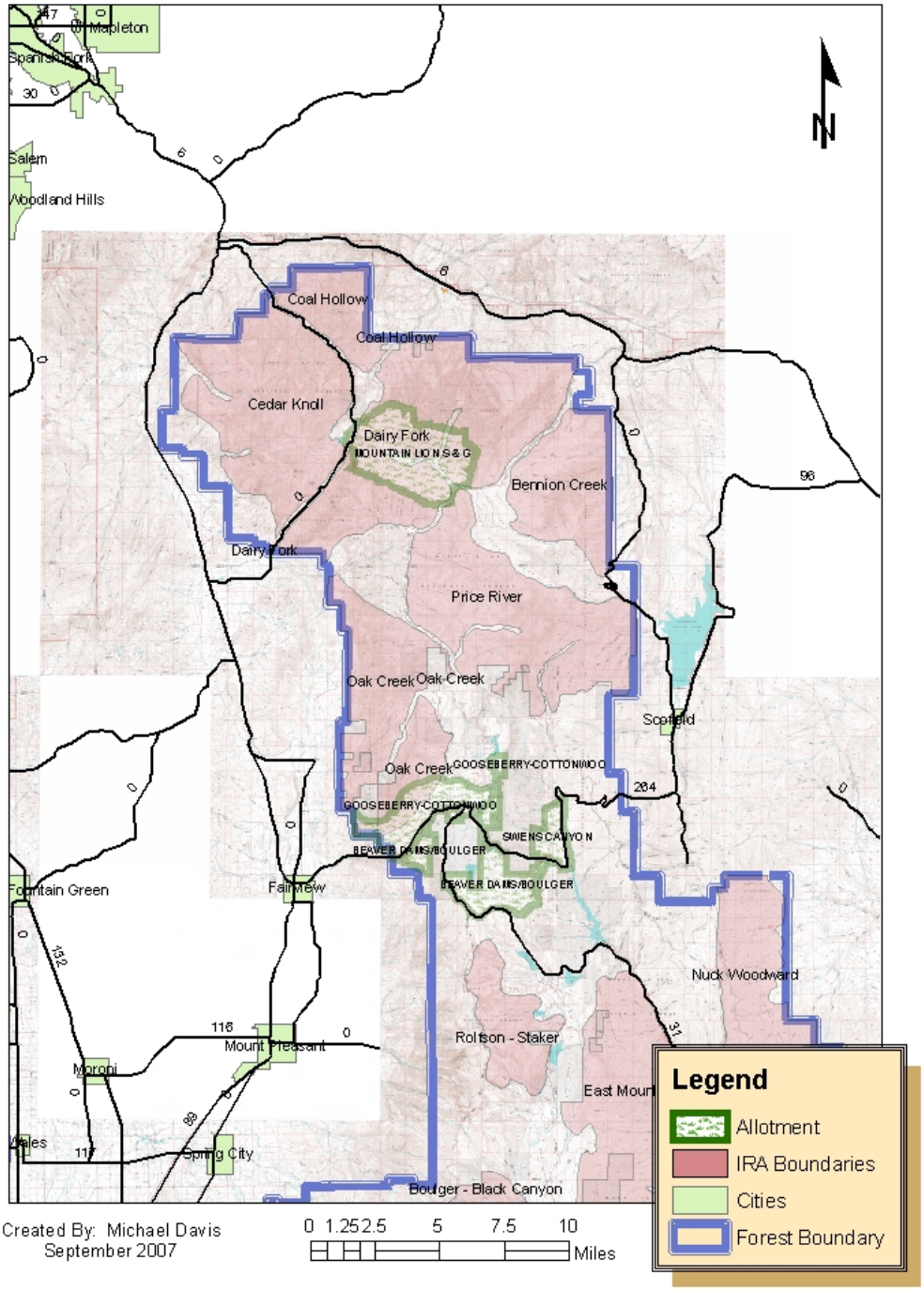
Attachment 1

Mountain Lion et al CE Map 1