

Decision Notice
& Finding of No Significant Impact
North Zone Range 08 Project

USDA Forest Service
Bearlodge Ranger District, Black Hills National Forest
Crook County, Wyoming

Introduction

A Decision Notice (DN) and Finding of No Significant Impact (FONSI) are provided here. The DN documents my decision and provides my explanation of the management and environmental reasons I used to make my decision in selecting an Alternative to implement. The FONSI presents the reasons why I find this action will not have a significant effect on the human environment and therefore an environmental impact statement will not be prepared. The North Zone Range 08 Environmental Assessment (EA), completed for this project, is incorporated by reference to this DN/FONSI (and is attached). The DN/FONSI documents the following:

- Background description of the North Zone Range 08 Analysis Area (hereafter referred to as the Analysis Area) and scope of the analysis;
- My decision (i.e., the permitted livestock management activities selected for the Analysis Area);
- The rationale for my decision;
- The Alternatives considered;
- The public involvement conducted;
- The legal requirements for environmental protection;
- A Finding of No Significant Impact;
- The implementation date;
- The rights to appeal and administrative review;
- Contact information; and
- My signature and date, as the responsible official

The Black Hills National Forest (BHNF) Revised Land and Resource Management Plan, as amended (USDA Forest Service 1997), and its accompanying Final Environmental Impact Statement (FEIS) are also incorporated by reference in this DN/FONSI.

Decision and Reasons for the Decision

Background

The North Zone Range 08 Project Area (NZR08) is located in the northern Black Hills of South Dakota and the Bearlodge Mountains of Wyoming. The Northern Hills and Bearlodge Ranger Districts are located on the Black Hills National Forest in Lawrence and Pennington Counties, South Dakota and Crook County, Wyoming, respectively. The Black Hills National Forest proposes to reauthorize livestock grazing on ten existing grazing allotments. Six of these allotments (Black Haw, Grand Canyon, Huett Springs, Silver Creek, Stearns Park, and Willow

Springs) are located on the Bearlodge Ranger District (see Figure 1). Collectively, these six allotments cover approximately 48,013 acres of National Forest System (NFS) lands and 9,384 acres of waived private lands.

The purpose of this project is to improve livestock management so that it is consistent with the goals, objectives, standards and guidelines of the Forest Plan. The Forest Service rangeland allotment management process calls for periodic reviews of allotment conditions and management practices. All of these allotments are due for environmental review, and if necessary, revision to current rangeland management practices. The underlying needs for this proposal include:

- 1) There is a need improve livestock management so that it is consistent with the goals, objectives, standards, and guidelines of the Forest Plan.
- 2) There is a need to reduce soil disturbance (erosion and compaction), improve bank stability, and increase riparian vegetation diversity and abundance, including Region 2 sensitive species and BBNF species of local concern, in order to improve stream health and riparian ecosystem condition.
- 3) There is a need to reduce cheatgrass infestations within the Huett Springs Allotment to increase native grasses and improve rangeland health

The environmental assessment (EA) documents the analysis of two alternatives to meet these needs.

Decision

I have reviewed the proposed action as identified in the EA, issues identified during the public involvement process, alternatives, and environmental consequences of implementing the proposed action and alternatives. Based on public feedback, the analysis disclosed in the EA, information in the project record and management direction and policy, I have decided to implement Alternative A including the design criteria, monitoring plans, and adaptive management options outlined in Chapter 2 and Appendix B of the EA. I believe this alternative does the best job of meeting the purpose and need for the project. It provides a continue benefit to the local communities while keeping impacts of livestock grazing at acceptable levels. Additionally, I approve the Desired Conditions listed in Table 2 of the EA as the desired conditions for these six allotments.

This alternative will meet Forest Plan direction for range management by continuing to authorize livestock grazing as an acceptable multiple use on these NFS lands. These lands were found to be suitable for livestock grazing as part of the Forest Plan revision process as documented in the EIS for the 1997 Forest Plan. I have reviewed the suitability determination for these lands and have found no need to change that determination.

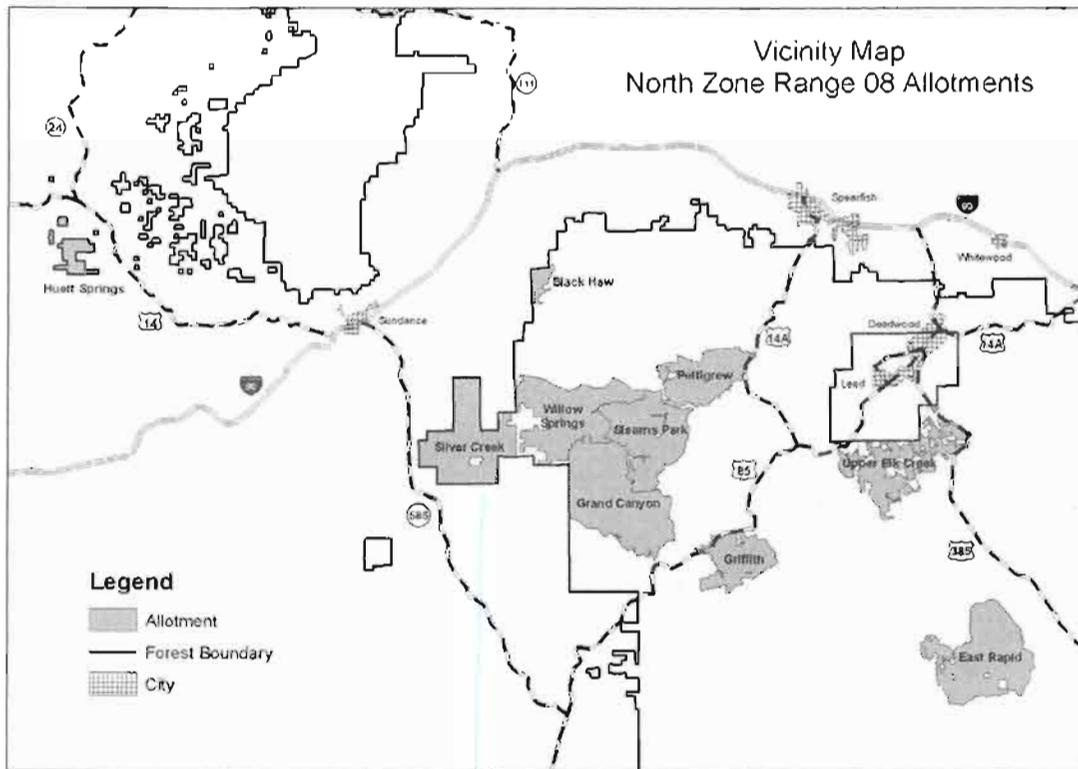


Figure 1. Vicinity map of the North Zone Range 08 allotments

Elements of the Decision by Allotment

The specific elements of my decision by allotment are displayed in Table 1 below. Some changes were made to the adaptive management options in the Proposed Action based on public comment. A total of 6,560 AUMs on a combination of NFS and private lands will be authorized. Three miles of fence would be built to split two pastures. One-half mile of fence would be relocated. About 4.5 miles of pipeline, six stock tanks, and one storage tank would be added to improve livestock distribution. One stock tank would be removed or relocated. Thirty-one springs, ponds, or riparian areas would be protected with fences. Fences would be built over the 10-year permit period based on priority and as funds become available. A map of each allotment is included in Appendix A of the EA.

I have also decided to defer any decision on new spring developments at this time. Any future proposals for spring developments on any of these allotments will be evaluated by an IDT prior to approval and will be approved under a separate NEPA document.

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Table 1. Table of Allotment-specific Elements of the Decision for the North Zone Range 08 Project on the Bearlodge Ranger District for the Black Haw, Huett Springs, Grand Canyon, Silver Creek, Stearns Park, and Willow Springs Allotments.

	Black Haw Allotment	Grand Canyon Allotment	Huett Springs Allotment	Silver Creek Allotment	Stearns Park/Willow Springs Allotments
Max. Authorized Use (FS and PVT)	379 AUMs	1,860 AUMs	735 AUMs	973 AUMs	2,613 AUMs
Earliest "On" date	6/10	6/11	5/10	6/11	6/1
Latest "Off" date	10/15	9/30	9/30	10/15 for Smith and Moskee units; 10/25 for Vore unit; 10/30 for Meisner unit	10/30
Grazing system	Single pasture, season-long grazing	Three-pasture deferred rotation	Two-pasture deferred rotation	Two-pasture deferred rotation system for Vore and Smith units; Single-pasture season-long grazing in the Meisner and Moskee units	Eight-pasture deferred rotation grazing system
Allowable Use	40%	50%	Allow 60% utilization on cheatgrass while protecting riparian areas and maintaining adequate ground cover;	50% in Vore and Smith units; 45% in Meisner and Moskee units	50%

	Black Haw Allotment	Grand Canyon Allotment	Huett Springs Allotment	Silver Creek Allotment	Stearns Park/Willow Springs Allotments
Improvements Authorized	Remove or relocate existing stock tank and fence riparian area	Exclude livestock from spring sources and associated riparian habitat at the following springs: South, Silver, Bear, West Ike, Twin, Dugout, Big Mud, Billie, Crowley, Paige, U. Williams, Smith, Meadow, Gooseberry, and Smith Draw seeps. High priority springs (Twin, Paige, Dugout) will be fenced first. Reconstruct existing spring developments	50% utilization on native grasses and riparian areas None	Exclude livestock from spring source and associated riparian habitat at Pete Spring	Use temporary or permanent fence to split the East pasture; Extend the existing Rattlesnake, Miller Spring and Wagon Canyon Pipelines and add stock tanks to improve livestock distribution. Limit livestock use at Guidinger Spring until banks are stable and revegetated; Once banks are stable and revegetated, determine if livestock grazing is appropriate in this area Exclude livestock from spring sources and associated riparian habitat at the following springs: Three Willow, WY stateline, Hillside, Andy, No Name, Sandpit, SD stateline, Wagon Canyon, Corwood, Lost, Two-way, Junius, and East Riflepit; Reconstruct existing fences at Bahn of Gilead Spring, and Anderson Spr. Reconstruct existing fence at Simmons Spr.

	Black Haw Allotment	Grand Canyon Allotment	Huett Springs Allotment	Silver Creek Allotment	Stearns Park/Willow Springs Allotments
Adaptive Options	<p>Adjust grazing season between 6/1 and 10/30 not to exceed 38 AUMs;</p> <p>Shorten season of grazing between 6/1 and 10/30 not to exceed 380 AUMs;</p> <p>Fence riparian areas;</p> <p>Reduce AUMs</p>	<p>Adjust grazing season between 6/1 and 10/30 not to exceed 1,882 AUMs;</p> <p>Reduce AUMs;</p> <p>Additional protection for springs will be designed by an ID team and the permittee</p>	<p>If the frequency of desirable species is not increased in 5 yrs, allow livestock to begin grazing as early as April 15;</p> <p>Allow 70% utilization on cheatgrass while protecting riparian areas and maintaining adequate ground cover;</p> <p>Allow up to 70% utilization on cheatgrass from 9/15 to 10/31 during years cheatgrass is actively growing;</p> <p>Reduce allowable utilization on native grasses;</p>	<p>Adjust grazing season between 6/1 and 10/30 not to exceed 38 AUMs;</p> <p>Shorten season of use between 6/1 and 10/30 not to exceed 38 AUMs;</p> <p>Reduce AUMs;</p> <p>Further protection for springs and associated riparian areas will be evaluated based on monitoring;</p> <p>Additional protection will be designed by an ID team and the permittee</p>	<p>Reconstruct and expand fence at Deer Spr.</p> <p>Monitor riparian area along FSR 105</p> <p>Adjust grazing season between 6/1 and 10/30 not to exceed 2,768 AUMs;</p> <p>Reduce AUMs;</p> <p>Modify timing and duration of grazing;</p> <p>Reduce AUMs;</p> <p>Install permanent or temporary fence at Guidinger Creek;</p> <p>Further protection for springs and associated riparian areas will be evaluated based on monitoring;</p> <p>Additional protection will be designed by an ID team and the permittee;</p> <p>If utilization in area along FDR 105 exceeds standards, exclude livestock through fencing or other means</p>

	Black Haw Allotment	Grand Canyon Allotment	Huett Springs Allotment	Silver Creek Allotment	Stearns Park/Willow Springs Allotments
			<p>Reduce AUMs once cheatgrass is no longer palatable; Use herbicide to reduce cheatgrass, and plant native species</p>		

I believe that this alternative addresses the purpose and need of improving livestock management so that it is consistent with the goals, objectives, standards, and guidelines of the Forest Plan. Localized areas in these allotments that were found to not be meeting or moving towards desired conditions were either riparian areas or upland areas with more bare ground and/or noxious weeds than desirable. These resource problems were identified in the original purpose and need for the project. There was a need to reduce soil disturbance (erosion and compaction), improve bank stability, and increase riparian vegetation diversity and abundance, in order to improve stream health and riparian ecosystem condition. Additionally, there was a need to reduce infestations of cheatgrass in the Huett Springs Allotment.

Specifically, Alternative A is expected to reduce soil disturbance, improve bank stability, and increase vegetative diversity in the riparian areas at numerous springs including South, Silver, Bear, West Ike, Twin, Dugout, Big Mud, Billie, Crowley, Paige, U. Williams, Smith, Meadow, Gooseberry, Pete, Guidinger, Simmons, Three Willow, WY Stateline, Hillside, Andy, No Name, Sandpit, SD Stateline, Wagon Canyon, Corwood, Lost, Two-way, Julius, East Riflepit, Balm of Gilead, and Anderson, Deer and Smith Draw seeps through fencing and/or reconstruction of spring developments. Also riparian areas in Black Haw Gulch and along Guidinger Creek will benefit through a combination of fencing, reconstruction of water developments, and monitoring. Monitoring may result in moving livestock out of the pastures or allotments.

Alternative A is expected to reduce the amount of bare ground in Calvert/Sackett pasture, at Guidinger benchmark, at Buffalo Park Benchmark, and at the Sec. 16 Benchmark through a change to eight-pasture deferred rotation grazing, temporary fencing, extension of pipelines, addition of alternate stock tanks, and monitoring. Monitoring may result in moving livestock out of the pasture or allotment. Other adaptive actions may include shortening the grazing season or reducing AUMs.

One additional need identified for this project was to reduce cheatgrass infestations in the Huett Springs Allotment. Alternative A proposes to reduce cheatgrass and increase the frequency of native species by interrupting the life cycle of these annual brome species through heavier utilization grazing during the early season when livestock will readily consume cheatgrass and native species have not started to green up. This should result in livestock utilizing annual brome as forage. Heavy grazing or intensive clipping reduces above and below ground biomass and seed production. This is expected to allow native species already present to have a competitive advantage later in the growing season (Haferkamp and Karl, 1999). Alternate adaptive actions include treatment with herbicide.

I recognize that cheatgrass is difficult to control and that these means may not be effective or successful. However, Alternative B does not appear to be a successful strategy to reduce cheatgrass either. Annual bromes can take advantage of high levels of litter and mulch and actually increase in abundance. A dense litter cover reduces evaporation of soil water and this provides an optimum environment for germination and seedling emergence (Haferkamp and Karl, 1999). Therefore I have decided to implement Alternative A for this allotment in an attempt to meet two objectives, i.e. allow livestock grazing to continue and to use this grazing in a manner that may be effective in reducing cheatgrass infestation. In addition, I propose to monitor the frequency of native species. If the frequency of native species decreases or the percent of bare ground increases, then an adaptive management action will be taken.

This alternative complies with direction in the Black Hills NF Forest Plan and the Forest Service NEPA regulations found at 36 CFR 220.7.

Other Alternatives Considered

In addition to the selected alternative, I considered one other alternative. A comparison of these alternatives can be found in the EA (see Table 6).

Alternative B

No Action

Under the Alternative B (No Grazing), no livestock grazing would be permitted on any of the allotments. This alternative would require the cancellation of all grazing permits upon implementation of the decision and resolution of any appeals. Pursuant to Forest Service Handbook 2209.13, Section 16.13, this alternative could not be implemented until one year after the notification of each affected permittee (36 CFR 222.4(a)(7)(8)). Alternative B would result in the fastest improvement in rangeland and riparian resources in the short term however it would result in the greatest negative economic impact to local ranch families and local communities. Goal 3 of the Forest Plan Goal 3 states: "Provide for sustained commodity uses in an environmentally acceptable manner." Forest Plan Objective 301 states "Produce on a sustained basis and make available up to 233 million pounds of forage for livestock and wildlife use each year (weather permitting)." Alternative B would not meet the goal or the objective by eliminating this source of income to local families and reducing economic diversity in local communities.

Based on the analysis in the EA, my knowledge of local community dynamics, and public comments on the Proposed Action, I also feel that there is a high potential for this alternative to result in loss of open space. This is due to the dependence on grazing from National Forest system lands by some range permittees. If these permittees lose the option of grazing on Forest Service lands, it is likely that some ranching operations would no longer be economically viable. Ranchers may be forced to sell their ranchlands for residential or commercial development. Maintaining a level of grazing in an environmentally acceptable manner would reduce the likelihood of these ranches being lost to development.

Since these allotments are either meeting or moving towards the desired conditions and specific resource concerns will be addressed with specific adaptive management options, the cancellation of these grazing permits is not warranted for resource protection.

For these reasons, I did not select Alternative B.

Public Involvement

The project proposal was listed in the Schedule of Proposed Actions on October 1, 2007. A scoping letter was sent to interested parties on October 23, 2007. The letter asked that comments on the proposed action be received by December 3, 2007. A Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS), for this North Zone Range 08 Project was published in the Federal Register on November 5, 2007 and subsequently withdrawn on March 21, 2008. Approximately eighteen comments on the proposed action were received.

Using the comments from the public and other agencies, the interdisciplinary team developed a list of issues to address. The Forest Service separated the issues into two groups: significant and non-significant issues. Significant issues were defined as those directly or indirectly caused by implementing the proposed action. Non-significant issues were identified as those: 1) outside the scope of the proposed action; 2) already decided by law, regulation, Forest Plan, or other higher level decision; 3) irrelevant to the decision to be made; or 4) conjectural and not supported by scientific or factual evidence. The Council on Environmental Quality (CEQ) NEPA regulations require this delineation in Sec. 1501.7, "...identify and eliminate from detailed study the issues which are not significant or which have been covered by prior environmental review (Sec. 1506.3)..." A list of non-significant issues and reasons regarding their categorization as non-significant may be found in the project record.

As for significant issues, the Forest Service identified 4 topics raised during scoping. These issues include:

Issue #1 - Vegetative Diversity: Some commentors felt that grazing was currently having adverse impacts to Botanical Areas and/or populations of sensitive plant species, hardwoods, willows, and wetland ecosystems by direct consumption or through trampling. Others were concerned that eliminating grazing could adversely impact certain sensitive plant populations by allowing competition from grasses. Some undesirable annual grass species (cheatgrass) are present. Changes to the Proposed Action were suggested including fencing, no grazing, or creating buffers to reduce or eliminate adverse impacts from grazing. This issue was used to develop design criteria for all allotments, allotment-specific design criteria, and adaptive management actions. Effects to vegetative diversity are analyzed in the EA.

Issue #2 - Soil and Water Quality: Some commentors felt that livestock grazing under the Proposed Action grazing would have adverse impacts to soil and water conditions. They were concerned that livestock grazing would result in water quality impairments such as bacterial loads, sedimentation, turbidity, loss of streambed structure, loss of streambank vegetation, widening of channels, temperature increases, trampled vegetation and soils, flow alterations, and degradation of riparian dependent species. Changes to the Proposed Action were suggested to reduce or eliminate adverse impacts including fencing, water developments, herding, and/or changes in grazing systems/seasons. This issue was used to develop design criteria for all allotments, allotment-specific design criteria, and adaptive management actions. Effects to soils and water quality are analyzed in the EA.

Issue #3 - Wildlife and Wildlife Habitat: Some commentors were concerned that livestock grazing under the Proposed Action would have adverse impacts to various management indicator species and TES species. Specifically, there were concerns regarding direct impacts to sensitive snail populations through trampling; indirect impacts to big game through competition for forage; indirect impacts to small mammals and birds through reduction of grassland and riparian vegetative structure; and indirect impacts to northern leopard frogs from sedimentation and reduced water quality. Others were concerned that proposed range improvements (fences) would have direct and indirect impacts on big game animals, and spring developments could adversely impact snail species and frogs by drying up wetlands. Changes to the Purposed Action were suggested to reduce or eliminate adverse impacts from livestock grazing or range improvements. This issue was used to develop design criteria for all allotments, allotment-specific design

criteria, and adaptive management actions. Effects to wildlife and wildlife habitat are analyzed in the EA.

Issue #4 - Range Improvements: Several commentors disagreed with the use of range improvements as described in the Proposed Action. Some commentors felt that the proposed range fences would interfere with wildlife movements while others felt that the local elk population would render fences ineffective. One individual thought that the proposals for fencing in Lady Finger Gulch would not be effective in protecting *Carex* sp. Others were concerned that funding was not available to construct or maintain the improvements. Suggestions were made to make the proposals more effective while others disagreed with the use of any range improvements. Some commentors requested a timeline for implementation of proposed improvements. This issue was used to develop design criteria for all allotments, allotment-specific design criteria, and adaptive management actions. Effects from range improvements, as well as effectiveness and costs of range improvements are analyzed in the EA.

On July 18, 2008 the Forest sent out the revised North Zone Range 08 Proposed Action and Additional Information for a 30-day review and comment period in accordance with 36 CFR 215.5 (iv). A total of 14 responses were received during the comment period. A complete list of the comments received and the Forest's responses to those comments are included in Appendix D of the EA.

Several people and two agencies expressed concerns about including non-native species in the description of the desired conditions for the allotments. Specifically, several commentors were concerned that this meant that management for non-native grass species would be emphasized over management for native grass species. This was not our intent. The wording of the desired conditions has been modified in the EA to clarify our intent and rationale for including non-native species as acceptable. This discussion includes Table 2 which has been edited to make it clear that non-native grasses are not as desirable as native species but are acceptable.

Briefly, our rationale is based on direction found in the Region 2 Range Analysis and Management Training Guide which states that: "Often existing plant communities comply with Forest Plan direction, providing a broad range of resource benefits. In these situations, allotment management objectives should maintain existing conditions... Desired plant communities must currently exist in the general area in similar environmental settings, and are capable of occupying the site within a reasonable time period, through a management change... It is not necessary to select the ultimate DPC that satisfies all Forest Plan and allotment objectives immediately. It is reasonable to identify a DPC that establishes the correct trend over the short-term, and then adjust the DPC later as the vegetation responds to the management change... Many communities are difficult to change through normal management practices... It is often extremely difficult to convert them to a native bunchgrass community."

The non-native grass communities (including *Poa pratensis*, *Phleum pratense*, and *Bromus inermis*) on these allotments are very stable. Although many native species also exist, monitoring of long-term range exclosures indicates that even complete removal of livestock has not resulted in increases of native grasses. Therefore it is pointless to specify only native species or percentages of native vs. non-native as a desired condition because changes in livestock management are unlikely to effect a change in the percentages or to result in the establishment of native species. These non-native grasses do provide many resource benefits.

Another topic of concern was the continued use of season-long grazing, particularly in the Black Haw and Silver Creek Allotments. The Forest Plan includes Guideline 2502 which states: "Convert season-long grazing systems to systems which require more intensive management, such as multiple-pasture deferred or rest rotation systems, as opportunities permit." Similarly WCP 3(i) states "Do not allow livestock grazing through an entire growing season in pastures that contain riparian areas and wetlands. Apply short-duration grazing as practicable (generally less than 20 days) to minimize re-grazing of individual plants, to provide greater opportunity for regrowth and to manage utilization of woody species and reduce soil compaction. During the hot season (mid-to-late summer) manage livestock herds to avoid concentrating in riparian areas and wetlands. Apply principles of the Grazing Response Index to livestock management (USFS, 1996a)."

I recognize that season-long grazing is not considered an ideal range management strategy. However, long term monitoring data indicates that the Silver Creek Allotment is generally meeting desired conditions under the current season long grazing system; therefore it is not necessary to convert or change the current grazing system to a system that requires more intensive management. Studies have shown that impacts caused by livestock are primarily a function of the timing, frequency, and intensity of use (Platts 1981). Clary and Webster (1989) concluded that vegetation appears to be more affected by grazing intensity than by grazing systems. The success of grazing systems depends in part upon managerial control of intensity and duration of forage utilization. The only location in this allotment that is not at desired conditions is Pete Spring. This riparian area is fenced and conditions are expected to continue to improve. Short term monitoring will be used to manipulate the timing, intensity and frequency of livestock grazing on this allotment. When allowable use standards are reached in either upland or riparian areas, livestock will be herded to different locations or removed from the allotment. Therefore I feel that the continuation of season-long grazing in this allotment will result in meeting Forest Plan direction.

Monitoring in the Black Haw allotment indicates that much of the allotment is meeting desired conditions and the only problem area is the very small riparian area in Black Haw Gulch. I believe that moving the stock tank out of this riparian area will alleviate much of the impact. Short term monitoring will be used to manipulate the timing, intensity and frequency of livestock grazing on this allotment. When allowable use standards are reached in either upland or riparian areas, livestock will be herded to different locations or removed from the allotment. If long term monitoring does not indicate an improvement in willow regeneration or achievement of stable banks in Black Haw Gulch, then an adaptive management action will be taken. Therefore I feel that the continuation of season-long grazing in this allotment will result in meeting Forest Plan direction.

One commentor felt that our Proposed Action for Huett Springs Allotment would not result in the desired reduction in cheatgrass. Use of one herbicide was suggested as an alternate management action. As discussed previously I cannot be assured that the Proposed Action will be successful. However, the Proposed Action is the least expensive option and appears to have support in the scientific literature. Use of herbicide is included as an adaptive management option. No specific herbicide is proposed at this time because herbicides are continually being developed and improved. If this adaptive management option is chosen in the future, the most appropriate herbicide available at that time will be used.

Finding of No Significant Impact

I have reviewed the environmental effects of the selected Alternative disclosed in the EA. I have also evaluated whether the selected Alternative constitutes a significant impact on the quality of the human environment or whether the environmental impacts would be significant based on their context and intensity, as defined by the National Environmental Policy Act (NEPA) using the criteria in the implementing regulations (40 CFR §1508.27).

I have determined that the implementation of the selected Alternative will not result in any anticipated effects that exceed the level at which a significant effect on the human, biological, or physical environment in terms of context or intensity would occur. Both beneficial and adverse effects have been considered. The effects from the selected Alternative are expected to be minor. The effects are not highly uncertain and do not involve unique and unknown risks. The action will not, in relation with other actions, cause cumulatively significant impacts. I have reviewed the actions from Alternative A in terms of both context and intensity in detail below:

1. Context - This project is local and would affect only the Analysis Area, which contains approximately 54,397 total acres including 9,384 acres of waived private lands. The scope of this analysis is limited to evaluating the appropriate level of permitted livestock grazing, given considerations of rangeland condition and other Forest Plan goals and objectives (EA, Chapter 1). Suitable rangelands for livestock grazing on these allotments consist of about 34,835 acres (EA, Chapter 1). I have reviewed the suitability determination for these allotments and found that no changes are needed. Livestock grazing has occurred in this project since the late 1800s (EA, Chapter 1).

2. Intensity – Severity of projected impacts is subdivided into several individual components, as suggested by 40 CFR §1508.27 as follows:

- My finding of no significant environmental effects is not biased by the beneficial effects of the action.
- I find that there are no adverse effects expected to public health or safety under Alternative A (EA, Chapter 3). The project activities will comply with all State and Federal regulations). Water quality will not be adversely affected (EA, Chapter 3).
- There will be no significant effects on unique characteristics of the area, because no unique characteristics or ecologically critical areas such as historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers are located in the project area (EA, Chapter 3).
- The effects on the quality of the human environment are not likely to be highly controversial. While some aspects of livestock grazing tend to be somewhat socially controversial, the effects of the selected Alternative on the human environment are not scientifically controversial (EA, Chapter 3). No new or unusual methods or activities are proposed. The effects on the human environment are not highly uncertain, are very

unlikely to involve unique or unknown risks, and are not likely to be highly controversial because there is no scientific controversy on the impacts of the project (EA, Chapter 3).

- Grazing has been authorized on the Black Hills National Forest for over 100 years (EA, Chapter 1). The effects analysis shows the effects are not uncertain, and do not involve unique or unknown risk (EA, Chapter 3).
- The action is not likely to establish a precedent for future actions with significant effects (EA, Chapter 1). The action does not represent a decision in principle about future considerations. Similar projects conducted in the future will have to be evaluated under the National Environmental Policy Act (NEPA) for the significance of the effects of those specific actions.
- The cumulative impacts are not significant (EA, Chapter 3).
- The action will have no significant adverse effect on districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places, because known eligible properties will be protected or are not affected by livestock grazing (EA, Chapter 3).
- The action will not adversely affect any endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species act of 1973, because federally listed species or designated critical habitat do not occur within these allotments (EA, Chapter 3). A determination for Forest Service Region 2 sensitive species for the selected Alternative found that there will be no trend towards Federal listing or loss of viability in the planning area (EA, Chapter 3). The BEs are part of the project's administrative record. In addition, a Management Indicator Species (MIS) analysis for this project was completed and it determined that the proposed action, and its relationship to MIS species and the habitat types they represent, is not expected to impact the viability of these species in the future (EA, Chapter 3)
- The action will not violate Federal, State, and local laws or requirements for the protection of the environment. Applicable laws and regulations were considered in the EA (EA, Chapter 3). The action is consistent with the Black Hills National Forest Land and Resource Management Plan (EA, Appendix C).

The actions from Alternative A are in compliance with all Federal, State, and local environmental protection laws. Based on the EA and the above considerations, I find that the selected Alternative is not a major action and it will not constitute a significant effect on the human environment. Therefore, it does not require the preparation of an environmental impact statement.

Implementation Date

Once a decision is made, Term Grazing Permits, Allotment Management Plans (AMPs), and Annual Operating Instructions (AOIs) may be issued provided that they are in compliance with this NEPA-based decision. These instruments are simply implementing documents and do not constitute decision points. Implementation of the decision is discussed in the EA, Chapter 1.

Pursuant to 36 CFR Part 215, if no appeal is filed within the 45-day time period, implementation of this decision may occur on, but not before, five business days from the close of the appeal filing period. If an appeal is received, implementation may occur on, but not before, the 15th business day following the date of the last appeal disposition.

Pursuant to 36 CFR Part 251 Subpart C, if no appeal is filed, implementation of this decision may occur on, but not before, five business days from the close of the appeal filing period. If an appeal is received, implementation may occur during the appeal process, unless the Reviewing Officer grants a stay (§251.91).

Administrative Review or Appeal Opportunities

This decision is subject to administrative review (appeal) pursuant to 36 Code of Federal Regulations (CFR) Part 215. This decision is also subject to administrative review under 36 CFR Part 251 Subpart C by term grazing permit holders or applicants (§251.86). However, term grazing permit holders or applicants must choose to appeal under either 36 CFR 251 or 215, but not both (§251.85).

Notices of Appeal that do not meet the content requirements of 36 CFR 215.14 or 36 C.F.R. 51.90 as appropriate will be dismissed.

Appeals filed under 36 CFR Part 215

Appeals filed under 36 CFR, Part 215, must be submitted (by regular mail) to: USDA Forest Service Region 2, Appeals Deciding Officer, POB 25127, Lakewood, CO 80225-25127, or (by fax) to 303-275-5134, (if hand-delivery or express delivery) to 740 Simms Street, Golden, CO. The office business hours for those submitting hand-delivered appeals are 7:30 a.m. to 4:30 p.m. Monday through Friday, excluding holidays. Electronic appeals must be submitted in .pdf, rich text format (.rtf), or Word (.doc) to appeals-rocky-mountain-regional-office@fs.fed.us. Include the name of the project being appealed in the subject line. Appellants should normally receive an automated electronic acknowledgement as confirmation of agency receipt of electronic appeals. If the appellant does not receive an automated acknowledgement of receipt, it is the appellant's responsibility to ensure timely receipt by other means. In cases where no identifiable name is attached to an electronic message, a verification of identity will be required. A scanned signature is one way to provide verification.

Appeals, including attachments, must be filed within 45 days from the publication date of notice of this decision in the Rapid City Journal, the newspaper of record. Attachments received after the 45 day appeal period will not be considered. The publication date in the Rapid City Journal, newspaper of record, is the exclusive means for calculating the time to file an appeal. Those wishing to appeal this decision should not rely upon dates or timeframe information provided by any other source.

To be eligible to appeal this decision on this project, an individual or group must have provided a comment or otherwise expressed interest in this project by the close of the comment period. The notice of appeal must meet the appeal content requirements at 36 CFR 215.14.

Appeals filed under 36 CFR Part 251 Subpart C

Appeals filed under 36 CFR, Part 251, must be submitted (by regular mail) to: USDA Forest Service, Black Hills National Forest, Attn: Ed Fischer, 1019 N. 5th St., Custer 57730, or (by fax) to 605-673-9350, (if hand-delivery or express delivery) to 1019 N. 5th St., Custer, SD. The office business hours for those submitting hand-delivered appeals are 8:00 a.m. to 4:30 p.m. Monday through Friday, excluding holidays. Electronic appeals must be submitted in .pdf format, rich text format (.rtf), or Word (.doc) to appeals-rocky-mountain-black-hills@fs.fed.us. Include the name of the project being appealed in the subject line. Appellants should normally receive an automated electronic acknowledgement as confirmation of agency receipt of electronic appeals. If the appellant does not receive an automated acknowledgement of receipt, it is the appellant's responsibility to ensure timely receipt by other means. In cases where no identifiable name is attached to an electronic message, a verification of identity will be required. A scanned signature is one way to provide verification.

Appeals must be filed within 45 days following the date on the notice of the written decision (§251.88). Attachments received after the 45 day appeal period will not be considered. Appeals filed under 36 CFR 251 Subpart C must have a copy of the appeal simultaneously sent to the Deciding Officer (§251.88) at: Deciding Officer, Bearlodge Ranger District, Black Hills National Forest; Attention: Steven J. Kozel, District Ranger, P.O. Box 680, Sundance, Wyoming, 82729 or Fax: (307) - 283-3727.

It is an appellant's responsibility to provide sufficient activity-specific evidence and rationale, focusing on the decision, to show why the Deciding Officer's decision should be reversed (§251.90). The Deciding Officer is willing to meet with applicants and holders to hear and discuss any concerns or issues related to the decision (§251.93).

An appellant may also include in the notice of appeal a request for oral presentation (§251.97) or a request for stay of implementation of the decision pending decision on the appeal (§251.91).

Contact

For additional information concerning this decision or the Forest Service appeal process, contact Steve Kozel, District Ranger, Bearlodge Ranger District, P.O. Box 680, Sundance, WY 82729 (307-283-1361) or Ed Fischer, Environmental Coordinator, Black Hills National Forest, 1019 North 5th Street, Custer, SD 57730 (605-673-9200).

The EA and DN/FONSI are also posted on the Black Hills National Forest web site as follows:
http://www.fs.fed.us/r2/blackhills/projects/nepa/public_docs/North_Zone_Range_08/index.shtml



STEVEN J. KOZEL
District Ranger
Bearlodge Ranger District



Date