

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

**USDA Forest Service
Northern Hills Ranger District, Black Hills National Forest
Pennington and Lawrence Counties, South Dakota**

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 and select 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 (USDA Forest Service 1997), as amended (hereafter referred to as the Forest Plan) 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, Meade 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. Four of these allotments (Griffith, East Rapid, Pettigrew, and Upper Elk) are located on the Northern Hills Ranger District (see Figure 1). Collectively, these four allotments cover approximately 35,267 acres of National Forest System (NFS) 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 BHNF species of local concern, in order to improve stream health and riparian ecosystem condition.
- 3) There is a need to reduce trailing and trampling by livestock in the Englewood Springs Botanical Area (MA 3.1) to protect and improve the values for which the botanical area was designated.

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 continued benefit to the local communities while keeping effects 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 four 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.

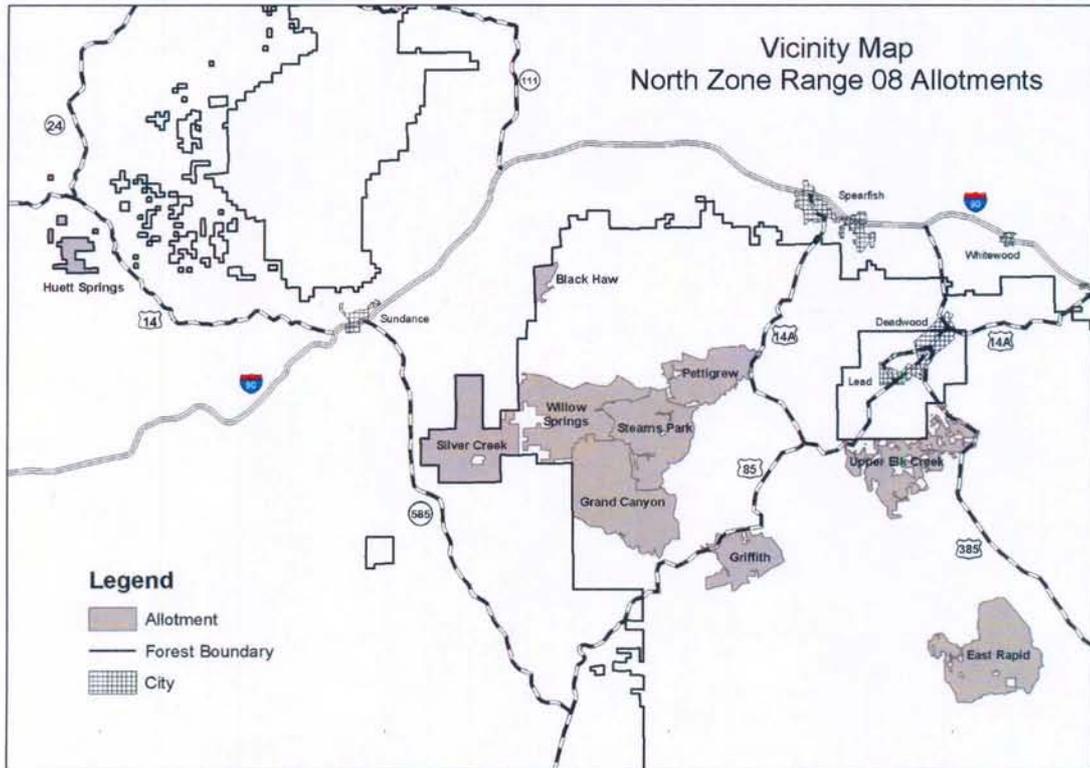


Figure 1. Vicinity map of the North Zone Range 08 allotments

Elements of the Decision by Allotment

The specific elements of my decision and modifications 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. Specifically, the monitoring plan for *Listera convallarioides* within Englewood Springs Botanical Area was modified to better define current impacts from livestock grazing, to define acceptable levels of future impacts from livestock, and to define when adaptive management options would be considered. The full monitoring plan is included in Appendix B of the EA. Some adaptive options were also added in response to public comments.

Table 1. Table of Allotment-specific Elements of the Decision for the North Zone Range 08 Project on the Northern Hills Ranger District for the East Rapid, Griffith, Pettigrew and Upper Elk Allotments.

| | East Rapid Allotment | Griffith Allotment | Pettigrew Allotment | Upper Elk Allotment |
|--------------------------------|--|--|--|--|
| Max. Authorized Use | 455 AUMs | 729 AUMs | 1,034 AUMs | 481 AUMs |
| Earliest “On” date | 6/1 | 6/16 | 6/16 | 6/7 |
| Latest “Off” date | 10/15 | 10/15 | 9/30 | 9/1 for 260 AUMS; 9/30 for 221 AUMS |
| Grazing system | Two-pasture deferred rotation | Five-pasture deferred rotation | Two-pasture deferred rotation | Season-long grazing |
| Allowable Use | 50% | 50% | 50% | 45% |
| Improvements Authorized | Exclude livestock from Gimlet Creek using temporary fencing; Exclude livestock from Keloran Spring; Reconstruct existing spring and stock tank at Keloran Spring | Extend Lander Spring enclosure downstream to meadow; Extend Clayton Draw riparian enclosure | Exclude livestock from riparian area above Baldy Lake; Exclude livestock from Pettigrew Spring #1; Extend enclosure at Pettigrew Spring #3 to protect spring source and surrounding wetland habitat; Monitor riparian habitat and <i>Carex alopecoidea</i> sites CAAL8-19 and CAAL8-20 and remove livestock when trigger points are reached | Extend enclosure below Upper Elk Spring #2; Monitor impacts to <i>Listera convallarioides</i> populations and habitat and remove livestock when trigger points are reached; |
| Adaptive Options | Remove temporary fencing once desired conditions are reached at Gimlet Creek ; Install permanent fencing to protect riparian areas; Change grazing system | Fence wet meadow areas; Any appropriate adaptive action to further protect riparian areas | Limit livestock use through felling of some spruce trees to limit livestock access to localized areas; Limit livestock use of riparian areas through fencing; Reconstruct water source at Lady Finger Seep; | If City of Lead abandons use of Upper Elk Spring #2, then the fence maintenance will be assigned to the permittee; Construct alternate water source outside Englewood Botanical Area; |

| | East Rapid Allotment | Griffith Allotment | Pettigrew Allotment | Upper Elk Allotment |
|--|----------------------|--------------------|---|---|
| | | | Move stock tank at Pettigrew Spr. #3, if livestock use is moving away from desired conditions; If livestock use exceeds 5% bare ground at Prospect Spring and Lady Finger Seep, or if streambank alteration exceeds 26%, then exclude livestock from spring and riparian area; Eliminate livestock grazing from Ladyfinger Gulch by connecting existing fences; | Fence the <i>Listera convallarioides</i> populations and habitat west of FDR 228; Fence entire botanical area |

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. Most of the areas in these allotments that were found to not be meeting or moving towards desired conditions were either riparian areas or locations of R2 sensitive plants or BHNF plant SOLC. 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, including Region 2 sensitive species and BHNF species of local concern, in order to improve stream health and riparian ecosystem condition. Additionally, there was a need to reduce trailing and trampling by livestock in the Englewood Springs Botanical Area (MA 3.1) to protect and improve the values for which the botanical area was designated.

Specifically, Alternative A is expected to reduce soil disturbance, improve bank stability, and increase vegetative diversity in the riparian areas at Keloran, Lander, Prospect Spring, Upper Elk #2 and Pettigrew #1 and #3 Springs, along Gimlet Creek and Clayton Draw, in Ladyfinger Gulch, and above Baldy Lake through a combination of fencing, reconstruction of water developments, and monitoring. Monitoring may result in moving livestock out of the pasture or allotment.

Alternative A is expected to protect *Carex alopecoidea* sites in Ladyfinger Gulch through a combination of fencing and monitoring. Monitoring may result in moving livestock out of the pasture or allotment. Other adaptive actions at this location may include strategic felling of specific trees to reduce accessibility to livestock. *Listera convallarioides* populations Englewood

Springs Botanical Area will be protected through a combination of monitoring and removing livestock from the allotment. Other adaptive actions may include fencing of a portion or all of the botanical area.

This alternative complies with direction in the Black Hills NF Land and Resource Management 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 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 certain 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 (DPC) 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. For example, many bluegrass dominated sites exist due to prolonged, past overgrazing. 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 to specify only native species or percentages of native

vs. non-native as a desired condition, may not be realistic 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 Upper Elk Allotment. 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 in 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 Upper Elk 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, Grider et. al 1995). 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. 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.

Several commentors disagreed with our description of existing conditions in Englewood Springs Botanical Area and the impacts of livestock grazing on rare plant populations as well as the values for which the Botanical Area was designated. I personally visited the Englewood Springs Botanical Area three times this summer to observe and assess impacts from livestock. Early in the grazing season, there was little evidence of livestock accessing this area. Midway through the grazing season, some impacts were noticeable. However, by late in the grazing season, livestock impacts were very evident and were not within acceptable levels as defined by the Forest Plan. Therefore I recognized the need for more definitive management of the area. I directed the interdisciplinary team (IDT) to redesign the monitoring plan and trigger points for *Listera convallarioides* to keep impacts at a level commensurate with the goals, objectives, standards, and guidelines for MA 3.1- Botanical Areas.

Specifically Forest Plan Standard 3.1-2503 states: "Restrict access of domestic livestock to protect the R2 sensitive and species of local concern plant occurrences in designated BAs." The key for us to be successful in managing this area is that the standard we develop must be reasonable. Given the size of the *Listera convallarioides* population being impacted, I believe that 30 hoof prints would equate to one cow walking in and back out the same way, or two (cow and her calf) walking through once during the grazing season. This amount of use could be considered "incidental" as described in the desired conditions. The full monitoring plan for

Listera convallarioides at Englewood Springs is included in Appendix B of the EA. The adaptive actions to be taken once monitoring trigger points are reached are included in Table 5 of the EA. These include removing livestock from the allotment, fencing affected rare plant occurrences, developing an additional water source for livestock, or fencing the entire botanical area.

I feel that this monitoring plan and list of adaptive actions will protect this plant SOLC while allowing the grazing permittee the ability of choosing how best to manage his livestock on the allotment. By law, I have to consult, coordinate, and cooperate with the affected grazing permittee regarding the management of the allotment. I believe this monitoring plan clearly describes our expectations and gives the permittee the opportunity to work with us in accomplishing our objective. If the permittee is not able to meet the standards we have agreed to, then fencing becomes the method that will be employed and the permittee will be responsible for building and maintaining the fence.

Additionally Forest Plan Standard 3.1-2501 directs me to "Allow livestock grazing is if it does not conflict with the values for which the botanical areas was designated." No management plan has been completed for the Englewood Springs Botanical Area that describes the values for which it was designated. However, the Forest Plan FEIS (p. III-309) describes values of Englewood Springs Botanical Area... "contain(s) springs and riparian habitat with populations of seven rare plants, one found nowhere else in South Dakota or in the Black Hills..." In addition the botany specialist report for this project lists the important values at Englewood Springs as "Notable botanical values in the Englewood Springs Botanical Area include a mosaic of the following rare community types as designated in the Black Hills Community Inventory: Black Hills Streamside Vegetation, White Spruce Alluvial Black Hills Forest, White Spruce Twinflower Forest, Paper Birch/Hazel Forest (Marriott et al. 1999). Other notable botanical values include hillside seeps/springs that support an uncommon assemblage of wetland and boreal plant communities and moss species" including *Cypripedium parviflorum* (R2 sensitive site) and *Listera convallarioides* (BHNF SOLC) (Mayer and Wheeler 2008). Based on these sources, the three values I see present at Englewood Springs Botanical Area are: 1) populations of known R2 sensitive and BHNF plant SOLC; 2) perennial springs; and 3) riparian habitat that supports rare plants and plant communities.

Monitoring during 2007 and 2008 indicates that livestock may be adversely affecting the rare plants as discussed above. This value is being addressed through monitoring and adaptive management actions.

I have also observed that livestock are watering from the perennial stream issuing from the springs (although not near the springs themselves). This is occurring primarily at two culvert locations located along FSR 228. Access to the water at this location is limited. It is likely that a herd of livestock come to this area to water at one time, creating competition and forcing some of the herd to push uphill into sensitive plant and riparian habitat. This problem is better addressed through management of the roads and culverts. I want to defer a decision on management of this road to the forest-wide Travel Management project which may provide an opportunity to close the road and limit access to livestock as well.

I recognize that closing the road so may simply force the livestock to seek water in lower reaches of the stream where rare plant populations occur. Also, in late summer livestock also appear to be watering out of the stream below the road, although streambank impacts appear to be within

Forest Plan limits (Dempsey 2008) currently. If, in the future, it is determined that livestock grazing is resulting exceeding stream bank stabilization standards, I have included an adaptive option of developing an alternate water source to draw the livestock out of the area. Further adaptive actions include fencing a portion or all of the botanical area. I expect that these measures will protect the values of springs and riparian habitats.

Based on the monitoring and adaptive actions included in the Proposed Action for Englewood Springs Botanical Area, I feel that the values for which this area was designated will be protected while allowing livestock grazing to continue in this allotment.

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 3 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 35,267 total acres. 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 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 is 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, Northern Hills Ranger District, Black Hills National Forest; Attention: Rhonda O'Byrne, District Ranger, 2014 N. Main St., Spearfish, SD 57783 or Fax: (605)-642-4156.

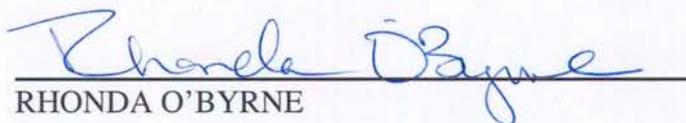
It is an appellant's responsibility to provide sufficient activity-specific evidence and rationale, focusing on the decision, to show why the Deciding Officer's decision should be reversed (§251.90). The Deciding Officer is willing to meet with applicants and holders to hear and discuss any concerns 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 Rhonda O'Byrne, District Ranger, Northern Hills Ranger District, 2014 N. Main St., Spearfish, SD 57783 (605-642-4622) 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



RHONDA O'BYRNE
District Ranger
Northern Hills Ranger District

9/30/08
Date

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