

Excerpts from Forest Service Manual 2320 – Wilderness Management

Effective Date: January 22, 2007

2323.2 - Management of Range

2323.21 - Objective

Manage wilderness range in a manner that utilizes the forage resource in accordance with established wilderness objectives (36 CFR 293.7).

2323.22 - Policy

Apply congressional guidelines and policies regarding grazing in National Forest Wilderness Areas (sec. 108, P.L. 96-560, H.R. Report 96-617 dated 11/14/79) (ex. 01), in a practical, reasonable, and uniform manner in all National Forest wildernesses. These guidelines and policies are applicable only to livestock grazing operations (FSM 2320.5).

2323.22 - Exhibit 01

Congressional Grazing Guidelines

Grazing in National Forest Wilderness Areas

Section 4(d)(4)(2) of the Wilderness Act states: "the grazing of livestock, where established prior to the effective date of this Act, shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture."

The legislative history of this language is very clear in its intent that livestock grazing, and activities and the necessary facilities to support a livestock grazing program, will be permitted to continue in National Forest wilderness areas, when such grazing was established prior to classification of an area as wilderness.

Including those areas established in the Wilderness Act of 1964. Congress has designated some 188 areas, covering lands administered by the Forest Service, Fish and Wildlife Service, National Park Service and Bureau of Land Management as components of the National Wilderness Preservation System. A number of these areas contain active grazing programs, which are conducted pursuant to existing authorities. In all such cases, when enacting legislation classifying an area as wilderness, it has been the intent of the Congress, based on solid evidence developed by testimony at public hearings, that the practical language of the Wilderness Act would apply to grazing within wilderness areas administered by all Federal agencies, not just the Forest Service. In fact, special language

appears in all wilderness legislation, the intent of which is to assure that the applicable provisions of the Wilderness Act, including Section 4(d)(4)(2), will apply to all wilderness areas, regardless of agency jurisdiction.

2323.22 - Exhibit 01--Continued

Further during the 95th Congressional committees became increasingly disturbed that, despite the language of section 4(d)(4)(2) of the Wilderness Act and despite a history of nearly 15 years in addressing and providing guidance to the wilderness management agencies for development of wilderness management policies, National Forest administrative regulations and policies were acting to discourage grazing in wilderness, or unduly restricting on-the-ground activities necessary for proper grazing management. To address this problem, two House Committee on Interior and Insular Affairs Reports (95-620 and 95-1821) specifically provided guidance as to how section 4(d)(4)(2) of the Wilderness Act should be interpreted. This guidance appeared in these reports as follows:

Section 4(d)(4)(2) of the Wilderness Act states that grazing in wilderness areas, if established prior to designation of the area as wilderness, "shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture". To clarify any lingering doubts, the committee wishes to stress that this language means that there shall be no curtailment of grazing permits or privileges in an area simply because it is designated as wilderness. As stated in the Forest Service regulations (36 CFR 293.7), grazing in wilderness areas ordinarily will be controlled under the general regulations governing grazing of livestock on National Forests* * *. This includes the establishment of normal range allotments and allotment management plans. Furthermore, wilderness designation should not prevent the maintenance of existing fences or other livestock management improvements, nor the construction and maintenance of new fences or improvements which are consistent with allotment management plans and/or which are necessary for the protection of the range.

Despite the language of these two reports, RARE II hearings and field inspection trips in the 96 Congress have revealed that National Forest administrative policies on grazing in wilderness are subject to varying interpretations in the field, and are fraught with pronouncements that simply are not in accordance with section 4(d)(4)(2) of the Wilderness Act. This had led to demands on the part of grazing permittees that section 4(d)(4)(2) of the Wilderness Act be amended to clarify the intentions of Congress. However, because of the great diversity of

2323.22 - Exhibit 01--Continued

conditions under which grazing uses (including different classes of livestock) are managed on the public lands, the Conferees feel that the original broad language of the Wilderness Act is best left unchanged. Any attempts to draft specific statutory language covering grazing in the entire wilderness system (presently administered by four separate agencies in two different Departments) might prove to be unduly rigid in a specific area, and deprive the land management agencies of flexible opportunities to manage grazing in a creative and realistic site specific fashion.

Therefore, the conferees declined to amend section 4(d)(4)(2) of the Wilderness Act, agreeing instead to reaffirm the existing language and to include the following nationwide guidelines and specific statements of legislative policy. It is the intention of the conferees that the guidelines and policies be considered in the overall context of the purposes and direction of the Wilderness Act of 1964 and this Act, and that they be promptly, fully, and diligently implemented and made available to Forest Service personnel at all levels and to all holders of permits for grazing in National Forest Wilderness areas:

1. There shall be no curtailments of grazing in wilderness areas simply because an area is, or has been designated as wilderness, nor should wilderness designations be used as an excuse by administrators to slowly "phase out" grazing. Any adjustments in the numbers of livestock permitted to graze in wilderness areas should be made as a result of revisions in the normal grazing and land management planning and policy setting process, giving consideration to legal mandates, range condition, and the protection of the range resource from deterioration.

It is anticipated that the numbers of livestock permitted to graze in wilderness would remain at the approximate levels existing at the time an area enters the wilderness system. If land management plans reveal conclusively that increased livestock numbers or animal unit months (AUMs) could be made available with no adverse impact on wilderness values such as plant communities, primitive recreation, and wildlife populations or habitat, some increases in AUMs may be permissible. This is not to imply, however, that wilderness lends itself to AUM or livestock increases and construction of substantial new facilities that might be appropriate for intensive grazing management in non-wilderness areas.

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2. The maintenance of supporting facilities, existing in the area prior to its classification as wilderness (including fences, line cabins, water wells and lines, stock tanks, etc.), is permissible in wilderness. Where practical alternatives do not exist, maintenance or other activities may be accomplished through the occasional use of motorized equipment. This may include, for example, the use of backhoes to maintain stock ponds, pickup trucks for major fence repairs, or specialized equipment to repair stock watering facilities. Such occasional use of motorized equipment should be expressly authorized in the grazing permits for the area involved. The use of motorized equipment should be based on a rule of practical necessity and reasonableness. For example, motorized equipment need not be allowed for the placement of small quantities of salt or other activities where such activities can reasonably and practically be accomplished on horseback or foot. On the other hand, it may be appropriate to permit the occasional use of motorized equipment to haul large quantities of salt to distribution points. Moreover, under the rule of reasonableness, occasional use of motorized equipment should be permitted where practical alternatives are not available and such use would not have a significant adverse impact on the natural environment. Such motorized equipment uses will normally only be permitted to those portions of a wilderness area where they had occurred prior to the area's designation as wilderness or are established by prior agreement.

3. The placement or reconstruction of deteriorated facilities or improvements should not be required to be accomplished using "natural materials", unless the material and labor costs of using natural materials are such that their use would not impose unreasonable additional costs on grazing permittees.

4. The construction of new improvements or replacement of deteriorated facilities wilderness is permissible if in accordance with those guidelines and management plans governing the area involved. However, the construction of new improvements should be primarily for the purpose of resource protection and the more effective management of these resources rather than to accommodate increased numbers of livestock.

5. The use of motorized equipment for emergency purposes such as rescuing sick animals or the placement of feed in emergency situations is also permissible. This privilege is to be exercised only in true emergencies, and should not be abused by permittees.

2323.22 - Exhibit 01--Continued

In summary, subject to the conditions and policies outlined above, the general rule of thumb on grazing management in wilderness should be that activities or facilities established prior to the date of an area's designation as wilderness should be allowed to remain in place and may be replaced when necessary for the permittee to properly administer the grazing program. Thus, if livestock grazing activities and facilities were established in an area at the time Congress determined that the area was suitable for wilderness and placed the specific area in the wilderness system, they should be allowed to continue. With respect to areas designated as wilderness prior to the date of this Act, these guidelines shall not be considered as a direction to re-establish uses where such uses have been discontinued.

2323.23 - Grazing Management

Use the direction in the forest plan (FSM 1920), the allotment management plan (FSM 2210), and the Grazing Guidelines to manage livestock grazing operations in designated wilderness.

2323.24 - Permits

Authorize livestock grazing operations on grazing allotments within wilderness areas by grazing permit (FSM 2230). Issue permits for livestock operations only in areas where grazing was established as defined below:

1. Grazing may be continued on any allotment where a grazing permit was in existence at the time of designation and where there is recent history of grazing use immediately prior to wilderness designation. This includes permits that were in non-use status for either personal convenience or range protection. It also includes situations where there were no actual permits in existence on the designation date because permit waivers were in process or because the expiration date of term permits happened to have coincided with the designation date.

At any time after designation, new term permits and livestock use permits may be issued, in the event of waiver, because of sale of base property or permitted livestock.

At any time after designation, new term or temporary permits and livestock-use permits may be issued to other applicants if an existing permit is terminated voluntarily by the holder, or canceled for cause by the Forest Service, or if surplus forage otherwise becomes available.

2. Grazing may be authorized on an allotment which, although vacant on date of wilderness designation, previously included grazing that was only temporarily discontinued and that was clearly documented for such purposes as range restoration.

2323.25 - Range Analysis

Follow the standards in FSM 2210 for range analysis in wilderness. Where an approved allotment management plan exists at the time an area is designated as wilderness, review it in context with the congressional guidelines and policy. Document necessary modifications in the Forest or allotment management plan.

2323.26 - Range Improvements

See FSM 2240 for a definition of range improvements. Follow the grazing guidelines and direction in FSH 2309.19 for the construction and maintenance of range improvements. Criteria for the use of motorized equipment in constructing, maintaining, or applying improvements and practices is in FSH 2309.19.

Conduct an environmental analysis for range improvement construction and/or maintenance and the use of motor vehicles, motorized equipment, and mechanical transport (FSM 1950 and

FSH 1909.15). List all range improvements in the allotment management plan along with the maintenance schedule.

2323.26a - Structural Range Improvements

Modify permits for the construction of new range improvements or for the replacement of existing range improvements in accordance with FSM 2241.31. Consider the wilderness resource when preparing range improvement construction standards and techniques.

1. Maintenance. Allow permittees to continue to maintain existing necessary range improvements. On a schedule agreed to by the permittee, phase out and remove those improvements determined to be unnecessary. Review existing use and requests for new use of motor vehicles, motorized equipment, or other forms of mechanical transport, including emergency use, and apply Congressional Grazing Guidelines (sec. 2323.22, ex. 01). Permit the occasional use of motor vehicles, motorized equipment, or mechanical transport where practical alternatives are not available (FSM 2326).

2. New Improvements. Construction of new range improvements may be approved if they are necessary for resource protection (range and/or wilderness) and for the effective management of these resources. Do not approve construction solely to accommodate increased grazing.

3. Types of Materials. When permitted, ensure that new improvements are constructed of materials that harmonize with the wilderness character of the area. Use natural (native) materials for improvements unless costs are prohibitive or they do not harmonize with the wilderness.

4. Replacement of Existing Improvements. Use the following procedures when considering replacement of an existing range improvement:

- a. Examine whether the range improvement is necessary for livestock grazing operations, resource protection, or protection of wilderness values. Explore other alternatives for meeting these needs.
- b. Ensure that the design, location, and type of materials needed harmonize with natural features of the wilderness.
- c. Consult with permittees in determining what is reasonable for the permittee's livestock grazing operation. Balance the particular wilderness values involved and the cost of material and labor.

2323.26b - Nonstructural Range Improvements

Nonstructural range improvement practices may be approved in cases where they were part of the management of the area at the time the wilderness was established and where their continued use is necessary to maintain livestock grazing operations (FSM 2240).

Use the following specific criteria in addition to the procedures in section 2323.26 and section 2323.26a in approving nonstructural range improvements.

1. Seeding. Seed only species that are indigenous or naturalized to the area. Use broadcast seeding methods.

Approve seeding only for:

- a. Areas where human activities have caused the loss or threaten the existence of indigenous plant species.
 - b. Areas where human activities, including their livestock, have denuded or caused loss of soil, providing that the actions or activities responsible for the deterioration no longer exist and that natural revegetation is insufficient and/or ineffective.
 - c. Maintenance of livestock grazing operations where seeding was practiced before the area was designated as wilderness.
2. Plant Control. Approve plant control only for:
- a. Indigenous plants when needed to maintain livestock grazing operations that were in effect before the area was designated as wilderness.
 - b. Noxious farm weeds by grubbing or with chemicals when they threaten lands outside wilderness or when they are spreading within the wilderness, provided that it is possible to effect control without causing serious adverse impacts on wilderness values.
3. Irrigation. Use irrigation or water spreading only to maintain livestock grazing operations and only where practiced before the designation of wilderness.
4. Fertilizing. Use fertilization only as an aid to revegetation of the areas provided in item 1 or to maintain livestock grazing operations where practiced before the designation of wilderness. Liming is considered a fertilization practice in this context.
5. Prescribed Fire. Use management ignited prescribed fire only where:
- a. It is necessary to maintain livestock grazing operations; and
 - b. It was practiced before the designation of wilderness; and
 - c. Lightning caused prescribed fire does not meet the livestock management purpose (FSM 2324.2).