

# **Decision Memo**

## **Wilderness Grazing Management Project**

### **(Duchesne #4 Livestock Grazing Allotment Reauthorizations)**

USDA Forest Service  
Intermountain Region  
Ashley National Forest  
Roosevelt-Duchesne Ranger District  
Duchesne and Wasatch Counties

#### **Legal Descriptions for Wilderness Range Allotments**

**Fall Creek** S&G allotment occurs in portions of: 1) T3N. R7W. 2) T3N. R8W. 3) T4N. R7W. 4) T4N. R8W. USM

**Painter Basin** S&G allotment occurs in portions of: 1) T4N. R3W. 2) T4N. R4W. 3) T5N. R3W. 4) T5N. R5W. USM

**Tungsten** S&G allotment occurs in portions of: 1) T4N. R4W. 2) T4N. R5W. 3) T5N. R4W. 4) T5N. R5W. USM

### **Decision to be Implemented**

#### **Description of the Decision.**

My decision is to authorize continued livestock grazing within the Wilderness Grazing Management Project area consistent with existing management in order to continue to meet or move toward desired resource conditions. Grazing allotments within the project area include Fall Creek, Painter Basin, and Tungsten, which total approximately 47,517 acres. Refer to the attachments that display the allotments within the project area.

My decision incorporates the following elements of the Ashley National Forest's adaptive management strategy, which are consistent with existing livestock grazing management and comply with current direction in the Forest Plan and other applicable laws, regulations, and higher level decisions. The benchmarks identified below will form a basis for monitoring - to compare the allotment conditions with the specified benchmark.

- Total ground cover equal to or greater than 85% of potential for all plant communities grazed by livestock.

- Plant communities dominated by native species of moderate to high value for watershed protection (or erosion control). Dominance includes greater cover, greater frequency, and/or greater abundance of moderate and high value plants than low value plants. This includes both woody and herbaceous species. Documentation associated with photography and other notes as well as measurements from studies are sources for determination of dominance.
- In goshawk habitat (forested lands, including transitory openings created by timber harvest or fire), limit understory grazing utilization to an average of 20% by weight, not to exceed 40% on any specific site. Average browse utilization would be limited to 40% by weight, and would not exceed 60%. This standard does not apply to non-forested habitat types (Goshawk Strategy).
- Leave a 4" or greater stubble height of herbaceous species at the end of the grazing season between greenline and bank full of stream systems.
- Forage utilization within the High Uintas Wilderness Area will not exceed 40% of current year's growth.
- Stream bank stability is equal to or greater than 90% of potential.

Long term trend and project monitoring indicates that current management is meeting or is satisfactorily moving Forest resources toward desired condition and forest plan objectives.

This decision will be implemented through management direction incorporated in revised Allotment Management Plans and in existing livestock grazing permit(s), which were issued in compliance with P.L. 104 of the 1995 Rescissions Act, and meet the requirements of the decision and Forest Service regulations. Minor clarifications to existing management direction may be included in allotment management plans, but this decision continues current management in principle and practice.

### **Purpose and Need for the Decision**

The purpose and need for this project includes several facets. The allotments included in this project need to comply with the Rescission Act of 1995 (Public Law 104-19 section 504), which requires National Forests to establish and adhere to a schedule to complete National Environmental Policy Act (NEPA) provisions on all grazing allotments that require analysis. The allotments are time dependent upon this act and are due for completion by 2010.

Another need for this project is to continue to authorize livestock grazing in a manner that will continue to meet or satisfactorily move Forest resources toward desired condition and meet Forest Plan objectives.

Another purpose of the project is to maintain current management on the allotments, which has demonstrated success in meeting or satisfactorily moving Forest resources toward desired condition. The Ashley National Forest's adaptive management strategy, which includes using the monitoring benchmarks listed above to determine condition and

trend, will be continued or implemented to insure that desired condition is maintained or trends continue toward desired condition.

### **Reasons for Categorically Excluding the Decision**

Livestock grazing decisions may be categorically excluded from documentation in an environmental impact statement or environmental assessment when they are in accordance with P.L. 108-447 Section 339 as follows: “For fiscal years 2005 through 2007, a decision made by the Secretary of Agriculture to authorize grazing on an allotment shall be categorically excluded from documentation in an environmental assessment or an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if : (1) the decision continues current grazing management; (2) monitoring indicates that current grazing management is meeting, or satisfactorily moving toward, objectives in the land and resource management plan, as determined by the Secretary; and, (3) the decision is consistent with agency policy concerning extraordinary circumstances. The total number of allotments that may be categorically excluded under this section may not exceed 900.”

I have concluded that this decision is appropriately categorically excluded from documentation in an environmental impact statement or environmental assessment as it implements current livestock grazing management, the management of the allotments has been shown by monitoring to be meeting or satisfactorily moving toward forest plan objectives, and there are no extraordinary circumstances related to the decision (as defined in FSH 1909.15) that may result in a significant individual or cumulative effect on the quality of the human environment. My conclusion is based on information presented in this document and the entirety of the project record.

The Decision for this project incorporates existing grazing management direction for each of the allotments outlined in applicable Allotment Management Plans, current grazing permits, and Annual Operating Instructions. These may include forage utilization standards, benchmarks, grazing management practices, Best Management Practices, and mitigation measures.

Monitoring data indicate that current grazing management is meeting, or satisfactorily moving toward, desired condition and objectives in the Forest Plan. Approximately 194 long-term studies are permanently established within the project area (USDA, Monitoring Studies Inventory). These studies have helped specialists to determine condition and indicate trend for vegetation, soils, watershed, and wildlife resource values.

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

## **1) Threatened and Endangered Species or Their Critical Habitat**

The Endangered Species Act requires that federal activities do not jeopardize the continued existence of any species federally listed or proposed as threatened or endangered, or result in adverse modification to such species' designated critical habitat. In accordance with Section 7(c) of this Act, a list of proposed, threatened or endangered species that may be present in the project area was requested from the U.S. Fish and Wildlife Service. The information indicated that there is suitable habitat for Canada lynx and Mexican spotted owl and these species might occur within the project area. As required by this Act, potential effects of this decision on listed species have been analyzed and documented in a Biological Assessment (USDA Wildlife BA 2005, USDA Aquatics BA 2006, USDA Plants BA 2005).

It was determined that this decision may affect but is not likely to adversely affect the Canada lynx and Mexican spotted owl, and will have no effect on bald eagle, yellow-billed cuckoo, black-footed ferret, bonytail chub, Colorado pikeminnow, humpback chub, razorback sucker, and Intermountain ladies-tresses. The U.S. Fish and Wildlife Service has reviewed these findings, and has issued their written concurrence with this determination (USFW 2004, USFW 2005).

**Sensitive Species** – (Forest Service Manual 2670) - Manual direction requires analysis of potential impacts to sensitive species, which are species identified by the Regional Forester for which population viability is a concern. Potential effects of this decision on sensitive species have been analyzed and documented the Biological Evaluation for this project. It was determined this decision may impact, but would not cause a trend toward the federal listing or loss of viability of the northern goshawk, peregrine falcon, great gray owl, flammulated owl, Townsend's big-eared bat, spotted bat, and wolverine. It was determined this decision will have no effect on all other sensitive species.

## **2) Floodplains, Wetlands, or Municipal Watersheds**

**Floodplains:** Floodplains – Compliance with Executive Order 11990 (Floodplains) requires that agencies: restore and preserve the natural and beneficial values served by floodplains; evaluate potential effects on floodplains; consider alternatives to avoid adverse effects in floodplains; minimize potential harm; allow the public early notification and review opportunities of plans or proposals within floodplains. By definition, all watercourses have a floodplain (Rosgen 1996), and according to Executive Order 11988: a floodplain is considered "the lowland and relatively flat areas adjoining inland...waters...including at a minimum, that area subject to a one percent or greater chance of flooding in any given year."

There will be no effects to floodplains from continued grazing in the three allotments under present management. Vegetative cover protecting the floodplains has been

shown through Forest vegetation studies to be in overall vigorous and improving condition.

**Wetlands:** Compliance with Executive Order 11990 (Wetlands) requires that agencies: minimize the destruction, loss or degradation of wetlands; enhance the natural and beneficial values of wetlands; avoid new construction in wetlands unless there is no practical alternative and harm is minimized to the extent practicable; provide early public review including development of procedures; consider maintenance of natural systems including long-term productivity.

There will be minimal effects to wetlands from continued livestock grazing under present management. The past grazing effects to wetlands within the Tungsten allotment have been corrected since the 1950's through reduced numbers, rest rotation, and an adaptive management strategy that will continue in the future. Forest vegetation studies have shown vegetative cover within wetland areas in the allotments functioning at or close to potential.

**Municipal Watersheds:** – The Fall Creek allotment contains headwater portions of the Starvation Reservoir/Duchesne River Municipal Watershed serving the town of Duchesne, UT. This municipal watershed is divided into protection zones according to distance from the water system intake (Drinking Water Source Protection Plan 2002). Zone 1 is closest to the intake and is the area of most concern. It extends up the Duchesne River 15 miles from Starvation dam. Zones 2 and 4, according to the protection plan, correspond to areas further away and have lower concern. Zone 2 includes portions of the Duchesne River and Rock Creek to the headwaters at widths from the river corridor of ½ mile beyond bankfull. Zone 4 includes all of the watershed drainages from Starvation Dam to the headwater divide on the crest of the Uinta Mountains. It is these lower priority protection zones that lie within the Fall Creek Allotment. As evidenced by water readings at STORET station 4935530 on Rock Creek above Stillwater Reservoir, water carried downstream of this point is of high quality and suitable for treatment for municipal purposes. No watercourse downstream of Rock Creek to the Municipal inlet at Strawberry Reservoir is listed as having impaired water quality (Utah DWQ, 2006).

### 3) Congressionally Designated Areas

**Wilderness:** All three allotments lie within the High Uintas Wilderness Area, established by act of Congress in 1984. Wilderness designation is a potential “extraordinary circumstance” when analyzing effects (FSH 1909.15 Chapter 30, Section 30.3 Item 2).

The presence of livestock grazing within wilderness areas is addressed in Section 4 (d) (4) (2) of the 1964 Wilderness Act, which states that the grazing of livestock, where established prior to an area's wilderness designation, be permitted to continue “subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture.” Forest Service regulation (36 CFR 393.7) also states that grazing in

wilderness areas will be controlled under the general regulations governing the grazing of livestock on National Forests.

The concept (as stated in the Wilderness Act of 1964) of wilderness being established as a place where natural processes (including natural fauna rather than domestic animals) predominate, causes some to argue that, while allowed by law, domestic livestock grazing is contrary to the overall context of wilderness, and the very presence of domestic livestock, therefore, is an impact to the wilderness resource.

While this view is appreciated, the idea that domestic livestock is outside the overall context of wilderness is a position subject to debate and has not been universally accepted. Congress helped clarify their intent in this regard when they helped develop the “Colorado Grazing Guidelines” that are now part of the Forest Service Directives, and in some cases, although not here, have been referenced in establishing legislation for some wildernesses. These guidelines make it clear that domestic livestock grazing is to be preserved, is a valid wilderness use, and that no adjustment to domestic livestock stocking rates are to be made simply because grazing occurs in a wilderness (USDA Forest Service, FSM 2323.22 1990). The Wilderness Act and the Colorado Grazing Guidelines make it clear that Congress intended that the “enduring resource of Wilderness” (1964 Wilderness Act) was to have a domestic livestock component where the activity occurred before the lands were designated as wilderness.

The High Uintas Wilderness has had authorized grazing since it was created in 1984, and wilderness, as defined by congress, allows the continuation of grazing where previously established. This decision does not change the status quo and therefore does not create new, additional, or amplified impacts to the wilderness resource.

Desired condition is being met for wilderness and other Forest resources, with a few localized exceptions along system trails or near popular campsites. Most known impacts are currently recreation-related (Straley 2005). In summary, there would be no change to existing management, the allotments are currently in satisfactory condition, and trends are stable or upward. The limited, on-going effects of grazing on the wilderness resource do not constitute an extraordinary circumstance.

**National Recreation Areas:** The only National Recreation Area on the Ashley National Forest is the Flaming Gorge National Recreation Area (USDA Forest Service, Forest Plan. 1986). The project is not located in or near this area. This decision will not affect the National Recreation Area.

#### **4) Inventoried Roadless Areas**

There are no inventoried roadless areas within this project area.

#### **5) Research Natural Areas**

There are no research natural areas within this project area.

**6) Native American Religious or Cultural Sites, Archaeological sites, or historic properties or areas.**

Section 106 of the National Historic Preservation Act requires federal agencies to take into account the effect of a project on any district, site, building, structure, or object that is included in, or eligible for inclusion in the National Register. Section 106 of the National Historic Preservation Act also requires federal agencies to afford the Advisory Council on Historic Preservation a reasonable opportunity to comment. This decision complies with the cited Act. Surveys were conducted for Native American religious or cultural sites, archaeological sites, and historic properties or areas that may be affected by this decision (U.S. Department of Agriculture, Cultural Resource. 2005). The reports stated, "if best management practices are followed no new impacts are expected to effect identifiable and unidentifiable cultural resources from continued grazing." Consultation with and concurrence by the Utah State Historic Preservation Office is documented in the project record (Dykman 2005).

Additionally, the Federal government has trust responsibilities to Tribes under a government-to-government relationship to insure that the Tribes reserved rights are protected. Consultation with tribes helps insure that these trust responsibilities are met. The Forest consulted with potentially affected tribes in 2005 through scoping and direct contact with the Ute Tribe Business Committee. The intent of this consultation has been to remain informed about Tribal concerns. Consultation did not result in any tribal concerns or significant cultural resource issues for this project.

**Additional Considerations**

**Cumulative Effects.**

A related activity associated with livestock grazing within the project area is the trailing of sheep along managed driveways across the Wasatch-Cache National Forest to access the Painter Basin and Tungsten allotments. These driveways are approved and managed as sheep driveways by the Wasatch-Cache National Forest. In the Revised Forest Plan on page 4-201, desired future condition for rangeland and livestock states that "The East fork driveway will be managed as a driveway for as long as it is needed. Permittees take responsibility for following the driveway management plan and minimizing impacts" (Wasatch-Cache National Forest 2003). Currently, one band of sheep permitted on the Ashley National Forest trails across the East Fork Driveway annually. Access to the Fall Creek allotment is across Ashley National Forest administered lands.

Since the Wasatch-Cache National Forest administers the East Fork Driveway, the environmental analysis of and the subsequent decision for the driveway is the sole responsibility of the Wasatch-Cache National Forest. When the driveway analysis is complete and a decision is signed, the Ashley National Forest will adhere to the

results of that decision. Livestock grazing on the Painter Basin, Tungsten, and Fall Creek allotments is the scope of this decision.

Due to limited management actions in the wilderness, recreation impacts were the primary considerations in assessing cumulative effects. The cumulative effect impacts were determined to be minor.

## **Public Involvement**

The Wilderness Grazing Management Project has been listed on the Forest Schedule of Proposed Actions since April 1, 2005. Direct mailings occurred on March 22, 2005 and the legal notice was posted in the Uintah Basin Standard on the same day.

Six comment letters were received related to this decision. Comments were received from the following agencies and organizations: Utah Environmental Congress; Duchesne County Commission; High Uintas Preservation Council; Forest Guardians; Western Watershed Project, Inc; and the USDI Fish and Wildlife Service.

Comments were evaluated to help determine whether effects related to the proposed action warranted further analysis and documentation in an EA or EIS. As is described on page 3 of this document this proposed action warrants being categorically excluded from documentation in an EA or EIS. Comments received were considered in the analysis and are addressed either as combined comments or specifically addressed either in the Decision Memo or project Record.

## **Findings Required By and/Or Related To Other Laws And Regulations**

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

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

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



Endangered Species Act - See “Reasons for Categorically Excluding the Decision” section of this document.

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

Wetlands (Executive Order 11990) - See “Reasons for Categorically Excluding the Decision” section of this document.

Floodplains (Executive Order 11988) - See “Reasons for Categorically Excluding the Decision” section of this document.

Clean Air Act - Under this Act areas of the country were designated as Class I, II, or III airsheds for Prevention of Significant Deterioration purposes. Impacts to air quality have been considered for this decision. Class I areas generally include national parks and wilderness areas. Class I provides the most protection to pristine lands by severely limiting the amount of additional human-caused air pollution that can be added to these areas. The Dinosaur National Monument (45 miles southeast of the project) is a Class I air shed. The remainder of the Forest is classified as Class II airsheds, including the High Uintas Wilderness. A greater amount of additional human-caused air pollution may be added to these areas. This project will not add pollutants to the air shed.

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

#### Wild and Scenic Rivers Act

There are no congressionally designated wild, scenic, or recreational rivers or streams within the Fall Creek, Painter Basin, and Tungsten Allotments, which make up the Wilderness Grazing Project analysis area. There are several watercourse segments with outstanding remarkable values that were considered “eligible” through the Ashley National Forests inventory and eligibility evaluation that are found within the Wilderness Grazing Management Project (U.S. Department of Agriculture, Wild and Scenic Map GIS Map). These include Upper Rock Creek, Fall Creek, Garfield Creek, upper Yellowstone Creek, Milk Creek, North Fork Uinta River, and Gilbert Creek and many of their tributaries. It is determined that “The activities and disturbances associated with the Wilderness Grazing Management Project are not expected to affect or compromise the ‘free-flowing condition, water quality and outstandingly remarkable values’ of designated, suitable, or eligible wild and scenic river segments located within the project area” (Huber 2006).

Environmental Justice (Executive Order 12898) - This Order requires consideration of whether projects would disproportionately impact minority or low-income populations. This decision complies with this Act. Public involvement occurred for this project, the

results of which I have considered in this decision-making. Public involvement did not identify any adversely impacted local minority or low-income populations. This decision is not expected to adversely impact minority or low-income populations.

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

### **Administrative Review Or Appeal Opportunities**

This decision is not subject to appeal under 36 CFR 215 (36 CFR 215.12(f)).

This decision is subject to appeal pursuant to 36 CFR 251.82(3) by those who hold or, in certain instances, those who have applied for a written authorization to occupy and use National Forest System lands, if that authorization would be affected by this decision. Appeals must meet the content requirements of 36 CFR 251.90. The appeal must be postmarked or received by the Appeal Reviewing Officer within 45 days of the date of notification of this decision. The appeal must be filed with: Kevin Elliott, Forest Supervisor, at USDA Forest Service, Ashley National Forest, 355 North Vernal Avenue, Vernal, Utah 84078; Fax: 435-781-5142; or by email to: [appeals-intermtn-regional-office@fs.fed.us](mailto:appeals-intermtn-regional-office@fs.fed.us). Emailed appeals must be submitted in rich text (rtf.) or Word (doc.) and should include the project name in the subject line. Appeals may also be hand-delivered to the above address, during regular business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. A copy of the appeal must be filed simultaneously with Michael T. Elson, Acting District Ranger, at Ashley National Forest, Roosevelt/Duchesne Ranger District, P.O. Box 981, Duchesne, Utah 84021; Fax: 435-781-5215.

If an appeal is filed, I am willing to meet and discuss concerns.

### **Implementation Date**

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

### **Contact Person**

For additional information about this decision or copies of the Decision Memo, please contact Allen Huber, Team Leader, during normal office hours (weekdays, 8:00 a.m. to 5:00 p.m.) at the Roosevelt District Office located at 650 West Highway 40, P.O. Box 127, Roosevelt, Utah 84066; Phone: 435-722-5018; Fax: 435-781-5237; or e-mail: [ahuber@fs.fed.us](mailto:ahuber@fs.fed.us). Additional information about this decision can be found on the Internet at [www.fs.fed.us/r4/ashley/projects](http://www.fs.fed.us/r4/ashley/projects).

The responsible official for the project is Michael T. Elson, Roosevelt-Duchesne Acting District Ranger, Ashley National Forest.

MICHAEL T. ELSON  
Acting District Ranger

Date

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Wasatch-Cache National Forest. East Fork Blacks Fork sheep driveway management plan. U.S. Department of Agriculture, Forest Service, Wasatch-Cache National Forest, Mountain View Ranger District, Mountain View, WY.

Wilderness Act of 1964 (Public Law 88-577): Section 2(a).