



The Wyoming Department of Agriculture is dedicated to the promotion and enhancement of Wyoming's agriculture, natural resources and quality of life.

January 8, 2018

Ms. Patricia O'Connor
Forest Supervisor
Bridger-Teton National Forest
340 N. Cache
PO Box 1888
Jackson, WY 83001

Dear Ms. O'Connor:

The Wyoming Department of Agriculture (WDA) submits the following Objection to the Final Environmental Impact Statement (FEIS) and Draft Record of Decision (dROD) for the Upper Green River Area Rangeland Project (Upper Green). The dROD for the Upper Green, signed October 20, 2017, was published in the Legal Notice section of the Casper Star Tribune on November 22, 2017. Ms. Patricia O'Connor, Forest Supervisor, Bridger-Teton National Forest (BTNF) is the reviewing officer.

The WDA is dedicated to the promotion and enhancement of Wyoming's agriculture, natural resources and quality of life. We have served as a Cooperating Agency and regularly provided comment letters and suggested changes throughout the FEIS process (Attachment B). The BTNF is required to review and address our comments as they relate to the objection issues contained in this letter.

We support the BTNF decision to continue authorizing livestock grazing across the Upper Green allotments. However, we are disappointed the FEIS does not reflect the majority of our previous comments from the Draft EIS (DEIS).

While most of our DEIS comments remain unanswered or unchanged, our objections are based primarily on the dROD. Our overarching objection topics include: Allowable Use, Adaptive Management, Sage-grouse, Permitted Use, Monitoring, and Inappropriate Interpretation.

The implementation of the dROD as submitted will undoubtedly cause long-term negative impacts to permittees. The Upper Green dROD lacks clarity and varies in interpretation and implementation of federal laws, regulations, and handbooks. Pursuant to regulation 36 CFR § 218 Subparts A and B we hereby file the following objection to the 2017 Upper Green FEIS and dROD (Attachment A).

In accordance with 36 CFR § 218 WDA also formally requests the BTNF provide our agency reasonable notification of all objection resolution meetings and the opportunity to participate in person, teleconference, or by other means.

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Upper Green Objection

1/8/2018

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We look forward to working with you throughout the objection process. If you have questions, please contact Justin Williams, Senior Policy Analyst at 307-777-7067.

Sincerely,

A handwritten signature in blue ink that reads "Doug J. Miyamoto". The signature is fluid and cursive, with a large initial "D" and a long horizontal stroke.

Doug Miyamoto

Director

DM/jw

CC: Governor's Policy Office
Wyoming Board of Agriculture
Wyoming Stock Growers Association
Wyoming Wool Growers Association
Wyoming Farm Bureau Federation
Wyoming State Grazing Board
Wyoming Association of Conservation Districts
Wyoming Game and Fish Department
Wyoming County Commissioners Association
Upper Green River Cattlemen's Association
Sublette County Conservation District
Sublette County Commissioners
Public Lands Council

WDA Objection Issues

The WDA objects in accordance with 36 C.F.R § 218 Subparts A and B to the FEIS and dROD based on issues listed below. Objections are identified by heading and detailed by narrative. Bulleted text is direct from the dROD. Our references to previous comments are found in the Connection Statement and appear as dates with parentheses. Finally, violated law and regulations, coupled with suggested remedies complete each objection. Attachment B contains a list of WDA's previously submitted comments.

OBJECTION 1: Allowable Use (Desired Condition)

The WDA objects to the interchangeable use of US Forest Service (USFS) regulations regarding Allowable Use/Desired Conditions. The interchangeable terminology creates openings to interpretation, when livestock grazing does not meet these established limitations. As written the dROD is simply too unclear and leaves grazing permittees exposed and vulnerable to variable interpretation.

WDA objects to the BTNF inclusion of "causal factor" and "range readiness" as part of the dROD. The BTNF expects not only livestock grazing permittees, but their agency to collect excessive amounts of data to justify the decision to continue livestock grazing. The increase in monitoring exposes the BTNF to non-compliance with this decision, which ultimately will cause additional hardships for the grazing permittees.

WDA also objects to the BTNF requiring livestock grazing permittees to adjust their management when elk exceed the 50% utilization limit on forage. The dROD fails to identify when the elk leave the feedground, when and where the utilization information is collected, ability for forage re-growth after the elk leave, or flexibility for season of use. It is not the responsibility of permittees to mitigate impacts caused by elk.

Connection Statement:

WDA previously commented (June and November 2016) regarding the BTNF's interchangeable use and implementation of desired conditions, objectives, standards, guidelines, threshold, and goals as well as how the BTNF is implementing standards to meet ground cover objectives and other desired conditions. We also provided comments and concerns identifying the BTNF's unequitable approach to address resource objectives by reducing livestock grazing without an ability to either regain Animal Unit Months (AUMs) or to increase use when resource objectives are met.

- "A 6-inch stubble height minimum will be retained at the greenline of South Gypsum Creek in Lower Gypsum Pasture and Strawberry Creek in the Fish Creek Pasture of the Upper Green River Allotment. This limitation will remain in place until these creeks meet the stream bank stability objective of 80% for two consecutive monitoring cycles. A 4-inch stubble height minimum will be retained at the greenline of all other streams." (p.5)
- "After progress is assessed, if rangeland and riparian conditions do not yet meet objectives and are not moving towards meeting objectives, the maximum allowable use on key forage species will be reduced in increments of 10% in subsequent years to a maximum of 30% forage utilization." (p. 6)

- “The actual season of use may be administratively reduced in any given year in order to meet allowable use standards and/or resource objectives.” (p. 13)
- “Within the maximum occupancy authorized by the permit, allowable use standards (e.g. forage utilization, stubble height and/or stream bank alteration standards) and resource conditions determine the dates of actual livestock use. The permittee must be aware of the actual use levels relative to allowable use standards.” (p. 15)
- “If actual use on the key areas is less than the allowable use standards by the scheduled date to move to the next pasture, and within the maximum occupancy authorized by the permit, permittees may request approval to remain on a particular pasture for an additional period of time.” (p. 16)
- “The long term trend studies for each allotment will be used to determine if grazing is meeting or moving towards resource objectives, however, administrative action may be taken for exceeding short term use standards...” (p. 19)
- “Utilization, stubble height, stocking rates, and stream bank alteration guidelines are established to maintain or improve upland range and riparian habitat.” (p. 22)
- “Desired conditions are expressed in terms of ground cover, species composition, riparian function, stream bank stability, and stream temperature objectives for rangeland and/or riparian areas. It is my intention to maintain or improve species composition and amount of ground cover in areas currently meeting desired conditions and to improve areas where desired conditions are not being met.” (p. 28)

The BTNF has erroneously interchanged very specific terminology. Goals, objectives, desired conditions, standards, guidelines, and thresholds are individually defined in not only 36 C.F.R. § 219.7, but also the BTNF Land and Resource Management Plan (RMP).

The dROD identifies a wide array of consequences for not meeting or working towards meeting resource objectives, standards, etc. The dROD however, lacks a clear path for grazing permittees to regain AUMs once resource objectives are met. The dROD is written entirely with the premise livestock grazing permittees will undoubtedly fail standards and exceed utilization.

- “If riparian condition and/or stream bank stability are not meeting nor moving toward resource objective(s) and livestock grazing is determined to be a causal factor, the minimum riparian stubble height threshold will increase from 4 inches to 6 inches.” (p. 7)

The BTNF not only interchanges objectives, thresholds, and standards, but is now including the additional requirement to determine causal factor. “Causal factor” is used by the Bureau of Land Management as part of Standards Determination and Guidelines Conformance Reviews (43 C.F.R. § 4180).

The WDA understands the benefit to collecting appropriate data and identifying the actual reason why the resource objectives are not met. We do not support changing livestock grazing management when livestock grazing does not actually address the issue or improve the resource. However, the USFS regulations do not include any reference to causal factor. Furthermore, determination of a causal factor is substantially different than determination as a *significant* causal factor. BLM regulations require determination of the significant causal factor before changes in management, including, but not limited to livestock grazing management.

- “The maximum amount of stream bank alteration allowable for each season of use is 20%.” (p. 5)

The BTNF requires a maximum 20% streambank alteration standard in the dROD. According to the Multiple Indicator Monitoring (MIM) manual “...*streambank alteration is an annual or short-term indicator of the effect of grazing impacts on long-term streambank stability* (pg. 27).” This standard for 20% stream bank alteration as written lacks the clarity regarding where the 20% measurement should occur. The measurement should occur only in monitoring sites cooperatively selected by permittees and USFS staff and should include why the site was selected, and how the 20% stream bank alterations are measured, etc. 36 C.F.R. § 222.7

- “Range readiness: Livestock will not be allowed to enter the allotment prior to range readiness. The determination of range readiness is dependent on precipitation and temperature and their effects on vegetation production. Range readiness takes into account whether key plant species have had sufficient growth and development to adequately provide for their vigor and whether soils are dry enough to prevent substantial damage from hoof compaction.” (p. 15)

The BTNF has again created an additional unnecessary standard. Range readiness will require staff to measure plant growth and soil moisture before allowing livestock to enter the allotment. The Rangelands article (B.L. Perryman, 2005) states “*Range readiness is an outdated practice forcing rangeland managers into management situations that are detrimental to the natural resource base.*”¹

Furthermore the article states: “*Planning documents should provide rangeland managers with the flexibility to tailor turnout and exit dates to specific areas and permittee operations rather than focusing on regulating allotment or district-wide specifications and standards.*”

- “Except for the livestock driveway, livestock grazing will not be allowed on areas that contain less than 60% ground cover, such as an area immediately following a wildfire.” (p. 16)
- “Except for incidental locations in the livestock driveway, livestock grazing will not be allowed on areas that support less than 60% ground cover, such as an area immediately following a wildfire.” (p. 28)

The dROD alludes to another way livestock grazing is causing irreparable harm to resources and allows an opening for misinterpretation. The Upper Green likely has Ecological Sites with rocky, shallow soils or exposed ridges, which may naturally not meet the 60% ground cover standard the BTNF arbitrarily created.

- “I recognize that desired conditions for percent retention of herbaceous vegetation may not be achieved in certain areas under maximum allowable utilization levels...” (p. 24)

WDA has adamantly opposed any inclusion of the percent retention of herbaceous vegetation in our previous comments. Our comments specifically stated (November 2016):

“Chapters 2 and 3 of the DEIS regarding total herbaceous retention are flawed in numerous ways. Specifically the Alternatives Comparison Table on page 163 indicates Alternatives 2, 3, and 4 all are incapable of providing 70% total herbaceous retention. Much of Chapter 3 Direct and Indirect Effects analysis for amphibians focus is determining if utilization levels identified in each alternative will provide the 70% total

¹ B.L. Perryman, W. L. (2005). Range Readiness is an Obsolete Management Tool. *Rangelands* , 36 - 41 .

herbaceous retention. WDA is concerned the 70% retention requirement overrides the importance of meeting desired conditions for riparian areas, which ultimately should provide adequate habitat for wildlife. The project area is indicated as an important reservoir (source) population for boreal toads and boreal chorus frogs, despite livestock grazing in the area since the 1800s. However, grazing was identified on page 381 "...term grazing on the project area was the dominant factor affecting amphibians," which is later contradicted on page 386, stating: "It is acknowledged that management activities such as timber harvest, grazing, and recreation are not believed to be the causal agents of toad population declines."

The BTNF failed to address our concerns in the FEIS. The standard developed by the BTNF for 70% retention of herbaceous vegetation was always flawed and lacked peer-review. We support meeting appropriate desired conditions and working to improve conditions in the Focus Areas where changes in grazing management can address specific resource objectives.

- "Require herding on Roaring Fork Focus Area if elk have exceeded 50% forage utilization before livestock begin grazing." (p. 28)

The BTNF acknowledges elk may exceed 50% forage utilization in the Roaring Fork Focus Area, yet requires additional terms and conditions for livestock grazing permittees to increase herding and select new salt placement sites outside of the Roaring Fork Area.

- "Maintain/improve species composition and amount of ground cover in certain locations by allowing seed set. The need for seed set will be considered before allowing the beginning of season shift in some allotments." (p. 29)

The dROD identified yet another monitoring requirement; seed set. Such a prescriptive statement binds the BTNF to collect additional data, above and beyond what is already included to monitor allowable use and meet desired conditions, but creates another opening for non-compliance by the agency.

Violated Laws, Regulation, Policies

We believe the BTNF violates and/or misapplies 36 C.F.R § 219.7, FSH 2209.13, and the BTNF RMP.

Suggested Remedies

WDA recommends the BTNF review and utilize existing definitions (see below) USFS 36 C.F.R. § 219.7 as well as the RMP (Chapter 1, p. 2 – 3), which are misinterpreted and misapplied throughout the dROD. We recommend including a glossary to define and differentiate between goals, objectives, desired conditions, standards, guidelines, and thresholds.

We strongly oppose the BTNF including any additional BLM language for determining causal factor and insist the BTNF removes any reference to this in the fROD.

36 C.F.R. § 219.7 Definitions:

"(ii) Objectives. An objective is a concise, measureable, and time-specific statement of a desired rate of progress toward desired condition or conditions. Objectives should be based on reasonably foreseeable budgets.

(iii) Standards. A standard is a mandatory constraint on project and activity decision making, established to help achieve or maintain the desired condition or conditions, to avoid or mitigate undesirable effects, to meet applicable legal requirements.

(iv) Guidelines. A guideline is a constraint on project and activity decision making that allows for departure from its terms so long as the purpose of the guideline is met (36 CFR § 219.15(d)(3)). Guidelines are stabled to help achieve or maintain desired condition or conditions, to avoid or mitigate undesirable effects, or to meet applicable legal requirements. (36 C.F.R. § 219.7)”

RMP Definitions:

Goal-The desired end result.

Objective-Accomplishments steps or points designed to achieve a goal.

Desired Future Condition- A future land or resource condition that achieves a set of compatible multi-resource goals and objectives.

Management Prescription- A set of land and resource management policies that, as expressed through Standards and Guidelines, creates a Desired Future Condition.

Standard-A land, resource, or human-use against which organizational actions or resource conditions can be measured and limited, and usually stated as requirements in this document using the term “will be.”

Guideline-A set of land, resource, or human-use values or parameters meant to generally constrain organizational actions or define resource conditions and usually stated as flexible and, occasionally, optional limits in this document using the terms “should be” or “may be.” (RMP- Chapter 1: pp. 2 – 3).

We recommend the BTNF refer to Technical Reference 1737-23 (MIM 2011) to ensure protocol is followed as written. Additionally, the fROD must ensure only those cooperatively developed sites are monitored and only data cooperatively collected is included in the files and future analysis.

We recommend the BTNF remove range readiness from the fROD. We believe the BTNF can clarify how pasture rotations and deferment already developed as part of the decision in the ROD meet the intent of “range readiness.”

OBJECTION 2: Adaptive Management

WDA objects to the narrow focus and misuse of Adaptive Management. Adaptive management should allow the USFS and livestock grazing permittees to address local issues effectively and in a timely manner. This should include an analysis of a suite of options inclusive of changes in season of use, numbers, timing, and other mechanisms to achieve or move towards desired conditions. As presented, Adaptive Management is used as a regulatory hammer incorporated into the decision to reduce livestock grazing across the project area if standards are not met. Adaptive management should be expanded beyond stringent allowable use standards.

WDA reiterates our objection to the BTNF implementing causal factor, especially as part of an Adaptive Management strategy.

Connection Statement:

WDA provided comments specific to Adaptive Management (November 21, 2016) on the DEIS. Our concern remains focused on the BTNF reducing livestock grazing with a lack of opportunity to regain grazing use once desired conditions are achieved. As presented in the DEIS, FEIS, and dROD, Adaptive Management is a punitive mechanism to implement standards, rather than a way to manage for resource objectives in the face of changing conditions.

- “This strategy also provides for adaptation of management if monitoring determines that adequate progress towards the desired conditions is not occurring.” (p. 5)
- “The term “progressive design features” is synonymous with “adaptive management.” (p. 6)
- “...on certain key sites within a pasture to meet the desired ecological status. The consequences of failing to meet long-term objectives will be either to implement adaptive management...” (p. 20)
- “If, however, monitoring indicates otherwise and livestock grazing is a causal factor, adaptive management will be implemented and forage utilization will be reduced further by increments of 10% to a minimum of 30% and/or stubble height along the greenline will be increased from 4 to 6 inches. With this adaptive management as an option, I expect that riparian and meadow areas will meet or move towards desired conditions.” (p. 25)
- “In addition, more restrictive grazing use levels and/or stream bank alteration standards will be implemented in selected locations in order to improve ground cover and/or stream bank characteristics. Utilization or stubble height requirements are designed to indicate if we are achieving our long-term resource objectives. Long-term vegetation and soil improvement will remain a desired objective. Monitoring and adaptive management will be used to test the effectiveness of achieving long-term objective by following annual utilization guidelines.” (p. 27)
- “Adaptive utilization or stubble height features are prescribed to maintain areas that are already in desired condition. (p. 27)
- “With proper application of adaptive management, vegetation on all key sites is expected to improve because the design features...I expect the focus areas to improve because of the reduced livestock use as well as other restoration efforts prescribed for them.” (p. 28)

Violated Laws, Regulation, Policies

The BTNF violates and/or misapplies 36 C.F.R § 220.5, FSH 2209.13, and the BTNF RMP

Suggested Remedies

BTNF should utilize existing regulations and ensure consistency throughout the fROD. We support flexibility and a broad suite of options under adaptive management. As written, standards are mandatory and restrictive, which does not allow the flexibility to use Adaptive Management and make voluntary changes as needed from year to year.

WDA recommends revising Adaptive Management to more closely follow FSH 2209.13.

36 CFR § 220.5(e)(2) The proposed action and one or more alternatives to the proposed action may include adaptive management. An adaptive management proposal or alternative must clearly identify the adjustment(s) that may be made when monitoring during project implementation indicates that the action is not having its intended effect, or is causing unintended and undesirable effects. The EIS must disclose not only the effect of the proposed action or alternative but also the effect of the adjustment. Such proposal or alternative must also describe the monitoring that would take place to inform the responsible official during implementation whether the action is having its intended effect.

WDA supports appropriately building in flexibility using Adaptive Management (FSH 2209.13, Chapter 92.23b) to adjust permitted actions and alleviate from requiring future NEPA. According to the Handbook:

92.23(b)(2)

- a. Identification of site-specific desired conditions;*
- b. Definition of appropriate decision criteria (constraints) to guide management*
- c. Identification of pre-determined optional courses of action, as part of a proposed action to be used to make adjustments in management over time, and*
- d. Establishment of carefully focused monitoring to be used to make adjustments in management over time.*

92.23(b)(4)

“Historically, decisions have been too narrowly focused, such as deciding to authorize a specific number, kind, or class of livestock with specific on-off dates under a specific type of grazing system. These kinds of decisions have restricted management flexibility in meeting desired conditions and project objectives.”

FSH 92.23(b) Adaptive Management

1. When livestock grazing is proposed using an adaptive management strategy, the proposed action shall set defined limits using adaptive management principles of what is allowed, such as timing, intensity, frequency, and duration of livestock grazing. These limits set standards that can be checked through monitoring to determine if actions prescribed were followed, and if changes are needed in management. The NEPA analysis discloses the effects for these standards. Administrative actions within the defined limits of the resultant NEPA-based decision can then be implemented without additional NEPA.

Planning for adaptive management may be initiated during development of the proposed action. It involves identification of future management options that may be needed to accelerate or adjust management decisions to meet desired conditions and/or project standards and objectives, as the need is determined through monitoring.

OBJECTION 3: Sage-Grouse

The WDA objects to the BTNF not analyzing a larger more flexible season-of-use to accommodate for future unforeseen circumstances, not analyzing a broad suite of options under Adaptive Management including the ability to rotate pastures to accommodate for sage-grouse habitat, and finally not identifying site specific application of monitoring measurements and creating an expansive interpretation across the project area.

WDA reiterates our previous objection regarding the BTNF implementing causal factors.

Connection Statement:

WDA previously provided comments (June and November 2016) specifically concerning sage-grouse and the misinterpretation of the 2015 Approved Resource Management Plan (ARMPA). Many of our comments were

in relation to the DEIS not fully incorporating or misapplying the ARMPA, including tables, footnotes, distances, and potential overlap of sage-grouse habitat and livestock grazing actual season of use.

- “A maximum of one week shift in the grazing season may be authorized when needed to respond to weather conditions. In addition, this decision includes the requirement to consider potential effects on Greater Sage-grouse populations and habitat before allowing a shift.” (p. 5)
- “Progress towards meeting or moving towards these objectives will be measured and evaluated by members of the interdisciplinary team in five-year intervals as funding allows. If the management prescribed in Tables 1 and 2 is not resulting in conditions that meet or move towards meeting these objectives, causal factors will be reviewed by the interdisciplinary team, permittees and District Ranger. If the District Ranger determines that the undesirable condition is unrelated to timing, intensity, frequency or duration of livestock grazing, livestock grazing management will not be altered. If livestock grazing is a substantial causal factor, the District Ranger will adjust the maximum allowable use on key forage species and adjust the minimum riparian stubble height after considering advice from the interdisciplinary team and the permittees.” (p. 6)
- “This decision includes the requirements to consider potential effects on Greater Sage-grouse populations and habitat before allowing a one week shift prior to the grazing season.” (p. 17)
- “In addition, this decision includes the requirement to consider potential effects on Greater Sage-grouse populations and habitat before allowing a one week shift prior to the grazing season. I included this requirement in my decision because early grazing could reduce the opportunity for seed-set and delay resource restoration.” (p. 24)

Additionally, the inclusion of potential impacts to Greater Sage-grouse (sage-grouse) nesting habitat implies the entire project area is sage-grouse nesting habitat and is impacted by the one week shift in grazing. WDA’s DEIS comments (November 2016) identified a lack of clarity regarding sage-grouse grazing guidelines across the project area.

The BTNF should allow much more flexibility in the season of use. By specifying only one week of flexibility, the small shift in season of use may not align with end dates on Bureau of Land Management (BLM) permits. As written the dROD one week flexibility proposal assumes the shift will always occur one week earlier. Spring snowpack in 2017 is the most recent example of the BTNF working with BLM and grazing permittees to shift season of use later in the season and should be used as an example of good collaboration. A single week of flexibility, limited only to the beginning of the grazing season, does not represent satisfactory adaptability in management.

WDA previously identified our concern with BTNF analysis and rationale defending the shift in livestock grazing by one week in sage-grouse habitat. However, the last bullet point under this objection now inappropriately integrates seed-set and resource restoration. Seed-set and restoration have no correlation to the success of nesting sage-grouse. WDA insists BTNF remove these unnecessary inferences in the rationale.

Violated Laws, Regulation, Policies

The BTNF violates and/or misapplies 36 C.F.R § 222, the ARMPA, and the BTNF RMP

Suggested Remedies

The BTNF concentrates on a one week shift in grazing, which may occur once or twice in the life of the permit. Adaptive Management could have analyzed a wider array of grazing options to address this.

As written in the FEIS and dROD, the BTNF has fully omitted Wyoming Executive Order 2015-4, Attachment C, which identifies grazing as a de minimis activity. Additionally, Executive Order 2015-4 does not recognize any portion of the Upper Green River area as core area. The BTNF should follow and include Wyoming's strategy for Greater sage-grouse conservation, as presented in Executive Order 2015-4, in the fROD.

We insist BTNF remove all language referencing causal factor. As mentioned previously, the USFS regulations do not include causal factor, substantial causal factor, or significant causal factor.

The BTNF must review the 2015 ARMPA and ensure all the footnotes accommodate Tables 1 and 2. Both Table 1 as seen as Table 35, page 400 in the FEIS and Table 2 as seen as Table 36, page 401 in the FEIS are missing the footnotes from the ARMPA. The BTNF has again interchanged terminology. Table 1 in the ARMPA is titled "Seasonal Habitat Desired Conditions" and Table 35 interchanges Desired Conditions for Objectives as indicated in the far right column.

OBJECTION 4: Permitted Use: 270 head

WDA objects to the BTNF's decision to remove 270 AUMs and the FEIS analysis to convey the benefit of the AUM reductions to meet resource desired conditions.

Connection Statement:

WDA had previous concerns (November 2016) with the BTNF's initial decision not to offer the permit for 270 Animal Unit Months (AUMs) when the original permittee waived the permit without preference. We recommended offering these AUMs to existing permit holders on the Upper Green.

- "This decision reduces the number of cattle previously authorized in the Mosquito Lake rotation in the Upper Green River Allotment by 15% or 270 head of cattle. Actual livestock numbers turned out during a grazing season may be administratively reduced in order to meet allowable use standards and/or resource objectives." (p. 13)
- "This decision allows authorization of livestock grazing in a manner that retains full numbers and season for current permittees, although a vacated permit for 270 cattle is no longer authorized." (p. 26)

The BTNF has clearly identified its administrative capability to reduce livestock numbers or the number of grazing days in order to meet "standards." However, WDA reiterates our previous comment regarding the BTNF does not provide the ability to regain AUMs and season of use or a clear path of how to regain reductions in AUMs or season of use (November 2016). Proper livestock grazing is a vegetative management tool and adjusting numbers of livestock or changing season of use can help reach resource objectives.

Violated Laws, Regulation, Policies

The BTNF violates and misapplies 36 C.F.R § 222.4, FSH 2209.13, 36 C.F.R § 214, and the BTNF RMP

Suggested Remedies

WDA recommends reviewing FSH 2209.13 Chapter 16 to reevaluate the 270 AUMs removed from the Upper Green rotation. Additionally, the fROD should provide certainty for permittees to utilize Adaptive Management, inclusive of increasing livestock numbers and season of use to meet resource objectives.

36 CFR 222.4(a)(8) (8) Modify the seasons of use, numbers, kind, and class of livestock allowed or the allotment to be used under the permit, because of resource condition, or permittee request. One year's notice will be given of such modification, except in cases of emergency.

The BTNF decision not to reissue the 270 AUMs does not comply with the Forest Service Grazing Permit Administration Handbook (FSH 2209.13, pg.5) states: *“Where a particular existing condition and desired condition are the same, there is no need for change. Conversely, where an existing condition and a desired condition are not the same, there is a need for change. A need for change should equate to the purpose and need for the action to be proposed.”* (Chapter 90, Section 92.13 – Identification of Resource Management Needs). The WDA proposes BTNF cite FSH 2209.13 Ch. 90, Sec. 92.13 and indicate when changes are needed to reach desired conditions.

OBJECTION 5: Monitoring

WDA objects to BTNF’s inconsistent monitoring methodology, including use of MIM and PFC, and the continued interchangeable use of objectives, standards, guidelines, and thresholds. Additionally WDA objects to the inability for livestock grazing permittees to regain AUMs.

Connection Statement:

WDA previously commented (June 2016) concerning the inability for livestock grazing permittees to have a clear path to regain utilization of forage or use of areas once resource objectives were met. We also commented (November 2016) on the detrimental impact the interchangeable use of terminology will have on the implementation of the ROD.

- “This limitation will remain in place until these creeks meet the stream bank stability objective of 80% for two consecutive monitoring cycles.” (p. 5)
- “The latest measured value must be outside of the threshold for properly functioning or desired condition.” (p. 19)
- “Key sites in each allotment will be monitored approximately once every five years (as funding allows) using multiple indicator monitoring protocol to evaluate bank stability and riparian vegetation composition.” (p. 20)
- “Watersheds and vegetation communities that are not functioning properly, or are functioning at risk, provide less than optimal conditions for native wildlife and plants.” (p. 21)

If measurements will only occur once every five years for streambank stability, and the areas identified above require two consecutive monitoring cycles, there is an absolute minimum of 10 years before permittees might regain utilization levels. Depending on the fifth year when the BTNF monitors, many variables such as drought

or late season snow pack could polarize data and analysis, thus leaving permittees to wait an additional ten years, because the monitoring cycles must occur “consecutively.”

As previously mentioned, the BTNF interchanges terminology and expectations found throughout the dROD and FEIS, including objectives, desired conditions, standards, etc. Stream bank stability is a long-term indicator. In other cases, the BTNF interchanges existing monitoring protocol and applies them outside of the original intent. For example, the use of “Proper Functioning Conditions” language is now integrated across the allotment, not just in riparian areas.

Violated Laws, Regulation, Policies

We believe the BTNF violates and/or misapplies 36 C.F.R § 219, FSH 2209.13, 36 C.F.R. §220.13, the BTNF RMP, and the MIM Technical Reference 1737-23.

Suggested Remedies

WDA recommends BTNF remove the five year language and provide more clarity regarding MIM sites selection and how to integrate data into reaching desired conditions and resource objectives. The BTNF should refer to following language from Technical Reference 1737-23 to differentiate between standard and indicator, and to meet the original intent of MIM.

Multiple Indicator Monitoring of Stream Channels and Streamside Vegetation:

“Because the location of monitoring sites is a critical component of obtaining useful monitoring data, the MIM protocol addresses stratifying riparian vegetation complexes and stream segments and locating designated monitoring areas (DMAs). The DMA is the location on the stream where all monitoring procedures described in this protocol occur.

This protocol includes procedures for monitoring 10 indicators. Three indicators provide data from which short-term livestock (or other herbivore) use information can be derived:

- 1. Stubble height (adapted from USDI, BLM 1996b) and Challis Resource Area (1999)*
- 2. Streambank alteration (Cowley 2004)*
- 3. Woody species use (adapted from USDI, BLM 1996b)*

Short-term indicators provide information necessary to help determine whether the current season’s livestock grazing is meeting grazing use criteria. They can be used as early warning indicators that current grazing impacts may prevent the achievement of management objectives and can also be used to help explain changes in riparian vegetation and channel conditions over time.

Seven indicators provide data from which long-term resource condition information can be derived:

- 1. Greenline composition (adapted from Winward 2000 and USDI, BLM 1996a)*
- 2. Woody species height class (Kershner et al. 2004)*
- 3. Streambank stability and cover (adapted from Kershner et al. 2004)*
- 4. Woody species age class (adapted from Winward 2000)*
- 5. Greenline-to-greenline width (Burton et al. 2008)*
- 6. Substrate (Bunte and Abt 2001)*
- 7. Residual pool depth and pool frequency (Lisle 1987)*

Long-term indicators provide data to assess the current condition and trend of streambanks, channels, and streamside vegetation. They help determine if local livestock grazing management strategies and other land management actions are making progress toward achieving the long-term goals and objectives for streamside riparian vegetation and aquatic resources. (MIM Technical Reference 1737-23)"

OBJECTION 6: Inappropriate Interpretation

WDA objects to the broad inappropriate interpretation to the items listed below and their potential mandatory inclusion into Terms and Conditions for grazing permits on the Upper Green.

Connection Statement:

The WDA's comments (June and November 2016) addressed sensitive species, including grizzly bear and amphibians.

- The enclosure fence at Kendall Warm Springs will be maintained to limit livestock impacts on the Kendall Warm Springs dace." (p. 17)

The WDA objects to BTNF requiring livestock grazing permittees to maintain the enclosure fence for the Kendall Warm Springs Dace unless an existing maintenance agreement is in place.

- "Only brands of Bear Spray certified by the Interagency Grizzly Bear Committee are acceptable." (p. 18)

The grizzly bear was delisted and the FEIS and dROD include voluntary best management practices for the permittees to successfully operate in grizzly habitat. WDA objects to the BTNF or an Interagency Grizzly Bear Committee regulating the brands of bear spray a permittee must buy. WDA strongly recommends removing any standards language related to brands of grizzly bear spray.

- "Implement all range improvements associated with riparian or wetland areas outside of the amphibian breeding season and trumpeter swan nesting seasons, when they are present to minimize disturbance to these species." (p. 25)

WDA objects to BTNF limiting "all range improvements" in riparian or wetland areas. The broad statement has the potential to limit important projects on the allotment. The BTNF lacks the vital dates for breeding seasons for amphibians and trumpeter swans and how those dates overlap with livestock grazing use.

Violated Laws, Regulation, Policies

The BTNF violates and misapplies 36 C.F.R § 222.9

Suggested Remedies

WDA recommends BTNF review and ensure clarity in the Final ROD. Include language identifying a maintained agreement is on file.

Remove all mandatory language where voluntary BMP language is more appropriate.

Develop and share information with permittees for site specific areas where breeding amphibians and trumpeter swans are present and when the breeding season overlaps with cattle grazing. Avoid making the guidelines equitable to mandatory standards across the project area and well outside of identified breeding sites.

Previously Submitted Comments

January 7, 2010 - Scoping Notice to Supplement 2004 EIS
July 27, 2010 - Draft Supplemental EIS
November 21, 2016 - Draft Environmental Impact Statement
June 13, 2016 - Final Environmental Impact Statement