

Categorical Exclusion Review

U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Boise District Office
Four Rivers Field Office

Grazing Preference Transfer Jackknife Allotment #00232

CE No.: ID-110-2009-CE-3677 Lease/Serial/Case File Number: 1100296 (W. Ranch Equities, LLC)
1102960 (Phillips Bros. Cattle Co.)

Purpose and Need for Action: To address the Grazing Preference Application and Preference Transfer Application filed by Phillips Brothers Cattle Company, of Meridian, Idaho, in accordance with the grazing regulations (43 CFR 4130, Authorizing Grazing Use) and the National Environmental Policy Act.

Description of Proposed Action: Transfer the existing grazing preference of 141 active AUMs on the Jackknife (00232) allotment, due to a base property lease. Terms and conditions of the new permit (authorization: 1102960) will be the same as the current permit (authorization: 1100296) and are identified below:

Permittee	Allotment	Livestock	Season of Use	Percent Public Lands	Preference		
					Active	Suspended	Total
Phillips Bros.	Jackknife (00232)	150 Cattle	04/16 to 05/31	62	141	0	141

1. Grazing permit or lease terms and conditions and the fees charged for grazing use are established in accordance with the provisions of the grazing regulations now or hereafter approved by the Secretary of the Interior.
2. They are subject to cancellation, in whole or in part, at any time because of:
 - a. Noncompliance by the permittee/lessee with rules and regulations.
 - b. Loss of control by the permittee/lessee of all or a part of the property upon which it is based.
 - c. A transfer of grazing preference by the permittee/lessee to another party.
 - d. A decrease in the lands administered by the Bureau of Land Management within the allotment described.
 - e. Repeated willful unauthorized grazing use.
 - f. Loss of qualifications to hold a permit or lease.
3. They are subject to the terms and conditions of allotment management plans if such plans have been prepared. Allotment management plans MUST be incorporated in permits of leases when completed.
4. Those holding permits or leases MUST own or control and be responsible for the management of livestock authorized to graze.
5. The authorized officer may require counting and/or additional or special marking or tagging of the livestock authorized to graze.
6. The permittee's/lessee's grazing case file is available for public inspection as required by the Freedom of Information Act.
7. Grazing permits or leases are subject to the nondiscrimination clauses set forth in Executive Order 11246 of September 24, 1964, as amended. A copy of this order may be obtained from the authorized officer.
8. Livestock grazing use that is different from that authorized by a permit or lease MUST be applied for prior to the grazing period and MUST be filed with and approved by the authorized officer before grazing can be made.

9. Billing notices are issued which specify fees due. Billing notices, when paid, become a part of the grazing permit or lease. Grazing use cannot be authorized during any period of delinquency in the payment of amounts due, including settlement for unauthorized use.
10. Grazing fee payments are due on the date specified on the billing notice and MUST be paid in full within 15 days of the due date, except as otherwise provided in the grazing permit or lease. If payment is not made within that time frame, a late fee (the greater of \$25 or 10 percent of the amount owed but not more than \$250) will be assessed.
11. No Member of, or Delegate to, Congress or Resident Commissioner, after his/her election of appointment, of either before or after he/she has qualified, and during his/her continuance in office, and no officer, agent, or employee of the Department of the Interior, other than members of Advisory committees appointed in accordance with the Federal Advisory Committee Act (5 U.S.C. App.1) and Sections 309 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) shall be admitted to any share or part in a permit or lease, or derive any benefit to arise there from: and the provision of Section 3741 Revised Statute (41 U.S.C. 22), 18 U.S.C. Sections 431-433, and 43 CFR Part 7, enter into and form a part of a grazing permit or lease, so far as the same may be applicable.
12. This permit: 1) Conveys no right, title or interest held by the United States in any lands or resources and 2) Is subject to (A) modification, suspension or cancellation as provided by land plans and applicable law (B) review and modification of terms and conditions as appropriate: and (C) the Taylor Grazing Act, as amended, the Federal Land Policy and Management Act, as amended, the Public Rangelands Improvement Act, and the rules and regulations now or hereafter promulgated there under by the Secretary of the Interior.
13. This permit or lease is issued under the authority of Section 426, Public Law 111-8 and contains the same mandatory terms and conditions as the expired or transferred permit or lease. This permit or lease may be canceled, suspended, or modified, in whole or in part to meet the requirements of applicable laws and regulations.

Phillips Brothers Cattle Company's permit will expire July 10, 2012.

Project Location: The Jackknife (00232) Allotment is located approximately 4 miles SW of Ola, Idaho. Public land is found in T9N, R1E, Sections 3,4,8,9 and 17.

Applicant (if any): Phillips Brothers Cattle Company, Meridian, Idaho

Part I – Plan Conformance Review

This proposed Action is subject to the following land use plan: Cascade Resource Management Plan (RMP)

Date Plan Approved: July 1, 1988

Remarks: The proposed action is in conformance with the Range Program Objectives and Recommendations within the Range Management Section of the Cascade RMP.

Part II – NEPA Review

- A. **Categorical Exclusion Review:** This proposed action qualifies as a categorical exclusion under 516 DM 11.9 D (Rangeland Management) for the (1) approval of transfers of grazing preference and (11a) issuance of livestock grazing permits where the new grazing permit is consistent with the use specified on the previous permit.
- B. **Exceptions Review (Departmental List of Extraordinary Circumstances Review):** Review the 12 exceptions which apply to individual actions within categorical exclusion. Environmental documents (EA or EIS) must be prepared for any actions involving these exceptions. The following Departmental List of Extraordinary Circumstances applies to individual actions. Departmental instructions mandate that environmental documents **MUST BE PREPARED** for actions which may: (Mark applicable answer for each item. If "yes", prepare an EA/EIS and append this form to it.)

List of Exceptions		
1. Have significant impacts on public health or safety.		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>[Signature]</i> 4/10/08
<i>Comments/Explanation:</i> The transfer of existing grazing privileges with no additional use(s) authorized is an administrative function with no effects to public health or safety.		
2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; or ecologically significant or critical areas, or is not in compliance with the Fish and Wildlife Coordination Act.		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>[Signature]</i> 4/10/08
<i>Comments/Explanation:</i> The allotment contains no unique natural or cultural features that would be affected by this transfer, and no ecologically significant or critical areas occur in the general area of the allotment.		
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2) (E)].		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>[Signature]</i> 4/10/08
<i>Comments/Explanation:</i> The proposed transfer of grazing privileges would result in no changes to current livestock grazing management. To date, there have been no concerns brought forward regarding livestock grazing in this area.		
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>[Signature]</i> 4/10/08
<i>Comments/Explanation:</i> Livestock grazing is an ongoing activity, the continuation of which poses no unique or unknown environmental risks.		
5. Establish a precedent for future actions or represent a decision in principle about future actions with potentially significant environmental effects.		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>[Signature]</i> 4/10/08
<i>Comments/Explanation:</i> Transfer of grazing preference, and the issuance of a permit to the applicant without changes from the previous permit, is a routine administrative procedure. This action neither establishes a precedent for future actions nor represents a decision in principle about future actions with potentially significant environmental effects. A Rangeland Health Assessment, evaluation and determination of conformance with Idaho's Standards for Rangeland Health and Guidelines for Livestock Grazing Management, and NEPA assessment for grazing permit renewal was completed February 27, 2001.		
6. Have a direct relationship to other actions with individually insignificant, but cumulatively significant environmental effects.		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>[Signature]</i> 4/10/08
<i>Comments/Explanation:</i> Transferring existing grazing preference and issuing a grazing permit with no changes from the current authorization is neither individually nor cumulatively significant.		
7. Have significant impacts on properties listed or eligible for listing on the National Register of Historic Places as determined by either the bureau or office.		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>[Signature]</i> 4/10/09
<i>Comments/Explanation:</i> The affected grazing allotment contains no known properties listed, or eligible for listing, on the National Register of Historic Places.		

8. Have significant impacts on species listed or proposed to be listed on the List of Endangered or Threatened Species, or on designated Critical Habitat for these species.		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date for Plants: <i>Mark E. Stager 4/21/09</i> Specialist Signature/Date for Wildlife: <i>John Hall 4/21/09</i> Specialist Signature/Date for Aquatics: <i>Bob Brown 4/10/09</i>
Plants - <i>Comments/Explanation:</i> No known federally listed, candidate, or BLM special status plant species occur within the area of the proposed action.		
Wildlife - <i>Comments/Explanation:</i> No known federally listed wildlife species are known to be present. The Jackknife allotment falls within the historic range of the Southern Idaho Ground Squirrel (SIDGS) a candidate species for listing. No surveys have been conducted within this allotment for SIDGS. However, the proposed transfer would not be expected to result in adverse impact for SIDGS or other BLM special status wildlife species which may occur in the area.		
Aquatics - <i>Comments/Explanation:</i> No known federally listed, candidate, or BLM special status aquatic species occur within the area of the proposed action.		
9. Violate a Federal, State, local, or tribal law or requirement imposed for the protection of the environment.		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>Dean C. Shaw 4/10/09</i>
<i>Comments/Explanation:</i> This routine administrative procedure is consistent and compatible with all known Federal, State, local and Tribal laws or requirements imposed for protection of the environment.		
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>Bob Brown 4/10/09</i>
<i>Comments/Explanation:</i> There are no known low income or minority populations in the area of the proposed action. However, if low income or minority populations do exist, the transfer of existing grazing privileges would not be expected to have a disproportionately high or adverse effect on these populations.		
11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>Dean C. Shaw 4/10/09</i>
<i>Comments/Explanation:</i> There are no known ceremonial and/or sacred sites on public land in this allotment. However if sites were to be discovered in the future, the continuation of an ongoing activity would not limit access for ceremonial use of Indian sacred sites by Indian religious practitioners; nor would there be adverse affects to the physical integrity of sacred sites.		
12. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>Pat Kane 4-10-09</i>
<i>Comments/Explanation:</i> Transferring grazing privileges, for the continuation of current authorized grazing, would not cause additional influences to existing noxious weeds or non-native invasive species.		

I certify that none of the Departmental exceptions (Extraordinary Circumstances) listed in the above Part II (516 DM 2, Appendix 2) apply to this action; therefore, this categorical exclusion is appropriate for this situation.

Remarks: The transfer of grazing privileges will allow for continued management of an existing allotment, with no changes to the previous grazing authorization or to on-the-ground management. Issuance of a grazing permit to Phillips Brothers Cattle Company with no changes from the previous permit is a routine administrative procedure.

Authorizing Official: *Rosemary Thomas* **Date:** *4/23/09*

Name: Rosemary Thomas
Title: Four Rivers Field Manager

Part III – Decision

I have reviewed this plan conformance and NEPA compliance record statements above and have determined the proposed action is in conformance with the approved land use plan and that no further environmental analysis is required. It is my decision to approve the Grazing Preference Application and Preference Transfer Application submitted by Phillips Brothers Cattle Company and issue said applicant a grazing authorization for use of the Jackknife (00162) Allotment.

The 2009 Continuing Resolution of the 2004 Omnibus Appropriations Bill (Public Law 108-108) Section 325 through September 30, 2009 states in part “terms and conditions contained in the transferred permit shall continue in effect under the renewed permit or lease until such time as the Secretary of the Interior completes processing such permit in compliance with all applicable laws and regulations. Upon completion of the processing, the permit may be canceled, suspended or modified, in whole or in part.”

Mitigation Measures/Other Remarks: None

Remarks: The grazing authorization being issued to Phillips Brothers Cattle Company will have an expiration date of July 01, 2012 and will have the same terms and conditions as the permit being transferred from the Western Ranch Equities, LLC (Authorization No. 1100296). Western Ranch Equities, LLC will be deleted from RAS and the permit file will be closed; a new file will be opened for Phillips Brothers Cattle Company (Authorization No. 1102960).

Appeal:

Please be advised that 43 CFR Part 4 has been amended as of January 9, 2004.

Any applicant, permittee, lessee or other person whose interest is adversely affected by the final decision may file an appeal (*in writing*) in accordance with 43 CFR 4.470, and 4160 .4. The appeal must be filed within 30 days following receipt of the final decision, or within 30 days after the date the proposed decision becomes final. The appeal may be accompanied by a petition for a stay of the decision in accordance with 43 CFR 4.471, pending final determination on appeal. The appeal and petition for a stay must be filed in the office of the authorized officer, *Rosemary Thomas, 3948 Development Avenue, Boise, Idaho 83705*. The person/party must also serve a copy of the appeal on the *Office of the Solicitor, Field Solicitor-U.S. Department of the Interior, University Plaza, 960 Broadway Avenue, Suite 400, Boise, Idaho 83706* and person(s) named [43 CFR 4.421(h)] in the **Copies sent to:** section of this decision.

The appeal shall state the reasons, clearly and concisely, why the appellant thinks the final decision is in error and otherwise complies with the provisions of 43 CFR 4.470.

Should you wish to file a petition for a stay, see 43 CFR 4.471 (a) and (b). In accordance with 43 CFR 4.471(c), a petition for a stay must show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied.
- (2) The likelihood of the appellant's success on the merits.
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

As noted above, the petition for stay must be filed in the office of the authorized officer and serviced in accordance with 43 CFR 4.471.

Authorizing Official:

Rosemary Thomas

Date:

4/23/09

Name: Rosemary Thomas

Title: Four Rivers Field Manager