

**Montana's Rocky Mountain Front:
Livestock Grazing and Wilderness
September 2008**

Background: Grazing has occurred in wilderness areas ever since 1964, when the Wilderness Act was established. The Wilderness Act states that, "the grazing of livestock where established prior to the established date of this Act (designating an area as wilderness), shall be permitted to continue..." The Act uses "shall" -- rather than "may" -- indicating the strongest Congressional language there is. This is a mandate from Congress.

Sixteen years after the passage of Wilderness Act, Congress affirmed livestock grazing in wilderness by stating that "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."

How has Congress strengthened this allowance over the years? Congress decided that, "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." Therefore, in 1980, Congress established the Congressional Grazing Guidelines, and they have been incorporated into almost every wilderness law since that time (some wilderness areas had no grazing). In 1984, the Congress noted that these guidelines were not to be treated as mere suggestions or recommendations -- but instead as direction from Congress incorporated by statute, (referenced in the law) to be a major part of "the overall context of the purposes and direction of the Wilderness Act of 1964."

Various state wilderness bills passed since that time and numerous court cases over the years have further strengthened grazing within new wilderness as well as the continued use of motorized access and livestock improvements in certain circumstances. In fact, the rancher's grazing operations are better protected in wilderness than in any other land management status; ranchers have more guarantees that grazing shall continue in wilderness than in general National Forest lands and non-wilderness areas.

Are there cases where allotment plans have been restricted or grazing cancelled after an area has been designated as wilderness? Yes, but these changes occurred because of ongoing documented resource impacts, not wilderness designation. In other words, the Forest Service retains the ability to take actions to protect the resource (including changes to stocking rates or rotation, fencing needs, or cancellation of the grazing lease) regardless of whether the area has been designated wilderness or not. Interestingly, because the pro grazing guidelines only apply to wilderness area grazing (and have been tested in Court), ranchers actually have more guarantees of grazing continuing *with* wilderness designation (assuming no overgrazing and significant resource damage). The Grazing Guidelines are very clear that, "There shall be no curtailment 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 number of livestock...should be made.....etc.....giving consideration to legal mandates, range condition and the protection of the range resource from deterioration."

What do the Congressional Grazing Guidelines say? The grazing language reinforces, in strong terms, the grandfathering of livestock grazing in wilderness areas. The Guidelines allow the occasional use of motorized equipment to repair stock ponds, water lines, fix fence, etc. and with the possibility of new fences, water developments and other facilities primarily for the purposes of resource protection and more effective management. There is also the allowance for the possible increase of livestock numbers if there are no adverse impacts on important land, water, habitat and plant resources.

The 1964 Wilderness Act's language which conferred upon the Secretary of Agriculture the authority to require reasonable regulation of grazing to protect wilderness values is specifically guided by this very explicit and more recent Congressional directive.

Here are the Specific Directives from the Congressional Grazing Guidelines.

- 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.

2. The maintenance of supporting facilities, existing in an 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 replacement 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 in 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.

The Congressional Grazing Guidelines conclude:

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 reestablish uses where such uses have been discontinued.

For more information, see www.savethefront.org or call Gabe Furshong at 406-466-2600.