Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Sawtooth National Forest, Idaho; Upper and Lower East Fork Allotment Management Plan Analysis

AGENCY: Forest Service, USDA.

ACTION: Record of Decision—Substantial Impairment Determination being issued in compliance with appeal remand direction.

Decision and Reasons for Decision

Background

The Upper and Lower East Fork Cattle & Horse Allotments are located in the White Cloud Mountain range in Custer County, south of Clayton, ID and are administered by the Sawtooth National Recreation Area (SNRA) of the Sawtooth National Forest. The allotments are located in portions of Townships 7, 8, 9, and 10 North and Ranges 15, 16, and 17 East, Boise Meridian.

On August 22, 1972, Congress passed Public Law 92–400 establishing the SNRA. The SNRA was established to protect the area's primary values of fish and wildlife resources, and the natural, scenic, pastoral, and historical values, and recreation attributes. Under Public Law 92–400, livestock grazing may be authorized so long as it does not substantially impair the purposes for which the SNRA was established.

A Final Environmental Impact Statement (FEIS) and Record of Decision (ROD) for the Upper and Lower East Fork Allotment Management Plans were released on September 30, 2003. As stated in the FEIS, one of the determinations to be made in the ROD was whether or not the decision to allow livestock grazing on the Upper and Lower East Fork Allotments would substantially impair SNRA values of the SNRA (see attached map).

The ROD was appealed under the regulations at 36 CFR part 215, claiming in part, that the ROD failed to provide for an adequate and legally sufficient assessment of whether the wildlife values associated with wolves and bighorn sheep on the East Fork Allotments would be substantially impaired by authorizing grazing under the conditions set forth in the EIS and ROD. Upon review of the project record, the FEIS and the ROD for the East Fork Allotments, the Appeal Reviewing Officer found that information is presented in the record regarding the effects of the decision to allow livestock grazing on wolves and bighorn sheep. However, the Appeal Reviewing Officer also found that a conclusion or determination relative to the SNRA Organic Act requirement that actions not substantially impair the purposes for which area was established was not documented in the ROD. In light of this finding, the determination concerning substantial impairment of wildlife values associated with wolves and bighorn sheep related to livestock grazing on the Upper and Lower East Fork Allotment was remanded back to the Forest. The Remand included direction to review the information in the record and make a determination in accordance with the SNRA Organic Act as to whether the authorization of livestock grazing as provided in the ROD will substantially impair wildlife values associated with wolf and bighorn sheep on the East Fork Allotments.

Decision

It is my determination that the decision to allow continued use of the Upper & Lower East Fork Allotments, as provided in the September 30, 2003 ROD with required mitigation and management requirements, is consistent with the revised Sawtooth FLRMP and Public Law 92–400 and will not cause substantial impairment of SNRA wildlife values associated with gray wolf or bighorn sheep.

Rationale for Decision

As described in Appendix I of the revised Sawtooth FLRMP, direction for evaluating substantial impairment of the key SNRA values originates in 36 CFR part 292: 36 CFR 292.17 (b)(10): ''Substantial impairment means that level of disturbance of the values of the SNRA which is incompatible with the standards of the General Management Plan.'' The General Management Plan is defined as ''the document setting forth the land allocation and resource decisions for management of the SNRA.'' The direction contained in the revised Sawtooth FLRMP represents the General Management Plan as required by Public Law 92–400. The standards for management of wildlife on the SNRA can be found in Chapter III and Appendix I of the revised Sawtooth FLRMP.

As described in the FEIS (page IV–57), the East Fork Allotments are considered wolf habitat and comprise an estimated 15% of the wolf habitat within the SNRA. While depredation of livestock by wolves has occurred on private lands within the East Fork Salmon River watershed, as described on Appendix C, page C–4, no depredation of cattle by wolves has occurred on National Forest System lands within the SNRA, including the East Fork Allotments. I do acknowledge that lethal control activities have taken place within the allotments. However, these activities have been in response to depredations on private lands and are not related to livestock use on the East Fork allotments. While predator control activities by the federal government is a reasonably foreseeable action on the allotments, I believe that the presence of cattle in these allotments contributes a low risk for triggering lethal control activities given that there is no history of cattle being taken by wolves on these allotments. As documented in the Rocky Mountain Wolf Recovery annual reports, wolf depredations within the Central Idaho Recovery Area occurs predominantly on sheep, with some depredation on calves during the spring calving season on private land. Therefore, the presence of cattle on the allotments is not likely to have an effect on presence of wolves on the SNRA. As described in Appendix C of the FEIS, as long as calving and livestock grazing continues on state and private lands in the area, the risk of mortality to wolves from predator control would exist whether or not livestock grazing continues on National Forest System lands within the East Fork Allotments or the SNRA.

The only bighorn sheep winter range on the SNRA occurs within the Lower East Fork Allotment. The Lower East Fork winter range provides an estimated 22% of the winter range for the Salmon Region Unit 36A herd (FEIS III–71).

Studies by the Idaho Department of Fish and Game (Project W–170–R–27, Progress Report for Bighorn Sheep, July 2003) indicate that bighorn sheep within the Salmon Region experienced major disease-related young and adult mortality beginning in 1990, followed by several years of low lamb production. In 1987, thirteen bighorn sheep were taken from Unit 36A to other parts of Idaho, implying a relatively stable population at that time. Current allotments boundaries have been in place since 1979 for Upper East Fork and 1985 for the Lower East Fork. Therefore, it appears that disease has been the key-limiting factor for this herd. Recent surveys, documented in the 2003 report, suggest that lamb/ewe ratios are improving region-wide in the Salmon Region. The report also documents a conclusion that land management practices over the past 25 years have generally improved bighorn sheep habitat within the Salmon Region. Under the September 30, 2003 ROD, the utilization level has been reduced from 40% to 30%. As described in the FEIS, the 30% utilization standard would further reduce potential for forage competition between livestock and bighorn sheep. No bighorn summer range would be available for livestock grazing. Any competition for forage would be further reduced by standards in the ROD. Given this information, I believe that livestock grazing, under the direction of the September 30, 2003 ROD, will not substantially impair bighorn sheep.

Implementation

Implementation Date

If no appeals are filed within the 45-day time period, implementation of the decision may occur on, but not before, five business days from the close of the appeal filing period. When appeals are filed, implementation may occur on, but not before, the 15th business day following the date of the last appeal disposition.

Administrative Review or Appeal Opportunities

This decision on the determination of substantial impairment for the Upper and Lower East Fork Allotments is subject to appeal pursuant to 36 CFR part 215. The appeal must be postmarked or received by the Appeal Deciding Officer within 45 days of the publication of this notice in the Challis Messenger. The Appeals Deciding Officer is: Regional Forester, Intermountain Region, 324 25th Street, Ogden, UT 84401 (801) 625–5605. The office business hours for those submitting hand-delivered appeals are: 8:00–4:30 Monday through Friday, excluding holidays. Appeals must meet the content requirements of 36 CFR 215.14, as published in the **Federal Register** on November 4, 1993.

Appeals, including attachments, must be filed within 45 days from the publication date of the notice in the Challis Messenger, the newspaper of record for the SNRA. The publication date in the Challis Messenger newspaper, is the exclusive means for calculating the time to file an appeal. Those wishing to appeal this decision should not rely upon dates or timeframe information provided by any other source.

The 36 part CFR 251 subpart C appeal process for the original East Fork ROD has been on hold until the 36 CFR part 215 appeal process was completed. Applicants for or holders of a special use authorization who originally filed appeals on the East Fork ROD under 36 CFR part 251 do not need to file new appeals. However, if they believe this Record of Decision adds new information that may change or alter their original appeal, they may file an amendment to their appeal. The amendment to the appeal, including the reasons for amendment, must be postmarked or received by the Appeal Reviewing Officer within 45 days of this decision. The notice of the amended appeal should be filed with: Forest Supervisor, Sawtooth National Forest, 2647 Kimberly Road East, Twin Falls, ID 83301–7976. A copy must be filed simultaneously with: Area Ranger, Sawtooth National Recreation Area, HC 64, Box 8291, Ketchum, ID 83340. Appeals must meet the content requirements of 36 CFR 251.90.

Appellants with standing under both 36 CFR part 251 and 36 CFR part 215 may only appeal under one regulation and may not appeal under both.

Contact Person

For additional information concerning this decision or the Forest Service appeal process, contact Sharon LaBrecque, Forest Planning Officer, Sawtooth National Forest; 2647 Kimberly Road East; Twin Falls, Idaho 83301–7976; (208) 737–3200.

Dated: May 3, 2004.

Sara E. Baldwin,

Area Ranger—Sawtooth National Recreation Area.

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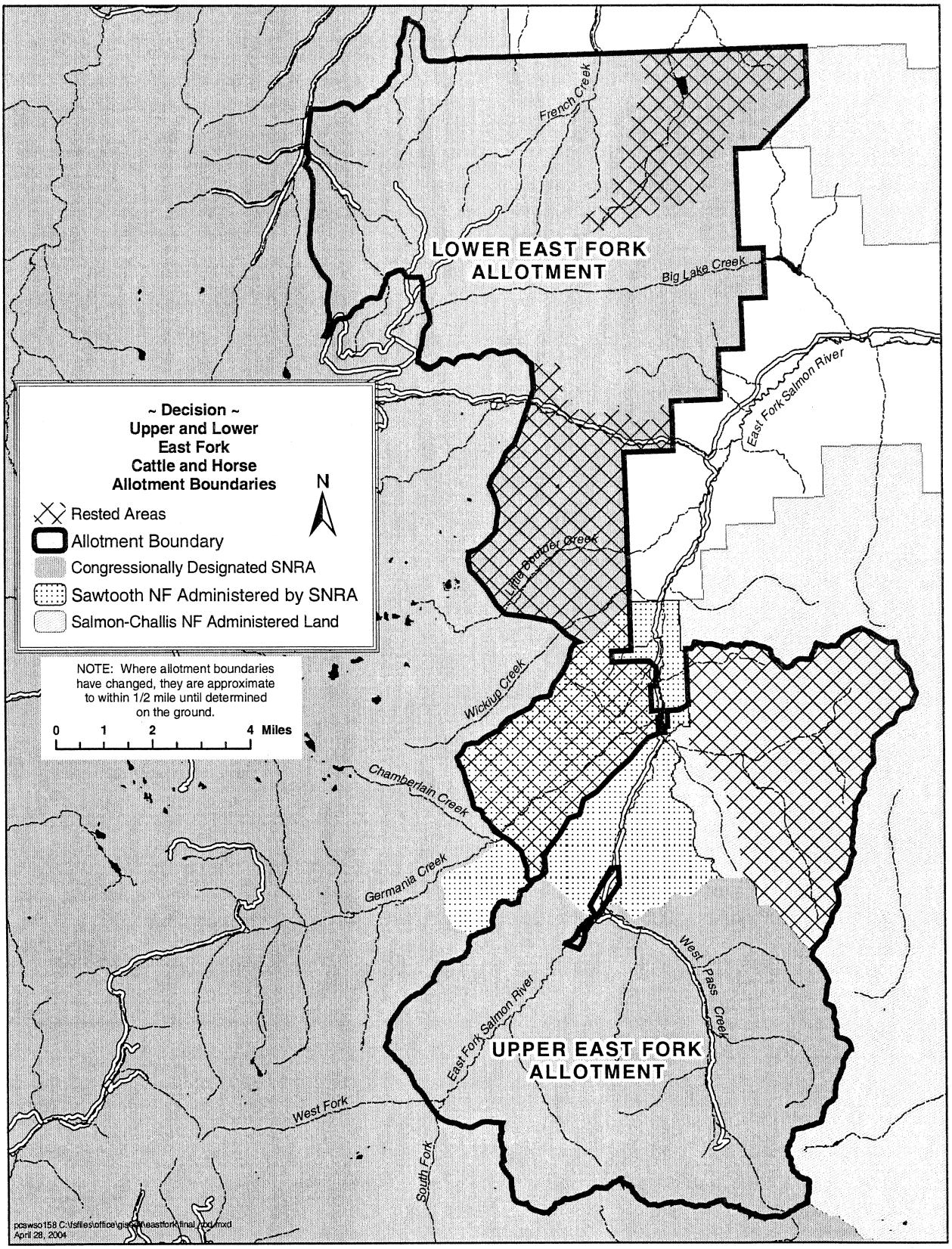

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