



DECISION MEMO
ALKALI CREEK FEEDGROUND FIVE YEAR PERMIT
U.S. FOREST SERVICE
SEC. 23, T. 42 N., R. 113 W., 6TH PRINCIPAL MERIDIAN
JACKSON RANGER DISTRICT, BRIDGER-TETON NATIONAL FOREST
TETON COUNTY, WYOMING

BACKGROUND

Supplemental feeding of elk (*Cervus elaphus*) began in northwestern Wyoming in the early 1900s. This was in response to large-scale winter die-offs. Many feedgrounds were consequently established in the 1940's and 1950's to prevent elk from entering private lands and damaging stored crops.

In 2007, Bridger-Teton National Forest (BTNF) began an environmental analysis to determine whether or not to authorize Wyoming Game and Fish Commission (WGFC) to continue the use of National Forest System (NFS) lands for six feedgrounds on the BTNF. In 2008, a decision was made to authorize the continued use of NFS lands for WGFC to operate five feedgrounds. The decision to authorize continued use of NFS land at the Alkali Creek Feedground was postponed because the use was authorized through 2011, and additional information was needed concerning the location of the Gros Ventre Wilderness boundary and vegetative effects adjacent to the feedground inside the wilderness. After supplemental environmental analysis and decision-making was completed, BTNF issued a Record of Decision (ROD), late in 2015, deciding to authorize continued use of NFS land at Alkali Creek Feedground. In 2016, the special use authorization for the five feedgrounds that were authorized in 2008 was amended to add Alkali Creek Feedground.

In September 2018, the U.S. District Court for the District of Wyoming vacated the 2015 ROD, and remanded the BTNF's "decision to amend the existing 2008 long-term special use permit to reauthorize the continued use of National Forest System lands for winter elk feedground activities at the Alkali Creek Feedground." In 2018, WGFC applied for and received authorization to operate and maintain the Alkali Creek Feedground for the 2018-2019 season. This allowed BTNF and WGFC time to develop a proposal for future authorization of NFS land at the Alkali Creek Feedground for the 2019-2020 season and beyond.

The proposed action provides management flexibility while allowing WGFC adequate opportunity to eliminate feeding on NFS land at the Alkali Creek Feedground. The proposed action will provide for management of potential disease impacts that could be associated with co-mingling and concentrating animals in a small area, allow WGFC to continue to manage elk conflicts on private land in the short term while transitioning to a different strategy, and provide an opportunity for elk to transition to native winter range over time, although it is recognized elk may simply move to a different feedground.

DECISION

I have decided to authorize the use and occupancy of NFS lands at Alkali Creek Feedground on the Jackson Ranger District for maintaining facilities associated with feed storage and feeding elk only in

emergencies for the 2019-2024 feeding seasons. Authorized facilities include one elk tagging corral, one horse corral, one tack shed, one hay stack-yard containing two haysheds, and a water facility.

The criteria for emergency feeding includes:

- If a significant elk damage or elk/livestock co-mingling situation develops on nearby private land and it is deemed necessary to feed in order to draw and keep elk away from the conflict on private land as determined by WGFC standard practices; or
- If it becomes necessary to catch or stop a large number of elk from moving down drainage from Patrol Cabin or Fish Creek elk feedgrounds, emergency feeding could be initiated to draw them back to Patrol Cabin/Fish Creek. A large number of elk has been determined to be approximately 200 elk (which is 25% of the Alkali Feedground Objective found in the WGFD 2018-2019 Feedground Report.); and
- The Authorized Officer at the Jackson District of the Bridger-Teton National Forest concurs that one of these emergency situations exists and approves initiation of emergency feeding, including when emergency feeding must cease.

Additionally, this permit authorizes WGFC to actively trail elk away from Alkali Creek Feedground as an emergency feeding action towards Patrol Cabin feedground, located on state lands, by strategically locating hay at dusk along the most likely and efficient travel route between the feedgrounds (Gros Ventre Road) with the goal of complete cessation of feeding at Alkali Creek Feedground by or before the expiration date of this permit.

The following will apply to this authorization:

1. Administrative access is allowed throughout the winter range closure area when performing duties associated with operation and maintenance or removal of facilities at the feedground. Permittee vehicular access behind locked gates on closed roads must be approved by the Authorized Officer in advance. Permittee and their contractors are not authorized to access closed designated winter wildlife ranges for any activity that is not directly related to operation and maintenance or removal of facilities at the feedground.
2. Permittee will attend any meetings with the Authorized Officer scheduled by the Forest Service to review and approve any matters pertaining to the administration of the Permit.
3. Any hay or straw used in association with this permit will be certified and tagged as noxious weed or noxious weed seed free (Order 04-00-097). Documentation of certification and disclosure of origin of hay will be provided annually. Permittee will be responsible for the monitoring and treating of noxious and invasive weeds within the permit area. Treatment methods will meet Forest Service specifications and monitoring will occur annually as described in the Appendix B, monitoring requirements.
4. Permittee will avoid emergency feeding in areas within 200 feet of perennial stream banks whenever possible and especially in the early and late season when the ground is not frozen. Emergency feeding operations will be conducted over snow or frozen ground as much as possible to reduce the potential for soil compaction from equipment and hooved animals.
5. Emergency feeding is not authorized to take place on the mapped wetland areas, as per the attached Appendix A, or within 100 ft. from the outer edge of the wetlands and the channel that connects them.
6. Permittee and Forest Service will reduce stream bank damage by identifying specific locations for stream crossings for emergency feeding operations.

7. Permittee shall inspect the permit area prior to use each year and make necessary repairs. Work other than routine maintenance and/or minor repairs shall be discussed in advance with the Authorized Officer in order to obtain pre-approval.
8. Food and refuse storage provisions identified in the Shoshone and Bridger-Teton National Forest Food Storage Order (# 04-03-330) are required to be followed year-round.
9. Permittee must keep dogs under voice control to prevent wildlife harassment. Offending dogs must be removed or restrained when in the permit area.
10. Permittee must contact the Authorized Officer or designee (Jackson District Ranger at 719-486-4872) when an emergency situation (non-feeding) occurs.
11. Emergency feeding or any other feedground-associated activities outside of the permit area are not authorized at any time.
12. The monitoring activities listed in Appendix B are a requirement of this permit.
13. Per the terms and conditions of this permit, the term of this permit is 5-years from the date of issuance. This permit is not renewable. For a continuation of use and occupancy the WGFC may apply for a new permit for the use and occupancy authorized by this permit. Applications for a new permit must be submitted at least 6 months prior to expiration of this permit. Issuance of a new permit is at the sole discretion of the Authorized Officer. At a minimum, before issuing a new permit, the Authorized Officer shall ensure that (1) the use and occupancy to be authorized by the new permit is consistent with the standards and guidelines in the applicable land management plan; (2) the type of use and occupancy to be authorized by the new permit is the same as the type of use and occupancy authorized by this permit; and (3) the holder is in compliance with all the terms of this permit. The Authorized Officer may prescribe new terms and conditions when a new permit is issued.

This action is categorically excluded from documentation in an environmental impact statement (EIS) or an environmental assessment (EA). The applicable category of actions is identified in agency procedures as Approval, modification, or continuation of minor special uses of NFS lands that require less than five contiguous acres of land [36 CFR 220.6(e)(3)]. This category of action(s) is applicable because the permit area consists of approximately 1 acre of facilities at Alkali Creek Feedground, approximately 2 acres at Alkali Creek Feedground for dispersed emergency spot feeding and approximately 2 acres for trailing elk from Alkali Creek to Patrol Cabin utilizing a feedline three feet wide and approximately 5.3 miles in length.

I find that there are no extraordinary circumstances that would warrant further analysis and documentation in an EA or EIS. I took into account resource conditions identified in agency procedures that should be considered in determining whether extraordinary circumstances might exist:

- Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species – No effect. All Federally listed threatened or endangered species, Designated critical habitat, and Forest Service sensitive species have been reviewed in light of this proposal with best available and current scientific information and survey data.
- Flood plains, wetlands, or municipal watersheds – There are wetlands in the project area, but no adverse impacts are anticipated.
- Congressionally designated areas such as wilderness, wilderness study areas, or national recreation areas – No effect; see Special Areas Report and 2015 Final SEIS (pages 160-164).

- Inventoried roadless areas or potential wilderness areas – None present.
- Research natural areas – None present.
- American Indians and Alaska Native religious or cultural sites – No religious or cultural sites affected.
- Archaeological sites, or historic properties or areas – No historic properties affected.

The mere presence of one or more of these resource conditions does not preclude use of a categorical exclusion (CE). It is the existence of a cause-effect relationship between a proposed action and the potential effect on these resource conditions and if such a relationship exists, the degree of the potential effect of a proposed action on these resource conditions that determine whether extraordinary circumstances exist (36 CFR 220.6(b)).

PUBLIC INVOLVEMENT

This project was proposed by the WGFC in coordination with the BTNF. This action was scoped on the BTNF website under the Under Analysis tab September 20, 2019 through October 18, 2019 on the Bridger-Teton National Forest Projects webpage at <https://www.fs.usda.gov/project/?project=56850>. The scoping document was provided to 378 interested parties subscribed to the project mailing list. It was also provided to local and state elected officials. We received nine comments (representing 13 separate entities); I have reviewed the public scoping comments which both supported and opposed the issuance of a special use permit to WGFC and considered them in refining and making the decision. Part of the scoping process is determining which comments affect the scope of the NEPA analysis and which do not.

The comments received were associated with aspects of the NEPA process, various specific resource concerns, and opinions. Some of the comments submitted were outside of the scope of this decision. A summary of the comments received is on file at the Jackson Ranger District Office.

The proposal was also provided to Bridger-Teton interdisciplinary resource specialists in the context that this permit would authorize WGFC to only feed elk if one of the two emergency feeding criteria are met and it is approved by the Authorized Officer (i.e. District Ranger) or designee. Forest interdisciplinary resource specialists did not bring forward any concerns associated with the seven resource conditions that need to be considered in determining whether extraordinary circumstances exist related to the proposed action. Monitoring and reporting requirements have been added to the permit conditions based off of their feedback.

FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS

I have reviewed the Bridger-Teton National Forest Land and Resource Management Plan (Forest Plan) and determined that my decision is consistent with the Forest Plan. For wildlife and plant species, the Endangered Species Act of 1973 (16 U.S.C. 1531-1544), as amended and Forest Service Manual direction (FSM 2672.41) has been followed.

The Organic Administration Act June 4, 1897, Federal Land Policy and Management Act, as amended October 21, 1976 (16 USC 475), the Watershed Conservation Practices (WCP) Handbook (FSH 2509.25), Forest Service Manual 2550, Executive Order (EO) 11988 - Floodplain Management, EO 11990 - Protection of Wetlands, Clean Water Act (33 USC 1251 etc.), Safe Drinking Water Act (42 USC 300 etc.), Municipal supply watersheds (FSM 2542) all pertain to watershed and wetland health and have been adhered to. The project complies with legal requirements including the Wild & Scenic Rivers Act, the Wilderness Act, Inventoried Roadless Rule, and the National Historic Preservation Act. Executive Order



13112 - Invasive species, which directs that federal agencies should not authorize any activities that would increase the spread of invasive species has been followed.

The project was designed in conformance with the standards and guidelines identified in FSH 2709.11 Chapter III for the issuance of non-recreation special use authorizations. This permit shall include all mandatory clauses and appropriate discretionary clauses as determined by the permit administrator.

ADMINISTRATIVE REVIEW OPPORTUNITIES

Decisions that are categorically excluded from documentation in an Environmental Assessment (EA) or Environmental Impact Statement (EIS) are not subject to an administrative review process (Agriculture Act of 2014 [Pub. L. No. 113-79], Subtitle A, Sec. 8006).

IMPLEMENTATION DATE

Implementation of my decision may begin immediately.

CONTACT

For additional information concerning this decision, contact: Karen Kanen, Lands Special Uses Permit Administrator, Jackson Ranger District, P.O. Box 1689 Jackson, WY 83001, 307-739-5597.

December 13, 2019

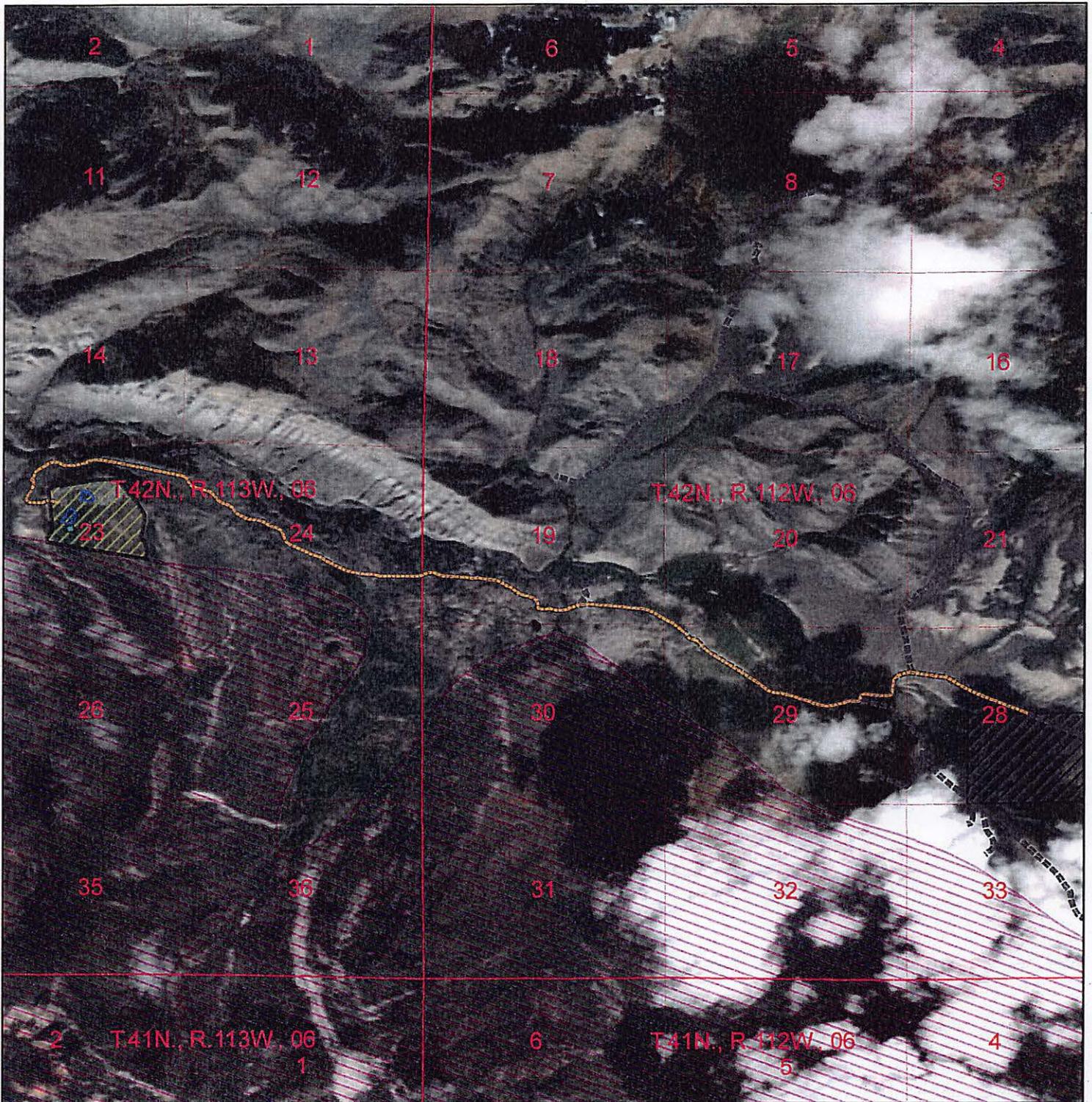
MARY MOORE, District Ranger

Date

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Special Use Authorization - Appendix A
 Bridger-Teton National Forest, Jackson Ranger District



Authorization Information

Name: Wyoming Game & Fish Commission
 Authorization ID: JAC100235
 Primary Use Code: 232
 Use Code Name: Corral, Pen & Livestock Area
 Expiration Date: 10/01/2024
 Residence Tract/Lot: N/A
 Legal Description: T. 42N., R. 113W., Sec. 23, 24
 T. 42N., R. 112W., Sec. 19, 28, 29
 Road Number(s): FS 30400

Disclaimer

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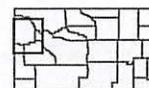
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- Alkali Barns & Corral
- Route to Patrol Cabin
- Alkali Historic Feedground
- Wetlands
- Gros Ventre Wilderness

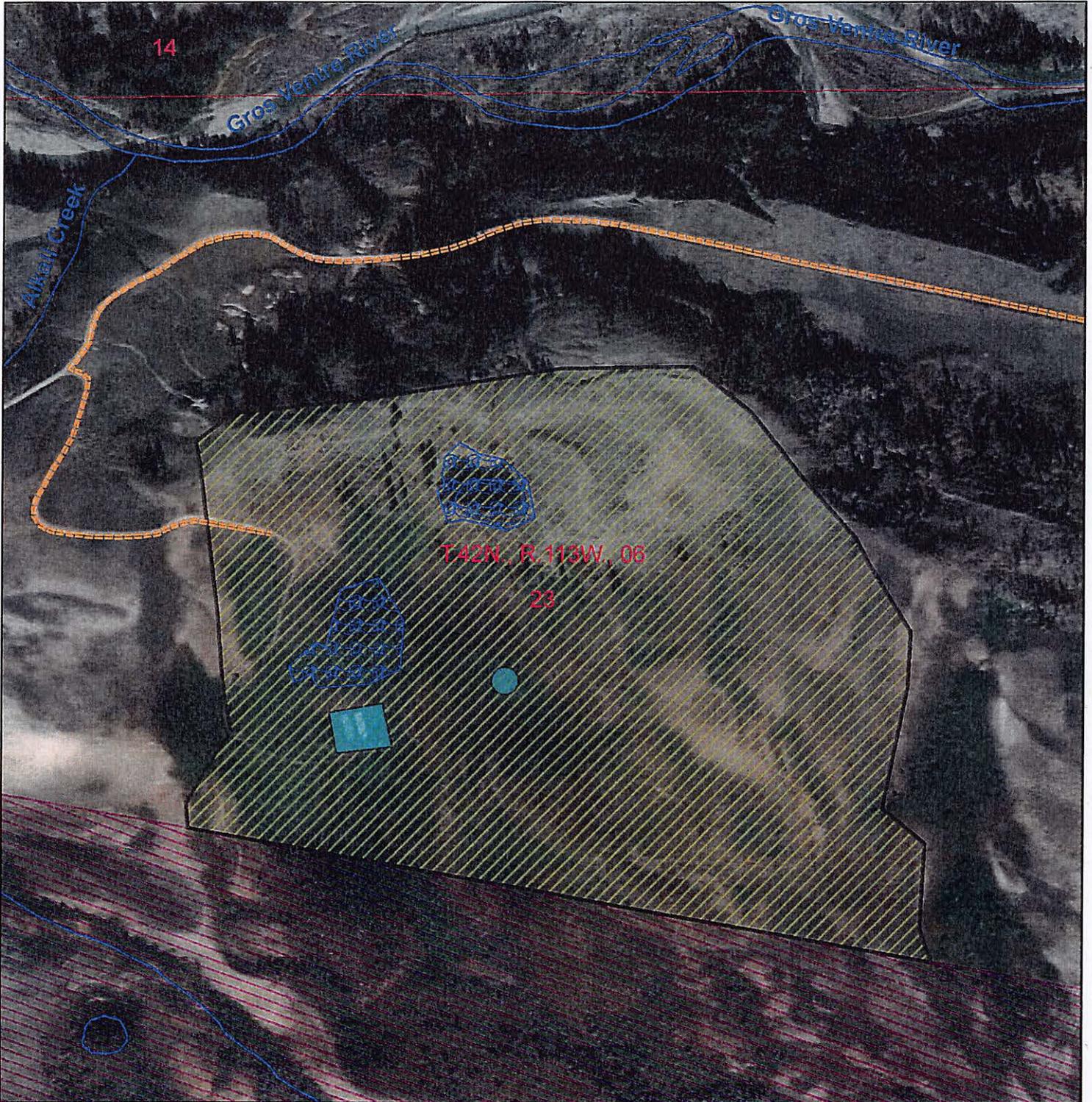


WYOMING
 Teton County





Special Use Authorization - Appendix A cont.
Bridger-Teton National Forest, Jackson Ranger District



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Authorization ID: JAC100235
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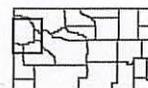
Legend



-  Alkali Barns & Corral
-  Alkali Historic Feedground
-  Route to Patrol Cabin
-  Wetlands
-  Gros Ventre Wilderness



WYOMING
Teton County



Appendix B

Permittee: WGFC

Permit #: JAC100235

Monitoring Requirements

Wyoming Game and Fish Commission (WGFC) is required to perform the following monitoring activities:

1. Conduct and submit to the Forest Service an annual treatment and monitoring report concerning the presence and treatment of noxious and invasive weeds within the permit area. Effectiveness monitoring will consist of re-inventory of known populations on a five year rotation starting with baseline data collection in 2020. Data on existing species infestation will be collected using data collection protocols approved by the Forest Service. New infestations will be mapped as they are discovered. Annual monitoring will include a daily log that shows a map of specific infestations treated and other information for that treatment activity. A follow up on overall annual treatment efficacy should be completed two – three weeks after a treatment with additional treatments as necessary in the same growing season.
2. If a feasible and economical soil test for prions is developed, annually test the soil on Bridger-Teton National Forest (BTNF) feedgrounds to monitor for incidence of chronic wasting disease prions and annually submit reports of findings. Sampling methodology would be jointly determined by WGFC and the Authorized Officer at the Jackson District of the Bridger-Teton National Forest, in consultation with APHIS.
3. Report on the riparian and wetland vegetation conditions based on negotiated frequencies and durations and at the conclusion of the 2023-2024 season provide BTNF a summary report of resource conditions for the permitted area. WGFC will develop what methodologies to use for the condition assessment by November 1, 2020 and submit to BTNF for concurrence.
4. Annually report the dates that emergency feeding starts and stops and specifically indicate the reasons (livestock/private land conflicts/elk migration or others) for feeding initiation and cessation (annually), including the number of elk successfully trailed to Patrol Cabin feedground.
5. Annually report chronic wasting disease monitoring and mitigation actions that have been taken with regard to feedground management on National Forest System lands in western Wyoming.
6. Annually report the geographic origin of all hay used at Alkali Creek Feedground and any hay used in the authorized trailing area between Alkali Creek Feedground and Patrol Cabin Feedground to document that hay does not originate from areas known to have high CWD prevalence rates
7. By January 1st, 2024, provide BTNF with a removal plan for existing authorized facilities (one elk tagging corral, one horse corral, one tack shed, one hay stack-yard containing two haysheds, and a water facility) to maintain compliance with clause VII.E. of the permit. The Removal Plan for all structures and improvements and the restoration of the permit area shall be approved by the Authorized Officer prior to implementation and will allow a reasonable period of time for completion of the Removal Plan.