

CENTRAL FILES	CASE FILE	READER FILE	SV FILE
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Grazing permit\
Lease No. 5208
4160 (060)

(520) 722-4289

October 13, 2000

CERTIFIED MAIL: Z 270 113 329
RETURN RECEIPT REQUESTED

Mr. Mike Hayhurst
2238 Bowers Road
Huachuca City, AZ 85616

NOTICE OF FINAL DECISION

BACKGROUND

A Proposed Decisions to re-authorize the permit for the Babocomari Allotment was sent out on September 12, 2000, to the affected permittee and the interested public. One protest to the proposed decision was filed by Forest Guardians through a faxed letter dated September 22, 2000. Forest Guardians provided no allotment specific information in their letter of protest.

In summary, the Forest Guardians protest letter raised the issue that the Bureau of Land Management was in violation of the National Environmental Policy Act , was not following the mandate of the Federal Land Policy and Management Act.

The BLM has carefully reviewed the legal concerns and has concluded that the Standards and Guidelines evaluation and term permit renewal is supported by the National Environmental Policy Act and Council of Environmental Quality (CEQ) regulations. Arizona Standards for rangeland health are the main focus for NEPA documents because they were adopted into all Arizona's Land Use Plans (LUP). Arizona's Allotment Evaluation Process is used to develop and document the proposed action (issuance of term permit with terms and conditions). The proposed action of renewing permitted use conforms to the Record of Decision for the Eastern Arizona Grazing Environmental Impact Statement, Phoenix Resource Management Plan (Land Use Plan) and Rangeland Program Summary. The grazing decision implements the proposed action under 43CFR 4100. The NEPA documentation fully covers the proposed action and alternatives which constitutes BLM's compliance with the requirements of NEPA, and procedural requirements as provided in the CEQ regulations. This is clearly demonstrated by the following background information:

In December of 1996 a ["draft"] Statewide Plan Amendment of Land Use Plans in Arizona for implementation of Arizona Standards for Rangeland Health and Guidelines for Grazing Administration, preliminary Finding of No Significant Impact, and supporting Environmental Assessment was sent out to 900 interested public .

In March of 1997, the Proposed Plan Amendment of Land Use Plans in Arizona for Implementation of Arizona Standards for Rangeland Health and Guidelines for Grazing Administration was sent out to interested publics to amend two Resource Management

Plans (RMP), Safford RMP and Yuma RMP. In addition, no decisions in the Phoenix RMP were found that would preclude the full implementation of Arizona Standards and Guidelines.

On April 28, 1997, Arizona Standards for Rangeland Health and Guidelines for Grazing Administration (S&Gs) were approved by Secretary of the Interior and adopted into all LUPs in Arizona as indicated by the Decision Record for the Statewide Amendment.

On March 22, 2000 an allotment evaluation was completed by an interdisciplinary team for the Babocamari allotment.

The BLM has followed the mandate of Federal Land Policy and Management Act which requires the Secretary of the Interior to develop, maintain and revise land use plans. The Resource Management Plan/Environmental Impact Statement guides the BLMs' management of public lands and ALL resources.

The BLM has complied with the grazing regulations, Washington Office and Arizona BLM policies for permit/lease renewals and fundamentals of Rangeland Health as specified in 43 CFR 4180.

The grazing regulations contain many provisions for public participation in the Bureau of Land Managements' decision-making process. Consultation, cooperation and coordination (CCC) with the interested public is the core of the public participation process, and provides the BLM the opportunity to consider the most complete information before making decisions.

The Bureau of Land Management Tucson Field Office mailed a letter to individuals and organizations on the general Resource Management Planning list to solicit interest in the decision-making process for grazing term permit renewals and standards and guidelines evaluations. This letter asked all interested publics for allotment specific information and/or resource issues that BLM should consider for the allotment evaluation. Several organizations and individuals asked to be considered an interested public for the permit renewal process.

In addition, recommendations from the Rangeland Resource Teams (RRTs) which represent commodity, environmental and recreation interests were considered. The RRTs were established under the charter of the Resource Advisory Council (RAC) and are involved during the S&G evaluation process for a permit/lease renewal. The Tucson Field Office has considered all recommendations provided by the Rangeland Resource Team to assist in the interdisciplinary evaluation of Standards for Rangeland Health.

An interdisciplinary team completed rangeland health assessments to determine if renewal of term grazing permits/leases would preclude the attainment of Arizona's S&Gs and determined if the proposed action (permit/lease renewal) was in conformance with the documented Land Use Plan and adequately covered under National Environmental Policy Act (NEPA).

BASED UPON THE RANGELAND HEALTH ASSESSMENT, CONSULTATION WITH, AFFECTED PERMITEE, INTERESTED PUBLICS, RANGELAND RESOURCE TEAM, CONSIDERATION OF PROTEST POINTS, AND RECOMMENDATIONS FROM THE

I have determined that the permitted use as indicated by the proposed decisions dated September 12, 2000, for the Babocomari Allotment is in accordance with the regulations found in Title 43 Code of Federal Regulations subpart 4100. In accordance with Bureau policy and regulations, this data has been examined and evaluated in order to determine progress towards meeting Arizona's Standards for Rangeland Health and Guidelines for Grazing Administration and other land use plan objectives. The analysis of data has revealed that resource conditions are meeting the applicable standards for rangeland health and land use plan objectives for the allotment. The renewal of your permit with the Terms and Conditions incorporated in Attachment A is sufficient to implement proper grazing management, and no further changes in the current operation are required at this time.

Authority: The authority for this decision is contained in Title 43 of the code of Federal Regulations, which states in pertinent parts:

4100.0-8 "The authorized officer shall manage livestock grazing on public lands under the principles of multiple use and sustained yield and in accordance with applicable land use plans. Land use plans shall establish allowable resource uses (either singly or in combination), related levels of production or use to be maintained, areas of use, and resource condition goals and objectives to be obtained. The plans also sets forth program constraints and general management practices needed to achieve management objectives. Livestock grazing activities and management actions approved by the authorized officer shall be in conformance with the land use plan as defined at 43 CFR 1601.0-5(b)."

4130.2(a) "Grazing permits or leases shall be issued to qualified applicants to authorize use on public lands and other lands under the administration of the Bureau of Land Management that are designated as available for livestock grazing through land use plans. Permits or leases shall specify the types and levels of use authorized, including livestock grazing, suspended use, and conservation use. These grazing permits or leases shall also specify terms and conditions pursuant to 4130.3, 4130.3-1, and 4130.3-2."

4130.2(b) "The authorized officer shall consult, cooperate and coordinate with affected permittees and lessees, the State having lands or responsible for managing resources within the area, and the interested public prior to the issuance or renewal of grazing permits and leases."

4130.3 "Livestock grazing permits and leases shall contain terms and conditions determined by the authorized officer to be appropriate to achieve the management and resource condition objectives for public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with the provisions of subpart 4180 of this part."

4130.3-1(a) "The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the amount of use, in animal unit months, for every grazing permit or lease. The authorized livestock grazing use shall not exceed the livestock carrying capacity of the allotment."

4130.3-2 "The authorized officer may specify in grazing permits or leases other terms and conditions which will assist in achieving management objectives, provide for proper range management or assist in the orderly administration of the public rangelands..."

4160.4 "Any person whose interest is adversely affected by a final decision of the authorized officer may appeal the decision for the purpose of a hearing before an administrative law judge by following the requirements set out in 4.470 of this title. As stated in that part, the appeal must be filed within 30 days after the receipt of the decision or within 30 days after the date the proposed decision becomes final as provided in 4160.3(a). Appeals and petitions for a stay of the decision shall be filed at the office of the authorized officer". . . .

The appeal shall state the reasons, clearly and concisely, why the appellant thinks the final decision is in error.

Should you wish to file a motion for stay, the appellant shall 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 the stay.

As noted above the petition for stay must be filed in the office of the authorized officer.

Sincerely,



Jesse J. Juen
Field Manager

cc: ✓ Forest Guardians (Z 270 113 331)
✓ Center for Biological Diversity (Z 270 113 330)
TERSEY:rmc:babocomariFD