



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Safford Field Office
711 S. 14th Avenue
Safford, AZ 85546
928-348-4400
www.blm.gov/arizona



July 15, 2021

In Reply Refer To:
LLAZG01000: 4160

CERTIFIED MAIL – RETURN RECEIPT REQUESTED NO. 7019 2970 0000 8153 1722

Levi Klump
726 Horse Camp Dr.
P.O. Box 111
Animas, NM 88020

NOTICE OF PROPOSED DECISION Badger Den Allotment Permit Issuance (No. 51100)

Dear Levi Klump:

*****Notice***** This is a reissuance of the Notice of Proposed Decision for the Badger Den Allotment Permit Issuance (No. 51100). A proposed decision was previously issued on June 2, 2021, but included an error with the signature page. The Badger Den Allotment Permit Issuance Environmental Assessment (EA) included a Finding of No Significant Impact (FONSI) document which was signed the same day as the proposed decision. When mailing the proposed decision to interested publics, the signature pages for the proposed decision and the FONSI were inadvertently switched, resulting in the proposed decision being sent with the signature page of the FONSI. This version of the proposed decision contains the correct signature page, with a new date, and includes all descriptive wording associated with the right of protest and/or appeal. This reissuance of the proposed decision reopens the period in which an applicant, permittee, lessee, or other interested public may protest and/or appeal the proposed decision. No other changes have been made to the proposed decision. Both the FONSI and proposed decision, with the correct signature pages, are available electronically through the online NEPA Register (ePlanning) or by visiting: <https://go.usa.gov/xwH8x> (case sensitive). Any protests already submitted in response to the previous proposed decision do not need to be resubmitted and will be considered.

INTRODUCTION

This proposed decision is to issue the grazing permit on the Badger Den Allotment for a period of 10 years.

The Badger Den Allotment is located in Graham County, Arizona and is approximately eight miles north of the town of Bowie. The Badger Den Allotment was analyzed and made available as an active grazing allotment through the Safford District Resource Management Plan (RMP) and Environmental Impact Statement (EIS) as approved by the Bureau of Land Management Safford Field Office (BLM SFO) in the Partial Records of Decision (ROD) dated September 1992 and July 1994. In addition, the Safford District RMP incorporates by reference the Upper Gila-San Simon Grazing Environmental Statement (UG ES) dated 1978. The Safford District RMP was amended by the Decision Record for the Statewide Land Use Plan Amendment for Implementation of Arizona Standards for Rangeland Health and Guidelines for Grazing Administration Environmental Assessment (EA) (BLM 1997).

On June 2, 2021, the Badger Den Allotment Permit Issuance Environmental Assessment (EA) (DOI-BLM-AZ-G010-2020-0014-EA) was completed with associated Finding of No Significant Impact (FONSI). The EA and associated documents are available electronically through the online National Environmental Policy Act (NEPA) Register (ePlanning) or by visiting: <https://go.usa.gov/xwH8x> (case sensitive).

BACKGROUND

On February 15, 1991, a decision was issued to cancel the grazing permit and grazing preference in whole on the Badger Den Allotment. The decision was appealed. The Interior Board of Land Appeals (IBLA) dismissed the appeal and affirmed the BLM's decision on February 5, 1993. The allotment has since and continues to be open and available for livestock grazing in accordance with the Safford District RMP.

Your application was approved by the BLM on June 19, 2018 via the transfer process through Categorical Exclusion (CX) per Title 43 Code of Federal Regulations (CFR) Subpart (§) 4110.2-3 and Section 402(c)(2) of the Federal Land Policy and Management Act (FLPMA) of 1976 as amended. You were issued a grazing permit for the Badger Den Allotment on June 22, 2018.

On March 9, 2020, a BLM Notice of Proposed Decision was mailed stating that the application for grazing preference on the Badger Den Allotment was processed incorrectly and therefore the resulting permit was determined invalid and was cancelled.

On June 26, 2020, a Notice of Comment Period for Badger Den Allotment (No. 51100): Draft Land Health Evaluation (LHE) Comment Period and Draft Environmental Assessment Chapter 1 & 2 was sent to interested parties for a 15-day comment period. These scoping comments were addressed in Appendix D of the December 11, 2020 Draft EA.

On December 11, 2020, a Notice of Comment Period for Badger Den Allotment (No. 51100) Draft EA was sent to interested parties for a 30-day comment period. Comments were addressed in Appendix E of the May 28, 2021 Final EA.

FINDING OF NO SIGNIFICANT IMPACT (FONSI)

Based upon a review of DOI-BLM-AZ-G010-2020-0014-EA, I have determined the proposed project is not a major federal action and will not significantly affect the quality of the human environment. I considered the impacts of this action both individually and cumulatively with other actions in the general area. None of the environmental impacts meet the definition of significance in context or intensity as defined at 40 CFR 1508.27. The environmental impacts of this project, individually and cumulatively, do not exceed those impacts described in the Safford District Office RMP/FEIS. The EA# DOI-BLM-AZ-G010-2020-0014-EA is incorporated by reference into the FONSI.

PROPOSED DECISION

Therefore, it is my proposed decision that based upon the LHE, results of the NEPA Analysis, in consultation and coordination with the interested publics, and recommendations from the BLM interdisciplinary team, my proposed decision is as follows:

Mandatory Terms and Conditions:

Allotment	Pasture	Livestock Number / kind	Period		%P L	Type Use	AUMs
			Begin	End			
AZ51100 Badger Den	Upland Pastures	150 Cattle	3/1	10/31	97	Active	1,172
AZ51100 Badger Den	River Channel and Upland Pastures	150 Cattle	11/1	2/28	97	Active	574
AZ51100 Badger Den	Upland Pastures	2 Horses	3/1	10/31	97	Active	16
AZ51100 Badger Den	River Channel and Upland Pastures	2 Horses	11/1	2/28	97	Active	8

Other Terms and Conditions:

- All livestock shall be indefinitely excluded from HX Detention Dam, Sands Draw Detention Dam, Ryan Detention Dam, and Joy Valley exclusion areas (Appendix A, Figure 4).
- All livestock grazing shall be deferred from the river channel pastures (San Simon Pasture, Ryan Seeding Pasture, and Joy Valley Pasture) (Appendix A, Figure 2) during the critical March through October growing period for protection of the San Simon River channel.

- In order to improve livestock distribution on the public lands, all salt blocks and/or mineral supplements shall not be placed within one quarter of a mile of any riparian area, wet meadow or watering facility (either permanent or temporary) unless stipulated through a written agreement or decision in accordance with 43 CFR 4130.3-2(c).
- The permittee shall submit a report of the actual grazing use on the Badger Den Allotment for the previous grazing period, March 1 to February 28 by March 15th of the current year (43 CFR 4130.3-2). Failure to submit a report may result in suspension or cancellation of the grazing permit.
- All troughs shall be outfitted with wildlife escape structures to provide a means of escape for animals that fall in while attempting to drink or bathe.
- The permittee shall provide reasonable administrative access across private and leased lands to the BLM for the orderly management and protection of the public lands.

RATIONALE

The SFO completed a LHE to determine whether the Badger Den Allotment is meeting the standards for rangeland health as described in the Arizona Standards for Rangeland Health and Guidelines for Grazing Management (“Arizona Standards and Guidelines”). This LHE report concluded that the Arizona Standards for Rangeland Health are being achieved on the Badger Den Allotment for Standards 1 and 3. Riparian-Wetland Sites are not meeting Standard 2. Current livestock grazing is not contributing toward not meeting standards. Lands not meeting standards are a result of other historic factors identified in the LHE and EA. Properly managed livestock grazing has been considered in this evaluation as an acceptable use of uplands. Recommended management actions outlined in the LHE include that consideration should be given to deferment of livestock from sensitive riparian areas during critical growing periods to assist with production and maintenance of riparian-wetland plant communities. The Proposed Terms and Conditions incorporate rotational use of river channel pastures during the critical March through October growing period for protection of the San Simon River channel.

Total permitted Animal Unit Months (AUMs) are the same as the preexisting permit cancelled in 1993 which included 150 cattle and 2 horses or 1,776 active AUMs. If use rates exceed allowable use and will result in resource damages, then allowed use may be adjusted in accordance with Title 43 CFR § 4110.3-3. Exclosures identified in the terms and conditions were exclosures identified on the preexisting permit cancelled in 1993 and are proposed to remain exclosures for protection of sensitive resources. The requirement to place salt blocks and/or mineral supplements within one quarter of a mile of any riparian area, wet meadow or watering facility is to encourage livestock distribution and to prevent excessive livestock loitering at water facilities.

AUTHORITY

My authority for this final decision is found in statutory and regulatory authorities contained in the Taylor Grazing Act as amended, the Federal Land Policy and

Management Act of 1976, as amended, and Title 43 of the Code of Federal Regulations (CFR), Part 4100 (Grazing Administration-exclusive of Alaska), including but not limited to the following pertinent Subparts:

4100 – Land Use Plans,

4110 – Qualifications and Preference,

4130 – Authorizing Grazing Use,

4160 – Administrative Remedies,

4180 – Fundamentals of Rangeland Health and Standards and Guidelines for Grazing Administration

RIGHT OF PROTEST AND/OR APPEAL

Any applicant, permittee, lessee, or other interested public may protest this proposed decision within 15 days following its receipt in accordance with 43 CFR 4160.2. The protest may be submitted in person or in writing to:

Bureau of Land Management
Safford Field Office
Attention: Scott C. Cooke
711 S. 14th Avenue
Safford, Arizona 85546

If protest is sent by facsimile or email, the date filed is not official until BLM receives the original by mail. Electronic dates of submissions are not acceptable.

In the absence of a protest, this proposed decision shall constitute my final decision without further notice, in accordance with 43 CFR 4160.3(a). Should a timely protest be filed, I will consider the points of the protest and other pertinent information and issue my final decision to all persons named in this decision in accordance with 43 CFR 4160.3(b). Electronic protests and appeals are not acceptable methods for filing.

Any applicant, permittee, lessee, or other person whose interest is adversely affected by the final BLM grazing decision may file an appeal for the purpose of a hearing before an administrative law judge in accordance with 43 CFR 4160.3(c), 4160.4, 4.21, and 4.470. The appeal must be filed within 30 days following receipt of the final decision or 30 days after the date the proposed decision becomes final. The appeal should state the reasons, clearly and concisely, why the appellant thinks the final BLM grazing decision is in error. A petition for a stay of the decision pending final determination of the appeal by the administrative law judge may also be submitted during this same 30-day time period. The appeal, or the appeal and petition for stay, must be in writing and delivered in person, via the United States Postal Service mail system, or other common carrier, to the SFO as noted above.

Should you wish to file a petition for a stay in accordance with 43 CFR Section 4.471(c), 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 granting the stay.

Within 15 days of filing the appeal, or the appeal and petition for stay, with the BLM officer named above, the appellant must serve copies to any other person named in this decision and on the Office of the Regional Solicitor located at: US Department of the Interior, Office of the Field Solicitor, Sandra Day O'Connor U.S. Courthouse, 401 W. Washington St. SPC 44, Suite 404, Phoenix, AZ 85003-2151 in accordance with 43 CFR 4.470(a) and 4.471(b).

Sincerely,

A handwritten signature in blue ink that reads "Scott C. Cooke". The signature is written in a cursive style with a large initial "S".

Scott C. Cooke
Field Manager

Enclosures

The Badger Den Permit Issuance EA, and associated documents are available electronically through the online NEPA Register (ePlanning) or by visiting: <https://go.usa.gov/xwH8x> (case sensitive).

List of all Persons or Groups Receiving this Notice of Proposed Decision

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Arizona Game and Fish Department
WMHB - Project Evaluation Program
5000 West Carefree Highway
Phoenix, AZ 85086-5000
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Arizona Game and Fish Department
Region V - Tucson
555 N. Greasewood Rd.
Tucson, AZ 85745
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Arizona State Land Department
c/o Ronnie Tsosie
1616 West Adams
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CERT MAIL NO.
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Larry Humphrey
P.O. Box 894
Pima, AZ 85543
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Natural Resource Conservation Service
267 North 8th Avenue
Safford, AZ 85546-2690
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70192970000081531791

Western Watersheds Project
c/o Cyndi Tuell & Greta Anderson
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