United States Department of the Interior

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In Reply refer To:
4160 (LLAZA01000)
0200195, 0200245,
0200246, 0201072

March 6, 2020

NOTICE OF FINAL DECISION
Grazing Permit Renewal for the Beaver Dam Slope Allotment
Environmental Assessment DOI-BLM-AZ-A010-2017-0039-EA

INTRODUCTION

A Notice of Proposed Decision (NOPD) and Finding of No Significant Impact (FONSI) were signed November 21, 2019 for the Grazing Permit Renewal for the Beaver Dam Slope Allotment. Western Watersheds Project (WWP) received notification of the NOPD on November 22, 2019. The Bureau of Land Management (BLM) received a timely protest to the NOPD from WWP on December 12, 2019 (postmarked December 9, 2019).

The protest reasons are addressed below in the section titled "Response to Protest Statements of Reasons". Addressing the protest reasons did not cause substantive changes to the Environmental Assessment (EA) analysis; however, additional narrative (for clarification purposes) was added to the EA and a new FONSI was signed. The specific changes to the EA are noted in the Response to Protest Statements of Reason below.

After considering the protest reasons, this Notice of Final Decision (NOFD) is the final administrative step in the land health evaluation and permit renewal process for the Beaver Dam Slope Allotment (AZ04828). The final decision is to issue new ten-year term grazing permits with new terms and conditions for the Beaver Dam Slope Allotment, as described in the "Decision" section below.

BACKGROUND

The Taylor Grazing Act of 1934 and the Federal Land Policy and Management Act of 1976 provide for livestock grazing use of the public lands that have been classified as available for grazing. Grazing use must be consistent with good range management aimed at conservation and protection of the natural and cultural resources.

An assessment of this allotment was conducted in accordance with directions set forth by the Washington Office and Arizona State Office for implementation of the Arizona Standards for Rangeland Health and Guidelines for Grazing Administration. The purpose of the Arizona Standards and Guidelines is to ensure the health of public rangelands. These standards help the Bureau of Land Management (BLM), rangeland users, and interested members of the public achieve a common understanding of acceptable resource conditions and work together to implement that vision. Arizona's Standards for Rangeland Health and Guidelines for Grazing Administration were developed by the BLM State Standards and Guidelines Team and the Arizona Resource Advisory Council (RAC), a state level council appointed by the Secretary of the Interior. The Secretary of the Interior approved the Standards and Guidelines for Arizona in April 1997, and the BLM State Director mandated full implementation of the Standards and Guidelines in all Arizona land use plans.

The permittees, RAC, Interdisciplinary Assessment Team (IAT), Rangeland Resource Team (RRT), and the interested public were invited to an issue scoping meeting for Beaver Dam Slope Allotment on January 22, 2008 and a field visit on November 18, 2008. In February and May 2010, BLM resource staff and staff from the U.S. Fish and Wildlife Service (USFWS) made field visits to allotments within desert tortoise habitat (including this allotment) to assess resource conditions and discuss desired vegetative communities for the Mojave Desert tortoise. The results of these discussions are incorporated into the desired plant community objectives developed for the allotment, as well as in making recommendations on whether resource conditions were meeting the standards for rangeland health. The land health evaluation for the Beaver Dam Slope Allotment was completed on February 8, 2012. The IAT, during the land health evaluation process, reviewed resource conditions on the Beaver Dam Slope Allotment and recommended that conditions across the allotment were meeting Standard #1 (Upland Sites) and Standard #2 (Riparian-Wetland Sites), and partially meeting Standard #3 (Desired Resource Conditions). All soils objectives were met. Livestock grazing was not identified as the causal factor for not fully meeting applicable standards for rangeland health.

Monitoring data has continued to be collected (see Appendix B and Table 3.2 in the EA) since the original allotment assessment was completed, and the 2012 land health evaluation has been updated. Based on analyses of the updated allotment monitoring data and supporting documentation contained in the evaluation report, resource conditions on the allotment are continuing to make progress toward meeting applicable standards for rangeland health.

Public involvement for the Beaver Dam Slope Allotment permit renewal process began with the scoping meetings and field visits described above. The land health evaluation was conducted by an interdisciplinary team of BLM resource specialists, assisted by the RRT appointed by the Arizona RAC. A draft evaluation was sent out for public review and comment to individuals, groups, and agencies. Comments were incorporated into the final land health evaluation report.

Comments received in response to the completion of the land health evaluation were also incorporated into the environmental assessment process as scoping comments (see EA Appendix H). The EA reflects the analysis of the proposed grazing permit renewals. A preliminary EA was posted on the BLM ePlanning web page on April 1, 2019 for review; a notice of public comment period letter was sent to those persons and groups listed on the Arizona Strip interested publics mailing list notifying them of the availability of the preliminary EA for a 30-day review and comment period. All comments received during development of the preliminary EA were considered and incorporated in the final EA (EA Appendix H).

Formal consultation under Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) was initiated on April 19, 2019. This consultation concerned the possible effects of renewing the grazing permits for the Beaver Dam Slope and Mormon Well Allotments on Mojave Desert tortoise, southwestern willow flycatcher, and yellow-billed cuckoo. The Biological Opinion (USFWS Biological

Opinion 02EAAZ00-2019-F-0543), issued on August 29, 2019, states that the action, as proposed, is not likely to jeopardize the continued existence of the Mojave desert tortoise, and is not likely to destroy or adversely modify designated critical habitat for Mojave desert tortoise. See EA Appendix J for this Biological Opinion. Applicable desert tortoise conservation measures from 2007 RMP Biological Opinion for the Arizona Strip BLM Resource Management Plan (22410-2007- F-0463) were incorporated into the current Biological Opinion. The USFWS concurred with the BLM's determination that the proposed action "may affect, but is not likely to adversely affect" the Virgin chub and its critical habitat, the woundfin and its critical habitat, the Virgin spinedace, the southwestern willow flycatcher and its critical habitat, and the yellow-billed cuckoo and its proposed critical habitat.

The EA (DOI-BLM-AZ-A010-2017-0039-EA) analyzes the potential effects of the proposed grazing permit renewals in accordance with the National Environmental Policy Act (NEPA) and other relevant federal and state laws and regulations.

The Bureau of Land Management (BLM) received a timely protest to the Notice of Proposed Decision for the Grazing Permit Renewals for Beaver Dam Slope and Mormon Well Allotments Environmental Assessment (DOI-BLM-AZ-A010- 2017-0039-EA) on December 12, 2019 (postmarked December 9, 2019). The BLM has carefully considered each protest statement of reasons as to why the proposed decision was in error and has responded to each reason below.

RESPONSE TO PROTEST STATEMENTS OF REASONS CONCERNING THE BEAVER DAM SLOPE ALLOTMENT:

Protest Reason B01: The Biological Opinion is Based on Flawed Information Provided by BLM. The BLM told the U.S. Fish and Wildlife Service (USFWS) that "[t]here is no proposed increase or decrease in the amount of livestock placed on either of these allotments." 2019 USFWS Biological Opinion (BiOp) at 3. WWP notes that this is not actually (physically) correct. As we stated in our prior comments the past history of non-use of these allotments (for five of the past ten years), or as the BLM prefers (and with which WWP disagrees) "actual use" of sometimes as little as eleven percent, does indicate that the proposed AUM authorization will result in an actual increase in use.

Response to B01: As stated in the response to comments on the preliminary EA, it is incorrect to state that the past history of non-use of these allotments "indicates that the proposed AUM authorization will result in an actual increase in use." The proposed new grazing permit would authorize the same situation as is currently occurring. The argument provided by WWP is flawed because the existing grazing permits allow full use of active AUMs (total authorized AUMs would stay the same, with actual use depending on vegetative condition on the allotments, as is currently the case). USFWS was provided this information (actual use over the past 10 years and proposed active AUMs for the new grazing permits) in the Biological Assessment.

Protest Reason C01: The BLM is precluded from a Finding of No Significant Impact (FONSI) for this project because: the vast area of land impacted by this decision – more than 48,000 acres – is entirely within the Beaver Dam Slope critical habitat unit for the Mohave Desert tortoise (see 2019 Biological Opinion of the U.S. Fish and Wildlife Service for this project); the 2017 rangewide monitoring data for the tortoise was just 1.3 tortoises per square kilometer, which is the lowest across its range and a significant decrease from 2016 (Id.); the impacts to the Mojave Desert tortoise are significant and require the more thorough environmental evaluation found in an Environmental Impact Statement (EIS); the population of Mojave Desert tortoise is likely declining; past wildfires have put the habitat for the tortoise at risk (see BLM statement in the EA at 146, response to comment EA 34); the allotments have cryptogamic soils that are damaged by livestock use, compromising habitat for the Mohave Desert tortoise and subjecting the soils to erosion in violation of the Resource Management Plan for the project

area (see EA at 147, response to comment EA 37. Furthermore, there are other threatened and endangered species and their critical habitat found on these allotments including the southwestern willow flycatcher, the yellow-billed cuckoo, the Virgin chub, and the endangered woundfin.

Response to C01: The effects of livestock grazing on public lands in the arid west are not unknown or uncertain. Effects that involve unique or unknown risks are not expected as the effects of livestock grazing on the Arizona Strip Field Office, including the Mojave Desert (and elsewhere in the western U.S.) are well known and well documented. The proposed action is therefore not unique or unusual and no highly uncertain risks to the human environment were identified during analysis of the proposed grazing permit renewals.

It should be noted that while the two allotments addressed in the EA and the FONSI/NOFD are entirely within the Beaver Dam Slope critical habitat unit (CHU) for the Mojave desert tortoise, the total action area (both allotments) accounts for just 16 percent of the critical habitat containing primary biological features (PBFs) of desert tortoise critical habitat available to tortoises in the CHU, and approximately one-half percent of the modeled tortoise habitat containing PBFs range wide. While wildfires burned approximately 11 percent of the critical habitat in the Northeast Mojave Recovery Unit, no large wildfires have occurred on either the Beaver Dam Slope or Mormon Well Allotment during the period of 1980-2017; of the 20 recorded fires, most were less than an acre in size. Vegetation in the allotments has not been affected by these wildfires. In addition, the updated land health evaluations determined that Standard #1 (Upland Sites) is being met on both allotments. Standard #3 (Desired Resource Conditions) is being partially met on both allotments – livestock grazing was not determined to be the causal factor for partially meeting desired plant community (Standard #3) objectives and that current livestock grazing would not be a factor in the areas achieving these objectives. It is unclear why the estimated density of desert tortoises in the Beaver Dam Slope CHU declined in 2017. We do not believe it is due to livestock grazing since both allotments are in good ecological condition. As described in Appendix B of the EA, ecological conditions on the Beaver Dam Slope Allotment range from mid seral, late seral and potential natural community (PNC), which is a very stable condition. Two key areas are rated as PNC with a static trend showing that they are in a stable state at the upper end of their potential plant composition according to the applicable ecological site guide; one key area is late seral with an upward trend; and one key area is mid-seral with an upward trend. As described in Appendix C of the EA, ecological conditions on the Mormon Well Allotment range from late seral to PNC. One of the key areas is late seral with an upward trend, one is late seral with a static trend, and one is PNC with and upward trend. The plant communities present on both allotments are in accordance with the Natural Resources Conservation Service ecological site guides. The current functional groups of plants provide habitat for desert tortoise and other wildlife species – management is in place (including utilization levels and season of use) that will help ensure the native Mojave Desert plant species are maintained in the plant community, which will ensure perennial forage and provide cover for desert tortoise and other wildlife.

Formal consultation under Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) was initiated on April 19, 2019. This consultation concerned the possible effects of renewing the grazing permits for the Beaver Dam Slope and Mormon Well Allotments on Mojave Desert tortoise, southwestern willow flycatcher, and yellow-billed cuckoo. The Biological Opinion (USFWS Biological Opinion 02EAAZ00-2019-F-0543), issued on August 29, 2019, states that the action, as proposed, is not likely to jeopardize the continued existence of the Mojave desert tortoise, and is not likely to destroy or adversely modify designated critical habitat for Mojave desert tortoise. See EA Appendix J for this Biological Opinion. Applicable desert tortoise conservation measures from 2007 RMP Biological Opinion for the Arizona Strip BLM Resource Management Plan (22410-2007- F-0463) were incorporated into the current Biological Opinion. This project specific Biological Opinion states: "After reviewing the current status of the Mojave desert tortoise and its designated critical habitat, the environmental baseline for the action area, the effects of the proposed Beaver Dam Slope and Mormon Well Allotments Permit Renewals,

and the cumulative effects, it is our biological opinion that the action, as proposed, is not likely to jeopardize the continued existence of the Mojave desert tortoise and is not likely to destroy or adversely modify designated critical habitat for Mojave desert tortoise."

The Biological Opinion issued by USFWS concurred with the BLM's determinations that the project "may affect, but is not likely to adversely affect" the endangered southwestern willow flycatcher and its critical habitat, the threatened yellow billed-cuckoo and its proposed critical habitat, the endangered Virgin chub and its critical habitat, and the endangered woundfin and its critical habitat. Effects to the Virgin spinedace, which has a conservation agreement and strategy to help manage and reduce threats to the species, were determined to be similar to effects to the Virgin chub and woundfin.

For all of the above described reasons, I have determined that the proposed grazing permit renewals are not a major Federal action and will not significantly affect the quality of the human environment, individually or cumulatively with other actions in the area. No effects identified in the EA meet the definition of significant in context or intensity as described in 40 CFR 1508.27. Therefore, issuance of a Finding of No Significant Impact (FONSI) is appropriate (see attached FONSI).

Protest Reason C02: The 2019 USFWS BiOp accurately describes livestock grazing activities as having degraded habitat throughout the range of the Mohave Desert tortoise. Id. at 7. This same BiOp identifies wildlife as having negative impacts on the tortoise. Id. Additionally, the grazing permittee has identified wildlife as a significant concern for these allotments. See EA at 146-147, Response to Comments from the Grazing Permittee. Wildfire and livestock grazing both promote the spread of invasive species, which is detrimental to the tortoise. This is an additional rationale for preparing an EIS and precludes the use of a FONSI.

Response to C02: We disagree that wildlife has negative impacts on desert tortoise. If protester means "wildfire" instead, we agree that wildfire can adversely affect desert tortoise habitat. However, these allotments have not been greatly affected by fires over the past 40 years, and plant communities in both allotments are in good ecological condition – see response to Protest Reason C01.

The BLM acknowledges that invasive non-native annual grasses (red brome, cheatgrass and Mediterranean grass) and annual mustards are present in some areas on both allotments; these species can be very invasive and can expand their distribution after wildfires. Because they are annual plants, their abundance and distribution fluctuate based on the amount and timing of precipitation. As described in Table 3.3 of the EA, proper range practices can help prevent the spread of undesirable plant species, and grazing exclusion does not make vegetation more resistant to invasion by exotic annuals. Reasons for this may include: 1) grazing may result in a more diverse age classification of plants due to seed dispersal and seed implementation by grazing herbivores, and 2) grazing removes senescent plant material, and if not extreme, helps open up the plant basal area to increase photosynthesis and rainfall harvesting. Moderate grazing has been found to be superior to both grazing exclusion and high impact grazing in maintaining plant diversity and in reducing exotic plant recruitment in a semiarid Arizona grassland. It is also important to note that removal of grazing by domestic livestock does not automatically lead to disappearance of cheatgrass. Proper grazing use which maintains stable plant communities (as is the case in the these allotments – the majority of the public lands within the allotments are in late seral or PNC, which are a very stable condition) should minimize or have no effect on the spread of invasive non-native species. The BLM has therefore determined that the renewal of the grazing permits and continued livestock grazing are not anticipated to increase the rate at which invasive species are spread throughout the area.

Protest Reason C03: WWP notes with grave concern that the precipitous decline in Mohave Desert tortoise populations identified in the Biological Opinion coincide with an increase in the amount of forage utilization between 2014 and 2016 (with no utilization data from 2015) for several key areas of

the Beaver Dam Slope allotment. EA at 75-76. Some of the desired plant community objectives for perennial forbs on this allotment have not been met. EA at 81-84.

Response to C03: Monitoring data shows that utilization on key species in the Beaver Dam Slope Allotment is light, even in the year identified specifically in the protest reason (2016). Utilization at Key Area #1 was 5% in 2014 and 15% in 2016; utilization at Key Area #4 was 19% in 2014 and 15% in 2016; utilization at Key Area #5 was 1% in 2014 and 14% in 2016; utilization at Key Area #6 was 1% in 2014 and 2% in 2016. However, it is important to note that plant communities in the allotment are in good ecological condition and the current functional groups of plants provide habitat elements (both forage and cover) for desert tortoise and other wildlife species – see response to Protest Reason C01.

Desired Plant Community (DPC) objectives were partially met at each key area on the allotment (see EA Appendix B – Beaver Dam Slope Allotment Land Health Evaluation Report Update). DPC objectives for perennial forbs on the Beaver Dam Slope Allotment were met at Key Area # 4, but were not met on Key Areas #1, 5, and 6. See EA Appendix B these key areas are all shrub dominated sites (Ecological Site Descriptions Tables B.9 – B.11), perennial forbs are generally a small component of the expected plant community. As the composition of shrubs (which includes both browse and shrub groups) increases as a site moves towards PNC (in the absence of disturbance) and shrubs dominate the community the composition of forbs decrease. It is important to note that forbs may fluctuate in abundance according to the winter and spring moisture so will be present some years and not present other years. In EA Appendix B additional discussion has been added for Tables B.13 – B.16 to clarify the DPC section.

Protest Reason D01: The BLM has failed to respond to substantive comments that are specific to this project. WWP asked the BLM to identify the number of tortoises that were reported as "take" on these allotments. The BLM refused to answer our specific question and instead states that "[d]ocumented incidents of take are reported to the USFWS. The BLM does not have an estimate of take that may have occurred in this specific area, but we are not aware of any that have occurred due to project authorizations. This current project was consulted on with the USFWS…" EA at 136-137, response to comment EA11.

Response to D01: The BLM did, in its response to this EA comment, "identify the number of tortoises that were reported as 'take' on these allotments". We are not aware of any "take" (defined in the Endangered Species Act as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect [threatened or endangered species], or to attempt to engage in any such conduct") as no such information has been obtained by the BLM, or reported to the BLM. As shown in Table G.1 (Appendix G) of the EA, dead tortoises have been observed in both allotments during annual line-distance sampling monitoring conducted by USFWS: one in 2002 (Beaver Dam Slope Allotment); one in 2004 (Beaver Dam Slope Allotment); one in 2005 (Beaver Dam Slope Allotment); and one in 2013 (Mormon Well Allotment). The cause of death was not identified, and these were not reported as "take."

Protest Reason D02: WWP reviewed the BiOp carefully for information on past take and finds it absent. The only statement regarding take in the BiOp indicates that the BLM shall monitor for take and report this information. The question remains – what level of take has occurred in the past? What level of take is expected in the future? If the BLM is (and has in the past been) required to report take, why did the BLM refuse to provide this information to WWP in response to our prior comments?

Response to D02: See response to Protest Reason D01. Any information on take that the BLM obtains will be reported to USFWS, as required.

Protest Reason E01: The BLM has failed to address trespass livestock. The BLM states that addressing the issue of trespass livestock is beyond the scope of this analysis. EA at 142, response to comment EA21.

WWP strongly disagrees. Trespass livestock is a cumulative effect that must be addressed. Additionally, the BLM apparently acknowledged trespass livestock in the Virgin River as part of the communications with the USFWS while the BiOp was being developed. 2019 USFWS BiOp at 3. WWP is confused as to why trespass livestock was not included in the analysis more generally, yet included in the information used to develop the BiOp (and which the public did not have the opportunity to review prior to the NOPD). BLM has made an arbitrary and capricious decision to consider the impacts of trespass livestock for only one specific issue or species, while ignoring the devastating impacts of trespass livestock across the entirety of both allotments.

Response to E01: Any illegal or unauthorized activities are outside the scope of this permit renewal EA; trespass livestock would be dealt with through a separate administrative process. We are unsure what WWP is referring to in the assertion that there are "devastating impacts of trespass livestock across the entirety of both allotments." Trespass has not been reported on the Beaver Dam Slope Allotment. Plant communities in the allotment are in good ecological condition and the current functional groups of plants provide habitat elements (both forage and cover) for desert tortoise and other wildlife species – see response to Protest Reason C01.

FINDING OF NO SIGNIFICANT IMPACT

After consideration of the environmental effects described in the EA and supporting documentation, I have determined that the action is not a major Federal action and will not significantly affect the quality of the human environment, individually or cumulatively with other actions in the area. No effects identified in the EA meet the definition of significant in context or intensity as described in 40 CFR §1508.27. Therefore, the preparation of an environmental impact statement is not required as per Section 102 (2) of NEPA. This finding and conclusion is based on the consideration of the Council on Environmental Quality's criteria for significance (40 CFR §1508.27), both with regard to the context and the intensity of impacts described in the EA and as described in the attached Finding of No Significant Impact.

FINAL DECISION

After considering the analysis contained within the above referenced EA, it is my final decision to cancel the existing term grazing permits for Beaver Dam Slope Allotment and issue new ten-year term permits with new terms and conditions for the allotment. Alternative A (Proposed Action) is selected as the approved action, as outlined below.

Grazing Permits

The existing term grazing permits for the Beaver Dam Slope Allotment[1] will be canceled and new term grazing permits will be issued for a period of ten-years. There will be no changes in number or kind of livestock, or season of use, for this allotment; there will be no change in the number of Animal Unit Months

[1] After the proposed decision was issued one of the Beaver Dam Slope Allotment permittees (authorization 0200195) acquired the entire preference of one of the other Beaver Dam Slope Allotment permittees (authorization 0200245). This resulted in the complete transfer of all of the AUMs (104 active AUMs and 22 suspended AUMs) from authorization 0200245 and termination of that grazing permit. These AUMs were then combined with the AUMs that authorization 0200195 already had (139 active AUMs and 30 suspended AUMs), the result being what is displayed in Table 1 below, which has been revised from the original EA Table 2.1. The only change from EA Table 2.1 to what is contained in this NOFD is the number of permittees, going from four permittee to three permittees. There are no changes to the total number of AUMs authorized to graze on the Beaver Dam Slope Allotment, the season of use, or pasture rotation. AUMs on the Beaver Dam Slope Allotment are still divided proportionally between the permittees, based on each one's share of the base waters.

(AUMs)[2]. The new grazing permits will include the mandatory terms and conditions shown below in Table 1, by authorization.

Table 1. Mandatory Terms and Conditions – Beaver Dam Slope Allotment *

Beaver Dam Slope Allotment							
Authorization Number	**Livestock**			**Active AUMs**	**Suspended AUMs**	**Public Land (acres)**	**% Public Land**
	No.	**Kind**	**Season of Use**				
0200195	52 1	Cattle	10/16 – 3/15 10/16 – 2/6	240 3	52	30,623	93%
0200246	44 1	Cattle	10/16 – 3/15 10/16 – 2/6	203 3	42		
0201072	97	Cattle	10/16 – 3/15	448	46		
Totals				**897**	**140**	**30,623**	

** Note: Revised table showing the change from EA Table 2.1 (Alternative A) based upon the recent transfer of preference in which the grazing preference went from four permittees to three permittees.*

Other Terms and Conditions

In addition to the current "Mandatory Terms and Conditions" and standard language on the last page on the grazing permit, the following terms and conditions will be added to the "Other Terms and Conditions" section of the new grazing permits.

- Use of nutritional livestock supplements is allowed, including protein, minerals and salt. However, any supplements used must be dispersed a minimum of ¼ mile from any known water sources, riparian areas, populations of special status plant species, cultural or any other sensitive sites.

- Allowable use of key forage species on this allotment is no more than 45% of the current year's growth removed through grazing.

- Season of use for the Beaver Dam Slope Allotment will be from October 15 through March 15.

- The permittee will be allowed to use an actual use billing system. This privilege may be revoked and the permittee placed on advanced billing if payment of bills and/or actual use reports are late. An actual use grazing report (Form 4130-5) must be submitted within 15 days after completing annual grazing use.

- Grazing on the Beaver Dam Slope Allotment will follow the six year three pasture deferred rotation grazing system established by the revised 2002 Beaver Dam Slope AMP.

[2] An AUM, or Animal Unit Month, is a unit of measurement indicating how much forage is eaten by a cow/calf pair in one month.

Beaver Dam Slope Allotment Grazing System

The Beaver Dam Slope Allotment is made up of three pastures (see Figure A.1 in the EA), all of which have desert tortoise habitat and are within the Beaver Dam Slope Area of Critical Environmental Concern (ACEC) (Figures A.3 and A.2 in the EA). A small portion of the Virgin River Corridor ACEC runs along the southern edge of Pasture 3 (Figure A.2 in the EA). Figure 1 below, displays the three-pasture deferred rotation schedule for a six-year period as agreed to in the 2002 Beaver Dam Slope AMP revision (BLM 2002).

As shown in Figure A.1 (in the EA), the large pasture (Pasture 1) will be used every year from October 15 through January 31; use for the remainder of the grazing season (February 1 – March 15) is then rotated each year between Pasture 1 and the two smaller pastures (Pasture 2 – west of Highway 91 and Pasture 3 – east of Highway 91). The first year of the rotation, Pasture 2 will be used from February 1 – March 15. In the second year, Pasture 3 will be used from February 1 – March 15. During the third year, cattle will use Pasture 1 the entire season (October 15 – March 15). In the fourth year, Pasture 1 will be used from October 15 – January 1, while Pasture 3 will be used from February 1 through March 15. During the fifth year, Pasture 2 will be used from February 1 through March 15. In the sixth year of the rotation, Pasture 1 will again be used from (October 15 – March 15). This system will provide spring and summer rest every year for Pasture 1 and nearly four years of continuous rest for both Pastures 2 and 3, all while following seasonal restrictions for grazing in desert tortoise habitat. The allotment will be rested from March 16 – October 15 every year. Pasture movements will be based on reaching 45% utilization level, even if it occurs before scheduled move dates. When utilization reaches the 45% maximum utilization level, the livestock will be moved to another use area, pasture, or removed from the allotment completely regardless of whether or not there is still time remaining in the season of use. Some flexibility in the order of pasture rotation may be required based on availability of water in certain years. The permittee(s) will contact the BLM before changing the order of pasture movements. Flexibility will not authorize use in excess of the permittee's active grazing preference (AUMs), grazing outside of the permitted season of use (10/16 – 3/15), or utilization above 45%. There are three separate grazing permittees with authorizations to graze the Beaver Dam Slope Allotment; all of the livestock will follow the same three pasture rotation.

Figure 1. Beaver Dam Slope Allotment Three Pasture Deferred Rotation Schedule.

Pasture	Year One						Year Two						Year Three					
	Oct	Nov	Dec	Jan	Feb	Mar	Oct	Nov	Dec	Jan	Feb	Mar	Oct	Nov	Dec	Jan	Feb	Mar
1	15						15						15					15
2						15												
3												15						

Pasture	Year Four						Year Five						Year Six					
	Oct	Nov	Dec	Jan	Feb	Mar	Oct	Nov	Dec	Jan	Feb	Mar	Oct	Nov	Dec	Jan	Feb	Mar
1	15						15						15					15
2												15						
3						15												

	Grazed
	Rested

In addition, the allotment will be managed to achieve the Desired Plant Community Objectives listed in Section 2.2.3 of the EA.

Grazing Management within ACECs

Beaver Dam Slope ACEC

The Beaver Dam Slope ACEC is managed for the protection of the threatened desert tortoise and Mojave Desert Ecological Zone. The Beaver Dam Slope Allotment is within this ACEC (Figure A.2 in the EA). In addition, approximately 55 percent of the Beaver Dam Slope Allotment is designated critical habitat for desert tortoise (Figure A.3 in the EA). In accordance with RMP decision MA-GM-07, allowable use of key forage species in the allotment is no more than 45% of the current years' growth removed through grazing. Move dates (i.e. removal of livestock from a pasture or the allotment) may be adjusted if monitoring indicates maximum utilization has been reached, or due to unusual climatic conditions, fire, flood, or other acts of nature. If maximum utilization is reached on key species or areas in the allotment before a scheduled move date, the use of salt, herding, or other management options may be used to distribute livestock away from an area where maximum utilization has been reached, or livestock may be removed from the pasture/allotment (after consultation with the permittees), as deemed necessary by the BLM. Additionally, the season of use will continue to be October 15 through March 15, in accordance with RMP decisions MA-GM-10 and MA-AC-14(DT).

Virgin River Corridor ACEC

The southern edge of the Beaver Dam Slope Allotment Pasture 3 is within the Virgin River Corridor ACEC (Figure A.2 in the EA). This ACEC is managed for the protection of Virgin River fishes, southwestern willow flycatcher, and riparian values. In accordance with RMP decision MA-AC-04(VG), livestock will be excluded from suitable flycatcher habitat (whether occupied or unoccupied) during the vegetative growing season (bud break to leaf drop). Additionally, utilization levels of native riparian trees within the Virgin River Corridor ACEC will be limited to 30% of the apical stem per growing season in accordance with RMP decision IMPL-AC-03.

Adaptive Management

This decision includes adaptive management, which provides a menu of management options that may be needed to adjust management decisions and actions to meet desired conditions as determined through monitoring. BLM resource specialists will periodically monitor the allotment over the 10-year term of the grazing permit to ensure that the fundamentals or conditions of rangeland health are being met, in accordance with 43 CFR §4180. If monitoring indicates that desired conditions are not being achieved and current livestock grazing practices are causing non-attainment of resource objectives, livestock grazing management of the allotment will be modified in cooperation with the permittee(s). Adaptive management allows the BLM to adjust the timing, intensity, frequency and duration of grazing; the grazing management system; and livestock numbers temporarily or on a more long-term basis, as deemed necessary. An example of a situation that could call for adaptive management adjustments is drought conditions. If the permittee disagrees with the BLM's assessment of the resource conditions or the necessary modifications, the BLM may nevertheless issue a Full Force and Effect Grazing Decision to protect resources.

RATIONALE FOR DECISION

This decision has been made after considering impacts to resources, such as vegetation, wildlife, special status species, cultural resources, and soils, while providing opportunities for livestock grazing that continues to make progress toward meeting management objectives, including the Arizona Standards for Rangeland Health and Guidelines for Livestock Grazing Management and the Arizona Strip Field Office RMP. Alternative A (Proposed Action) was chosen in its entirety. The NEPA analysis, documented in the EA, indicates that the action is in conformance with the RMP. Impacts from the action are either minimal or mitigated through design features incorporated into the action; the action is not likely to jeopardize the continued existence of the Mojave Desert tortoise, and is not likely to destroy or adversely modify designated critical habitat for Mojave desert tortoise.

The EA constitutes the BLM's compliance with the requirements of NEPA, and procedural requirements as provided in the Council on Environmental Quality regulations. The EA went through an interdisciplinary review process. As documented in the EA analysis of the allotment's updated monitoring data and supporting documentation in the land health evaluation report, resource conditions on the allotment are making progress toward meeting all applicable standards for rangeland health. Based upon the above information and analysis, I have determined that implementing the proposed action will allow the allotment to continue making progress toward meeting all applicable standards for rangeland health.

Based upon this information and analysis, I have determined that changes in kind of livestock, number of livestock, and season of use are not necessary for the Beaver Dam Slope Allotment to continue making progress toward meeting the Arizona Standards for Rangeland Health and Guidelines for Grazing Administration and other land use plan objectives.

Alternatives B and D were not chosen because the new ten-year term grazing permits would be issued with decreased grazing preference (Alternative B) or no active preference (Alternative D) on the allotment. These alternatives would not provide the same livestock grazing opportunities as the proposed action. Although the grazing preference in Alternative B is based upon what the permittees have actually been using, the new permits would not allow any flexibility to increase actual use should conditions result in good forage production in a given year. Alternative D would eliminate all livestock grazing on the allotment for the ten-year term of the new permits.

Alternative C – increase in active preference – was not chosen because impacts on resources (soils, vegetation, wildlife, and desert tortoise and its critical habitat (would be the greatest). Utilization would likely reach the allowable utilization limit of 45% every year. With a higher grazing intensity due to larger numbers of livestock, it is likely that pasture movements would be made more frequently. If the permittees increased livestock numbers to the maximum permitted, it is possible that the allotment would not support the increased numbers through the entire season of use. This would be a concern especially during drought years. Since there is no recent forage inventory data for this allotment, it is unknown whether there is additional forage available to support these increased numbers on a long-term basis. This alternative would therefore have the greatest impact on vegetation. Grazing in riparian areas would also increase, potentially limiting new growth or regeneration of important species such as willow or cottonwood.

AUTHORITY

The authority for this decision is found in a number of statutory and regulatory authorities contained in the Taylor Grazing Act, as amended; the Federal Land Policy and Management Act of 1976, as amended; and throughout Title 43 of the Code of Federal Regulations (CFR), Part 4100 (Grazing Administration-

exclusive of Alaska). The following sections of Part 4100 are noted below, although other subparts of Part 4100 are used to authorize grazing activities, with this listing not meant to be exhaustive.

43 CFR §4100.0-8: "The authorized officer shall manage livestock grazing on public lands under the principle of multiple use and sustained yield, and in accordance with applicable land use plans ... 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-S(b)."

43 CFR §4110.3: The authorized officer shall periodically review the permitted use specified in a grazing permit or lease and shall make changes in the permitted use as needed to manage, maintain or improve rangeland productivity, to assist in restoring ecosystems to properly functioning condition, to conform with land use plans or activity plans, or to comply with the provisions of subpart 4180 of this part. These changes must be supported by monitoring, field observations, ecological site inventory or other data acceptable to the authorized officer.

43 CFR §4130.2(b): "The authorized officer shall consult, cooperate and coordinate with affected permittees or 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."

43 CFR §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 the 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."

43 CFR §4130.3-1(a): "The authorized officer shall specify the kind and number of livestock, the periods(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."

43 CFR §4130.3-1(c): "Permits and leases shall incorporate terms and conditions that ensure conformance with subpart 4180 of this part."

43 CFR §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. These may include but are not limited to: …(d) A requirement that permittees or lessees operating under a grazing permit or lease submit within 15 days after completing their annual grazing use, or as otherwise specified in the permit or lease, the actual use made; … (f) Provisions for livestock grazing temporarily to be delayed, discontinued or modified to allow for the reproduction, establishment, or restoration of vigor of plants … for the protection of other rangeland resources and values consistent with objectives of applicable land use plans, … ."

43 CFR §4160.1(a): Proposed decisions shall be served on any affected applicant, permittee or lessee, and any agent and lien holder of record, who is affected by the proposed actions, terms or conditions, or modifications relating to applications, permits and agreements (including range improvement permits) or leases, by certified mail or personal delivery. Copies of proposed decisions shall also be sent to the interested public.

RIGHT OF APPEAL

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 Arizona Strip Field Office 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.

43 CFR 4.471(d) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

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: U.S. Courthouse, Suite 404,401 West Washington Street, SPC-44, Phoenix, Arizona 85003-2151 in accordance with 43 CFR 4.470(a) and 4.47 l(b).

Lorraine M. Christian

Digitally signed by
LORRAINE CHRISTIAN
Date: 2020.03.06
14:51:15 -07'00'

Lorraine M. Christian, Field Manager
Arizona Strip Field Office

Date

List of all persons or groups receiving this NOFD:

Dennis Frei
Kyle D. Frei
Nick Frei
U.S. Fish and Wildlife Service, Brian Wooldridge
Western Watersheds Project, Cyndi C. Tuell
Center for Biological Diversity, Ilene Anderson
Desert Tortoise Council, Edward L. LaRue Jr.

Enclosures:

Finding of No Significant Impact for Environmental Assessment