



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Phoenix District
Lower Sonoran Field Office
21605 North 7th Avenue
Phoenix, Arizona 85027
www.blm.gov/az/

May 26, 2021

In Reply Refer To:
4160 (AZP020)
#03007

CERTIFIED MAIL - RETURN RECEIPT REQUESTED NO. 7018 3090 0001 1156 6619

Christopher and Kimmel Dalley
47914 W Belleview St.
Tonopah, AZ 85354

NOTICE OF PROPOSED DECISION

Dear Mr. and Mrs. Dalley:

INTRODUCTION

The Bureau of Land Management's (BLM) Lower Sonoran Field Office (LSFO) has issued a right-of-way (ROW) grant on Federal lands to construct, operate, maintain, and decommission the Sonoran Solar Energy Project (SSEP) on approximately 3,620 acres of public land in the Little Rainbow Valley, east of State Route 85, and south of the Buckeye Hills and town of Buckeye in Maricopa County, Arizona. This action was analyzed in the *Sonoran Solar Energy Project Final Environmental Impact Statement (EIS)* and approved in the *Record of Decision (ROD)*. Approximately 2,649 acres within the Beloat grazing allotment (#03007) would become unavailable for livestock grazing.

BACKGROUND

On July 9, 2009, a 2-year prior notification was issued, to the previous permittee, identifying the lands within the Beloat allotment for possible issuance of a ROW grant for the SSEP.

On July 8, 2011, the 2-year prior notification period ended for the proposed lands for issuance of a right-of-way.

On October 21, 2011, the final EIS for the SSEP was issued, through the Environmental Protection Agency's Notice of Availability published in the *Federal Register*.

On December 12, 2011, the ROD for the SSEP ROW grant was approved.

The Final EIS, ROD, and supplemental documentation may be viewed or downloaded from the BLM Land Use Planning and NEPA Register Page under the following link:

<https://eplanning.blm.gov/eplanning-ui/admin/project/77400/510> or visit <https://eplanning.blm.gov> and search for "Sonoran Solar Energy Project".

PUBLIC INVOLVEMENT

A formal 60-day public and agency scoping period was held in 2009. Public and agency scoping meetings were held in Phoenix, Arizona, and public scoping meetings were held in Buckeye and Gila Bend, Arizona, in August 2009. The BLM provided a 90-day comment period to review the draft EIS. The BLM also issued a newsletter in May 2011 to inform the public about the addition of a sub-alternative to the final EIS and provided a 30-day comment period to review the final EIS.

PROPOSED DECISION

After reviewing the analysis presented in the EIS and approved ROD, it is my proposed decision to issue a new grazing permit for the Beloat allotment for a period from 09/01/2021 to 02/28/2025 with the following terms and conditions:

Proposed Permitted Livestock Use:

Allotment Number	Livestock Kind	Grazing Period	Percent Public Land	Suspended	Active Animal Unit Months (AUMs)
03007	Cattle	3/1-2/28	83%	0	2,809

Other Terms and Conditions:

In accordance with 43 Code of Federal Regulations (CFR) 41.10.3-2 the following terms and conditions of your permit (Authorization #0202527) will be as follows:

1. When forage conditions warrant, cattle grazing only may be authorized upon application to utilize an ephemeral forage crop pursuant to federal grazing regulations, special management requirements, and other guidance.

RATIONALE

The Proposed Action would result in the permanent removal of approximately 2,649 forage acres from the 98,680-acre Beloat allotment. The 2,649-acre loss of forage acres and production on the Beloat allotment can be translated to a decrease of 78 animal unit months (AUMs). Within the LSFO, there are approximately 17,541 AUMs on 830,200 acres of BLM administered lands. The Proposed Action would result in a 0.5 percent reduction in AUMs within the LSFO.

AUTHORITY

The authority for this decision is contained in Title 43 of the Code of Federal Regulations, as amended, effective July 11, 2006, which states in pertinent subparts and sections:

§ 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 C.F.R. 1601.0-5(b).

§4110.2-4 After consultation, cooperation, and coordination with the affected grazing permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public, the authorized officer may designate and adjust grazing allotment boundaries. The authorized officer may combine or divide allotments, through an agreement or by decision, when necessary for the proper and efficient management of public rangelands.

§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, or improve rangeland productivity, to assist in restoring ecosystems to properly functioning condition, to conform with land use plans or activity plans, or 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.

§4110.3-2(b) When monitoring or field observations show grazing use or patterns of use are not consistent with the provisions of subpart 4180, or grazing use is otherwise causing an unacceptable level or pattern of utilization, or when use exceeds the livestock carrying capacity as determined through monitoring, ecological site inventory, or other acceptable methods, the authorized officer shall reduce permitted grazing use or otherwise modify management practices.

§4110.3-3(a) After consultation, cooperation, and coordination with the affected permittee or lessee, the State having lands or managing resources within the area, and the interested public, reductions of permitted use shall be implemented through a documented agreement or by decision of the authorized officer. Decisions implementing §§ 4110.3-2 shall be issued as proposed decisions pursuant to 4160.1 of this part, except as provided in paragraph (b) of this section.

§4110.4-2(a) Where there is a decrease in public land acreage available for livestock grazing within an allotment: (1) Grazing permits or leases may be cancelled or modified as appropriate to reflect the changed area of use.

§4120.3-1(a) Range improvements shall be installed, used, maintained, and/or modified on the public lands, or removed from these lands, in a manner consistent with multiple-use management.

§4120.3-2(b) Subject to valid existing rights, title to permanent range improvements such as fences, wells, and pipelines where authorization is granted after August 21, 1995 shall be in the name of the United States. The authorization for all new permanent water developments such as

spring developments, wells, reservoirs, stock tanks, and pipelines shall be through cooperative range improvement agreements. A permittee's or lessee's interest in contributed funds, labor, and materials will be documented by the Bureau of Land Management to ensure proper credit for the purposes of §§ 4120.3-5 and 4120.3-6(c).

§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.

§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.

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

§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 ... or for the protection of other rangeland resources and values consistent with objectives of applicable land use plans...

§4130.3-3 Following consultation, cooperation, coordination with the affected lessees or permittees, the State having lands or responsible for managing resources within the area, and the interested public, the authorized officer may modify terms and conditions of the permit or lease when the active use or related management practices are not meeting the land use plan, allotment management plan or other activity plan, or management objectives, or is not in conformance with the provisions of subpart 4180 or this part. To the extent practical, shall provide to affected permittees or lessees, States having lands or responsibility for managing resources within the affected area, and the interested public an opportunity to review, comment and give input during the preparation of reports that evaluate monitoring and other data that are used as a basis for making decisions to increase or decrease grazing use, or to change the terms and conditions of a permit or lease.

§4160.2 Any applicant, permittee, lessee or other interested public may protest the proposed decision under 4160.1 of this title in person or in writing to the authorized officer within 15 days after receipt of such decision.

§4180.2(c) The authorized officer shall take appropriate action as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management practices or levels of grazing use on public lands are significant factors in failing to achieve the standards and conform with the guidelines that are made effective under this section.

Appropriate action means implementing actions pursuant to subparts 4110, 4120, 4130, and 4160 of this part that will result in significant progress toward fulfillment of the standards and significant progress toward conformance with the guidelines...

RIGHT OF PROTEST AND/OR APPEAL

Any applicant, permittee, lessee, or other affected interest may protest this proposed decision under 43 CFR §§ 4160.1 and 4160.2 within 15 calendar days after receipt of this proposed decision. Protests may be either in person or in writing to Bureau of Land Management, Lower Sonoran Field Office ATTN: Edward J. Kender, Field Manager, 21605 North 7th Avenue, Phoenix, Arizona 85027.

The protest, if filed, should clearly and concisely state the reason(s) as to why the proposed decision is in error. In absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice in accordance with 43 CFR § 4160.3, unless otherwise provided in the proposed decision.

Any applicant, permittee, lessee or other person whose interest is adversely affected by the final decision may file an appeal and petition for stay of the final decision pending final determination on appeal under 43 CFR §4160.4, §4.21 and must follow the requirements set forth in §§ 4.470 through 4.480 of this title. The appeal and petition for stay must be filed in the office of the authorized officer, as noted above, within 30 calendar days following receipt of the final decision, or 30 calendar days after the proposed decision becomes final.

The appeal shall comply with the provisions of 43 CFR 4.470 and state the reasons, clearly and concisely, why the appellant thinks the final decision is in error. When filing a petition for stay, the appellant must 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.

EDWARD KENDER Digitally signed by EDWARD KENDER
Date: 2021.05.26 11:04:27 -07'00'

Edward J. Kender
Field Manager, Lower Sonoran Field Office

Date

Enclosures: CCC list

CCC List

The Wilderness Society	7018 3090 0001 1156 6565
AZ Game and Fish Dept. Region 4	7018 3090 0001 1156 6671
AZ Game and Fish Dept. Region 6	7018 3090 0001 1156 6626
Center for Biological Diversity	7018 3090 0001 1156 6541
AZ Cattlemen's Association	7018 3090 0001 1156 6510
US Fish and Wildlife Service	7018 3090 0001 1156 6664
Western Watersheds Project	7018 3090 0001 1156 6527
Arizona State Land Department	7018 3090 0001 1156 6633
Desert Tortoise Council	7018 3090 0001 1156 6503
Arizona Department of Transportation	7018 3090 0001 1156 6640
Arizona Farm Mortgage Company INC	7018 3090 0001 1156 6657
Land and Water Fund	7018 3090 0001 1156 6602
Jeff Williamson	7018 3090 0001 1156 6596
Sierra Club, Grand Canyon Chapter	7018 3090 0001 1156 6589
Friends of Cabeza Prieta	7018 3090 0001 1156 6572
Sierra Club	7018 3090 0001 1156 6558