



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Arizona Strip Field Office
345 East Riverside Drive
St. George, Utah 84790
www.az.blm.gov

In Reply Refer To:
LLAZA01000: 4160

Certified # 7736 2549 3908
RETURN RECEIPT REQUESTED

James Ott
169 S. 300 E.
Kanab, UT 84741

NOTICE OF PROPOSED DECISION
*For the Proposed Grazing Permit Renewal
for the Brown and Shumway Allotment*

INTRODUCTION

This Notice of Proposed Decision (NOPD) is the final administrative step in the land health evaluation and permit renewal process for the Brown and Shumway Allotment (05302). This proposed decision is to renew the existing ten-year term permit for the Brown and Shumway Allotment with the same terms and conditions as the previous permit.

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 Arizona State Director mandated full implementation of the Standards and Guidelines in all Arizona land use plans.

The permittee, the RAC, Interdisciplinary Assessment Team (IAT), Rangeland Resources Team (RRT), and the interested public were invited to an issue/scoping meeting on March 3, 1999, for the Brown and Shumway Allotment. In addition, a field visit with the IAT and RRT was held on March 25, 1999. The land health evaluation for the allotment was completed September 30, 2004. Based on analysis of allotment monitoring data (including data collected since the land health evaluation was completed) and supporting documentation contained in the land health evaluation report prepared for the Brown and Shumway Allotment, it has been determined that the allotment is meeting the Arizona Rangeland Health Standards.

The CX prepared for the proposed grazing permit renewal (DOI-BLM-AZ-A010-2021-0011-CX) constitutes the BLM’s environmental review of the proposed action in accordance with the National Environmental Policy Act (NEPA) and other relevant federal and state laws and regulations. This includes an analysis of the twelve extraordinary circumstances. This analysis concluded that none of the extraordinary circumstances apply.

PROPOSED DECISION

After considering the environmental review contained within the above referenced CX, it is my proposed decision to authorize the action as described in the CX and summarized below. This decision is to cancel the existing term grazing permit for the Brown and Shumway Allotment and issue a new ten-year term permit. The specific decision is outlined below.

Grazing Permit

A new grazing permit will be issued for a period of 10 years for the Brown and Shumway Allotment. There will be no changes in the number of livestock or season of use for the allotment; there will be no change in animal unit months (AUMs). The new grazing permit will include the mandatory terms and conditions shown below in Table 1.

A. Table 1 – Mandatory Terms and Conditions

Allotment	Livestock Number and Kind	Grazing Period	Percent Public Land	Active AUMs	Suspended AUMs	Total AUMs
Brown and Shumway	19 Cattle	11/16 – 05/15	100%	114	42	156

The Brown and Shumway Allotment uses a two-pasture, deferred rest-rotation grazing system. By using this system, one pasture is deferred through the growing season every year.

B. Other Terms and Conditions

The Standard Terms and Conditions under 43 CFR 4130.3 are a part of the permit. In addition, the other terms and conditions of the permit, which are not mandatory terms and conditions and can be modified, are:

- The permittee will use the after-the-fact (actual use) billing system.
- Use of nutritional livestock supplements is allowed, including protein, minerals, and salt. However, any supplements used must be dispersed at a minimum of ¼ mile from any known water sources, and cultural or sensitive sites. Any hay or other feed used in administering the livestock operation must be certified weed-free and subject to approval prior to use.

- If any human remains, funerary objects, sacred objects or objects of cultural patrimony as defined in the Native American Graves Protection and Repatriation Act (Public Law 101-601; 104 Stat. 3048; 25 U.S. Code 3001) are discovered in connection with allotment operations under the grazing permit, the permittee would be required to protect the immediate area of the discovery and immediately notify the BLM authorized officer or authorized representative.

RATIONALE FOR DECISION

This decision has been made after considering impacts to resources, such as vegetation, wildlife, cultural resources, and soils, while providing opportunities for livestock grazing that meets management objectives, including the Arizona Standards for Rangeland Health and Guidelines for Livestock Grazing Management and the Arizona Strip Field Office Resource Management Plan (RMP).

The environmental review, documented in the above referenced CX, indicates that the action is in conformance with the RMP. The CX constitutes the BLM's compliance with the requirements of NEPA, and procedural requirements as provided in the Council on Environmental Quality regulations. Based upon the above information and analysis, I have determined that the action will allow the Brown and Shumway Allotment to continue to meet the Arizona Standards for Rangeland Health and Guidelines for Grazing Administration and land use plan objectives.

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.

§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 1601.0-5(b)."

§4110.3 "The authorized officer shall periodically review the permitted use specified in a grazing permit or grazing 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."

§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."

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

§ 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 PROTEST AND/OR APPEAL

Any applicant, permittee, lessee or other interested public may protest the proposed decision in accordance with 43 CFR 4160.1 and 4160.2, in person or in writing within 15 days after receipt of such decision to:

Brandon E. Boshell
Field Manager
345 East Riverside Dr.
St. George, UT 84790

Additionally, protests may be submitted by email to bboshell@blm.gov and/or BLM_AZ_ASDO_Comments@blm.gov.

Any protest filed should clearly and concisely state the reason(s) why the proposed decision is in error. The BLM can accept protest documents filed via email or hard copy by mail or personal delivery for consideration (43 CFR 4.22(a) and 4160.2) but cannot accept electronic filing of protest documents by any other means, including compact disc, thumb drive, or similar media, due to Federal Information Systems Security Awareness policies. Protests may be filed via email even if the BLM has not received an executed “Consent to Receive Decisions via Email” from that individual or entity. Protesters who have executed the consent form still have the option to send or deliver a hard copy notice of appeal and/or petition to stay to the office of the authorized officer by mail or personal delivery.

In accordance with 43 CFR 4160.3(a), in the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice unless otherwise provided in the proposed decision.

In accordance with 43 CFR 4160.3(b), upon a timely filing of a protest, after a review of protest received and other information pertinent to the case, the authorized officer shall issue a final decision.

Any applicant, permittee, lessee or other person whose interest is adversely affected by the final decision may file a notice of appeal in writing for the purpose of a hearing before an administrative law judge in accordance with 43 CFR 4160.3(c), 4160.4, and 4.470. The notice of appeal must be filed within 30 days following receipt of the final decision or within 30 days after the date the proposed decision becomes final. The notice of appeal may be accompanied by a petition for a stay of the decision in accordance with 43 CFR 4.471 pending final determination on appeal. The notice of appeal and petition for a stay must be filed in the office of the authorized officer, as noted above. An appellant may file a notice of appeal and/or petition for stay via email even if the BLM has not received an executed "Consent to Receive Decisions via Email" from that individual or entity. Appellants who have executed the consent form still have the option to send or deliver in hard copy form any notice of appeal and/or petition to stay to the office of the authorized officer by mail or personal delivery. The BLM cannot accept electronic filing of appeal documents by any other means, including compact disc, thumb drive, or similar media due to Federal Information Systems Security Awareness policies. As defined in 43 CFR 4.22(a), "A document is filed in the office where the filing is required only when the document is received in that office during its regular business hours and by a person authorized to receive it. A document received after the office's regular business hours is considered filed on the next business day."

Within 15 days of filing the appeal, the appellant must provide the BLM with proof of service to the other persons named in the Copies Sent To section of this decision in accordance with 43 CFR 4.470(a). A copy of the appeal must also be served on the Office of the Solicitor located at the address below in accordance with 43 CFR 4.413(a).

Sandra Day O'Connor
US Courthouse, Suite 404
401 West Washington Street, SPC-44
Phoenix, Arizona 85003-2151

In accordance with 43 CFR 4.413(b), failure to serve a notice of appeal will subject the appeal to summary dismissal as provided in 43 CFR 4.402. Appellants are responsible for determining whether the Office of the Solicitor or other persons named in the decision will accept service of a notice of appeal and/or petition for stay electronically via email.

The appeal shall state the reasons, clearly and concisely, why the appellant thinks the final decision is in error and otherwise complies with the provisions of 43 CFR 4.470.

Should you wish to file a petition for a stay, see 43 CFR 4.471 (a) and (b). In accordance with 43 CFR 4.471(c), a petition for a stay 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 granting the stay.

As noted above, the petition for stay must be filed in the office of the authorized officer and served in accordance with 43 CFR 4.471.

Any person named in the decision that receives a copy of a petition for a stay and/or an appeal, is directed to 43 CFR 4.472(b) for procedures to follow if you wish to respond.

Digitally signed by
BRANDON BRANDON
BOSHELL BOSHELL
Date: 2021.05.06
12:24:01 -06'00'

Brandon E. Boshell
Field Manager
Arizona Strip Field Office

Attachment:

Appendix A - List of all Persons or Groups Receiving this NOPD

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