



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Kingman Field Office
2755 Mission Boulevard
Kingman, Arizona 86401
www.az.blm.gov

July 25, 2018

In Reply Refer To:
4100 (C010)

CERTIFIED MAIL – RETURN RECEIPT REQUESTED: 7014 3490 0001 7804 7915

Clay Overson
Francis Creek Ranch, LLC
P.O. Box 6919
Kingman, Arizona 86402

NOTICE OF FINAL DECISION

Cane Springs Wash Allotment
Permit Renewal
Environmental Assessment
DOI-BLM-AZ-C010-2016-0026-EA

Dear Mr. Overson:

During fiscal year 2016, you were notified that the Cane Springs Wash Allotment (#00016), would be assessed and evaluated to determine if resource conditions were meeting the Arizona Standards for Rangeland Health, Kingman Resource Management Plan (RMP) Objectives, and to determine if the terms and conditions of the permit are in conformance with Arizona's Guidelines for Grazing Administration.

The analysis of monitoring data has revealed that natural resource conditions are meeting Arizona Standards for Rangeland Health and meeting the land use plan objectives covering the Cane Springs Wash Allotment (#00016).

In order to avoid disrupting livestock grazing operations dependent on public land permits, Congress has, in recent years, annually legislated a means to continue authorizing livestock grazing while the Bureau of Land Management (BLM) analyzes environmental impacts through the appropriate evaluation and NEPA analysis. The Cane Springs Wash permit was reissued with the same terms and conditions pursuant to Section 402 (C)(2) of FLPMA 1976 as amended. The term permit expires August 31, 2021, or when the BLM completes the permit renewal process for the Cane Springs Wash Allotment.

BACKGROUND

On August 10, 2017, a proposed decision offered the grazing permit for the Cane Springs Wash Allotment (#00016) with the same terms and conditions evaluated in the 2016 Hualapai Mountain North Land Health Evaluation (LHE) and the Proposed Action of the Environmental Assessment DOI-BLM-AZ-C010-2016-0026-EA. The analysis of monitoring data has revealed that natural resource conditions are meeting or making significant progress toward meeting Arizona Standards for Rangeland Health and meeting the land use plan objectives covering Cane Springs Wash Allotment (#00016). Comments on the LHE and EA were received from Anita Waite, Francis Creek Ranch LLC., and the Mohave Livestock Association.

All three comment letters focused on range improvements, adjustments in the stocking rate due to improved rangeland conditions, Hualapai Mexican Vole monitoring, and wilderness access. After reviewing the comments, additional information was added, and changes were made to the environmental assessment.

On May 7, 2018, a Notice of Proposed Decision to implement the Proposed Action of the Environmental Assessment DOI-BLM-AZ-C010-2016-0026-EA was sent to you, interested parties, and interested publics for a 15-day review and protest period. On May 15, 2018, an e-mailed letter of protest was received from Jack Ehrhardt. These protest points were carefully considered before issuance of this final decision.

The following is a summary of Mr. Ehrhardt's protest points:

Regarding May 7, 2018, document - 4100 (C010) and activation of the Petition for Stay to Cane Springs Wash Allotment, Permit Renewal Environmental Assessment DOI-BLM-AZ-C010-2016-0026-EA,

AND;

Petition for Stay to Hibernia Peak Unit A and Hibernia Peak Unit B Allotments, Permit Renewal Environmental Assessment DOI-BLM-AZ-C100-216-0026-EA. Please accept this message to you here [into your office], the request for immediate action to process the "Stay" to the above identified Grazing permits.

BLM in this "proposed decision" has misidentified current rangeland conditions as "reflecting the changes". The only changes that BLM is not identifying are:

- 1. The Drought in general has not let up.*
- 2. No improvement has happened in forage availability. [I have observed myself]*
- 3. These specific Rangelands did not even have a spring growth.*
- 4. There's been virtually no rainfall for almost the last 4 months.*
- 5. The wildlife and bovine are at risk with existing harsh conditions.*

The Petition for Stay to Hibernia Peak Unit A & B and Cane Springs Wash Allotments Permit Renewal Environmental Assessment DOI-BLM-AZ-C010-2016-0026-EA.

Response: Mr. Ehrhardt's request for immediate action to process the Petition for Stay to Hibernia Peak Units A & B and Cane Springs Wash Allotments Permit Renewal Environmental Assessment DOI-BLM-AZ-C010-2016-0026-EA is in error. Only the authorized officer's Final Decision can be petitioned for a stay. Under 43 Code of Federal Regulations (CFR) §4160.4 Appeals. 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 receipt of the final 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.

1. *The Drought in general has not let up.*

Response: Generally speaking Mr. Ehrhardt is correct, the Kingman Field Office (KFO) has received little to no winter or spring precipitation this year. Under the current permitted use the Cane Springs Wash Allotment (#00016) receives only light utilization. Light use levels results in most of the plants in this allotment being left un-grazed each year. Left over forage from previous years' production helps offset the effects of drought.

The 2016 Hualapai Mountains North LHE used precipitation data from the NOAA Weather Station in Wikieup, Arizona to determine when drought conditions occurred both seasonally and annually. Over the last 35 years, precipitation data shows a downward trend in the average annual precipitation from approximately 11 inches to around 7 inches between 1981 and 2015. Data from this same weather station depicts 11 years out of the last 35 where either drought (32%) or severe drought (23%) conditions are identified at the Wikieup Station. For a more detailed review of when annual and seasonal drought conditions occurred during the evaluation period see page 34, section 3.6.8 Vegetation (Upland) in the EA and page 57, Appendix 2 Precipitation Data in the 2016 Hualapai Mountains North LHE.

2. *No improvement has happened in forage availability. [Mr. Ehrhardt observed].*

Response: The 2016 Hualapai Mountains North LHE indicates the key area on the Cane Springs Wash Allotment is meeting Arizona Standards for Rangeland Health, despite the effects of drought conditions.

A summary of the interdisciplinary team's evaluation of monitoring data for each key area for the Hibernia Peak and Cane Spring Wash Allotments can be found in the 2016 Hualapai Mountains North LHE.

3 through 5. *These specific rangelands did not even have a spring growth, there's been virtually no rainfall for almost last 4 months and the wildlife and bovine are at risk with existing harsh conditions.*

Response: Under the current permitted use the Cane Springs Wash Allotment (#00016) receives only light utilization. Light use levels results in most of the plant production being left un-grazed each year. These un-grazed plants are allowed to reproduce and

meet their physiologic needs. The LHE indicates that the key area for the Cane Springs Wash Allotment is meeting Arizona Standards for Rangeland Health, despite the effects of drought.

FINAL DECISION

After careful consideration of the analysis provided through the 2016 Hualapai Mountains North LHE and the Environmental Assessment, the statement of reasons included in the protest, and information received through consultation, communication, and coordination with the interested publics and the affected permittee, my Final Decision is to implement the Proposed Action described in the Environmental Assessment DOI-BLM-AZ-C010-2016-0026-EA. These and other supporting documents are included on BLM's NEPA Register at: <https://go.usa.gov/xQ86n>

TERMS AND CONDITIONS

In accordance with §4110.3-2 the following terms and conditions of your permit for Allotment (#00016) will be issued as follows:

From:

<u>Allotment</u>	<u>Allot. No.</u>	<u>Kind</u>	<u>AUs</u>	<u>Period of Use</u>	<u>% F.R.</u>	<u>AUMs</u>
Cane Springs Wash	00016	Cattle	14	03/01 to 02/28	100	168

To:

<u>Allotment</u>	<u>Allot. No.</u>	<u>Kind</u>	<u>AUs</u>	<u>Period of Use</u>	<u>% F.R.</u>	<u>AUMs</u>
Cane Springs Wash	00016	Cattle	14	03/01 to 02/28	100	168

In accordance with §4130.2, applications for grazing permits or leases (active use and nonuse), free-use grazing permits and other grazing authorizations shall be filed with the authorized officer at the local BLM office having jurisdiction over the public lands involved. The grazing permittee for the allotment has applied for the renewal of the grazing permit for the Cane Springs Wash (#00016) Allotment.

In accordance with §4130.2(a), grazing permits or leases shall be issued to qualified applicants to authorize use on the public lands and other lands under the administration of the BLM that are designated as available for livestock grazing through the Kingman RMP. The grazing permittee for the Cane Springs Wash (#00016) Allotment is being offered a term grazing permit for this allotment.

In accordance with §4130.3-2(d), 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. The 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.

RATIONALE

An assessment of Arizona Standards for Rangeland Health has been conducted on the Cane Springs Wash Allotment. A monitoring study was initially established in 2016. In accordance with Bureau policy and regulations, this data has been analyzed and evaluated in order to determine progress in meeting land use plan objectives, Arizona's Standards for Rangeland Health, and Guidelines for Grazing Administration.

In accordance with §4130.2(a), grazing permits or leases shall be issued to qualified applicants to authorize use on the public lands and other lands under the administration of the BLM that are designated as available for livestock grazing through the Kingman RMP. The grazing permittee for the Cane Springs Wash Allotment (#00016) Allotment is being offered a term grazing permit for this allotment.

In accordance with §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 BLM, and to ensure conformance with the provisions of subpart 4180 of this part. The 2016 Hualapai Mountains North LHE indicates the key area for the Cane Springs Wash Allotment is meeting Arizona Standards for Rangeland Health.

AUTHORITY: The authority for this decision is contained in Title 43 CFR, which states in pertinent parts:

§4100.0-8 Land use plans. "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 set 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. "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 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 Terms and conditions. "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 BLM, and to ensure conformance with the provisions of subpart §4180 of this part."

§4130.3-1(a) Mandatory terms and conditions. “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 Other terms and conditions. “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...”

§4160.3(b) Final decisions. “Upon the timely filing of a protest, the authorized officer shall reconsider her/his proposed decision in light of the protestant's statement of reasons for protest and in light of other information pertinent to the case. At the conclusion to her/his review of the protest, the authorized officer shall serve her/his final decision on the protestant or her/his agent, or both, and the interested public.

(c) A period of 30 days following receipt of the final decision, or 30 days after the date the proposed decision becomes final as provided in paragraph (a) of this section, is provided for filing an appeal and petition for stay of the decision pending final determination on appeal. A decision will not be effective during the 30-day appeal period, except as provided in paragraph (f) of this section. See §§4.21 and 4.470 of this title for general provisions of the appeal and stay processes.”

§4160.4 Appeals. “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 receipt of the final 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

§4180.2(c) Standards and guidelines for grazing administration. “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. Practices and activities subject to standards and guidelines include the development of grazing-related portions of activity plans, establishment of terms and conditions of permits, leases and other grazing authorizations, and range improvement activities such as vegetation manipulation, fence construction and development of water”.

RIGHT OF APPEAL

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. The appeal must be filed within 30 days following receipt of the final decision. The appeal may be accompanied by a petition for a stay of the decision, pending final determination on appeal. The appeal and petition for a stay must

be filed in the office of the authorized officer Amanda Dodson, Kingman Field Manager, 2755 Mission Boulevard, Kingman, Arizona, 86401. 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 petition for a stay, you 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. If you have questions or concerns, please contact me or Mike Blanton, Rangeland Management Specialist, at (928) 718-3707 or via email at mblanton@blm.gov.

/s/ Amanda M. Dodson, authenticated by Angelica Rose
Amanda M. Dodson
Field Manager

cc: Interested Publics

Larry Phoenix, Arizona Game and Fish Department
Greta Anderson, Western Watershed Project
County Director U of A Cooperative Extension Office
Big Sandy NRC District
Mohave County Board of Supervisors
Natural Resource Conservation Service, Kingman Field Office
Mario Preciado, AZ State Land Department
Karl Taylor, Mohave County Development Services
Mohave County Farm & Livestock Bureau
Jack Ehrhardt
Don Martin