



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
NATIONAL PARK SERVICE
Arizona Strip District
Grand Canyon-Parashant National Monument
345 East Riverside Drive
St. George, Utah 84790
<http://www.blm.gov/az/>
Phone (435)688-3200 • Fax (435)688-3258

In Reply Refer To: LLAZA03000: 4160

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John A Snyder
C/O Brad Robinson P.O. Box 294 Minersville, UT
84752

NOTICE OF PROPOSED DECISION
Dripping Spring and Penn's Well Allotments
Proposed Grazing Permit Renewal as described in
Categorical Exclusion # DOI-BLM-AZ-A030-2022-0003-CX

INTRODUCTION

This Notice of Proposed Decision (NOPD) is the final administrative step in the land health evaluation (LHE) and permit renewal process for the Dripping Spring (04818) and Penn's Well (04852) Allotments; Authorization 0202559. The Dripping Springs Allotment consists of 10,508 acres of National Park Service (NPS) managed lands and 1,082 acres of BLM managed lands (total allotment acres 11,590). The Penn's Well Allotment is comprised of 4,225 acres of BLM land, 640 acres of State land, and 620 acres of private land for a total of 5,485 acres. This proposed decision is to renew the existing five-year term permit for the Dripping Spring and Penn's Well Allotments consistent with the National Park Service permitting process, under Director's Order #53-Section 10.5, and in conformance with BLM regulations, 43 CFR 4130.2(d)(4). The CX can be found at the BLM's NEPA Registrar ePlanning: <https://eplanning.blm.gov/eplanning-ui/admin/project/2016262/510>.

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.

Assessments of both allotments 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.

A LHE for the Dripping Spring Allotment was completed in September 2020. A LHE was completed for the Penn’s Well Allotment in September 2021. Both evaluations were conducted by an interagency interdisciplinary team for the BLM lands using the methodology described in *Interpreting Indicators of Rangeland Health Version 4* (CX References - Pellant et al. 2005). Based on analysis of allotment monitoring data (including data collected during the LHE (Appendix B of the Categorical Exclusion (CX)). Based on the LHE and trend monitoring data, it is determined that both allotments are meeting the Arizona Rangeland Health Standards.

The CX prepared for the proposed grazing permit renewal (DOI-BLM-AZ-A030-2022-0003-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, monitoring data, LHEs, and utilization data, and other information 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 Dripping Spring and Penn’s Well Allotments and issue a new five-year term permit. The specific decision is outlined below.

Grazing Permit

A new grazing permit will be issued for a period of five years for the Dripping Spring and Penn’s Well allotments. There will be no changes in the number of livestock or season of use for the allotments; 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.

Table 1 - Mandatory Terms and Conditions

Allotment Name	Livestock Number and Kind	Grazing Period	Percent Public Land	Active AUMs	Suspended AUMs	Total AUMs
Dripping Spring	38 Cattle	11/01 – 02/28 03/01 – 05/31	100	280	227	507
Dripping Spring	2 Horses					
Penn’s Well	64	6/1 – 10/31	93	299	0	299

Other Terms and Conditions

The permit issued would include the Standard Terms and Conditions under 43 CFR 4130.3. In addition, the other terms and conditions of the permit are:

- The GCPNM would manage the allotment to ensure that livestock grazing would comply with Section 106 of the National Historic Preservation Act (NHPA) (36 CFR 800.3). No known impacts to sites eligible for or listed on the National Register of Historic Places (NRHP) or historic properties resulting from grazing have been identified. If historic properties (standing walled historic or prehistoric structures, rock art, or other sites potentially eligible to the NRHP) are found to be impacted by cattle, preventative and mitigation measures would be implemented including but not limited to fencing, recordation, data collection, and monitoring as is standard operating procedure under the NHPA. 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.
- The permittee will use the advanced 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.
- With prior approval, more livestock may be grazed for a shorter period, within the authorized dates, so long as the active AUMs are not exceeded.

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 Grand Canyon-Parashant National Monument 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 and NPS 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 Dripping Spring 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 this proposed decision in accordance with 43 CFR 4160.2 in person or in writing to the authorized officer, Mark Wimmer, at 345 East Riverside Drive, St. George, Utah, 84790 within 15 days after receipt of such decision. If protest is sent by facsimile

or email, the date filed is not official until the BLM receives the original by mail. Electronic dates of submissions are not acceptable. The protest should clearly and concisely state the reason(s) as to why the proposed decision is in error.

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

Any applicant, permittee, lessee, or other person whose interest is adversely affected by the final BLM grazing decision may file an appeal for the purpose of a hearing before an administrative law judge in accordance with 43 CFR 4160.3(c), 4160.4, 4.21, and 4.470. The appeal must be filed within 30 days following receipt of the final decision or 30 days after the date the proposed decision becomes final. The appeal should state the reasons, clearly and concisely, why the appellant thinks the final BLM grazing decision is in error. A petition for a stay of the decision pending final determination of the appeal by the administrative law judge may also be submitted during this same 30-day time period. The appeal, or the appeal and petition for stay, must be in writing and delivered in person, via the United States Postal Service mail system, or other common carrier, to the Grand Canyon-Parashant National Monument 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 4.471(b).

Mark Wimmer
cn=Mark Wimmer, o=Bureau of Land
Management-Department of Interior,
ou=Grand Canyon-Parashant National
Monument, email=mwimmer@blm.gov,
c=US
0007-10:48:00 2021.11.09
2021.007.20099



A handwritten signature in black ink that reads "Mark Wimmer".

Mark Wimmer
Monument Manager

Attachment:

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

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John A Snyder
C/O Brad Robinson
P.O. Box 294
Minersville, UT 84752

Nancy Snyder Pratt & Dan Snyder
2699 S Little Valley Rd
St. George, UT 84790

Cyndi Tuell
Western Watersheds Project
738 N 5th Ave Suite #206
Tucson, AZ 85705

Kim Crumbo
Wildlands Network
3275 Taylor Ave
Ogden, UT 84403

Lonnie Pilkington
Grand Canyon National Park
17 South Entrance Road
Grand Canyon, AZ 86023

Sarah Haas
Grand Canyon National Park
17 South Entrance Road
Grand Canyon, AZ 86023

Jan Balsom
Grand Canyon National Park
17 South Entrance Road
Grand Canyon, AZ 86023

Todd Seliga
Grand Canyon National Park
HC 65 Box 5
Fredonia, AZ 86022