



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 7946

Ms. Anita Waite
Cane Springs Ranch
10437 S. Hwy. 93
Kingman, Arizona 86401

NOTICE OF FINAL DECISION

Hibernia Peak Unit A and Hibernia Peak Unit B Allotments
Permit Renewal
Environmental Assessment
DOI-BLM-AZ-C010-2016-0026-EA

Dear Ms. Waite:

During fiscal year 2016, you were notified that the Hibernia Peak Unit A (#00050) and Hibernia Peak Unit B (#00083) Allotments, would be assessed and evaluated to determine if resource conditions were meeting the Arizona's Standards for Rangeland Health and 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 the land use plan objectives covering the Hibernia Peak Allotments (#00050 & #00083).

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 permits for the Hibernia Peak Unit A (#00050) and Hibernia Peak Unit B (#00083) Allotments were reissued on March 1, 2010, under Section 416 of Public Law 111-88, and will expire on February 28, 2020, or when the BLM completes the permit renewal process for the Hibernia Peak Allotments.

BACKGROUND

On August 10, 2017, a proposed decision offered the grazing permit for the Hibernia Peak Unit A and Unit B Allotments reflecting the changes as a result of 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 are meeting the land use plan objectives covering Hibernia Peak Unit A (#00050) and Hibernia Peak Unit B (#00083). 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 is.

- 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 been virtually no rainfall for almost 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. This is why an Allotment Management Plan (AMP) is important. Under the proposed action to reauthorize the AMP, the effects of grazing and drought are offset through planned periods of rest. This year cattle were moved into a rested pasture (South Pasture). The plants in this pasture have been rested for three growing seasons allowing the plants to regrow, reproduce, and meet all their physiologic needs.

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 both 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 that all key areas or studies on Hibernia Peak Allotments have shown some improvement in the health of the plant communities over the evaluation period. A few examples of improvement in range conditions, despite the effects of drought conditions, for key species are summarized as follows:

Key Area 2:

Both black grama and cane beardgrass almost doubled in frequency. Green sprangletop and slim tridens were not detected in 1987 but were measured in 2014 at 2% and 1% respectively, improving species diversity at this key area. In 1992, black grama had a frequency of 33% and by 2014 it had increased to 58%. During the same timeframe cane beardgrass increased from 14% to 26%.

Key Area 8:

The desired plant community meets or exceeds the composition objectives for desirable perennial grass species as it relates to the ecological site description. The frequency of black grama, bush muhly, and big galleta has significantly increased at this key area. Vigor and productivity of desirable native species is very high and there were many young plants. Slim tridens was not detected in 2008 but measured in 2014 at 2% frequency at this key area.

A summary of the interdisciplinary team 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: This is why an AMP is critical in managing the plant communities. In April 2018, cattle were removed from the North Pasture and placed in the South Pasture which has been rested for 21 months. Although, it has not rained in four months, the plants in the South Pasture have been rested for three growing seasons allowing plants to regrow, reproduce, and meet their physiologic needs. Under the AMP, the LHE indicates that all key areas on Hibernia Peak Allotments have shown some improvement, 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 permittees, 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 permits for Allotments (#00050, and #00083) 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>AUM</u>	<u>Type Use</u>
Hibernia Peak Unit A	00050	Cattle	460	10/16 to 4/15	95	2,615	P*
Hibernia Peak Unit B	00083	Cattle	410	03/01 to 02/28	48	2,362	PE**

To:

<u>Allotment</u>	<u>Allot. No.</u>	<u>Kind</u>	<u>AUs</u>	<u>Period of Use</u>	<u>% F.R.</u>	<u>AUM</u>	<u>Type Use</u>
Hibernia Pk. (Mtn. Past.)	00050	Cattle	460	10/16 to 04/15	95	2,615	P*
Hibernia Pk.	00050	Cattle	410	03/01 to 02/28	48	2,362	PE**

*P = Perennial

** = Perennial/Ephemeral

In accordance with §4120.2, permittees or lessees, other Federal or State resource management agencies, interested citizens, and the BLM may develop allotment management plans or other activity plans intended to serve as the functional equivalent of allotment management plans. The provisions of the Cane Springs Ranch Cooperative Management Plan or AMP signed in July 1999 are included as the terms and conditions of the permit for the Hibernia Peak (#00050) Allotment, formerly known as Hibernia Peak Unit A (#00050) and Hibernia Peak Unit B (#00083) Allotments.

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 has applied for the renewal of the grazing permits for the Hibernia Peak Unit A (#00050) and Hibernia Peak Unit B (#00083) Allotments, now known as Hibernia Peak Allotment (#00050).

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 land use plans. The grazing permittee is being offered a term grazing permit for the Hibernia Peak (#00050) 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. These include:

The Hibernia Peak Unit A (#00050) and Hibernia Peak Unit B (#00083) will be combined into one allotment herein known as the Hibernia Peak (#00050) Allotment in order to improve the administrative efficiency for these allotments. The combined allotments would be categorized as an "I" (Improved) allotment.

In accordance with §§4120.3-1 and 4120.3-2, the proposed range improvements (water facilities known as Cedar Well) will be permitted under a cooperative agreement as a permanent range improvement for management of livestock. Following consultation, range improvement maintenance of the proposed projects will be assigned in the development of a Cooperative Range Improvement Agreement.

The permittees or lessees operating under a grazing permit or lease will submit within 15 days after completing their annual grazing use, or as otherwise specified in the permit or lease, the actual use made.

Detailed records include actual use by pasture, the start date, the number of animals in pasture, any animal removed, and period of use. Additional considerations such as death/loss, number of cattle that got out of a pasture, and how long they were out. Any water problems related to livestock distribution will also be documented in the records.

Hualapai Mexican vole habitat will continue to be monitored by the BLM so that a 20% use level in vole habitat from livestock would not be exceeded.

RATIONALE

An assessment of Arizona Standards for Rangeland Health has been conducted on the Hibernia Peak Unit A and Hibernia Peak Unit B Allotments. In addition, monitoring studies were initially established in 1986 and have been conducted since that time. 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 and Arizona's Standards for Rangeland Health and Guidelines for Grazing Administration. Input is requested from the permittee, Arizona State Game and Fish Department, and environmental interest groups.

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 Hibernia Peak (#00050) 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." According the LHE all key areas on Hibernia Peak Allotments are meeting Arizona Standards for Rangeland Health and resource objective sited in the Kingman Resource Management Plan (1995) under current livestock management practices. Data collected along these Canyons indicate that grazing in all segments is not a factor keeping this riparian ecosystem from trending toward proper function condition.

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).”

§4120.2 Allotment management plans and resource activity plans. “Allotment management plans or other activity plans intended to serve as the functional equivalent of allotment management plans may be developed by permittees or lessees, other Federal or State resource management agencies, interested citizens, and the Bureau of Land Management”.

§4120.3-1(b) “Prior to installing, using, maintaining, and/or modifying range improvements on the public lands, permittees or lessees shall have entered into a cooperative range improvement agreement with the BLM or must have an approved range improvement permit”.

(c) “The authorized officer may require a permittee or lessee to maintain and/or modify range improvements on the public lands under Sec. §4130.3-2 of this title”.

§4120.3-2(a) Cooperative range improvement agreements. “The Bureau of Land Management may enter into a cooperative range improvement agreement with any person, organization, or other government entity for the installation, use, maintenance, and/or modification of permanent range improvements or rangeland developments to achieve management or resource condition objectives. The cooperative range improvement agreement shall specify how the costs or labor, or both, shall be divided between the United States and cooperator(s)”.

§4130.2(a) Cooperative range improvement agreements. “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) Grazing permits or leases. “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...”

§4130.3-3 Modification of permits or leases. “Following consultation, cooperation, and 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 grazing 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 of this part. To the extent practical, the authorized officer 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.”

§4160.3(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(a) 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 43 CFR §4.470 of this title. As stated in that part, the appeal must be filed within 30 days after the receipt of the 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”.

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 43 CFR 4.470. 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
Larry Phoenix AZ Game & Fish Dept.
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