



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Arizona Strip Field Office
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In Reply Refer To:
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December 26, 2019

NOTICE OF PROPOSED DECISION *Jackson Tank Allotment Grazing Permit Renewal*

INTRODUCTION

This Notice of Proposed Decision (NOPD) is the final administrative step in the land health evaluation and permit renewal process for the Jackson Tank Allotment (04830). This proposed decision is to issue a new ten-year term permit with new terms and conditions for the Jackson Tank Allotment.

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 in 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, Rangeland Resources Team (RRT), and the interested public were invited to an issue scoping meeting for the allotment on October 27, 2004, followed by a field visit on November 17, 2004. The land health evaluations for the Jackson Tank Allotment was

completed on August 20, 2010. Based on analysis of the allotment monitoring data and supporting documentation, the land health evaluation conducted in the Jackson Tank Allotment concluded that the allotment is meeting all applicable rangeland health standards.

Monitoring data has continued to be collected (see Appendix B in the EA) since the original allotment assessment was completed, and the 2010 land health evaluation has been updated. Based on analyses of the updated allotment monitoring data and supporting documentation contained in the evaluation report, resource conditions on the allotment are continuing to meet all applicable standards for rangeland health.

The environmental assessment (EA) prepared for the proposed grazing permit renewal (DOI-BLM-AZ-A010-2019-0020-EA) analyzes the potential effects of in accordance with the National Environmental Policy Act (NEPA) and other relevant federal and state laws and regulations. A preliminary EA was posted on the BLM ePlanning web page on July 11, 2019, and a notice of public comment period letter was sent to those persons and groups listed on the Arizona Strip interested publics mailing list notifying them of the availability of the preliminary EA for a 30-day public review and comment period. All comments received during this public comment period were considered and incorporated into the final EA (see EA Appendix C).

FINDING OF NO SIGNIFICANT IMPACT

After consideration of the environmental effects described in the EA and supporting documentation, I have determined that the selected action is not a major Federal action and will not significantly affect the quality of the human environment, individually or cumulatively with other actions in the area. No effects identified in the EA meet the definition of significant in context or intensity as described in 40 CFR 1508.27. Therefore, the preparation of an environmental impact statement is not required as per Section 102 (2) of NEPA. This finding and conclusion is based on the consideration of the Council on Environmental Quality’s criteria for significance (40 CFR 1508.27), both with regard to the context and the intensity of impacts described in the EA and as described in the attached Finding of No Significant Impact.

PROPOSED DECISION

After considering the analysis contained with the above referenced EA, it is my proposed decision to authorize the action as described in Alternative A of the EA and summarized below. This decision is to cancel the existing De-Mar Limited term grazing permit and issue a new ten-year term permit with new terms and conditions within the Jackson Tank Allotment. The specific decision is outlined below.

Grazing Permit

A new grazing permit will be issued for a period of 10-years for the Jackson Tank Allotment. There will be no changes in the number of livestock or season of use for the allotment. The number of animal unit months (AUMs) will be corrected to match the currently authorized number of livestock/season of use (981 AUMs vs. 857). The new grazing permit will include the mandatory terms and conditions shown below in Table 1.

A. Table 1 – Mandatory Terms and Conditions

Kind of Livestock	Livestock Numbers	Season of Use	Active AUMs	Suspended AUMs	Public Land Acres	% Federal Land
Cattle Horses	101 8	9/16 – 6/15	981	0	8,013	100%

B. Other Terms and Conditions

- Permittee must submit the actual use report within 15 days after their billing year ends. Livestock may be moved 15 days before or after scheduled move dates.
- 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.
- 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.
- In leaving and returning from the allotment, permittee is authorized to cross federal lands with cattle along existing trail routes, crossing the Coyote Spring, Sunshine, and Lower Hurricane allotments.

Grazing System: A two-pasture rotation system is utilized in the Jackson Tank Allotment. Cattle graze the allotment from September 16 to June 15 each grazing period. The entire allotment is rested from June 16 to September 15 each year. Use of the two pastures on the allotment is alternated on successive years so that each pasture receives different use from the previous grazing period.

Adaptive Management: This decision includes adaptive management, which provides a menu of management options that may be needed to adjust management decisions and actions to meet desired conditions as determined through monitoring. BLM resource specialists will periodically monitor the allotment over the 10-year term of the grazing permit to ensure that the fundamentals or conditions of rangeland health are being met, in accordance with 43 CFR §4180. If monitoring indicates that desired conditions are not being achieved and current livestock grazing practices are causing non-attainment of resource objectives, livestock grazing management of the allotment will be modified in cooperation with the permittee(s). Adaptive management allows the BLM to adjust the timing, intensity, frequency and duration of grazing; the grazing management system; and livestock numbers temporarily or on a more long-term basis, as deemed necessary and as long as maximum active AUMs are not exceeded. An example of a situation that could call for adaptive management adjustments is drought conditions. If the permittee disagrees with the BLM's assessment of the resource conditions or the necessary modifications, the BLM may nevertheless issue a Full Force and Effect Grazing Decision to protect resources.

In addition, the allotment will be managed for the following:

- Allowable use on key forage species on the allotment will be no more than 50% utilization of current year's production, removed through grazing or other loss. The BLM will assess resource conditions through field inspections and determine, in consultation with the permittee, whether management changes (e.g., changes in livestock numbers, adjustment of move date, or other changes or use within the parameters identified under this alternative) may be implemented prior to reaching maximum utilization. Move dates (i.e., removal of livestock from a pasture) may be adjusted if monitoring

indicates maximum utilization has been reached or due to unusual climatic conditions, fire, flood, or other acts of nature. If maximum utilization is reached on key species/areas in the allotment before a scheduled move date, the use of salt, herding, or other management options may be used to distribute livestock away from an area where maximum utilization has been reached, or livestock may be removed from the pasture (after consultation with the permittee), as deemed necessary by the BLM.

- Achieve the DPC objectives listed in Section 2.2.2 of the EA.

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 RMP. Alternative A was chosen in its entirety. Impacts to livestock grazing, vegetation, wildlife, and soils were analyzed in detail in the EA. The NEPA analysis, documented in the EA, indicates that the action is in conformance with the RMP and that none of the impacts from the action are significant (see attached Finding of No Significant Impact).

The EA constitutes the BLM's compliance with the requirements of NEPA, and procedural requirements as provided in the Council on Environmental Quality regulations. The EA went through an interdisciplinary review process. As documented in the EA analysis of the allotment's monitoring data and supporting documentation in the land health evaluation report, resource conditions on the allotment meet all applicable standards for rangeland health. The NEPA analysis determined that implementing the action will allow the allotment to continue meeting all applicable standards for rangeland health.

Based upon this information and analysis, I have determined that changes in kind of livestock, and season of use are not necessary for the Jackson Tank Allotment to continue meeting the Arizona Standards for Rangeland Health and Guidelines for Grazing Administration and other land use plan multiple use objectives. Alternatives B, D, and E were not chosen because the new ten-year term grazing permits would be issued with decreased grazing preference (Alternative B), no active preference (Alternative D), or reduced number of livestock (Alternative E) on the allotment. These alternatives would not provide the same livestock grazing opportunities as the proposed action. Although the grazing preference in Alternative B is based upon what the permittee has actually been using, the new permit would not allow the permittee to use the full number of livestock listed on the permit, and would not allow any flexibility to increase actual use should conditions result in good forage production in a given year. Alternative D would eliminate all livestock grazing on the allotment for the ten-year term of the new permits. Alternative E would reduce authorized livestock numbers on the allotment to match the active grazing preference listed on the current permit.

Alternative C – increase in active preference – was not chosen because impacts on resources (soils, vegetation, and wildlife would be the greatest). Utilization would likely reach the allowable utilization limit of 50% every year, unlike the current situation where utilization averages well below that. While maximum utilization would still be in the “moderate” category, less total foliage would remain on vegetation within the allotment. This alternative would have the greatest impact on vegetation.

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, Lorraine Christian, 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 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 Arizona Strip Field Office 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).

 Digitally signed by
LORRAINE CHRISTIAN
Date: 2019.12.30
11:58:45 -08'00'

Lorraine M. Christian, Field Manager
Arizona Strip Field Office

Date

List of all persons or groups receiving this NOPD:

De-Mar Limited, permittee
Arline & Denice Hughes
Western Watersheds Project, Cyndi C. Tuell
Grand Canyon Trust, Travis Bruner
Sierra Club, Sandi Bahr