



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Lake Havasu Field Office
1785 Kiowa Avenue
Lake Havasu City, Arizona 86403-2847
Phone: (928) 505-1200

In Reply Refer To:
4120 (AZC030)

JAN 20 2022

PROPOSED DECISION **K Lazy B AUM Adjustment**

Dear Interested Public:

On 3/12/2019 the John D. Dingle Jr. Conservation, Management, and Recreation Act of 2019 (Dingle Act) was passed. A portion of this law affected 5,935 acres of Public Land administered by the Bureau of Land Management (BLM) within the K Lazy B grazing allotment. As a result, on 7/2/2021 the 5,935 acres of land identified in the Dingle Act transferred from ownership of the United States to La Paz County. These were then leased by the county to a private company to be developed for solar energy.

Prior to this action, the K Lazy B allotment consisted of 128,466 acres. With the loss of the 5,935 acres, 122,532 acres remain. This is a total of 4.61% fewer public lands acres available for livestock grazing under the existing permit.

As a result of these events, it is appropriate for the Authorized Officer to consider adjustments to the Animal Unit Months (AUMs) associated with the current grazing permit.

On 10/28/2021 a public consultation letter was mailed to the interested public to provide information of the proposed action by the BLM. The comment period was for 14 days starting 10/28/2021. At the conclusion of the comment period, one interested party provided comments. Those comments were taken into consideration, which contributed to the development of the Environmental Assessment (EA). The EA is available to view at the following link: <https://go.usa.gov/xtBYX>

PROPOSED DECISION:

It is my proposed decision to approve the Proposed Action Alternative provided in the Environmental Assessment (EA) DOI-BLM-AZ-C030-2022-0008-EA to adjust the number of permitted AUMs within the K Lazy B Allotment. The adjustment of the grazing permit will be proportionally to the reduced available grazing lands. The adjustment will be from 1861 AUMs to 1771 AUMs.

RATIONALE:

This decision is guided by the grazing regulations provided for in the 43 CFR §4100-4190 and supported by best available data, science, and management practices. Under 43 CFR §4110.4-2(a) when there is a decrease in public land acreage available for livestock grazing within the allotment: (1) Grazing permits or leases may be canceled or modified as appropriate to reflect the changed area of use. (2) Permitted use may be cancelled in whole or in part. Cancellations determined by the authorized officer to be necessary to protect the public lands will be apportioned by the authorized officer based upon the level of available forage and the magnitude of the change in public land acreage available, or as agreed to among the authorized users and the authorized officer.

Additionally, in 43 CFR §4110.3-3(a) the regulations describe the process to implement reductions in permitted use as follows: After consultation, cooperation, and coordination with the affected permittee or lessee, the State having lands or managed resources within the area, and the interested public, reductions of permitted use shall be implemented through a documented agreement or by decision of the authorized officer. Decisions implementing §4110.3-2 shall be issued as a proposed decision pursuant to §4160.1, except as provided in paragraph (b) of this section.

Both these aforementioned 43 CFR regulations (43 CFR §4110.4-2(a) and §4110.3-3(a)) line out the need that the BLM has to take by considering this reduction initiated by the Dingle Act as well as the process required to follow in order to implement it.

In this case, using the simple method of reducing the permitted AUM's proportionally to lost available lands is a reliable method that meets the current need.

AUTHORITY:

All citations are from Part 43, Code of Federal Regulations (CFR), Subpart 4100 (2005).

- § 4120.3-1(a) –Range improvements shall be installed, used, maintained, and/or modified on the public lands, or removed from these lands, in a manner consistent with multiple use 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 cooperative range improvement agreement with the Bureau of Land Management or must have an approved range improvement permit.
- § 4120.3-1(e) –A range improvement permit or cooperative range improvement agreement does not convey to the permittee or cooperator any right, title, or interest in any lands or resources held by the United States.
- § 4120.3-1(f) –Proposed range improvement projects shall be reviewed in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4371 *et seq.*). The decision document following the environmental analysis shall be considered the proposed decision under subpart 4160 of this part.
- § 4120.3-2(d) –Range improvement work performed by a cooperator or permittee on the public lands or lands administered by the Bureau of Land Management does not confer the exclusive right to use the improvement or the land affected by the range improvement work.
- § 4120.3-7 –The authorized officer may accept contributions of labor, material, equipment, or money for administration, protection, and improvement of the public lands necessary to achieve the objectives of this part.
- § 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.
- § 4160.2 –Any applicant, permittee, lessee or other interested public may protest the proposed decision under § 4160.1 of this title in person or in writing to the authorized officer within 15 days after receipt of such decision

PROTEST PROVISIONS:

In accordance with 43 C.F.R. § 4160.2, any applicant, permittee, lessee or other interested public may protest the proposed decision under § 4160.1 of this title in person or in writing to the authorized officer within 15 days after receipt of such decision. In accordance with 43 C.F.R. § 4160.3 (b), 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 of 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.

In accordance with 43 C.F.R. § 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. If the proposed decision were to become the final decision it may be appealed in accordance with the following section.

APPEAL PROVISIONS:

In accordance with 43 C.F.R. § 4.470 and § 4160.4, any applicant, permittee, lessee or other person whose interest is adversely affected by the Final Decision may file an appeal of the Decision. An appellant may also file a petition for stay of the Decision pending final determination on appeal. The appeal and petition for stay must be filed in the office of the authorized officer, as noted above, within 30 days following receipt of the Final Decision, or within 30 days after the date the Proposed Decision becomes final. Within 15 days of filing the appeal and any petition for stay, the appellant also must serve a copy of the appeal and any petition for stay on any person named in the Decision and listed at the end of the Decision, and on the Office of the Solicitor, Intermountain Region, 401 West Washington St. Suite 404 Spc44, Phoenix, AZ 85003 (CFR§ 4.471(b)).

The appeal must be in writing and state the reasons, clearly and concisely, why the appellant thinks the Final Decision is in error. Other provisions of 43 C.F.R. § 4.470 also apply. The BLM does not accept appeals sent by electronic mail. Appeals transmitted by facsimile will be accepted so long as the BLM receives the original document with original signature within 7 days of the receipt of the facsimile transmittal.

A petition for stay, if filed, shall show sufficient justification based on the following standards (43 C.F.R. § 4.471(c)):

- The relative harm to the parties if the stay is granted or denied;
- The likelihood of the appellant's success on the merits;
- The likelihood of immediate and irreparable harm if the stay is granted; and,
- 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.

Any person named in the Decision from which an appeal is taken (other than the appellant) who wishes to file a response to the petition for a stay may file with the Departmental Cases Hearings Division Office of Hearings and Appeals U.S. Department of the Interior 351 South West Temple, Suite 6300 Salt Lake City, Utah 84101, a motion to intervene in the appeal, together with the response, within 10 days of receiving the petition. Within 15 days after filing the motion to intervene and response, the person must serve copies on the appellant, the Office of the Solicitor and any other person named in the Decision (43 CFR§4.471(b)).

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR§4.422(c)(2)).

If you have any questions about this proposed decision, contact Eric Duarte by telephone at (928) 505-1230, by email at eduarte@blm.gov or at the Lake Havasu Field Office 1785 Kiowa Ave. Lake Havasu AZ, 86403.

Sincerely,



Jason R. West
Field Manager