



# United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Arizona Strip District

Grand Canyon-Parashant National Monument

345 East Riverside Drive

St. George, Utah 84790

Phone (435)688-3200 • Fax (435)688-3258

[www.blm.gov/arizona](http://www.blm.gov/arizona)



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Layton Cattle Company, L.C.  
P.O. Box 973  
Littlefield, AZ 86432

## **NOTICE OF PROPOSED DECISION**

*Hobble Canyon Water Catchment*

*DOI-BLM-AZ-A030-2021-0011-DNA*

**I authorize the following Hobble Canyon Water Catchment within the Mud and Cane Spring Allotment (AZ04850).**

The water catchment, pipeline, troughs, storage tank or lined pond, and new access road will be located in the following described area (DNA Appendix A, Figure 1):

Gila & Salt River Meridian, Mohave County, Arizona.

T. 37 N., R.13 W., Section 6, SW $\frac{1}{4}$ ; Section 7, NW $\frac{1}{4}$ .

The proposed action is to construct one new water catchment, associated access road, and related infrastructure as described in Section A of the above referenced DNA. Best Management Practices/Design Features, Terms and Conditions, and Monitoring are required to be followed as described in the DNA as the project is developed. The DNA, Finding of No Significant Impact (FONSI) and this decision are available on the project's BLM ePlanning website at:

<https://eplanning.blm.gov/eplanning-ui/project/2015368/510>

### **Rationale**

The purpose of the proposed project is to encourage and achieve better livestock distribution within the Hobble Canyon and Hobble Hills Pastures as part of the pasture rotation system on the Mud and Cane Spring Allotment.

The project provides additional water for wildlife (including mule deer, small mammals, reptiles, and birds). The project is in accordance with the *Arizona Strip Interdisciplinary Mule Deer Management Plan 2015-2019* (2015), developed jointly by the BLM and Arizona Game and Fish Department. Improving water distribution and improving habitat use by a variety of species meet the objectives contained within the GCPNM Resource Management Plan (RMP) (BLM 2008) and documented in the DNA.

The Mud and Cane Allotment, as last assessed for rangeland health, has been determined to be making significant progress toward meeting the applicable standards for rangeland health. This project would continue that trend to improve rangeland health conditions.

In summary, the project is within the scope of the RMP, Monument Proclamation, related plans, agency goals and objectives, and improve rangeland health. A FONSI has been prepared and signed to document the process of following agency guidance when preparing a DNA. Consequently, the informed implementation of the project, it is expected to improve rangeland conditions for wildlife and livestock, with limited impacts on the human environment. This rationale has been used with the FONSI and DNA to make this decision.

## **AUTHORITY**

The authority for this decision is contained in part in the Federal Land Policy and Management Act of 1976 (43 United States Code [USC] 1707 et seq.) and Title 43 of the Code of Federal Regulations (CFR), which state in pertinent parts:

### **§4100.0-8 Land Use Plans**

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. 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).

### **Land Use Plan (LUP) Conformance**

The proposed action is in conformance with the Grand Canyon-Parashant National Monument Resource Management Plan (GCPNM RMP) (BLM 2008), approved January 29, 2008.

The following decisions are from Table 2.12 of the GCPNM RMP regarding management of livestock grazing:

**DFC-GM-01:** Healthy, sustainable rangeland ecosystems will be maintained or improved to meet Arizona's Standards for Rangeland Health and produce a wide range of public values such as wildlife habitat, livestock forage, recreation opportunities, clean water, and functional watersheds.

**DFC-GM-02:** Livestock use and associated management practices will be conducted in a manner consistent with other resource needs and objectives to ensure that the health of rangeland resources is

preserved or improved so that they are productive for all rangeland values. Where needed, public rangeland ecosystems will be improved to meet objectives.

The following decisions are from Table 2.4 in the RMP regarding Wildlife and Fish Management.

**DFC-WF-03:** Forage, water, cover, and space will be available to wildlife of sufficient quality and quantity to support productive and diverse wildlife populations.

**DFC-WF-04:** All waters will be safely available to wildlife.

**DFC-WF-13:** Mule deer habitat will provide the necessary forage, water, cover, and shelter components for healthy, self-sustaining populations within the range of natural variability.

**DFC-WF-18:** Water sources within mule deer habitat will be safely accessible to deer and other wildlife.

It has also been determined that the proposed action will not conflict with other decisions throughout the plan.

#### **§4120.3-1 Conditions for Range Improvements**

- (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.
- (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 Bureau of Land Management 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 §4130.3-2 of this title.
- (d) The authorized officer may require a permittee or lessee to install range improvements on the public lands in an allotment with two or more permittees or lessees and/or to meet the terms and conditions of agreement.
- (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.
- (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.

### **§4160.1 Proposed Decisions**

- (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.
- (b) Proposed decisions shall state the reasons for the action and shall reference the pertinent terms, conditions and the provisions of applicable regulations. As appropriate, decisions shall state the alleged violations of specific terms and conditions and provisions of these regulations alleged to have been violated and shall state the amount due under §4130.8 and §4150.3 and the action to be taken under §4170.1.
- (c) The authorized officer may elect not to issue a proposed decision prior to a final decision where the authorized officer has made a determination in accordance with §4110.3-3(b) or §4150.2(d).

### **§4160.2 Protests**

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.

### **§4160.3 Final Decisions**

- (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.
- (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 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.
- (d) When the Office of Hearings and Appeals stays a final decision of the authorized officer regarding an application for grazing authorization, an applicant who was granted grazing use in the preceding year may continue at that level of authorized grazing use during the time the decision is stayed, except where grazing use in the preceding year was authorized on a temporary basis under §4110.3-1(a). Where an applicant had no authorized grazing use during the previous year, or the application is for designated ephemeral or annual rangeland grazing use, the authorized

grazing use shall be consistent with the decision pending the Office of Hearings and Appeals final determination on the appeal.

(e) When the Office of Hearings and Appeals stays a final decision of the authorized officer to change the authorized grazing use, the grazing use authorized to the permittee or lessee during the time that the decision is stayed shall not exceed the permittee's or lessee's authorized use in the last year during which any use was authorized.

(f) Notwithstanding the provisions of §4.21(a) of this title pertaining to the period during which a final decision will not be in effect, the authorized officer may provide that the final decision shall be effective upon issuance or on a date established in the decision and shall remain in effect pending the decision on appeal unless a stay is granted by the Office of Hearings and Appeals when the authorized officer has made a determination in accordance with §4110.3-3(b) or §4150.2(d). Nothing in this section shall affect the authority of the Director of the Office of Hearings and Appeals or the Interior Board of Land Appeals to place decisions in full force and effect as provided in §4.21(a)(1) of this title.

#### **§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. The authorized officer shall promptly transmit the appeal and petition for stay and the accompanying administrative record to ensure their timely arrival at the Office of Hearings and Appeals.

#### **§4180.1 Fundamentals of Rangeland Health**

The authorized officer shall take appropriate action under subparts 4110, 4120, 4130, and 4160 of this part as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management needs to be modified to ensure that the following conditions exist.

(a) Watersheds are in, or are making significant progress toward, properly functioning physical condition, including their upland, riparian-wetland, and aquatic components; soil and plant conditions support infiltration, soil moisture storage, and the release of water that are in balance with climate and landform and maintain or improve water quality, water quantity, and timing and duration of flow.

(b) Ecological processes, including the hydrologic cycle, nutrient cycle, and energy flow, are maintained, or there is significant progress toward their attainment, in order to support healthy biotic populations and communities.

(c) Water quality complies with State water quality standards and achieves, or is making significant progress toward achieving, established BLM management objectives such as meeting wildlife needs.

(d) Habitats are, or are making significant progress toward being, restored or maintained for Federal threatened and endangered species, Federal Proposed, Category 1 and 2 Federal candidate and other special status species.

## **§4180.2 Standards and Guidelines for Grazing Administration**

(c) 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.

## **DECISION PROTEST AND APPEAL PROCEDURES**

In accordance with 43 CFR 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 (Mark Wimmer, Monument Manager, Grand Canyon-Parashant National Monument, 345 East Riverside Drive, St. George, Utah 84790) within 15 days after receipt of such decision. The protest, if filed, must clearly and concisely state the reason(s) as to why the Proposed Decision is in error.

In accordance with 43 CFR 4160.3 (b), should a timely protest be filed with the authorized officer, the authorized officer, at the conclusion to his review of the protest shall serve the Final Decision on the protestant and the interested public.

In the absence of a protest, the Proposed Decision shall constitute the Final Decision without further notice unless otherwise provided in the Proposed Decision in accordance with 43 CFR 4160.3(a).

In accordance with 43 CFR 4.470, 4160.3(c), and 4160.4, 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. The appeal must be filed within 30 days after the date the proposed decision becomes final or 30 days after receipt of the final decision. In accordance with 43 CFR 4.470, the appeal shall state clearly and concisely the reason(s) why the appellant thinks the final decision of the authorized officer is wrong.



Pursuant to 43 CFR 4.471 and 4160.3(c), an appellant also may petition for a stay of the final decision pending appeal by filing a petition for stay along with the appeal within 30 days after the date the proposed decision becomes final or 30 days after receipt of the final decision.

The appeal and any petition for stay must be filed at the office of the authorized officer (Mark Wimmer, Monument Manager, Grand Canyon-Parashant National Monument, 345 East Riverside Drive, St. George, Utah 84790). 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 Field Solicitor located at U.S. Department of the Interior, Sandra Day O' Connor U.S. Courthouse, 401 West Washington Street, SPC 44, Suite 404, Phoenix, Arizona 85003-2151. Pursuant to 43 CFR 4.471(c), a petition for stay, if filed, 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.

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.

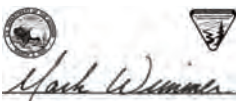
Any person named in the decision from which an appeal is taken (other than the appellant) who wishes to file a response to the petition for a stay may file with the Hearings Division in Salt Lake City, Utah, a motion to intervene in the appeal, together with the response, within 10 days after receiving 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 4.472(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)).

#### **AUTHORIZED OFFICER'S SIGNATURE:**

The decision is consistent with 43 CFR 4100 and 43 CFR 4180 and the Standards and Guidelines for Healthy Rangelands.

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  
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Mark Wimmer  
Monument Manager  
Grand Canyon-Parashant National Monument

Enclosure: Persons or Groups Receiving this NOPD

Layton Cattle Company, L. C.  
PO Box 973  
Littlefield, AZ 86432

S.C. Esplin Inc.  
690 S. Five Sisters Dr.  
St. George, Utah 84790

Western Watersheds Project  
Cyndi C. Tuell  
738 N 5<sup>th</sup> Ave Suite #206  
Tucson, AZ 85705

Five County Association of Governments  
Bryan Thiriot  
10970 W. 1600 S.  
St. George, Utah 84770

Arizona State Land Department  
Chris Lowman  
1133 West Road 3 North  
Chino Valley, AZ 86323

Desert Tortoise Council  
Ed LaRue  
5443 Heath Lane  
Wrightwood, CA 92397