



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 (AZC0300)

3/31/2022

PROPOSED DECISION

Nord Well, Corral Expansion, and Associated Facilities

Dear Interested Public:

On December 14, 2021 a consultation cooperation and coordination (CCC) letter was mailed to the interested public to provide information of the proposed action by the Bureau of Land Management (BLM) regarding the submitted application by the K Lazy B grazing allotment permittee to construct a new well with above structures at the existing Nord range improvement projects. The comment period was for 14 days starting December 14, 2021. At the conclusion of the comment period the Lake Havasu Field Office (LHFO) received three responses. One of the comments received had no specific concerns unless cultural concerns were identified by a cultural review. Another comment also had no concerns except to be provide with the NEPA documents when available. The third comment did express concerns and comments.

This Proposed Decision, along with a Finding of No Significant Impact (FONSI) and the Final EA are posted on the project webpage at the following link: <https://go.usa.gov/xzejR>

PROPOSED DECISION:

It is my Proposed Decision to approve the Proposed Action as described with the incorporation of the stipulations and mitigation measures provided in the Environmental Assessment DOI-BLM-AZ-C030-2022-0016-EA. The maintenance will be kept by the permittee of the K Lazy B grazing allotment in accordance with the signing of a cooperative agreement.

As a point of clarification, construction on the ground will not occur until documentation of the appropriate water rights through the State of Arizona are provided to the BLM.

RATIONALE:

The Nord Well would be a more permanent year-round water source for livestock and wildlife at the Nord facilities and provide the same management opportunities as Bone Well once did. The year-round supply of water would continue to support grazing distribution as having available waters throughout the allotment reduces grazing pressure in concentrated locations and further allows plant species to grow and reproduce in available, adequate soil conditions. This allows for

a higher potential of land health in the allotment which is interrelated with providing available habitat for wildlife. Because of low precipitation that is received in this type of desert ecosystem, it is important to think through the impacts caused by poor distribution. Both drought and grazing management (e.g. livestock distribution) are a few drivers that have influence on rangeland vegetation.

Providing water and controlling water (shutting off or turning on) gives further control of livestock movement. As with K Lazy B and many other grazing allotments in this environment, pastures are non-existent and the ability for the operator to control where livestock are in these open rangelands is dependent on the ability to control waters when needed. Precipitation is inconsistent and not uniformed year after year. Being able to move livestock from one area to one where forage is more readily available is important for livestock and resource management.

Limited water distribution is a common cause for poor livestock distribution. On rangelands, where available water is infrequent, large sacrifice areas around watering points can often happen. Improved grazing distribution requires scattering livestock within a range unit (allotment) to obtain uniform use of range forages. Watering locations will often improve both livestock's distribution and vegetation reproduction (Holechek, Pieper, & Herbel, 2011).

The proposed action and alternatives described below are in conformance with the Yuma Field Office Resource Management Plan (RMP) (BLM 2010), page(s) # 2-87 through 2-93, Management Action/Decision #'s:

GM-011: Authorize and maintain range improvement projects in accordance with grazing regulations and polices.

GM-018: Locate new livestock waters at least two miles from Category I and II Sonoran Desert Tortoise habitat.

GM-019: Exclude range improvement projects within Category I and II Sonoran Desert Tortoise habitat, including water developments, which will create conflicts with Sonoran Desert Tortoise populations.

Citation:

Holechek, L. J., Pieper, D. R., Herbel, H. C., (2011). *Range Management: Principles and Practices*. Upper Saddle River, NJ: Pearson Education, Inc.

AUTHORITY:

All of the following 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.
- § 4160.4 – 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 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.(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.

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. 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 decision, contact Eric Duarte by telephone at (928) 412-5650, by email at eduarte@blm.gov, or at the Lake Havasu Field Office 1785 Kiowa Ave. Lake Havasu AZ, 86403.

Sincerely,



Jason West
Field Manager
Lake Havasu Field Office

Enclosures:
Mailing List