



United States Department of the Interior  
BUREAU OF LAND MANAGEMENT  
Safford Field Office  
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Safford, AZ 85546  
928-348-4400  
www.blm.gov/arizona



July 21, 2022

In Reply Refer To:  
4160 (G010)

### **NOTICE OF PROPOSED DECISION**

Grazing Lease Renewal for The Following Allotments:

Flying Butte (No. 06074), Manilla Wash (No. 06017), Marcou Mesa (No. 06127), Marcou Mesa East (No. 01695), Mesa Wash (No. 06172)

Dear Lessee(s),:

#### **INTRODUCTION**

The Bureau of Land Management (BLM) is charged with evaluating public lands on an allotment basis, in accordance with the current regulations, to determine if the rangelands are meeting the Arizona Standards for Rangeland Health. The information collected in the Land Health Evaluation (LHE) will be used as a basis to evaluate the renewal of livestock grazing leases and authorizations of any other uses on the public lands, consistent with land use plan documents.

This proposed decision is to renew the grazing lease(s) on the Flying Butte, Manilla Wash, Marcou Mesa, Marcou Mesa East, and Mesa Wash Allotments for a period of 10 years with the same mandatory terms and conditions as the previous lease, and with slight modifications to the other terms and conditions as outlined in the "2022 North Batch LHE" and presented below in the proposed decision.

#### **BACKGROUND**

On June 30, 2022, the draft LHE was made available on ePlanning and the comment period lasted from July 5<sup>th</sup> through July 19<sup>th</sup>. Substantive comments were addressed and incorporated into the Final LHE in *Appendix F.2: Public Comments Received from Draft LHE*. The final LHE concluded that the existing resource conditions encountered on the aforementioned allotments meet the Arizona Standards for Rangeland Health, and current management of the livestock is appropriate under the Arizona Guidelines for Grazing Administration. Further, you were provided notice that the BLM intended to prepare a Categorical Exclusion (CX) pursuant to the National Environmental Policy Act (NEPA) and Section 402(h)(1) of the Federal Land Policy and Management Act (FLPMA; 43 U.S.C. 1701 et seq.). The CX (DOI-BLM-AZ-G010-2022-0020-CX) and final LHE are available electronically through the online NEPA Register at: <https://go.usa.gov/xJMUF>.

#### **PROPOSED DECISION**

Therefore, it is my proposed decision to offer you a new grazing lease for a period of 10 years with the following terms and conditions:

**Mandatory Terms and Conditions:**

<b>Allotment Name/Number</b>	<b>Livestock Number/Kind</b>	<b>Grazing period Begin - End</b>	<b>% Public Land</b>	<b>Active Use (AUM)</b>
Flying Butte/ No. 06074	53 Cattle	3/1 - 2/28	100	636
Manila Wash/ No. 06017	5 Cattle	3/1 - 2/28	100	60
Marcou Mesa/ No. 06127	64 Cattle	3/1 - 2/28	100	768
Marcou Mesa East/ No. 01695	14 Cattle	3/1 - 2/28	100	173
Mesa Wash/ No. 06172	5 Cattle	3/1 - 2/28	100	60

**Other Terms and Conditions:**

- In order to improve livestock distribution on the public lands, all salt blocks and/or mineral supplements shall not be placed within a ¼ mile of any riparian area, wet meadow or watering facility (either permanent or temporary) unless stipulated through a written agreement or decision in accordance with 43 CFR 4130.3-2(c).
- The lessee shall submit, upon request, a report of the actual grazing use made on this allotment for the previous grazing period, March 1 to February 28. Failure to submit such a report upon request by March 15 of the current year may result in suspension or cancellation of the grazing lease.
- Lessee shall provide reasonable administrative access across private and leased lands to the BLM for the orderly management and protection of the public lands.

**RATIONALE**

The BLM-administered lands within the allotments are guided by the Phoenix Resource Management Plan (RMP), incorporating by reference the Eastern Arizona Grazing Final Environmental Impact Statement (FEIS) Record of Decision (1987).

The Secretary of the Interior approved Arizona Standards for Rangeland Health and Guidelines for Grazing Administration (Standards and Guidelines) in April 1997. The Standards and Guidelines Environmental Assessment Decision Record, signed by the BLM State Director in April 1997, provides for full implementation of the Standards and Guidelines in all Arizona BLM land use plans.

The 2022 North Batch LHE was completed in July 2022. In accordance with BLM policy and regulations, all applicable monitoring data were examined and evaluated in order to determine progress in meeting the Arizona Standards for Rangeland Health and other land use plan objectives. In addition, the allotments included in the 2022 North Batch LHE were reviewed to determine if any new information, issues, or concerns have been identified. An interdisciplinary team completed the analysis of the resource data and developed the formal evaluation, which was previously sent for your review. Grazing management per the terms and conditions of the renewed 10-year grazing leases will continue as established herein. The terms and conditions will ensure that each allotment will continue to meet those standards for rangeland health addressed in the LHE.

The Code of Federal Regulations (43 CFR 4130.2(a)) requires that, "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 Bureau of Land Management that are designated as available for livestock grazing through land use plans.” I have determined that renewing these 10-year grazing leases will be in conformance with the Phoenix RMP and incorporating by reference, the Eastern Arizona Grazing FEIS Record of Decision (1987).

## **AUTHORITY**

The authority for this decision is contained in Title 43 of the Code of Federal Regulations including, but not limited to the following pertinent subparts:

§4100.0-3(a) The Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315, 315a through 315r);  
 (b) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) as amended by the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.).

§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.

§4110.3-2(b) When monitoring or field observations show grazing use or patterns of use are not consistent with the provisions of subpart 4180, or grazing use is otherwise causing an unacceptable level or pattern of utilization or, when use exceeds the livestock carrying capacity as determined through monitoring, ecological site inventory or other acceptable methods, the Authorized Officer shall reduce permitted grazing use or otherwise modify management practices.

§4110.3-3(a) After consultation, cooperation, and coordination with the affected permittee or lessee, the state having lands or managing 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 proposed decisions pursuant to 4160.1 of this part, except as provided in paragraph (b) of this section.

§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) Provision for livestock grazing temporarily to be delayed, discontinued or modified to allow for the reproduction, establishment, or restoration of vigor of plants ... or for the protection of other rangeland resources and values consistent with objectives of applicable land use plans ...

§4130.3-3 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.

§4160.2 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.

§4180.2(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 practices or levels of grazing use on public lands are significant factors in failing to achieve the standards and conform to the guidelines that are made effective under this section. Appropriate action means implementing actions pursuant to 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 guidelines.

#### **RIGHT OF PROTEST AND/OR APPEAL**

Any applicant, permittee, lessee, or other interested public may protest this proposed decision within 15 days following its receipt in accordance with 43 CFR 4160.1 and 4160.2. The protest may be submitted in person or in writing to:

Scott C. Cooke  
Bureau of Land Management  
Safford Field Office  
711 S. 14th Avenue  
Safford, Arizona 85546

Any protest filed should clearly and concisely state the reason(s) why the proposed decision is in error. If protest are sent by facsimile or email, the date filed is not official until the BLM receives the original protest by mail or in person. Electronic dates of submission are not acceptable.

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 protests 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 SFO 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.

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: US Department of the Interior, Office of the Field Solicitor, Sandra Day O'Connor U.S. Courthouse, 401 W. Washington St. SPC 44, Suite 404, Phoenix, AZ 85003-2151 in accordance with 43 CFR 4.470(a) and 4.471(b).

If you have any questions, please contact Amelia Taylor, Assistant Field Manager, or myself at (928) 348-4400.

Sincerely,

A handwritten signature in blue ink that reads "Scott C. Cooke". The signature is written in a cursive, flowing style.

Scott C. Cooke  
Field Manager

cc:

Arizona Cattle Growers  
1811 S Alma School Rd #255  
Mesa, AZ 85210  
Certified Mail No. 70170530000030467212

Arizona Game and Fish Department  
Region I – Pinetop  
c/o James Eddy  
2878 East White Mountain Boulevard  
Pinetop, AZ 85935  
Certified Mail No. 70170530000030467229

Arizona Game and Fish Department  
WMHB – Project Evaluation Program  
5000 W. Carefree Highway  
Phoenix, AZ 85086  
Certified Mail No. 70151730000037354017

Arizona State Land Department  
c/o Chris Lowman  
1616 West Adams  
Phoenix, AZ 85007  
Certified Mail No. 70151730000037354055

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P.O. Box 190  
Winslow, AZ 86047  
Certified Mail No. 70151730000037354024

Casey Murph  
P.O. Box 503  
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CA Shaff Revocable Trust  
P.O. Box 309  
Joseph City, AZ 86032  
Certified Mail No. 70151730000037354048

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