



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Kingman Field Office
2755 Mission Boulevard
Kingman, Arizona 86401
Phone: (928) 718-3700 Fax: (928) 718-3761
www.blm.gov/arizona/

July 30, 2024

In Reply Refer To:
4160 (AZC010)

CERTIFIED MAIL – RETURN RECEIPT REQUESTED NO. 9589 0710 5270 2069 7989 87

Palmerita Ranch, LLC
Attn: Tim Petersen
P.O. Box 519
Camp Verde, AZ 86322

NOTICE OF FINAL DECISION
Palmerita Ranch Allotment (No. 00094)
Grazing Permit Renewal

Dear Mr. Petersen:

This Notice of Final Decision (NOFD) is the result of a timely protest of the Notice of Proposed Decision (NOPD) which was signed June 4, 2024, then mailed to you and other interested publics regarding the issuance of the 10-year term grazing permit on the Palmerita Ranch Allotment that was analyzed in Environmental Assessment (EA) No. DOI-BLM-AZ-C010-2023-0033-EA.

INTRODUCTION

The Bureau of Land Management (BLM) is charged with evaluating public lands, in accordance with the current regulations, to determine if rangelands are achieving the Arizona Standards for Rangeland Health. The information and analysis in the land health evaluation (LHE) and EA was used as a basis to evaluate the issuance of the livestock grazing permit.

This Final Decision is to renew the grazing permit for the Palmerita Ranch Allotment (Allotment) for a period of 10 years with a modification of mandatory terms and conditions as presented below.

BACKGROUND

On October 3, 2017, the BLM's Kingman Field Office (KFO) received your application for grazing preference for the Allotment.

INTERIOR REGION 8 • LOWER COLORADO BASIN

ARIZONA, CALIFORNIA*, NEVADA*

* PARTIAL

In 2019, the KFO began monitoring the Allotment to determine if resource conditions were meeting the Arizona Standards for Rangeland Health, land use plan objectives, and allotment-specific objectives.

In May, 2019, the BLM initiated formal consultation with the United States Fish and Wildlife Service (USFWS) for the renewal of a 10-year grazing permit for the Palmerita Ranch Allotment.

On October 21, 2021, the BLM received a final Biological Opinion (BO) from the USFWS. This BO contained conservation measures for the southwestern willow flycatcher and its critical habitat, as well as the threatened western district population segment of the yellow-billed cuckoo.

In August 2023, BLM developed a LHE to determine if the Allotment was meeting and/or making significant progress towards meeting the Arizona Standards for Rangeland Health, land use plan objectives and allotment specific objectives.

On August 24, 2023, a Determination Document identifying factors other than livestock grazing as the causal factor for the non-achievement of Standard 3 of the Arizona Standards for Rangeland Health was signed.

On August 28, 2023, a 30-day public comment period was initiated for the LHE and Palmerita Ranch Allotment Grazing Permit Renewal EA (DOI-BLM-AZ-C010-2023-0033-EA). The BLM sent notification of this document's availability to 15 individuals, organizations, or agencies by letter and a press release was sent to media outlets listed on the Arizona BLM State Office media list on the same day announcing the comment period. Comments were received from approximately 1,756 individuals, Federal agencies, State agencies, and non-governmental organizations during the comment period. Changes were made in the Final EA and have been noted in Appendix G: Response to Public Comments.

On June 4, 2024, the final EA, Finding of No Significant Impact (FONSI), and Proposed Decision were published and made available to be viewed or downloaded from the BLM Land Use Planning and NEPA Register Page under the following link:
<https://eplanning.blm.gov/eplanning-ui/project/2025403/510>

On June 21, 2024, a timely protest to the Proposed Decision was received from Arizona Game and Fish Department's Region IV (AZGFD). I have carefully considered each reason for protest and have responded to these reasons below.

REASONS FOR PROTEST AND BLM RESPONSES

Reason for Protest

- 1. The BLM does not have the authority to permit livestock grazing on portions of the Alamo Wildlife Area (AWA).**

“The allotment encompasses 7,863 acres of Army Corps of Engineer (ACOE) lands, a majority of which are included in a lease agreement between ACOE and the Department

granting authority for the lands to be managed by the Department as the Alamo Wildlife Area (AWA). This land designation and management authority was not included in the EA. In the figures provided in the Appendix of the EA, as well as in the list of required Range Improvements, it appears that portions of the existing Riparian Pasture Fence and new Riparian Pasture Fence Extension occur on the AWA and would not exclude cattle entirely from grazing within the AWA. Grazing is not included in the most recent management plan for the AWA and the Department is not authorized under its license agreement to manage cattle or other livestock on the wildlife area. In fact, under the current license agreement, the ACOE expressly retains authority to permit grazing on the AWA, and no such permission has been given. The Department, therefore, requests the BLM's grazing permit for the Palmerita Allotment exclude the AWA and the location of the riparian exclusion fencing align with the AWA boundary."

BLM Response: The Allotment is available for grazing under 1995 Kingman Resource Management Plan (RMP) and was authorized for grazing until 2001 when the grazing permit expired. The BLM did not renew because an application for renewal was not filed. In 2017, the KFO received an application to graze the Allotment and initiated the permit renewal process including developing a LHE and EA. In August 2023, notification that the draft EA was available for public comment was sent to all interested parties, including AZGFD's Region IV office. BLM received no comments from AZGFD.

The Allotment contains multiple land status types including BLM-owned, private-owned, State-owned, and lands withdrawn by ACOE through Public Lands Order 492 (P.L.O. 492). Federal Register Doc. 48-6161 (July 2, 1948), addressing this withdrawal, states:

"This order [P.L.O. 492] shall take precedence over but shall not modify the withdrawal orders of March 6, 1936 and July 30, 1941, establishing Arizona Grazing Districts Nos. 2 and 3 so far as these orders affect the above-described lands."

The BLM's KFO manages livestock grazing, including livestock grazing infrastructure, on P.L.O. 492 lands in accordance with the Taylor Grazing Act, Federal Land Management Policy Act, 1995 KFO RMP, Federal Register Doc. 48-6161, and all other applicable regulations and guidance.

2. The BLM is causing harm to riparian areas by trapping unauthorized livestock in the riparian areas through the reconstruction and additions to the Riparian Pasture Fence.

"The Department supports the exclusion of cattle year round from the riparian areas to avoid or minimize potential impacts identified in the EA to Threatened, Endangered, (T&E) and special status species such as Southwestern willow flycatcher (*Empidonax traillii extimus*), Yellow-billed cuckoo (*Coccyzus americanus*), and the Northern Mexican garter snake (*Thamnophis eques megalops*) including reduced vegetation and degradation to the riparian habitat and stream flow. As stated in the EA, there has been documented unauthorized use within the T&E habitat, including areas of designated critical habitat. Prior to range improvements being made, it is the Department's position that the BLM's removal of unauthorized cattle must be completed to ensure the intended

protection of riparian habitat and prevent repaired or newly constructed exclusion fencing from trapping those cattle within the riparian area.”

BLM Response: The purpose of the EA and this decision is to analyze and authorize livestock grazing and range improvements required for the orderly management of the range and to comply with the conservation measures of the 2021 BO, including the exclusion of grazing from riparian areas between March 1 and October 31, annually. The selected alternative, Alternative E, includes the reconstruction and extensions to the river pasture fence which is intended to contain authorized livestock to the upland portions of the Allotment, when ephemeral grazing is approved. Under this alternative, no fencing was proposed or analyzed to restrict livestock movement in the riparian zone on the Allotment nor surrounding allotments. Alternative E differs from other alternatives as it does not require the reconstruction of water gap fencing across the Santa Maria and Big Sandy Rivers which may restrict livestock movement within the riparian zone.

Actions to address unauthorized livestock grazing is outside the scope of this EA and may be considered in future NEPA analysis and decisions.

FINAL DECISION

Based upon the analysis presented in the EA, and approving a FONSI, and consideration of the reasons for protest of the Proposed Decision, it is my Final Decision to authorize livestock grazing use on the Palmerita Ranch Allotment, as described in Alternative E: Ephemeral Only with No River Use, with a term of 10-years, upon acceptance of the permit. The terms and conditions of the permit will be as follows:

Mandatory Terms and Conditions

Allotment Name	Number	Livestock Number	Livestock Kind	Percent Public Land	Type Use	Authorized AUMS
Palmerita Ranch	00094	0	Cattle	78	Ephemeral	0

Other Terms and Conditions:

In addition to the mandatory terms and conditions and accordance with 43 Code of Federal Regulations (C.F.R.) § 4110.3-2, the following terms and conditions would be included on your permit:

1. Livestock may not enter the allotment until the riparian fence and its extensions are completed and fully functional.
2. When forage conditions warrant, livestock grazing may be approved upon application to utilize an ephemeral forage crop pursuant to federal grazing regulations, special management requirements and other guidance including:
 - a. No more than 40 percent of available ephemeral forage may be grazed.
 - b. Ephemeral grazing may only be approved when seeds are present on ephemeral forage species.

3. During years when grazing is approved, the permittee/lessee must properly complete, sign and date an Actual Grazing Use Report Form (BLM Form 4230-5) annually. The completed form(s) must be submitted to the BLM, Kingman Field Office within 15 days from the last day of authorized annual grazing use (43 CFR 4130.3-2(d)).
4. The conservation measures in the Biological Option dated October 21, 2021, related to the construction and maintenance of range improvements will be followed.

Range Improvements

The existing or new improvements marked as "Required" must be constructed prior to cattle entering the allotment to facilitate the orderly management of the range.

- (Existing) (Required) Riparian Pasture Fence (#2157) - The majority of the existing fence in T 11N, R 12W, Sections 14, 15, and 16 separating the river from the uplands will be repaired or reconstructed. The purpose of this fence will be to protect sensitive riparian and critical T&E habitat and keep livestock from entering the river pasture, when approved for grazing.
- (New) (Required) Riparian Pasture Fence Extensions - Extensions to the Riparian Pasture Fence will be constructed. The fence extensions are shown in Figure 5, Appendix C of the EA.
- (Existing) Palmerita Pipeline (#2158) - Repair and/or reconstruction of pipeline and trough system in T 11N, R 11W, Sections 11 and 20. The water source for this improvement is a shared spring on the neighboring Santa Maria Community allotment.
- (Existing) Stoop Tank (#2195) - The tank in T 11N, R 12W, Section 33 will be reconstructed within its existing footprint of disturbance.
- (New) Date Creek Pasture Fence - This new fence will be constructed in T 10N, R 11W, Sections 03, 10 and 15. A portion of preexisting fence near the Date Creek Well will tie into the bluff north of Date Creek. The fence will then continue north in the uplands and tie into the boundary fence. This fence will create a new pasture in the east portion of the allotment to aid in livestock rotation and distribution.
- (New) (Required) Gates will be added to the riparian fence and its extensions where the fence intersects with OHVs trails and roads. Signs will be posted at each gate to instruct the public to keep the gates close. However, if gates and signs are insufficient to maintain the integrity of the riparian fence, cattleguards may be installed.
- (New) Hand Dug Well - Existing hand dug well T 10N, R 12W, Section 28. A pump will be installed on this well which may be used to fill a water truck for water hauls to temporary troughs in the southern portion of the allotment. Livestock will not water at this location. Temporary trough locations would be analyzed in a future NEPA document.

As directed by Section 106 of the National Historic Preservation Act, NRHP-eligible sites are generally avoided, or mitigated if avoidance is not possible for projects with a federal nexus. Avoidance through project redesign is the preferred method of mitigation; however, when avoidance is not feasible, data recovery or other forms of mitigation are implemented prior to ground-disturbing activities (i.e. construction of range improvements). If during the construction or reconstruction of range improvements, any human remains, funerary objects, sacred objects or objects of cultural patrimony as defined in the Native American Graves Protection and Repatriation Act (P.L. 101-601; 104 Stat. 3048; 25 S.S.C. 3001) are discovered, the permittee shall stop operations in the immediate area of the discovery, protect the remains and objects, and

immediately notify the Authorized Officer of the discovery. The permittee shall continue to protect the immediate area of discovery until notified by the Authorized Officer that operations may resume.

RATIONALE

The Secretary of the Interior approved Arizona Standards for Rangeland Health and Guidelines for Grazing Administration in April 1997 (Standards). 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.

Based on the data compiled and analyzed for the LHE, the Palmerita Ranch Allotment is achieving Standards 1 and 2 but failing to achieve Standard 3 on two of the four monitoring sites. However, where Standards are achieved, vegetation attributes such as vigor, recruitment and composition are appropriate, and soils are stable. Species composition and structure were typical of the ecological communities within the Allotment. For the areas failing to achieve Standard 3, perennial grass frequency, bare ground cover, and/or desirable forage species composition objectives were not achieved.

The proposed terms and conditions and range improvements are necessary in order to continue to meet and/or make significant progress towards meeting Standards for Rangeland Health and Guidelines for Grazing Administration and other Land Use Plan multiple use objectives. The proposed terms and conditions and management practices are in conformance with Arizona Guidelines for Grazing Administration and the conservation measures contained in the USFWS 2021 BO to provide for forage on a multiple use sustained yield basis and support wildlife habitat requirements.

Upon analyzing the impacts of Alternative E and following issuance of the EA for public review, I have determined that implementing the Alternative E: Ephemeral Only with No River Use as described in this decision and Chapter 2 of the Final EA with incorporated terms and conditions will not have a significant impact to the human environment and that an Environmental Impact Statement (EIS) is not required. The rationale in the attached Finding of No Significant Impacts (FONSI) document supports this decision. This decision is consistent with the 1995 Kingman Resource Management Plan/Final Environmental Impact Statement and Record of Decision, as amended.

AUTHORITY

The authority for this decision is contained in Title 43 of the Code of Federal Regulations, as amended, effective July 11, 2006, which states in pertinent subparts and sections:

§ 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 C.F.R. 1601.0-5(b).

§4110.2-4 After consultation, cooperation, and coordination with the affected grazing permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public, the authorized officer may designate and adjust grazing allotment boundaries.

The authorized officer may combine or divide allotments, through an agreement or by decision, when necessary for the proper and efficient management of public rangelands.

§4110.3 The authorized officer shall periodically review the permitted use specified in a grazing permit or lease and shall make changes in the permitted use as needed to manage, or improve rangeland productivity, to assist in restoring ecosystems to properly functioning condition, to conform with land use plans or activity plans, or 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.

§4110.4(a) Where there is a decrease in public land acreage available for livestock grazing within an allotment: (1) Grazing permits or leases may be cancelled or modified as appropriate to reflect the changed area of use.

§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.

§4120.3-2(b) Subject to valid existing rights, title to permanent range improvements such as fences, wells, and pipelines where authorization is granted after August 21, 1995 shall be in the name of the United States. The authorization for all new permanent water developments such as spring developments, wells, reservoirs, stock tanks, and pipelines shall be through cooperative range improvement agreements. A permittee's or lessee's interest in contributed funds, labor, and materials will be documented by the Bureau of Land Management to ensure proper credit for the purposes of §§ 4120.3-5 and 4120.3-6(c).

§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.

§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.

§4130.3 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 ... or for the protection of other rangeland resources and values consistent with objectives of applicable land use plans...

§4130.3-3 Following consultation, cooperation, 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 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 or this part. To the extent practical, 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.

§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 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.

RIGHT OF APPEAL

Any applicant, permittee, lessee, or other person whose interest is adversely affected by the final BLM grazing decision may file an appeal and petition for stay of the final decision pending final determination on appeal under 43 CFR §4160.4, §4.21 and must follow the requirements set forth in §§ 4.470 through 4.480 of this title. The appeal and petition for stay must be filed in the office

of the authorized officer within 30 calendar days following receipt of the final decision. 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 Kingman Field Office as noted:


Bureau of Land Management
Kingman Field Office
Attention: Amanda Dodson
2755 Mission Boulevard
Kingman, Arizona 86401

The appeal shall comply with the provisions of 43 CFR § 4.470 and state the reasons, clearly and concisely, why the appellant thinks the final decision is in error. When filing a petition for stay, the appellant 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 the stay.

Within 15 days of filing the appeal, the appellant must provide BLM with proof of service to the other persons named in the Courtesy Copy list of this decision in accordance with 43 CFR § 4.475 and the Office of the Regional Solicitor in accordance with 43 CFR § 4.413(a) and § 4.413(c) 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).


Amanda M. Dodson
Field Manager, Kingman Field Office


Date

Enclosures: Courtesy Copy (CC) list

CC List

AZ Game and Fish Dept. Region 4 9140 E 28 th St. Yuma, AZ 85365	9589 0710 5270 2069 7989 94
Jeff Burgess 7650 S. McClintock Dr. #103-248 Tempe, AZ 85284	9589 0710 5270 2069 7990 07
International Society for the Protection of Mustangs and Burros PO Box 435 Rapid City, SD 57709	9589 0710 5270 2069 7990 14
Arizona Department of Environmental Quality 1110 W. Washington St. Suite #160 Phoenix, AZ 85007	9589 0710 5270 2069 7990 21
Tyson Bias 206 S 37 th Ave Tonopah, AZ 85354	9589 0710 5270 2069 7990 38
Center for Biological Diversity PO Box 710 Tucson, AZ 85702-0710	9589 0710 5270 2069 7990 52
Desert Tortoise Council 3807 Sierra Hwy #6-45-14 Acton, CA 93510	9589 0710 5270 2069 7990 69
Western Watersheds Project Attn: Cyndi Tuell 738 N. 5 th Ave Suite 206 Tucson, AZ 85705	9589 0710 5270 2069 7990 76
AZ State Land Department 1110 West Washington Street Phoenix, AZ 85007	9589 0710 5270 2069 7990 83
La Paz County Board of Supervisors 1108 Joshua Ave Parker, AZ 85344	9589 0710 5270 2069 7990 90

NRCS-Kingman Service Center
1608 North Stockton Hill Road
Suite 103
Kingman, AZ 86401

9589 0710 5270 2069 7991 06

Big Sandy Natural Resource Conservation District
Attn: Anita Waite
10437 South Hwy 93
Kingman, AZ 86401

9589 0710 5270 2069 7991 13

Wild Earth Guardians
738 North 5th Avenue
Suite 225
Tucson, AZ 85705

9589 0710 5270 2069 7988 40

USFWS Ecological Services
2500 South Pine Knoll Drive
Flagstaff, AZ 86001

9589 0710 5270 2069 7991 20