



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
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St. George, Utah 84790
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Daren W. Judd and Deleen K. Schafer
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NOTICE OF PROPOSED DECISION
*For the Proposed Grazing Permit Renewal
for the Shinarump Allotment*

INTRODUCTION

This Notice of Proposed Decision (NOPD) is the final administrative step in the land health evaluation and permit renewal process for the Shinarump Allotment (#05301). This proposed decision is to cancel the existing grazing permit and issue a new ten-year grazing permit. The new permit will maintain the current 17 head of cattle and the 42 active animal unit months (AUMs), and change the season of use from July 1 – October 30 to November 15 – March 15.

BACKGROUND

The Taylor Grazing Act of 1934 and the Federal Land Policy and Management Act of 1976 provide for livestock grazing use of the public lands that have been classified as available for grazing. Grazing use must be consistent with good range management aimed at conservation and protection of natural and cultural resources.

An assessment of this allotment was conducted in accordance with directions set forth by the Washington Office and Arizona State Office for implementation of the Arizona Standards for Rangeland Health and Guidelines for Grazing Administration. The purpose of the Arizona Standards and Guidelines is to ensure the health of public rangelands. These standards help the Bureau of Land Management (BLM), rangeland users, and interested members of the public achieve a common understanding of acceptable resource conditions and work together to implement that vision. Arizona's Standards for Rangeland Health and Guidelines for Grazing Administration were developed by the BLM State Standards and Guidelines Team and the Arizona Resource Advisory Council (RAC), a state level council appointed by the Secretary of the Interior. The Secretary of the Interior approved the Standards and Guidelines for Arizona in April 1997, and the BLM Arizona State Director mandated full implementation of the Standards and Guidelines in all Arizona land use plans.

The permittee, the RAC, Interdisciplinary Assessment Team (IAT), Rangeland Resources Team (RRT), and the interested public were invited to an issue/scoping meeting for the Shinarump Allotment held on January 29, 2002, and a field visit to the allotment on May 17, 2002. The land health evaluation report for the allotment was completed September 10, 2004. Based on analysis of allotment monitoring data (including data collected since the land health evaluation was completed) and supporting documentation contained in the land health evaluation report and land health evaluation update, it has been determined that the allotment is partially meeting the Arizona Rangeland Health Standards¹ (see Appendix B of the environmental assessment (EA)).

The EA prepared for the proposed grazing permit renewal (DOI-BLM-AZ-A010-2021-0019-EA) constitutes the BLM's environmental review of the proposed action in accordance with the National Environmental Policy Act (NEPA) and other relevant federal and state laws and regulations.

FINDING OF NO SIGNIFICANT IMPACT

After consideration of the environmental effects described in the EA and supporting documentation, I have determined that the action is not a major Federal action and will not significantly affect the quality of the human environment, individually or cumulatively with other actions in the area. No effects identified in the EA meet the definition of significant in context or intensity as described in 40 CFR 1508.27. Therefore, the preparation of an environmental impact statement is not required as per Section 102 (2) of NEPA. This finding and conclusion is based on the consideration of the Council on Environmental Quality's criteria for significance (40 CFR 1508.27), both with regard to the context and the intensity of impacts described in the EA and as described in the attached Finding of No Significant Impact.

PROPOSED DECISION

After considering the environmental review contained within the above referenced EA, it is my proposed decision to authorize the action as described in Alternative A of the EA and summarized below. This decision is to cancel the existing term grazing permit for the Shinarump Allotment and issue a new ten-year term permit. The specific decision is outlined below.

A. Grazing Permit

A new grazing permit will be issued for a period of ten years for the Shinarump Allotment. There will be no changes in the number of livestock or the authorized grazing preference, expressed in AUMs. However, the season of use for the allotment will change from July 1 – October 30 to November 15 – March 15. The new grazing permit will include the mandatory terms and conditions shown below in Table 1.

Mandatory Terms and Conditions

The new grazing permit will include the mandatory terms and conditions shown below in Table 1.

Table 1 – Grazing to be Authorized on the Shinarump Allotment

¹ The 2004 evaluation determined all applicable standards for rangeland health on the allotment were being met. It is unclear why that determination was made because the Desired Plant Community objectives were not being met at the key area (see Appendix B of the EA), similar to the current situation. The monitoring data used to develop the 2004 LHE report noted compositions of grasses and shrubs similar to that most recently collected, where perennial grass composition is lower than desired due to high sagebrush composition. Range conditions on the allotment have not changed since 2004; instead, the BLM feels it is making a more accurate land health determination.

Allotment	Livestock Number and Kind	Grazing Period	Percent Public Land	Active AUMs	Suspended AUMs	Total AUMs
Shinarump	17 Cattle	11/15 – 03/15	61%	42	1	43

The Shinarump Allotment uses a single pasture, with no grazing system. The current season of use does not provide rest for the allotment during the summer growing season. The new season of use will authorize grazing during winter dormancy.

Other Terms and Conditions

The Standard Terms and Conditions under 43 CFR 4130.3 are a part of the permit. In addition, the other terms and conditions of the permit, which are not mandatory terms and conditions and can be modified, are:

- The permittee will use the after-the-fact (actual use) billing system.
- Use of nutritional livestock supplements is allowed, including protein, minerals, and salt. However, any supplements used must be dispersed at a minimum of ¼ mile from any known water sources, and cultural or sensitive sites. Any hay or other feed used in administering the livestock operation must be certified weed-free and subject to approval prior to use.
- If any human remains, funerary objects, sacred objects or objects of cultural patrimony as defined in the Native American Graves Protection and Repatriation Act (Public Law 101-601; 104 Stat. 3048; 25 U.S. Code 3001) are discovered in connection with allotment operations under the grazing permit, the permittee will be required to protect the immediate area of the discovery and immediately notify the BLM authorized officer or authorized representative.

B. Adaptive Management

This decision includes adaptive management, as described in Section 2.2.3 of the EA.

C, Miscellaneous

The allotment will be managed for the following:

- Allowable use on key forage species on the allotment will be no more than 45% utilization of current year’s production, removed through grazing or other loss. The BLM will assess resource conditions through field inspections and determine, in consultation with the permittee, whether management changes (e.g., changes in livestock numbers, adjustment of move date, or other changes or use) may be implemented prior to reaching maximum utilization. Move dates (i.e., removal of livestock from the allotment) may be adjusted if monitoring indicates maximum utilization has been reached or due to unusual climatic conditions, fire, flood, or other acts of nature. If maximum utilization is reached on key species/areas in the allotment before the scheduled move date, the use of salt, herding, or other management options may be used to distribute livestock away from an area where maximum utilization has been reached, or livestock may be removed from the allotment (after consultation with the permittee), as deemed necessary by the BLM.
- Achieve the DPC objectives listed in Section 2.2.2 of the EA.

RATIONALE FOR DECISION

This decision has been made after considering impacts to resources, such as vegetation, wildlife, cultural resources, and soils, while providing opportunities for livestock grazing that meets management objectives, including the Arizona Standards for Rangeland Health and Guidelines for Livestock Grazing Management and the Arizona Strip Field Office Resource Management Plan (RMP). Alternative A was chosen in its entirety. Impacts to livestock grazing, vegetation, wildlife, and soils were analyzed in detail in the EA. Under Alternative A, season of use for the allotment changes from July 1 – October 30 (summer/fall use) to November 15 – March 15 (late fall/winter use). Although the grazing preference in Alternative A is the same as the current preference, this alternative will better provide for the physiological needs of vegetation than the current season of use (Alternative C) since grazing will occur during the non-growing, or dormant, season – this benefits key species and other vegetation by increasing plant vigor, aiding in seed dissemination, and providing periodic rest during critical growing periods.

Alternative C was not chosen because the new ten-year term grazing permit would be issued with the same season of use as the current permit, which would continue grazing during the summer growing season and would not be as beneficial to resources as Alternative A. Alternative B (no active preference) would eliminate all livestock grazing on the allotment for the ten-year term of the new permit; this alternative was not chosen because it would not provide the same livestock grazing opportunity as Alternative A.

The EA constitutes the BLM's compliance with the requirements of NEPA, and procedural requirements as provided in the Council on Environmental Quality regulations. The EA went through an interdisciplinary review process. As documented in the EA analysis of the allotment's monitoring data and supporting documentation in the land health evaluation report and land health evaluation update (see EA Appendix B), resource conditions on the allotment partially meet the applicable standards for rangeland health². The NEPA analysis determined that implementing the action will allow the allotment to maintain its ecological condition and continue meeting land use plan objectives. The NEPA analysis also indicates that the action is in conformance with the RMP and that none of the impacts from the action are significant (see attached Finding of No Significant Impact).

Based upon this information and analysis, I have determined that changes in kind of livestock and active grazing preference are not necessary.

AUTHORITY

The authority for this decision is found in a number of statutory and regulatory authorities contained in the Taylor Grazing Act, as amended; the Federal Land Policy and Management Act of 1976, as amended; and throughout Title 43 of the Code of Federal Regulations (CFR), Part 4100 (Grazing Administration-exclusive of Alaska). The following sections of Part 4100 are noted below, although other subparts of Part 4100 are used to authorize grazing activities, with this listing not meant to be exhaustive.

§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).”

² Allotment monitoring data indicates that resource conditions on the allotment currently meet Standard 1 and partially meet Standard 3. Livestock grazing is not the reason for Standard 3 being partially met – high shrub (sagebrush) and tree composition are resulting in lack of grasses, forbs, and other shrubs, so Desired Plant Community objectives are not met at the key area.

§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.”

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

§ 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.

RIGHT OF PROTEST AND/OR APPEAL

Any applicant, permittee, lessee or other interested public may protest the proposed decision in accordance with 43 CFR 4160.2 in person or in writing within 15 days after receipt of such decision to:

Lorraine M. Christian
Field Manager
345 East Riverside Dr.
St. George, UT 84790

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

In accordance with 43 CFR 4160.3(a), in the absence of a protest, the proposed decision will become 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).

Any applicant, permittee, lessee or other person whose interest is adversely affected by the final decision may file a notice of appeal in writing for the purpose of a hearing before an administrative law judge in accordance with 43 CFR 4160.3(c), 4160.4, and 4.470. The notice of appeal must be filed within 30 days following receipt of the final decision or within 30 days after the date the proposed decision becomes final. The notice of appeal may be accompanied by a petition for a stay of the decision in accordance with 43 CFR 4.471 pending final determination on appeal. The notice of appeal and petition for a stay must be filed in the office of the authorized officer, as noted above.

The BLM cannot accept electronic filing of appeal documents by any other means, including compact disc, thumb drive, or similar media due to Federal Information Systems Security Awareness policies. As defined in 43 CFR 4.22(a), "A document is filed in the office where the filing is required only when the document is received in that office during its regular business hours and by a person authorized to receive it. A document received after the office's regular business hours is considered filed on the next business day."

Within 15 days of filing the appeal, the appellant must provide the BLM with proof of service to the other persons named in this decision (Appendix A - List of all Persons or Groups Receiving this NOPD) in accordance with 43 CFR 4.470(a). A copy of the appeal must also be served on the Office of the Solicitor located at the address below in accordance with 43 CFR 4.413(a).

Sandra Day O'Connor
US Courthouse, Suite 404
401 West Washington Street, SPC-44
Phoenix, Arizona 85003-2151

In accordance with 43 CFR 4.413(b), failure to serve a notice of appeal will subject the appeal to summary dismissal as provided in 43 CFR 4.402. Appellants are responsible for determining whether the Office of the Solicitor or other persons named in the decision will accept service of a notice of appeal and/or petition for stay electronically via email.

The appeal shall state the reasons, clearly and concisely, why the appellant thinks the final decision is in error and otherwise complies with the provisions of 43 CFR 4.470.

Should you wish to file a petition for a stay, see 43 CFR 4.471 (a) and (b). In accordance with 43 CFR 4.471(c), a petition for a stay 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.

As noted above, the petition for stay must be filed in the office of the authorized officer and served in accordance with 43 CFR 4.471.

Any person named in the decision that receives a copy of a petition for a stay and/or an appeal, is directed to 43 CFR 4.472(b) for procedures to follow if you wish to respond.

Lorraine M. Christian Digitally signed by
LORRAINE
CHRISTIAN
Date: 2021.09.15
17:26:13 -06'00'

Lorraine M. Christian
Field Manager
Arizona Strip Field Office

Attachment:

Appendix A - List of all Persons or Groups Receiving this NOPD

Enclosure:

Finding of No Significant Impact for Environmental Assessment

Appendix A - List of all Persons or Groups Receiving this NOPD

Cyndi Tuell
Western Watersheds Project
738 N 5th Ave., Suite 206
Tucson, AZ 85705

James Ott
169 S. 300 E.
Kanab, Ut 84741