

TERM GRAZING PERMIT - PARTS 1 AND 2
(Reference FSM 2230)

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Permittee Number

Permit Number
12-216

PART 1

Horse Creek Farms of 932 Hill Street Springfield, Colorado hereinafter
80173

(Name of Permittee) (Post Office Address, Including Zip)

called the permittee, is hereby authorized to graze livestock owned by the permittee upon designated lands administered by the Forest Service within the Tonto (X appropriate box) [x] National Forest [] National Grassland under the following terms and conditions:

1. Description of range. The livestock shall be grazed only upon the area delineated on the attached map dated 8/10/2017, which is part of this permit. (Strike out item or items not applicable.)

2. The number, kind, and class of livestock, period of use, and grazing allotment on which the livestock are permitted to graze are as follows, unless modified by the Forest Service in the Bill for Collection:

| LIVESTOCK | | | PERIOD OF USE | | GRAZING ALLOTMENT |
|-----------|-------|-------|---------------|------|------------------------------------|
| NUMBER | KIND | CLASS | FROM | TO | |
| 125 | Adult | Cow | 3/1 | 2/28 | Sunflower: Cottonwood East (00041) |
| 125 | Adult | Cow | 3/1 | 2/28 | Sunflower: Cottonwood West |
| 150 | Adult | Cow | 3/1 | 2/28 | Sunflower: Cline |
| 125 | Adult | Cow | 3/1 | 2/28 | Sunflower: Dos S |
| 0 | Adult | Cow | 3/1 | 2/28 | Sunflower: Desert/Dos S |

3. It is fully understood and agreed that this permit may be suspended or cancelled, in whole or in part, after written notice, for failure to comply with any of the terms and conditions specified in Parts 1, 2, and 3 hereof, or any of the regulations of the Secretary of Agriculture on which this permit is based, or the instructions of Forest officers issued thereunder; or for knowingly and willingly making a false statement or representation in the permittee's grazing application, and amendments thereto; or for conviction for failure to comply with Federal laws or regulations or State and local laws relating to livestock control and to protection of air, water, soils and vegetation, fish and wildlife, and other environmental values when exercising the grazing use authorized by the permit. This permit can also be cancelled, in whole or in part, or otherwise modified, at any time during the term to conform with needed changes brought about by law, regulation, Executive order, allotment management plans, land management planning, numbers permitted or seasons of use necessary because of resource conditions, or the lands described otherwise being unavailable for grazing. Any suspension or cancellation action may be appealed pursuant to 36 CFR 251, Subpart C.

4. This permit supersedes permit issued to

I HAVE REVIEWED AND ACCEPT THE TERMS OF THIS PERMIT

| | | | |
|------------------------------------------------|--------------|-----------------|---------|
| SIGNATURE OF PERMITTEE OR HIS AUTHORIZED AGENT | | | DATE |
| (b) (6) | | | 8-10-17 |
| SIGNATURE OF FOREST OFFICER | NAME (PRINT) | TITLE | DATE |
| (b) (6) | Gary Hanna | District Ranger | 8-10-17 |



PART 2 - GENERAL TERMS AND CONDITIONS

- 1. Validation of Permit.** The issuance of a Bill for Collection, payment of fees and actual turning on at least 90 percent of livestock the first grazing season after the permit is issued will validate this permit for the number, kind, and class of livestock, grazing allotment, and period of use for the particular year.
- 2. Bill for Collection.** Each year, after validation and prior to the beginning of the grazing season, the Forest Service will send the permittee a Bill for Collection specifying for the current year the kind, number, and class of livestock allowed to graze, the period of use, the grazing allotment, and the grazing fees. This bill, when paid, authorizes use for that year and becomes part of this permit.
- 3. Payment of Fees.** The permittee will not allow owned or controlled livestock to be on Forest Service-administered lands unless the fees specified in the Bill for Collection are paid.
- 4. Administrative Offset and Credit Reporting.** Pursuant to 31 USC 3716 and CFR Part 3, Subpart B, any monies that are payable or may become payable from the United States, under this permit, to any person or legal entity not an agency or subdivision of a State or local government may be subject to administrative offset for the collection of a delinquent debt the person or legal entity owes to the United States. Information on the person's or legal entity's responsibility for a commercial debt or delinquent consumer debt owed the United States shall be disclosed to consumer or credit reporting agencies.
- 5. Interest, Penalty, and Administrative Costs.** Pursuant to 31 USC 3717 and 7 CFR Part 3, Subpart B, interest shall be charged on any payment or fee amount not paid within 30 days from the date the payment was due. Interest shall be charged using the most current rate prescribed by the United States Department of the Treasury Fiscal Requirements Manual (TFRM-6-8020.20). Interest shall accrue from the date the payment was due. In addition, in the event the account becomes delinquent, administrative costs may be assessed. A penalty of 6 percent per year shall be assessed on any payment or fee amount overdue in excess of 90 days from the date the first billing was due. Payments will be credited on the date received by the designated collection officer or deposit location. If the due date(s) for any of the above payments falls on a non-workday, the charges shall not apply until the close of business on the next workday.
- 6. Term of Permit.** This permit is effective until 12/31/2026 unless waived, cancelled, or otherwise terminated as provided herein. The permittee has first priority for receipt of a new permit at the end of the term subject to modification deemed necessary by the Forest Service.

In order to update terms and conditions, this permit may be cancelled at **any time** provided a **new permit** is **issued** to the existing permit holder for a new term of 10 years **following this update**.

7. Ownership Requirement

(a) Only livestock owned by the permittee are authorized to graze under this permit. To exercise use of the permit, the permittee will furnish all evidence of ownership requested by the Forest Service. Livestock purchased and subsequently sold back to the original owner, or to an agent, assignee, or anyone representing or acting in concert with the original owner, within a 24-month period without prior written approval by the Forest officer in charge will not be considered valid ownership of the livestock.

(b) Base property owned and used by the permittee to qualify for a term grazing permit must meet minimum base property requirements approved by the officer in charge.

8. Range and Livestock Management

(a) The allotment management plan for the land described on page 1, Part 1 is part of the permit, and the permittee will carry out its provisions, other instructions, or both as issued by the Forest officer in charge for the area under permit and will require employees, agents, and contractors and subcontractors do likewise.

(b) The number, kind, and class of livestock, period of use, and grazing allotment specified in the permit may be modified when determined by the Forest Officer in charge to be needed for resource protection. Except in extreme emergencies where resource conditions are being seriously affected by livestock use or other factors, such as fire, drought, or insect damage, notice of a scheduled reduction of numbers of livestock or period of use under a term permit will be given one (1) full year before a modification in permitted numbers or period of use becomes effective. This does not apply to annual adjustment in grazing as provided for in Section 8(c).

(c) When, in the judgment of the Forest Officer in charge, the forage is not ready to be grazed at the beginning of the designated grazing season, the permittee, upon request of the Forest officer, will defer placing livestock on the grazing allotment to avoid damage to the resources. The permittee will remove livestock from Forest Service-administered lands before the expiration of the designated grazing season upon request of the Forest officer when it is apparent that further grazing will damage the resources.

(d) The permittee will allow only the numbers, kind, and class of livestock on the allotment during the period specified in Part 1 hereof or the annual Bill for Collection, including any modifications made as provided for in Section 8(c). If livestock owned by the permittee are found to be grazing on the allotment in greater numbers, or at times or places other than permitted in Part 1 hereof, or specified on the annual Bill for Collection, the permittee shall be billed for excess use at the unauthorized use rate and may face suspension or cancellation of this permit.

(e) The permittee will not allow owned or controlled livestock to be upon any area of Forest Service-administered lands not described in either Part 1 hereof or the annual Bill for Collection.

(f) The Forest officer in charge may, at any time, place or fasten or require the permittee to place or fasten upon livestock covered by this permit appropriate marks or tags that will identify them as livestock permitted to graze on lands administered by the Forest Service. When requested by the Forest officer, the permittee will, at any time during the permitted period of use, including entry and removal dates, gather permitted livestock to enable an accurate count to be made thereof. The Forest Service may, at its option, gather and hold for counting all livestock grazing on the allotment.

(g) Only livestock marked, tagged, or branded as shown in the application upon which this permit is based, and as may be required under Section 8(f), will be allowed to graze under this permit unless the permittee has advance written approval from the Forest officer in charge to do otherwise.

(h) The permittee will pay the costs of, perform, or otherwise provide for the proportionate share of cooperative improvements and management practices on the permitted area when determined by the Forest officer in charge that such improvements and practices are essential to proper protection and management of the resources administered by the Forest Service.

(i) This permit is issued and accepted with the provision that the permittee will maintain all range improvements, whether private or Government-owned, that are assigned for maintenance to standards of repair, orderliness, and safety acceptable to the Forest Service. Improvements to be maintained and acceptable to maintenance are specified in Part 3 of this permit. The Government may maintain or otherwise improve said improvements when, in its opinion, such action will be to its advantage.

9. Nonuse. At least 90 percent of the livestock permitted must be grazed each year, unless the Forest officer in charge approves nonuse. Failure to place livestock on the allotted range/pasture without approved nonuse may result in cancellation of the term grazing permit in whole or in part.

10. Protection. The permittee, or the permittees' agents and employees, when acting within the scope of their employment, and contractors and subcontractors will protect the land and property of the United States and other land under jurisdiction of the Forest Service covered by and used in conjunction with this permit. Protection will include taking all reasonable precautions to prevent, make diligent efforts to suppress, and report promptly all fires on or endangering such land and property. The permittee will pay the United States for any damage to its land or property, including range improvements, resulting from negligence or from violation of the provisions and requirements of this permit or any law or regulation applicable to the National Forests System.

11. General.

(a) The Forest officer in charge may at any time require the permittee to give good and sufficient bond to insure payment for all damage or costs to prevent or mitigate damages sustained by the United States through the permittee's failure to comply with the provisions and requirements of this permit or the regulations of the Secretary on which it is based.

(b) This permit will be cancelled, in whole or in part, whenever the area described in this permit is withdrawn from the National Forest System by land exchange, modification of boundaries, or otherwise, or whenever the area described in this permit is to be devoted to a public purpose that precludes grazing.

(c) The permittee will immediately notify the Forest officer in charge of any change in control of base property, ownership of livestock, or other qualifications to hold this grazing permit.

(d) The permanent improvements constructed or existing for use in conjunction with this permit are the property of the United States Government unless specifically designated otherwise or covered by a cooperative agreement. They will not be removed nor compensated for upon cancellation of this permit, except in the National Forests in the 16 contiguous Western States when cancelled, in whole or in part, to devote land to another public purpose including disposal. In the event of such cancellation on the National Forests in the 16 Contiguous Western States, the permittee will be compensated for the adjusted value of approved range improvements installed or placed by him.

(e) The permittee may not transfer, assign, lease, or sublet this permit in whole or part.

(f) This permit includes the terms and conditions of Part 3 hereof, consisting of page 5 through 11 which follow.

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Special Terms and Conditions**Management Practices.**

1. Authorization Required. Each year the permittee will file with the District Ranger an application for changes from the use specified in the term grazing permit. It is to be submitted substantially in advance of the desired grazing season. Approval of the application, in whole, or in part, will be reflected in the ensuing Bill for Collection.
2. Maintenance of Range Improvements. Permittee maintenance assignments are shown on the following pages and are further identified on the map that accompanies this permit.
3. Livestock grazed in excess of the numbers, outside of the period of use, or of a class or kind not authorized in the current Bill for Collection.
 - (a) When the annual application is approved, in whole or in part, livestock grazed in excess of authorized numbers must be removed from lands on the National Forest System. Grazing use by excess livestock must be assessed at the "excess use or unauthorized use rate". In addition:
 - (1) For first offense cases, the term grazing permit may be suspended or cancelled by the percentage of excess numbers exceeding 10 percent of current authorized numbers. If the excess is 110 percent or greater, total suspension or cancellation may result.
 - (2) For the second offense cases, the term grazing permit will be suspended or cancelled by twice the percentage of excess numbers. If excess is 50 percent or greater, total suspension or cancellation will result.
 - (3) For second offense cases occurring during periods of suspension, the term grazing permit will be cancelled by the amount of the suspension in effect or by twice the percentage or excess numbers involved whichever is greater.
 - (4) For additional offenses, the term grazing permit may be cancelled in whole or in part without regard to the percentage of excess.

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Special Terms and Conditions

4. **Livestock Counting.** The permittee will notify the District Ranger at least 5 days before livestock enter the National Forest System. If requested by the District Ranger, the permittee will present the livestock for counting prior to entry, and at any time thereafter during the permitted season. The District Ranger may round up and hold for counting all permittee-owned livestock on the allotment.
5. As a condition of this grazing permit, the permittee is required to keep such records of purchases, brandings, sales, losses and movements of livestock as will enable him to accurately furnish the Forest Service at any time with the numbers of classes of livestock that he has on the National Forest Lands.
6. In case the permittee desires to graze livestock on lands of other than National Forest status, located within, or adjacent to, National Forest land allotted to this use, he is required to have a separate identification mark on the livestock grazed on National Forest ranges. This is necessary to avoid confusion in record keeping.
7. Owners of all livestock grazed under permit must comply with State Livestock Laws.
8. All calves on the range on January 1st of each year will be tallied and counted as yearlings on this date regardless of actual age.
9. The **base property** for the term portion of this permit is identified as follows:

See Application of Term Permit for full description of base property.

Changes in the designation of base property must be applied for and approved in writing by the District Ranger.

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Special Terms and Conditions

- 10. Range Improvements – Water.** The permittee has certain improvements assigned for maintenance on page 7 of this permit. These improvements are on National Forest System lands within the allotment. Issuance of this grazing permit and the permittee's acceptance of the permit does not convey ownership of a water right to the permittee, but allows the use of a portion of it within terms of the appropriation. The Forest has filed for water rights on these waters with the state of AZ. Grazing domestic livestock may not be possible without these water rights. The Forest will retain ownership of water rights for current and future permittees as well as for wildlife and recreation consumptive needs. Forest Service ownership of the water rights will assure that the use of the water will be appurtenant to the land and its user.
- 11. NEPA Compliance.** The Allotment Management Plan (AMP) for Sunflower was approved on August 10, 2017, provides a level of management so rangeland and other related and/or affected resources, within the allotment area, are moving towards the management direction provided in the Tonto Land Management Plan. Upon development of another AMP, or any subsequent AMP's, the Term Permit will be re-issued for another term period with the AMP as part of the permit. Permittee will be required to implement a new AMP to insure that management of allotment continues to progress towards, and become fully consistent with the LMP within the time frame of the established schedule.

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Special Terms and Conditions: Responsibilities for Construction and Maintenance of Structural Improvements.

| Improvement Number | Improvement name | Type | Year Constructed | Location |
|-----------------------------|-------------------------------|--------------------------|------------------|---------------------------------|
| COTTONWOOD WEST UNIT | | | | |
| 002184/341019 | Water Wire Corral | Corral | | Cottonwood West – North Pasture |
| 002204/341039 | Bagley Tank | Earthen Stock tank | | Cottonwood West – South Pasture |
| 002307/341127 | The Rolls Pasture | Allotment interior fence | | Cottonwood West – South Pasture |
| 002187/341002 | Cottonwood Ranch Corral | Corral | | Cottonwood West – South Pasture |
| 002217/341052 | Cottonwood Well | Well with pumpjack | | Cottonwood West – South Pasture |
| 002218/341053 | Cottonwood Ranch Water System | Masonry Water Storage | | Cottonwood West – South Pasture |
| 002282/341103 | Cottonwood Pasture | Allotment interior fence | | Cottonwood West – South Pasture |
| 002293/341114 | Mesquite Spring Pasture | Allotment interior fence | | Cottonwood West – South Pasture |
| 002328/341145 | Mesquite Spring Corral | Corral | | Cottonwood West – South Pasture |
| 002197/341032 | Hughes Corral | Corral | | Cottonwood West – South Pasture |
| 000716/341001 | Hughes Well | Vertical Drilled Well | | Cottonwood West – Adams Pasture |
| 002206/341041 | Hughes Tank | Earthen Stock Tank | | Cottonwood West – Adams Pasture |
| 002306/341126 | Hughes Pasture | Allotment Interior Fence | | Cottonwood West – Adams Pasture |
| 002325/341142 | Hughes Tank Pasture | Allotment Interior Fence | | Cottonwood West – Adams Pasture |

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| CLINE UNIT | | | | |
|---------------------|--------------------------------|--------------------------|--|---------------------|
| 002229/341063 | Fisher Spring | Spring Development | | Ballantine Pasture |
| 002244/341072 | Pine Mountain Spring | Spring Development | | Ballantine Pasture |
| 002172/341011 | Three-Bar-Sunflower Fence | Allotment Boundary Fence | | Mud Springs Pasture |
| 002198/341033 | Tahanus Spring Corral | Corral | | Mud Springs Pasture |
| 002231/341065 | Mud Spring | Spring Development | | Mud Springs Pasture |
| 002235/341067 | Willow Spring | Spring Development | | Mud Springs Pasture |
| 002242/341070 | Bushy Basin Spring | Spring Development | | Mud Springs Pasture |
| 002355 | Bushy Trick Tank #1-Big Ridge | Trick Tank | | Mud Springs Pasture |
| 002177/341015 | Bushy Trick Tank #2-Lower Pine | Trick Tank | | Mud Springs Pasture |
| 002252/341076 | Brush Corral Spring | Spring Development | | Mud Springs Pasture |
| 002230/341064 | Cline Pasture Spring | Spring Development | | Cline Pasture |
| 002236/341068 | Coyote Spring | Spring Development | | Cline Pasture |
| 002255/341079 | Mountain Spring | Spring Development | | Cline Pasture |
| 002256/341079 PL | Mountain Spring Pipeline | Steel Pipeline | | Cline Pasture |
| 002267/341089 | Razorback Fence | Fence | | Cline Pasture |
| 002281/341102 | Cline Cabin Pasture | Allotment Interior Fence | | Cline Pasture |
| 002322/341139 | Cline Corral | Corral | | Cline Pasture |

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| DOS 5 UNIT | | | | |
|---------------|-------------------------------|--------------------------|--|--------------------|
| 002213/341048 | Quartz Tank | Earthen Stock Tank | | Maverick Pasture |
| 002215/341050 | Highway Tank | Earthen Stock Tank | | Maverick Pasture |
| 0A2172/341169 | Sunflower – 7K | Allotment Boundary Fence | | Pine Creek Pasture |
| 002216/341051 | Boulder Mountain Cabin | Cabin | | Pine Creek Pasture |
| 002225/341060 | Boulder Mountain Spring | Spring Development | | Pine Creek Pasture |
| 002246/341073 | Medlers Seep | Spring Development | | Pine Creek Pasture |
| 002259/341083 | Mud Spring | Spring Development | | Pine Creek Pasture |
| 002260/341083 | Mud Spring Pipeline | Steel Pipeline | | Pine Creek Pasture |
| 002265/341087 | Tunnel Spring | Spring Development | | Pine Creek Pasture |
| 002296/341117 | Cypress Trap Pasture | Allotment Interior Fence | | Pine Creek Pasture |
| 002317/341134 | Boulder Cabin Corral | Corral | | Pine Creek Pasture |
| 002329/341146 | Camp Creek Spring | Spring Development | | Pine Creek Pasture |
| 002291/341112 | Bushnell Trap Pasture | Allotment Interior Fence | | Picadilla Pasture |
| 002223/341058 | Dos 5 Spring | Spring Development | | Picadilla Pasture |
| 002228/341061 | Mine Mountain Spring/Pipeline | Spring Development | | Picadilla Pasture |
| 002257/341081 | Mesquite Well Water Storage | Water Storage | | Picadilla Pasture |
| 002284/341105 | Dos 5 Pasture | Allotment Interior Fence | | Picadilla Pasture |
| 002290/341111 | Mine Mountain Trap | Allotment Interior Fence | | Picadilla Pasture |

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| COTTONWOOD EAST UNIT | | | | |
|-----------------------------|---------------------------|--------------------------|--|----------------------------|
| R05326/341172 | Three-Bar-Sunflower Fence | Allotment Boundary Fence | | Cane Springs North Pasture |
| 002207/341042 | Cane Spring Tank | Earthen Stock Tank | | Cane Springs North Pasture |
| 002234/341066 | Brown Cabin Spring | Spring Development | | Cane Springs North Pasture |
| 002243/341071 | Cienega Spring | Spring Development | | Cane Springs North Pasture |
| 002263/341085 | Talc Spring | Spring Development | | Cane Springs North Pasture |
| 002337/341153 | Browns Cabin Corral | Corral | | Cane Springs North Pasture |
| 002338/341154 | Browns Cabin Trap | Allotment Interior Fence | | Cane Springs North Pasture |
| 002180/341016 | Cane Springs Cabin | Cabin | | Cane Springs South Pasture |
| 002186/341021 | Cane Spring Corral | Corral | | Cane Springs South Pasture |
| 002220/341055 | Cane Spring | Spring Development | | Cane Springs South Pasture |
| 002221/341056 | Cane Spring Pipeline | Steel Pipeline | | Cane Springs South Pasture |
| 002276/341097 | Cane Spring Pasture | Allotment Interior Fence | | Cane Springs South Pasture |
| 002277/341098 | Cane Spring Trap #1 | Allotment Interior Fence | | Cane Springs South Pasture |
| 002278/341099 | Cane Spring Water Lot | Allotment Interior Fence | | Cane Springs South Pasture |
| 00279/341100 | Cane Spring Trap #2 | Allotment Interior Fence | | Cane Springs South Pasture |
| 002335/341151 | Cane Spring Pipe Corral | Corral | | Cane Springs South Pasture |
| 002323/341094 | Adams Camp Corral | Corral | | Alder Creek Pasture |
| 002213/341094 | Alder Creek Trap | Allotment Interior Fence | | Alder Creek Pasture |