



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Ridgecrest Field Office
300 S. Richmond Road
Ridgecrest, CA 93555
www.ca.blm.gov/ridgecrest

May 22, 2013

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RETURN RECEIPT REQUESTED

NOTICE OF FIELD MANAGER'S PROPOSED GRAZING DECISION

Steve Stewart
Box 284
Lone Pine, CA 93545

Dear Mr. Stewart:

INTRODUCTION

Currently, you hold base property which you are offering to obtain the permit to graze on the Lacey-Cactus-McCloud (LCM) Allotment (05012). Your interest in the LCM Allotment is a result of having acquired the grazing preference from Busch Properties in March of 2010.

As a result of the withdrawal of land in 2000 by the China Lake Naval Air Weapons Station (NAWS) of the Department of Defense (DOD) this allotment has been reconfigured. It is the purpose of this proposed decision to set out the parameters for re-authorizing grazing on the reconfigured LCM Allotment.

The reconfigured LCM Allotment encompasses approximately 162,765 acres of public land and 2,375 acres of private land. The allotment is within the West Mojave planning area (WMP) within the California Desert Conservation Area (CDCA). The allotment is located in Inyo County, California. The LCM Allotment is within the range of one listed and one prospectively listed threatened or endangered species. These are the desert tortoise and the Mohave ground squirrel. The allotment contains all or parts of three wilderness areas. They are; the Coso Range Wilderness (49,296 acres), the Argus Range Wilderness (3,860 acres), and the Darwin Falls Wilderness (698 acres).

BACKGROUND

The grazing lease for the LCM Allotment expired at the end of the 1999 grazing year (February 28, 2000). The grazing lease was not renewed because the Navy at China Lake NAWS cancelled grazing on what was their portion of the allotment.

The *Final West Mojave Plan (WMP) and Final Environmental Impact Statement (EIS)* was published in 2005, and the Record of Decision (ROD) was approved in March 2006 by the California State Director and amended the 1980 CDCA Plan.

For scoping purposes under the NEPA, on or about November 20, 2007, the BLM mailed a scoping document containing descriptions of seven (7) grazing allotments of which Lacey-Cactus-McCloud was one. This was sent to you and all interested publics, including appropriate Native American tribes. BLM requested feedback on the issues surrounding each allotment. Based on this request, BLM received numerous comments which were incorporated into the document.

On July 22, 2009, the BLM issued EA CA-650-2008-27 for public review to you and all interested publics. Comments were received and analyzed. The comments centered on the concerns for the grazing management and terms and conditions, the results of Rangeland Health Assessments, desert tortoise sightings, Mohave Ground Squirrel habitat and interactions with cattle, and the effects of grazing related to climate change. These issues were analyzed thoroughly within the EA or in Appendix 6 (Public Comments section) and are appropriately addressed.

In August 2010, the EA was completed was sent out for protests with a proposed decision. However, the BLM decided that the proposed action and alternatives were unworkable and issued a letter vacating the proposed decision in September of 2010.

In July of 2011 a new edition of the EA was sent out for the 30 day comment period. Four alternatives were analyzed: 1) The proposed action to issue a grazing permit for a period of 10 years under the WEMO Plan which would authorize grazing in the Lower Cactus Flat and McCloud Flat area. 2) Alternative B which would allow grazing in both the Lower Cactus and McCloud Flats area and in the Lower Centennial Flat area upon the repair or construction of critical range improvements. 3) The no action/current management alternative in which the allotment would be managed based on applicable grazing decisions, BOs, terms and conditions of the current authorization, and regulations, and 4) The no grazing alternative which would not renew the grazing permit/lease. Comments were received and addressed.

FIELD MANAGER'S PROPOSED DECISION

Based on the analysis conducted in EA CA-650-2008-27 and the attached FONSI, I have concluded that the renewal of the grazing permit for the LCM Allotment is appropriate. I have also determined the Proposed Action alternative is the best strategy to meet BLM's mission for protecting and conserving the natural and physical resources and improving resource management to assure responsible use and sustain a dynamic economy.

Therefore, it is my proposed decision to reissue the grazing permit (#0403525) for the LCM Allotment as described under the Proposed Action alternative, in the EA, CA-650-2008-27, for a term of ten (10) years.

Grazing in the Cactus Flat-McCloud Flat area would be contingent upon: (1) a gap fence at the small rock outcrop just to the south of the gate between the BLM and the Navy on Upper Cactus Flat; (2) the extension of the Navy boundary-security fence to the north up a hill for less than a quarter of a mile; and (3) a gap fence in the large rock outcrop beyond the southern extension of the Navy security fence and north of the fence coming up from the pumice mine. These fences were presented in the Proposed Action and analyzed in Chapter 3 and it is my proposed decision that they be built.

The following mandatory terms and conditions for this authorization (43 CFR 4130.3-1(a)(b)(c)) shall be in affect for the proposed grazing permit on the LCM Allotment:

Use Period	Number of livestock	Class of Livestock	Animal Unit Months
December 2nd – March 31st	200	Cow/calf	790

Livestock Grazing will be in compliance with 43 CFR 4180 and the Fall Back Standards and Guidelines.

Other terms and conditions:

- a. The existing Allotment Management Plan would terminate.
- b. Livestock grazing would follow a one pasture grazing strategy. Cattle would graze from December 2 through March each year. (See Table 3 above).
- c. All mineral supplements would be placed at least ¼ mile from all water sources.
- d. All structural improvements would be maintained in proper functioning condition.
- e. The rangeland monitoring of this allotment would continue to occur as described under the affected environment.
- f. The Regional Standards & Guidelines from the recent approval of the WMP amendment would be incorporated into this grazing permit and management practices once they are approved by the Secretary of Interior, without further notice. Until that time, the National Fallback Standards would remain in effect. Rangeland health assessments would be conducted and a Determination made, prior to the renewal of the next grazing permit. See Appendix 4 for regional and fallback standards and guidelines.

Prescriptions from Fish & Wildlife Service’s Biological Opinion (1-8-03-F-58) & WMP (Vol 1A, pp 2-124 – 2-128) Governing Grazing and Applicable to Lacey-Cactus-McCloud:

- a. Only qualified personnel are allowed to handle desert tortoises, conduct clearance surveys, and monitor for desert tortoise compliance. Handling of desert tortoises by the lessee/permittee is prohibited.
- b. The permittee is required to notify the Ridgecrest Field Office immediately upon any instance of “take” (as defined by the Endangered Species Act) of a desert tortoise.
- c. The permittee is required to contact the Ridgecrest Field Office immediately if a desert tortoise is found injured or killed by human activities. Grazing may continue pending a review of the incident by the BLM and the U.S. Fish and Wildlife Service, provided all other stipulations of the lease have been adhered to.
- d. ... livestock utilization levels of key perennial species in the Mojave Desert range type would not exceed 40 percent on ranges that are grazed during the dormant season and are meeting standards. Rangelands that are grazed during the active growing season and are not meeting standards shall not exceed 25 percent utilization of key forage species except as described in

allotment management plans, decisions, or other management documents with a specific grazing strategy with prescribed levels of perennial forage consumption. (For Lacey-Cactus-McCloud, where utilization thresholds expressed as Proper Use Factors for individual key species as found in Appendix 3 of the EA are less than the 40 percent specified for the Mojave Desert range type the lower threshold shall be used to trigger cattle removal.)

- e. Any new cattle guards (in desert tortoise habitat) would be designed and installed to prevent entrapment of desert tortoises. All existing cattleguards within tortoise habitat will be modified to provide escape opportunities for those tortoises which become trapped, falling through the grates.

RATIONALE

Based on analysis from EA CA-650-2008-27, and FONSI, the grazing use under the Proposed Action alternative, on the LCM Allotment is consistent with multiple use management and sustained yield principles and with the grazing prescriptions identified in the West Mojave Plan (WMP).

The Lacey-Cactus-McCloud Allotment does not meet the Rangeland Health Assessment standards for riparian areas, stream morphology, and native species. However, as stated in EA-CA 650-2008-27 the reasons for failing the RHA are not related to cattle grazing. Furthermore, the sites which failed to meet standards are all on the Centennial Flat side of the allotment and will not be grazed under Alternative A (the proposed action).

The Proposed Action Alternative provides for the implementation of the regional rangeland health standards, once approved by the Secretary of the Interior.

Comments received from interested parties identified primary issues. These are, the management of grazing in wilderness, the effects of grazing related to climate change, habitat for Mohave Ground Squirrel, and the presence of desert tortoise habitat. The EA and the responses to comments section addressed these issues and analyzed them for potential impacts. Through review of this analysis a Finding of No Significant Impact was determined. Recognizing the BLM's mission is to provide for economic uses of public lands while conserving the natural and physical resources, the Proposed Action grazing alternative will continue to balance the conservation of resources and the commercial use of public lands.

The Proposed Action grazing alternative implements conservation measures prescribed in the WMP for the conservation of resources. The measures prescribed will maintain the conservation of both riparian and terrestrial habitat for the benefit of wildlife and commercial grazing use within the allotment. There is no evidence that implementing additional conservation measures would have measurable beneficial results to the existing health of this allotment.

AUTHORITY

The authority for this decision includes but is not limited to:

43 CFR 4120.2(4)(c): "The authorized officer shall provide opportunity for public participation in the planning and environmental analysis of proposed plans affecting the

administration of grazing and shall give public notice concerning the availability of environmental documents prepared as a part of the development of such plans. The decision document following the environmental analysis shall be considered the proposed decision for the purposes of subpart 4160 of this part.”

43 CFR 4130.2(a): “Grazing permits and leases shall be issued to qualified applicants to authorize use on public land and other lands under the administration of the Bureau of Land Management that are designated as available for livestock grazing through land use plans. Permits and leases shall specify the type and levels of use authorized, including livestock grazing, and suspended use. These grazing permits and leases shall also specify terms and conditions pursuant to 4130.3, 4130.3-1, and 4130.3-2.

43 CFR 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.

43 CFR 4130.2(d)(3): “The term of grazing permits or leases authorizing livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management shall be 10 years.”

43 CFR 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 grazing carrying capacity of the allotment.”

43 CFR 4130.3-1(b): “All permits and leases shall be made subject to cancellation, suspension, or modification for any violation of these regulations or any of the terms and conditions of the permit or lease.”

43 CFR 4130.3-1(c): “Permits and leases shall incorporate terms and conditions that ensure conformance with subpart 4180 of this part.”

43 CFR 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.”

43 CFR 4130.3-2(f): “Provision for livestock grazing temporarily to be delayed, discontinued or modified to allow for the reproduction, establishment, or restoration of vigor of plants, provide for the improvement of riparian areas to achieve proper functioning condition or for the protection of other rangeland resources and values consistent with objectives and applicable land use plans, or to prevent compaction of wet soils, such as where delay of spring turnout is required because of weather conditions or lack of plant growth.”

Administrative Procedures Act (APA) (Title 5 USC Chapter 5 558 (c)).

16 U.S.C. 1536(a)(1): “...All other Federal Agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this chapter

by carrying out programs for the conservation of endangered and threatened species listed pursuant to section 1533 of this title.”

16 U.S.C. 1536(a)(2): “Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency ... is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined ... to be critical.... In fulfilling the requirements of this paragraph each agency shall use the best scientific and commercial data available.”

RIGHT OF PROTEST AND/OR APPEAL

If you wish to protest this decision in accordance with 43 CFR 4160.2, you are allowed fifteen (15) days from the receipt of this notice to file a protest with the Ridgecrest Field Office Manager at the above BLM Office, 300 South Richmond Road, Ridgecrest, California 93555.

In the absence of a protest within the time allowed in accordance with 43 CFR 4160.3(a), the above proposed decision shall constitute my final decision. Should this notice become my final decision, you may appeal this grazing decision for the purpose of a hearing before an administrative law judge in accordance with the regulations contained in Title 43 CFR 4.21, 4.470 and subpart 4160.3(f). Your notice of appeal must be filed with the Ridgecrest Field Office Manager within thirty (30) days of the receipt of a final decision or within 30 days of this proposed decision going final at the above BLM Office, 300 South Richmond Road, Ridgecrest, CA 93555. The appeal should specify clearly and concisely why you think this decision is in error. All reasons for error not stated in the appeal shall be considered waived and may not be presented at the hearing. Any failure to meet the thirty (30) day appeal deadline will bar you from challenging this decision.

If you wish to petition for a stay of this decision during the time that your appeal is being reviewed, the petition for stay must be filed within thirty (30) days of receipt of this decision to the above BLM office. If you request a stay, you have the burden of proof to demonstrate why a stay should be granted.

Standards for Obtaining a Stay:

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal 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 in the merits;
- (3) the likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) whether the public interest favors the granting the stay.

Carl B. Symons, Field Manager

Date