



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Las Cruces Field Office
1800 Marquess St.
Las Cruces, New Mexico 88005

IN REPLY REFER TO:
4000 (030)
Allot. No. 03035
E.A. No. NM-030-99-042

NOTICE OF PROPOSED DECISION

CERTIFIED- RETURN RECEIPT REQUESTED
Z 160 576 788

FEB 10 1999

Mr. Francis Shiflett
HC 66 Box 32 A
Deming, NM 88030

Dear Mr. Shiflett:

We have completed the Environmental Assessment (EA) and Finding Of No Significant Impact (FONSI) for the issuance of the grazing permit to you on the Nutt Ranch Allotment No. 03035. The attached FONSI and EA will provide you with the rationale for my Proposed Decision, which is to issue a grazing permit to you in the name of Francis Shiflett. The grazing permit will authorize 4 cattle to graze on the Nutt Ranch Allotment No. 03035, from March 1 to February 28, each year. The expiration date of the new grazing permit will be February 28, 2009. The 4 animal units will be billed to you at 100 percent public land use and will amount to 48 Animal Unit Months (AUMs). You will be authorized to place supplemental feeds, such as salt, minerals, vitamins, and protein, in block or liquid form on public lands. Maintenance feeding of livestock will not be allowed on public land.

The following will be specified as a condition of the permit: 'Actual livestock use information must be submitted to the BLM upon request.'

In accordance with 43 CFR 4160.2, you or any other interested public may protest this Proposed Decision under 43 CFR 4160.1 in person or in writing to the Field Office Manager, Bureau of Land Management, 1800 Marquess, Las Cruces, New Mexico, 88005, within 15 days after receipt of this decision. The protest, if filed, should clearly and concisely state the reason(s) as to why the Proposed Decision is in error. In the absence of a protest, the Proposed Decision will become the Final Decision of the authorized officer without further notice.

Any person whose interest is adversely affected by the Final Decision may file an appeal and petition for stay of the Decision, pending final determination on the appeal. The appeal and petition must be filed with the Field Office Manager, Bureau of Land Management, 1800 Marquess, Las Cruces, New Mexico, 88005, within 30 days of either the date the proposed decision becomes final or from the receipt of a final decision (issued after a formal protest). The appeal shall state the reasons, clearly and concisely why you think the final decision is in error and must comply with the provisions of 43 CFR 4.470 et. seq.

If you have any questions, please feel free to call Phil Smith at 525-4372.

Sincerely,

/s/ Philip L. Smith
Jim C. McCormick
Acting Assistant Field Manager
Division of Renewable Resources

**NUTT RANCH ALLOTMENT NO. 03035
GRAZING PERMIT RENEWAL
FINDING OF NO SIGNIFICANT IMPACT**

The proposed action is to issue a grazing permit to Mr. Francis Shiflett which will authorize 4 cattle to graze on the Nutt Ranch Allotment No. 03035, from March 1 to February 28, each year. The expiration date of the new grazing permit will be February 28, 2009. The 4 animal units will be billed at 100% percent public land use and will amount to 48 Animal Unit Months (AUMs). Placement of supplemental feeds, such as salt, minerals, vitamins, and protein, in block or liquid form, will be authorized on public lands. Maintenance feeding will not be authorized on the public land.

The permit will stipulate "Actual livestock use information must be supplied to the BLM, upon request."

The proposed action will assist the BLM in complying with one of the objectives of the grazing regulations (43 CFR 4100.0-2) which is "to provide for sustainability of the western livestock industry and communities that are dependant upon productive, healthy public rangelands." BLM is required by law to manage public lands "on the basis of multiple use and sustained yield . . ." (43 USC 1701, Sec. 102(a)(7)) Since the RMP determined that grazing is an appropriate use for the public lands within this allotment, permit reissuance must be considered.

I have reviewed the attached Environmental Assessment (EA No. NM-030-99-042) including the proposed action and alternatives, and the explanation and resolution of any potentially significant environmental impacts.

Based on the analysis of potential environmental impacts contained in the environmental assessment, I have determined that the proposed action with the term and condition described above will not have any significant impacts on the human environment or to minority or low-income populations or communities and that an Environmental Impact Statement is not required.

for
Philip L. Smith
Jim McCormick
Acting Assistant Field Manager
Division of Renewable Resources

February 19, 1999
Date

**UNITED STATE DEPARTMENT OF INTERIOR
Bureau of Land Management
Las Cruces Field Office
1800 Marquess Street
Las Cruces, NM 88005**

**ENVIRONMENTAL ASSESSMENT
Finding of NO Significant Impact
And Decision Record**

EA Number: NM-030-99-042 **Lease/Serial/Casefile Number:** Nutt Allotment No 03035

Proposed Action Title/Type: Grazing Permit Issuance

Location of Proposed Action: Luna County, New Mexico, approximately 14 miles SW of Hatch.

Applicant (if any): Mr. Francis Shiflett

This proposed action is tiered to the Mimbres Resource Management Plan (MRMP), which was finalized in December 1993. This plan has been reviewed and it has been determined that the proposed action conforms with the land use plan terms and conditions as required by 43 CFR 1610.5.

NEED FOR THE PROPOSED ACTION: Additional public lands have become part of the allotment. A new permit will need to be issued to change the number of livestock permitted. One of the objectives of the grazing regulations (43 CFR 4100.0-2) is "to provide for sustainability of the western livestock industry and communities that are dependant upon productive, healthy public rangelands." BLM is required by law to manage public lands "on the basis of multiple use and sustained yield" (43 USC 1701, Sec. 102(a)(7)).

This public land allotment is administered under Section 15 of the Taylor Grazing Act, as amended and supplemented. Since the MRMP determined that grazing is an appropriate use for the public lands within this allotment, permit reissuance must be considered.

DESCRIPTION OF PROPOSED ACTION: The grazing permit would be issued to authorize 4 cattle yearlong (CYL) to graze on the allotment from March 1 to February 28, each year. The expiration date of the new grazing lease would be February 28, 2009. The 4 animal units would be billed at 100 percent public land use and would amount to 48 Animal Unit Months. These numbers would be an increase from the 1 CYL currently permitted, to adjust for public lands added to the allotment.

This authorization would not limit the actual number of livestock on the allotment, it would simply account for the estimated amount of forage available for use on the public lands.

Placement of supplemental feeds, such as salt, minerals, vitamins, and protein, in block or liquid form would be authorized on public lands. Maintenance feeding of livestock will not be allowed on public land.

REASONABLE ALTERNATIVES

No Action: Issue a Proposed Decision to deny the new grazing permit. The current permit for 1 CYL would remain in affect.

If the applicant does not meet all mandatory qualifications and requirements, does not own or control appropriate base property, or refuses to agree to the terms and conditions of the permit, the permit would be denied. In such an instance, issuance to another applicant would be possible.

Special Stipulations:

The previous permit had no special stipulations. Any new permit would stipulate as a term and condition that "Actual livestock use information must be submitted to the BLM upon request".

AFFECTED ENVIRONMENT:

BLM records show that McCulloch and Shiflett began applying for use on the allotment in 1970. Their partnership has since been dissolved. Mr. McCullough no longer has any involvement with the grazing permit.

In October 1997 the Shifletts sold some of their private lands, and reassigned part of the state lease to James and Linda Volk. They and the Volks signed applications to transfer the 40 acre parcel of public land in T. 20 S., R. 6 W., Section 30 to the Volks. This is a an isolated parcel of public land, surrounded by farm fields on three sides and a busy county road on the remaining side. Mr. Shiflett owns or controls the lands surrounding the parcel on three sides. Mr. Volk controls the state lease lands adjoining the east side of the parcel.

The parcel Mr. Volk applied for is not capable of supporting 1 cow yearlong. He did not offer a suitable base water. Mr. Volk withdrew his application September 15, 1999. He was primarily interested in retaining access to his property on the road running through the public land parcel to his lands, and had been under the mistaken impression that obtaining the grazing permit for that parcel would secure a right of way.

The allotment currently consists of 225 acres of public land, separated into two parcels. A portion of one of the parcels is fenced into a pasture. The allotment was rated at 3 Cattle Year long (CYL), until 1982, when it was reduced to 1 CYL by decision, based on forage available.

To the south, an additional 320 acres of public land adjoins a half section that Mr.

Shiflett leases from the state. The additional parcel is not shown as part of the allotment on some records, and is on others. The 320 acre parcel was added to the allotment compilation and summary after the reduction, but no carrying capacity was shown for the parcel, and no documentation explaining the addition was discovered.

This allotment is classified in the Maintain (M) category. The allotment contains no known riparian areas. There are no special management areas within nor directly adjoining this allotment. The Visual Resource Management Classifications for this allotment are Classes II and IV.

Soils

The characteristics of the soils are shown below:

<u>Soil</u>	<u>Permeability</u>	<u>Runoff</u>	<u>Erosion Hazard</u>	<u>Avail Water Cap.</u>
Berino	moderate	slow	moderate-water, high-wind	moderate
Bluepoint	rapid	slow	very high-wind	low
Mimbres scl 0-1	moderately slow	slow	slight	high
Mohave scl 0-3	moderately slow	medium	slight	high
Motoqua	moderate	medium	slight to mod-water, slight-wind	very low
Onite	moderately rapid	medium	very high-wind	low
Stellar scl 0-3	slow	slow	slight-water, slight-wind	high
Upton gl 0-10	moderate	medium	moderate-water	very low
Verhalen	very slow	slow	slight	high

Vegetation

A field examination was made on this allotment September 15, 1998. The fenced parcel located in Section 24 looked to be in poor to fair condition. The primary vegetation on the public land in the small pasture was creosote. Snakeweed and some other types of brushy species, annuals, perennial ariditas and a very small amount of black grama were present. The unfenced area, to the east of that pasture appeared fair to good, and showed much more grass production. It is crossed by several roads and an airstrip, so it would be impractical to fence.

The lands in the unfenced 40 acre parcel in Section 30 appeared to be in good condition. Considerable creosote and tarbush were present, however, there was good ground cover of tobosa, sideoats grama, alkali sacaton, bush muhly and other grasses. The area does not appear to have been used for grazing for a long time.

The 320 acre parcel in the north half of Section 9 appeared to be in good condition. The vegetation on the parcel is tobosa and black grama grass, soaptree yucca and hedgehog cacti, growing on open, relatively level terrain. Some creosote is present. The south half of the section is State land. Mr. Shiflett controls the lease on the state land, and the two parcels are fenced as a one section pasture. Cattle had access to water in the dirt tank on public land and in an irrigation pond on adjoining private land. Mr. Shiflett's cattle have been grazing the public land, because there is no fence between the state land and the public land.

Wildlife

The Standard Habitat Site (SHS) on this allotment is Creosote Rolling Upland. This habitat type typically is considered a disclimax type or an alternate stable state resulting from conversion of grassland and is generally considered undesirable from a

wildlife habitat perspective. Upland areas are drained by numerous arroyos and consist of primarily eroded soils and gravelly inclusions. The northern two parcels are accurately reflected by this SHS, although all but the fenced area is level.

The 320 acre parcel is not accurately described as creosote rolling upland. That parcel might be characterized more as a grass flat SHS. Structural diversity is low, while small mammal diversity is high. One of the major shrub components is soap tree yucca, which is valuable for nesting birds. However, summer bird diversity is low.

Special Status Species

Night-blooming cereus (*Cereus greggii*) and grama grass cactus (*Toumeyia papyracantha*) are both Federal species of concern. No known populations of these species exist on the allotment, but potential habitat may exist.

There are 38 special status animal species that are listed as being present within Luna County. Of the 38 animal species, 10 occur within the habitat sites present in the allotment. These are: ferruginous hawk, mountain plover, baird's sparrow, common ground dove, burrowing owl, loggerhead shrike, desert massasauga, Texas horned lizard, fringed myotis bat, and southwestern pearly checkerspot butterfly. All ten of these species are considered to be Low Priority Species. These are species where legal status, population trend, rarity, and expected population viability suggest a lower level of management concern.

Cultural

There is potential for archeological sites/features to exist along the margins of the historic bolson found within this allotment.

ENVIRONMENTAL IMPACTS:

<u>Critical Elements</u>	<u>Affected</u>		<u>Critical Elements</u>	<u>Affected</u>	
	Yes	No		Yes	No
Air Quality	___	<u>X</u>	T&E Species	___	<u>X</u>
ACEC's	___	<u>X</u>	Wastes, Hazardous/Solid	___	<u>X</u>
Cultural Resource	___	<u>X</u>	Water Quality	___	<u>X</u>
Farmlands, Prime/Unique	___	<u>X</u>	Wetlands/Riparian Zones	___	<u>X</u>
Floodplains	___	<u>X</u>	Wild & Scenic Rivers	___	<u>X</u>
Nat. Amer. Rel. Concerns	___	<u>X</u>	Wilderness	___	<u>X</u>
Min./Low Income Pop./Com.	___	<u>X</u>			

DESCRIPTION OF IMPACTS:

Proposed Action:

Soils

Portions of the allotment are not fenced and would be used infrequently, if ever, for grazing. Trailing on the allotment would have a small affect on the soils. There would be a minor amount of erosion, on areas where cattle congregate, mainly where the water is located.

The livestock waste deposition would not be expected to be substantially greater than that produced by wildlife. Implementation of the proposed action is expected to have a negligible effect on water quality.

Vegetation

Forage removal should remain within the levels recommended by the MRMP. Properly managed grazing should not affect the vigor and production of the forage plants. Rangeland conditions would be expected to remain static. Implementation of the proposed action is not expected to alter the habitat types or range condition.

Wildlife

Livestock displace some wildlife. The animal species present would remain substantially unaffected by renewal of the grazing permit. Issuing the grazing permit is not expected to alter the habitat types and rangeland condition.

Special Status Species

Implementation of the proposed action is not expected to alter the habitat types or range condition, and would not affect potential populations or potential habitat of night-blooming cereus and grama grass cactus.

The 10 special status animal species that may occur within the allotment are considered to have a No Affect determination due to the species being considered transient migrants, vagrants or rare in the action area (ferruginous hawk, mountain plover, baird's sparrow), or data available for the species is very limited and does not indicate any positive or negative effects due to grazing (common ground dove, Texas horned lizard, loggerhead shrike, southwestern pearl checkerspot butterfly), or lack of roosting habitat (caves and mines--fringed myotis bat). The data available in the Biota Information System for New Mexico (BISON-M) database for the species indicates positive effects by controlled livestock grazing (burrowing owl, desert massasauga).

Cultural

Implementation of the proposed action would have no adverse effect on cultural resources. Any future projects would require an archeological survey prior to approval.

Cumulative effects of livestock grazing have been assessed in the Las Cruces/Lordsburg Resource Area Final Management Framework Plan Amendment Environmental Impact Statement.

No Action:

The new grazing permit would be denied, and current permit for 1 CYL would remain in effect. The additional land would remain a part of the allotment, and would remain permitted for grazing unless the MRMP was amended. If the new permit was denied on the allotment and the 1 CYL permit remained in effect, the environmental effects would be similar to those in the proposed action.

On this allotment the permit does not limit the actual number of livestock on the land, it simply shows the estimated amount of forage available for use on the public lands.

Without any determination that the land is not being used according to BLM standards or that resource damage is occurring, a reduction or denial of grazing on this allotment would be arbitrary, and contrary to the intent of the MRMP.

Soils

Portions of the allotment are not fenced and would be used infrequently, if ever, for grazing. Trailing on the allotment would have a small affect on the soils. There would be a minor amount of erosion, on areas where cattle congregate, mainly where the water is located.

The livestock waste deposition would not be expected to be substantially greater than that produced by wildlife. Implementation of the no action alternative would not be expected to have a negligible effect on water quality.

Vegetation

Forage removal should remain within the levels recommended by the MRMP. Properly managed grazing should not affect the vigor and production of the forage plants. Rangeland conditions would be expected to remain static. Implementation of the no action alternative would not be expected to alter the habitat types or range condition.

Wildlife

Livestock displace some wildlife. The animal species present would remain substantially unaffected by renewal of the grazing permit. Implementation of the no action alternative would not be expected to alter the habitat types and rangeland condition.

Special Status Species

Effects would be the same as in the proposed action. No special status species would be affected.

Cultural

Implementation of the no action alternative would have no adverse affect on cultural resources. Any future projects would require an archeological survey prior to approval.

DESCRIPTION OF MITIGATION MEASURES AND RESIDUAL IMPACTS:

If the proposed action is selected, grazing would be administered by the Grazing Regulations, 43 CFR. The permittee would be required to follow the grazing regulations. No mitigation measures are planned.

Residual effects of renewing the permit on this allotment would be minimal. Short term effects are covered in the proposed action. Any long-term effects caused by livestock grazing on this area have already occurred. Reissuance of the permit should cause no further changes.

PERSONS/AGENCIES CONSULTED:

Prepare(s): Marcia Whitney Date: February 3, 1999

EA Coordinator's Signature:  Date: 2-5-99