



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Schell Field Office
HC33 Box 33500 (702 N. Industrial Way)
Ely, Nevada 89301-9408

http://www.blm.gov/nv/st/en/fo/ely_field_office.html

In Reply Refer To:
4160 (NVL0200)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Gene Kemp
P.O. Box 928
McGill, NV 89318

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Ms. Francis Fields
Mr. Al Miller
33 Reno Road
Ely, NV 89301

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PROPOSED DECISION

New Term Grazing Permit for the Schoolhouse Springs Allotment Due to Transfer of Grazing Preference from Francis Fields to Gene Kemp

The Bureau of Land Management (BLM) Ely District, Schell Field Office, proposes to issue a new grazing permit to Gene Kemp. This action is the result of a transfer of the grazing preference for grazing use on the public lands of the Schoolhouse Springs Allotment (00420).

On December 1, 2010, Gene Kemp leased the Schoolhouse Springs Ranch from Francis Fields for a term of five years. The private land serves as the base property for the Schoolhouse Springs Allotment.

In April 2011, Gene Kemp applied for the grazing permit associated with the Schoolhouse Springs Allotment. All required BLM forms, including Form 4130-1 (Grazing Schedule-Grazing Application), Form 4130-1a (Grazing Preference Application and Preference Transfer Application) and Form 4130-1b (Grazing Application-Supplemental Information) were submitted in October 2011.

On November 14, 2011, based on review of the grazing preference transfer application submitted by Gene Kemp and in accordance with 43 CFR 4110.2-3, Transfer of Grazing Preference, it was found that Gene Kemp meets the mandatory qualifications for grazing use on the public lands within the Schoolhouse Springs Allotment.

On February 10, 2012, a Determination of NEPA Adequacy (DNA) was signed for Environmental Assessment (EA) NV-040-06-012. This EA analyzed the impacts associated with authorizing livestock grazing under the current term grazing permit. A DNA was conducted to insure adequate NEPA analysis of the cumulative impacts to affected resources was conducted and no new resource concerns have arisen since the analysis took place. A new permit would be issued with slight modifications to the terms and conditions to reflect the terms and conditions required by the Final Decision dated February 26, 2008, resulting from Environmental Assessment (EA) NV-040-06-012 and updated terms and conditions common to all allotments. No changes would be made to the active Animal Unit Months (AUMs) and season of use would be slightly modified to move grazing further out of the critical growing season for winterfat.

Based on the DNA review, this proposed grazing preference transfer conforms to the Ely District Approved Resource Management Plan. The NEPA documentation fully covers the proposed action and constitutes BLM's compliance with the requirements of NEPA.

LIVESTOCK MANAGEMENT DECISION

Based on review of the grazing preference transfer application submitted by Gene Kemp and in accordance with 43 CFR 4110.2-3 Transfer of Grazing Preference, a new term permit will be issued to Gene Kemp and will valid until December 1, 2015.

The terms and conditions of the permit will be modified to reflect the terms and conditions required by the Final Decision dated February 26, 2008, resulting from Environmental Assessment (EA) NV-040-06-012 and updated terms and conditions common to all allotments. No changes would be made to the active AUMs and season of use would be slightly modified to move grazing further out of the critical growing season for winterfat.

In accordance with 43 CFR 4110.3, 4130.3 and 4130.3-1, active use, season-of-use and grazing management practices will be authorized and will be changed as follows:

From:

Allotment		Pasture	Livestock		Grazing Period		% PL *	Type of Use	AUMs **
Name	Number		Number	Kind	Begin	End			
Schoolhouse Springs	00420	All	19	Cattle	05/01	02/28	100	Active	191

* % Public Land is the percentage of public land for billing purposes.

** AUMs may differ from Active Permitted Use due to a rounding difference with the number of livestock and the period of use.

To:

Allotment		Pasture	Livestock		Grazing Period		% PL *	Type of Use	AUMs **
Name	Number		Number	Kind	Begin	End			
Schoolhouse Springs	00420	All	25	Cattle	05/10	12/26	100	Active	191

* % Public Land is the percentage of public land for billing purposes.
 ** AUMs may differ from Active Permitted Use due to a rounding difference with the number of livestock and the period of use.

Allotment Summary:

Allotment		Pasture	Type of Use			Total Preference
Name	Number		Active	Suspended	Non-Use	
Schoolhouse Springs	00420	All	191	157	0	348

1. Allowable use levels will be established as 50% of the current year's growth by weights for the key native species Indian ricegrass and winterfat within the winterfat dominated areas on the Schoolhouse Springs Allotment. Utilization will be measured at established key grazing areas or other sites representative of the dominant vegetation in the use area. When an average of 50% use is reached at these sites, the cattle will be removed from the pasture.

Terms and Conditions Common to All Grazing Allotments:

1. Livestock numbers identified in the Term Grazing Permit are a function of seasons of use and permitted use for each allotment. Deviations from those livestock numbers and seasons of use may be authorized on an annual basis where such deviations are consistent with multiple-use objectives. Such deviations will require an application and written authorization from the authorized officer prior to grazing use.
2. The authorized officer is requiring that an actual use report (form 4130-5) be submitted within 15 days after completing your annual grazing use.
3. Grazing use will be in accordance with the standards and guidelines for grazing administration. The standards and guidelines have been developed by the respective resource advisory council and approved by the Secretary of the Interior on February 12, 1997. Grazing use will also be in accordance with 43 CFR subpart 4180 Fundamentals of Rangeland Health and Standards and Guidelines for Grazing Administration.
4. If future monitoring data indicates that Standards and Guidelines for Grazing Administration are not being met, the permit will be reissued subject to revised terms and conditions.
5. The permittee is responsible for all maintenance of assigned range improvements including wildlife escape ramps for both permanent and temporary water troughs.

6. The permittee must notify the authorized officer by telephone, with written confirmation, immediately upon discovery of any hazardous or solid wastes as defined in 40 CFR Part 261.
7. The placement of mineral or salt supplements will be a minimum distance of ½ mile from know water sources, riparian areas, winterfat dominated sites, sensitive sites, populations of special status plant species, and cultural resource sites. Placement of mineral and salt supplements will also be one mile from active sage grouse leks. Placing supplemental feed (i.e. hay, grain, pellets, etc.) on public lands without authorization is prohibited.
8. When necessary, control or restrict the timing of livestock movement to minimize the transport of livestock-borne noxious weed seeds, roots, or rhizomes between weed-infested and weed-free areas.

DECISION AUTHORITY

The authority for this decision is contained in Title 43 of the Code of Federal Regulations (43 CFR) which states in pertinent parts:

- 4110.1(a) “Except as provided under §§ 4110.1-1, 4130.5 and 4130.6-3 , to qualify for grazing use on the public lands an applicant must own or control land or water base property, and must be:
- (1) A citizen of the United States or have properly filed a valid declaration of intention to become a citizen or a valid petition for naturalization; or
- 4110.1(b) Applicants for the renewal or issuance of new permits and leases and any affiliates must be determined by the authorized officer to have a satisfactory record of performance”.
- 4110.2-1(a) “The authorized officer shall find land or water owned or controlled by an applicant to be base property (see Sec. 4100.0-5) if:
- (1) It is capable of serving as a base of operation for livestock use of public lands within a grazing district; or
 - (2) It is contiguous land, or, when no applicant owns or controls contiguous land, noncontiguous land that is capable of being used in conjunction with a livestock operation which would utilize public lands outside a grazing district.”
- 4110.2-3(a): “Transfers of grazing preference in whole or in part are subject to the following requirements:
- (1)The transferee shall meet all qualifications and requirements of §§ 4110.1, 4110.2–1, and 4110.2–2.”

PROTEST AND APPEAL

Protest

In accordance with 43 CFR 4160.2, any applicant, permittee, lessee or other interested public may protest the proposed decision under 4160.1 of this title, in person or in writing to Mary D'Aversa, Field Manager, Schell Field Office, HC 33 Box 33500, 702 North Industrial Way, Ely, Nevada 89301 within 15 days after receipt of such decision. The protest, if filed, must clearly and concisely state the reason(s) why the protestant thinks 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 the final decision of the authorized officer without further notice unless otherwise provided in the proposed decision.

In accordance with 43 CFR 4160.3 (b), should a timely protest be filed with the authorized officer, the authorized officer will reconsider the proposed decision and shall serve the final decision on the protestant and the interested public.

Appeal

In accordance with 43 CFR 4.470 and 4160.4, any person who wishes to appeal or seek a stay of a BLM grazing decision must follow the requirements set forth in 4.470 through 4.480 of this title. The appeal or petition for stay must be filed with the BLM office that issued the decision within 30 days after its receipt or within 30 days after the proposed decision becomes final as provided in 4160.3 (a).

The appeal and any petition for stay must be filed at the office of the authorized officer, Mary D'Aversa, Field Manager, Schell Field Office, HC 33 Box 33500, 702 North Industrial Way, Ely, Nevada 89301. Within 15 days of filing the appeal and any petition for stay, the appellant also must serve a copy of the appeal and any petition for stay on any person named in the decision and listed at the end of the decision, and on the Office of the Solicitor, Regional Solicitor, Pacific Southwest Region, U.S. Department of the Interior, 2800 Cottage Way, Room E-1712, Sacramento, California 95825-1890.

Pursuant to 43 CFR 4.471(c), a petition for stay, if filed, 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.

43 CFR 4.471(d) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

Any person named in the decision from which an appeal is taken (other than the appellant) who wishes to file a response to the petition for a stay may file with the Hearings Division in Salt Lake City, Utah, a motion to intervene in the appeal, together with the response, within 10 days

after receiving the petition. Within 15 days after filing the motion to intervene and response, the person must serve copies on the appellant, the Office of the Solicitor and any other person named in the decision (43 CFR 4.472(b)).

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.422(c)(2)).

Sincerely,



Mary D'Aversa
Field Manager
Schell Field Office

Enclosure: Determination of NEPA Adequacy

cc:

Nevada State Clearinghouse

Electronic Notification

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Nevada Cattleman's Association
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Sustainable Grazing Coalition
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