



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Color Country District Office
Cedar City Field Office

176 East DL Sargent Drive
Cedar City, UT 84721
Telephone (435) 586-2401

www.blm.gov/ut/st/en/fo/cedar_city.html

In Reply Refer To:
UT-040
4130/4160

FINDING OF NO SIGNIFICANT IMPACT (FONSI) AND PROPOSED DECISION Beryl and Culver Spring Allotments

Transfer of Grazing Preference From
Norman L. and Robert N. Blake (c/o Robert N. Blake) (Case File No. 4304604)
To
Kelly Atkin
and Issuance of a New Grazing Permit

INTRODUCTION

On July 22, 2015, Norman L. and Robert N. Blake (c/o Robert N. Blake) (Case File No. 4304604) submitted transfer documentation for the grazing preference associated with the Beryl and Culver Spring Allotments. The base property of the Beryl and Culver Spring Allotments will be transferred to Kelly Atkin.

This Proposed Decision will authorize the transfer of livestock grazing preference to Kelly Atkin and the issuance of a ten year grazing permit within the Beryl and Culver Spring Allotments. No changes will be made to the Terms and Conditions of the grazing permit at this time. The Norman L. and Robert N. Blake (c/o Robert N. Blake) (Case File No. 4304604) grazing permit will be terminated.

BACKGROUND

The Beryl Allotment is located approximately 5 miles north of Beryl, UT and the Culver Spring Allotment is located approximately 7 miles north of Beryl, UT. (Refer to the Attached Map). The Beryl and Culver Spring Allotments are located within the Escalante Hydrologic Unit Boundary (HUB) as determined by the USGS.

An Environmental Assessment (EA-UT-040-08-11) was prepared to analyze the effects of grazing management practices within the Beryl and Culver Spring Allotments in 2008. The EA included the analysis of livestock grazing within the Beryl and Culver Spring Allotments. Following this analysis, a Finding of No Significant Impact (FONSI) and Grazing Permit Renewal Proposed Decision for the Beryl and Culver Spring Allotments was issued to the interested public. The Proposed Decision was issued for the 15-day protest and 30-day appeal period. The decision was not protested or appealed and became final on September 17, 2008 (a

copy of the final decision is available upon request at the CCFO). (This action will be referred to as EA/FONSI/DR throughout the rest of this document). Key species utilization to measure livestock grazing use was completed in the Beryl Allotment in 2009 and the Culver Spring Allotment in 2009 and 2011. Utilization data shows that livestock use is within the allotment guidelines incorporated into the EA/FONSI/DR.

The following grazing management system and Terms and Conditions were issued to Norman L. and Robert N. Blake (c/o Robert N. Blake) (Case File No. 4304604) through the 2008 Grazing Permit Renewal Decision.

A. Beryl Allotment

- Establish the total active permitted use within the Beryl Allotment at 233 AUMs.
- Implement the following, which identifies the permittee, number of livestock, kind of livestock, season of use, percent public land and AUMs.

| ALLOTMENT | PASTURE | NUMBER OF LIVESTOCK | KIND OF LIVESTOCK | SEASON OF USE (ODD YEAR) | SEASON OF USE (EVEN YEAR) | PERCENT PUBLIC LAND | AUMS |
|-----------|---------|---------------------|-------------------|--------------------------|---------------------------|---------------------|------|
| Beryl | East | 52 | Cattle | 07/01-09/30 | ---- | 53 | 83 |
| | East | 52 | Cattle | ---- | 11/01-04/15 | 53 | 150 |
| | West | 52 | Cattle | 11/01-04/15 | ---- | 53 | 150 |
| | West | 52 | Cattle | ---- | 07/01-09/30 | 53 | 83 |

B. Culver Spring Allotment

- Establish the total active permitted use within the Culver Spring Allotment at 41 AUMs.
- Implement the following, which identifies the permittee, number of livestock, kind of livestock, season of use, percent public land and AUMs.

| ALLOTMENT | NUMBER OF LIVESTOCK | KIND OF LIVESTOCK | SEASON OF USE | PERCENT PUBLIC LAND | AUMS |
|---------------|---------------------|-------------------|---------------|---------------------|------|
| Culver Spring | 40 | Cattle | 02/20-04/30 | 44 | 41 |

Terms and Conditions

1. Livestock grazing use will be in accordance with the Livestock Decision and Environmental Assessment (UT-040-08-11) dated August 26, 2008.
2. Grazing shall be in accordance with the rotational grazing system from EA # UT-040-08-11 unless adjustments are approved in advance in writing by the Authorized Officer.
3. Grazing fees must be paid in full prior to livestock turnout. Actual use information must be reported within 15 days following the completion of the grazing season.

4. Failure to pay the grazing bill within 15 days of the due date specified in the bill shall result in a late fee assessment of \$25 or 10 percent of the bill, whichever is greater, but not to exceed \$250. Payment made later than 15 days after the due date, shall include the appropriate late fee assessment. Failure to make payment within 30 days may be a violation of 4140.1(b) (1) and shall result in action by the authorized officer under 4150.1 and 4160.1-2.
5. Livestock grazing use will be managed in accordance with the Utah Guidelines for Grazing Management. This permit, including the terms and conditions, may be modified if additional information indicates that revision is necessary in order to conform with the Utah Standards for Rangeland Health, the Fundamentals of Rangeland Health and Regulations at Title 43 CFR 4180 or other provisions of 43 CFR 4100.
6. Maintenance of all structural range projects are a responsibility of the permittees. Maintenance will be in accordance with the approved cooperative agreements for range improvements (Form 4120-6) or range improvement permit (Form 4120-7). Failure to maintain assigned projects in satisfactory condition constitutes a violation in accordance with Title 43 CFR 4140.1 (a)(4) and may result in the suspension of your license until maintenance is completed.
7. All salt/mineral supplements will be located at least ¼ mile or further distance from any riparian area, wet meadow or watering facility (either permanent or temporary) unless stipulated through a written agreement or decision.
8. Supplemental feeding of roughage is prohibited on public lands unless emergency conditions exist, then only by written permission from the authorized officer [Title 43 CFR 4140.1 (a) (3)].
9. The permittee will be allowed 3-5 days flexibility following the scheduled use dates to move livestock.
10. All exclosures on public land throughout the allotment(s) will be closed to livestock grazing unless grazing use is applied for by the permittee and is authorized in writing by the authorized officer.
11. All grazing permittees shall provide reasonable access across private and/or leased lands to the BLM for the orderly management and protection of the public lands.
12. Livestock are to be managed (herding, salting, water hauling or removal) to ensure that the allotment specific objectives are met.
13. Permits and leases will be subject to cancellation, suspension or modification for any violation of these regulations or of any term or condition of the permit.

Documentation of Land Use Plan Conformance and a Determination of NEPA Adequacy (DOI-BLM-UT-C010-2015-0049-DNA) has been completed for the grazing allotment transfer and the issuance of a new ten-year term grazing permit to Kelly Atkins. The DNA is tiered to the Grazing permit Renewal for the Beryl and Culver Spring Allotments (EA-UT-040-08-11). This

EA analyzed the impacts of the grazing management decision, which identified season of use, kind and number of livestock, grazing management system, etc... The Grazing Permit Renewal Decision for the Beryl and Culver Spring Allotments became final on September 17, 2008 following the protest and appeal period.

Finding of No Significant Impact (FONSI) Determination

Based on the identification and analysis of potential environmental impacts contained in the attached DOI-BLM-UT-C010-2015-0049-DNA and referenced EA-UT-040-08-11, I have determined that the action will not have a significant effect on the human environment. Therefore, an Environmental Impact Statement (EIS) is not required.

Dan Fletcher Acting for

Elizabeth R. Burghard
Field Office Manager

8-3-15

Date

PROPOSED DECISION

It is my proposed decision to transfer the grazing preference for the Beryl and Culver Spring Allotments from Norman L. and Robert N. Blake (c/o Robert N. Blake) (Case File No. 4304604) to Kelly Atkin and issue a new ten year grazing permit to Kelly Atkin. The ten year grazing permit will be issued consistent with the authorized use, grazing schedule and Terms and Conditions identified in the EA/FONSI/DR. The EA/FONSI/DR was issued for the 15-day protest and 30-day appeal period and became final on September 17, 2008 (a copy of these documents are available upon request at the CCFO). There was no protest or appeal received for the EA/FONSI/DR.

RATIONALE

In accordance with 43 CFR 4110.2-3(3), Kelly Atkin has accepted the Terms and Conditions associated with the grazing preference and grazing permit for the Beryl and Culver Spring Allotments. After review of Kelly Atkin transfer application and the base property that has been offered, it has been determined that the transferee is a qualified applicant as specified in 43 CFR 4110. The permitted use along with the Terms and Conditions that will be specified on the grazing permit is in accordance with the EA/FONSI/DR, Standards and Guidelines for Healthy Rangelands and the Fundamentals for Rangeland Health.

DECISION AUTHORITY: The authority for this decision is contained in Title 43 of the Code of Federal Regulations (CFR) including, but not limited to the following:

§43 CFR 4110.2-3(c): If a grazing preference is being transferred from one base property to another base property, the transferor shall own or control the base property from which the grazing preference is being transferred and file with the authorized officer a properly completed transfer application for approval. No transfer will be allowed without the written consent of the owner(s), and any person or entity holding an encumbrance of the based property from which the transfer is to be made.

§43 CFR 4130.2(a): Grazing permits or leases shall be issued to qualified applicants to authorize use on the public lands 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 or leases shall specify the types and levels of use authorized, including livestock grazing, suspended use, and conservation 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): 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 unless (1) The land is being considered for disposal; (2) The land will be devoted to a public purpose which precludes grazing prior to the end of 10 years; (3) The term of the base property lease is less than 10 years, in which case the term of the Federal permit or lease shall

coincide with the term of the base property lease; or (4) The authorized officer determines that a permit or lease for less than 10 years is in the best interest of sound land management.

§4130.3: Livestock grazing permits and leases shall contain terms and conditions determined by the authorized officer to be appropriate to achieve 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.

§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.

LIVESTOCK DECISION PROTEST/APPEAL PROCEDURES

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 the authorized officer (Elizabeth R. Burghard, Field Manager), Cedar City Field Office, 176 East DL Sargent Drive, Cedar City, Utah 84721) within 15 days after receipt of such decision. The protest, if filed, must clearly and concisely state the reason(s) as to why the Proposed Decision is in error.

In accordance with 43 CFR 4160.3 (b), should a timely protest be filed with the authorized officer, the authorized officer, at the conclusion to his review of the protest shall serve his Final Decision on the protestant and the interested public.

In the absence of a protest, the Proposed Decision shall constitute my Final Decision without further notice unless otherwise provided in the Proposed Decision in accordance with 43 CFR 4160.3(a).

In accordance with 43 CFR 4.470, 4160.3(c), and 4160.4, any person whose interest is adversely affected by a final decision of the authorized officer may appeal the decision for the purpose of a hearing before an administrative law judge. The appeal must be filed within 30 days after the date the proposed decision becomes final or 30 days after receipt of the final decision. In accordance with 43 CFR 4.470, the appeal shall state clearly and concisely the reason(s) why the appellant thinks the final decision of the authorized officer is wrong.

Pursuant to 43 CFR 4.471 and 4160.3(c), an appellant also may petition for a stay of the final decision pending appeal by filing a petition for stay along with the appeal within 30 days after the date the proposed decision becomes final or 30 days after receipt of the final decision.

The appeal and any petition for stay must be filed at the office of the authorized officer (Elizabeth R. Burghard, Field Manager), 176 East DL Sargent Drive, Cedar City, Utah 84721). 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, 125 South State Street, Suite 6201, Salt Lake City, Utah 84138. 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)).

Dan Fletcher Acting for
Elizabeth R. Burghard
Field Office Manager
Cedar City Field Office

8-3-15
Date

Beryl and Culver Spring Allotment Grazing Transfer Mailing List

Robert Blake
2340 South 2350 East
St. George, UT 84790

Kelly Atkin
1836 North 2500 West
St. George, UT 84790

Ron Torgerson
State Institutional Trust Lands Administration
130 North Main Street
Richfield, UT 84701

