

BLM-041



United States Department of the Interior



Bureau of Land Management

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In Reply Refer to:

4160.1
(NV-062.8)

JAN 7 2000

Cert. Mail # Z 188 116 678
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Steve Venturacci
445 Venturacci Lane
Fallon, Nevada 89406

FINAL MULTIPLE USE DECISION FOR THE BLACK POINT ALLOTMENT

This Final Multiple Use Decision voids the previous decision dated December 6, 1999. Upon review of the previous decision and after discussion with the permittees on the Black Point allotment, it was determined the grazing system was not properly worded based upon an agreement made during a meeting on September 23, 1999. This decision also clarifies the potential for an increase in cattle AUMs identified in the terms and conditions of the grazing permit.

The Northeastern Great Basin Resource Advisory Council (RAC) Standards and Guidelines were approved February 12, 1997. These Standards and Guidelines reflect the stated goals of improving rangeland health while providing for the viability of the livestock industry. The Record of Decision for the Shoshone-Eureka Environmental Impact Statement and the Resource Management Plan (RMP) was issued in March 1986. The Record of Decision for the RMP Amendment was issued in November 1987. These documents establish the multiple use goals and objectives which guide management of the public lands on the Black Point allotment. The Rangeland Program Summary (RPS) was issued in December 1988, which further specifically identified the allotment specific objectives for the Black Point allotment.

As identified in the Shoshone-Eureka RMP and the RPS, monitoring was established on the Black Point allotment to determine if existing multiple uses for the allotment were consistent with attainment of the objectives established in the RPS and Standards for Rangeland Health approved by the Secretary of the Interior on February 12, 1997. Monitoring data has been collected between 1988 and 1998. These data have been analyzed, through the evaluation process, to determine what changes in existing management are required in order to meet specific multiple use objectives for this allotment.

The Northeastern Great Basin Area's Standards are listed below:

Standard 1. Upland Sites: Upland soils exhibit infiltration and permeability rates that are appropriate to soil type, climate and land form.

Standard 2. Riparian and Wetland Sites: Riparian and wetland areas exhibit a properly functioning condition and achieve state water quality criteria.

Standard 3. Habitat: Habitats exhibit a healthy, productive, and diverse population of native and/or desirable plant species, appropriate to the site characteristics, to provide suitable feed, water, cover and living space for animal species and maintain ecological processes. Habitat conditions meet the life cycle requirements of threatened and endangered species.

Standard 4. Cultural Resources: Land use plans will recognize cultural resources within the context of multiple use.

The specific multiple use objectives for the Black Point allotment are listed below:

Land Use Plan/Rangeland Program Summary (RPS) Objectives

Vegetation and Ecological Condition

1. Utilization not to exceed 50% on key species by seed dissemination, and 60% by the end of the grazing year.
2. In the long term, improve 8,903 acres to good, and 400 acres to excellent condition.
3. In the long term, manage for upward trend on 9,703 acres.

Livestock Existing Use/Management Objective

1. Existing use: 4,633 AUMs cattle and sheep.
2. In the short term, manage use at 4,633 AUMs.
3. In the long term, manage use at 5,050 AUMs in conformance with other objectives of the RMP.

Wildlife Management Objectives

1. Utilization on riparian habitat to be improved will not exceed 30% of key species.
2. In the short term, improve 5.4 miles of riparian/aquatic habitat to good condition on the following streams:
 - 3.2 miles of Cottonwood Creek
 - 3.2 miles of Hildebrand Creekincluding 65 acres of associated riparian habitat and 100 acres of other riparian habitat in the allotment.
3. Utilization of key browse species not to exceed 50% in terrestrial big game habitat areas.
4. Existing big game use (AUMs):2,450. In the long term, provide habitat to support 1,979 AUMs (forage needs for reasonable numbers) of big game use, in conformance with other objectives of the RMP.
5. In the long term, within the Diamond Hills Habitat Management Plan (HMP) Area, improve 8,246 acres of terrestrial big game habitat to good, and 375 acres to excellent condition. Manage for upward trend on 8996 acres.

6. Manage rangeland habitat to maintain or enhance sage grouse strutting and nesting areas, in conformance with other objectives of the RMP.

Wild Horse and Burro Management Objectives

1. Initially manage to provide 972 AUMs of forage for 81 horses within the Diamond Herd Management Area. 39.6% of the herd management area is within this allotment.
2. Maintain or improve wild horse habitat in a condition which enhances or preserves their wild and free roaming behavior, in conformance with other objectives of the RMP. (For example the absence of fences which disrupts normal distribution and movement patterns.)
3. Maintain or improve wild horse habitat by ensuring free access to water, in conformance with other objectives of the RMP.

Special Status Species

There are no known listed, proposed, or candidate species within the allotment.

Through the consultation, cooperation, and coordination process (CCC), protests of the Proposed Multiple Use Decision (PMUD) were received from Thomas Belaustegui (Cottonwood Land & Livestock) and Eureka County, listing the following points of protests:

1. AUMs placed in voluntary temporary non-use in 1994 are now permanently reduced or canceled;
2. The BLM has failed to follow its own recommendations and findings in regards to management of wild horses;
3. The proposed plan does not state what the BLM will do to keep horses off private property;
4. The BLM's reasoning to rely on "the best data available" is defective;
5. It is uneconomically feasible to complete the stated range improvements for the slight increase in AUMs. The ultimate goal should be to return the Black Point allotment to grazing cattle for numbers which have historically grazed the allotment;
6. The cattle grazing outlined in the PMUD is inoperable for several reasons: insufficient range improvements; insufficient water and feed in valley pastures; with limited numbers of cattle allowed in the Deer and Poison Pastures later in the season, the remaining cattle will not stay in the valley pastures; "If cattle get in the Poison Pasture early they will die".
7. The BLM used incorrect methodologies as were rejected in the May 26, 1999 Decision Fillippini ranching Co. and Paris Ranch v. Bureau of Land Management (IBLA 96-1501);
8. Failure to adequately address Eureka's comments dated November 27, 1998 on the Diamond Mountain Complex. Of particular concern are the methodology and conclusions regarding utilization maps, stocking rates, ecological condition and trend, season of use and wildlife and riparian recommendations.

The previous points of protest and comments received following the protest period and during the tour of the Diamond Mountain Complex and meetings with the affected permittees have been considered in developing the Final Multiple Use Decision. The BLM has properly followed procedures in data collection as outlined in the Nevada Rangeland Monitoring Handbook and "Sampling Vegetation Attributes, Interagency Technical Reference, 1996", "Riparian Area Management, Process for Assessing Proper Functioning Condition, TR 1737-9, 1993", "Riparian Area Management, Process for Assessing Proper Functioning Condition for Lentic Riparian-Wetland Areas, TR 1737-11, 1994" and "BLM

Manual 1630- Big Game Studies". The ultimate goal for the Black Point Allotment is to ensure that the rangeland resources are meeting the RAC standards and LUP objectives.

As a result of the evaluation and input received from the permittee(s) and interested publics I have determined the following standards and/or objectives have not been met:

Standard 2. Riparian and Wetland Sites is not currently being met. Several of the lentic and some of the lotic riparian areas were determined to be non-functional or functional-at-risk with a static or downward trend. In order to meet this standard all riparian areas must be in proper functioning condition (PFC) or making significant progress towards PFC. In addition, utilization objectives for riparian areas are set at 30%. Throughout the evaluation period utilization was consistently observed at heavy/severe levels.

Standard 3. Habitat is currently not being met. Mule deer habitat (key browse) studies showed the majority of key browse species were mature or decadent with low recruitment. In addition, some of the key browse species were severally hedged. Production (DPC) and frequency data showed the appropriate types of herbaceous vegetation are not present or occurred in low percentages. Appropriate herbaceous vegetation includes key species such as needleandthread, thurburs needlegrass, indian ricegrass, and bluebunch wheatgrass.

Through the allotment evaluation process it was determined that changes in existing livestock and wild horse management are needed to meet multiple use objectives established by the LUP and Standards for Rangeland Health as outlined by the Northeastern Great Basin RAC. It was determined that wildlife were not contributing to the non-attainment of these objectives or Standards, therefore, no wildlife decision is necessary. As a result of the evaluation conclusions and after considerations of input received during the tour and through the CCC process, my final decision is:

LIVESTOCK GRAZING MANAGEMENT DECISION

Changes in permitted use are identified below:

From:

	Livestock				
<u>Allotment</u>	<u>Kind</u>	<u>Number</u>	<u>Season of Use</u>	<u>%PL</u>	<u>AUMs</u>
Black Point	Cattle	321	05/01-10/31	91	1,767
		2	05/01-05/30	91	2
	Sheep	1,665	05/01-10/31	91	1,833
	Sheep	2	10/01-10-31	91	<u>1</u>
	total				3,603

To:

	Livestock				
<u>Allotment</u>	<u>Kind</u>	<u>Number</u>	<u>Season of Use</u>	<u>%PL</u>	<u>AUMs</u>
Black Point	Cattle	346	05/01-11/30	91	2,215
	Sheep	1,905	05/01-10/31	91	<u>2,097</u>
	total				4,312

Cattle grazing on the Black Point allotment will be authorized in accordance with the following grazing schedule, this grazing schedule will become part of the terms and conditions on each permit for the Black Point allotment.

Even Years

Cattle grazing will be available in the Deer Pasture between 06/01-08/15, and in the Minoletti and Cottonwood Springs Pastures between 08/15-10/30. The Poison Pasture will be rested.

Odd Years

Cattle grazing will be available in the Minoletti Pasture between 06/01-08/15, and in the Deer and Poison Pastures between 08/15-10/30. The Cottonwood Springs Pasture will be rested.

Reasonable effort must be made to ensure minimal cattle drift between the Cottonwood Springs and Poison Pastures until the Mountain Drift Fence is constructed.

11/01-11/30

Cattle grazing in November will be available in the Minoletti Seeding, Cottonwood Seeding, and Buck Field.

In addition to the permitted use identified above, the following additional terms and conditions shall be made part of all grazing permits in the Black Point allotment:

This permit reflects your adjusted grazing permitted use based upon the 1998 "Allotment Evaluation" for this allotment. The term of this permit shall be for ten years. The terms and/or conditions of this permit shall be amended or changed when additional and/or new monitoring data reflects the need to do so.

The terms and conditions of this permit must be consistent with the Standards and Guidelines approved February 12, 1997 for the Northeastern Great Basin Resource Advisory Council (RAC) area.

Cattle grazing will be done in accordance with the "Final Multiple Use Decision for the Black Point Allotment" dated January 7, 2000.

Cattle AUMs may be returned to active preference in increments of 448 AUMs up to a total of 3,250 AUMs, as monitoring data indicates. A minimum of 2 years of monitoring data will be required before AUMs are returned to active preference.

Utilization of "Key Forage Species" will not exceed 50% by seed dissemination and 60% by the end of the grazing year.

Sheep camps will be placed a minimum of (1/4) one quarter mile from all permanent water sources.

Sheep camps will be moved every five days. No two sheep camps will camp in the same area in a grazing year. Bed grounds will be a minimum of (1/4) one quarter mile from previous bed grounds.

Camp sites will be cleaned with all trash removed.

Key species at the 6 KMAs are to meet or make significant progress towards DPC.

Residual vegetation, appropriate for the site, will be left in riparian or wetland habitats by the end of the growing year. Residual vegetation is considered appropriate when all riparian areas are at or making progress towards proper functioning condition (PFC).

In order to protect native forage species during critical growth periods and sage grouse brood rearing areas there will be no cattle grazing in the drainages south of Pedrioli Canyon on the Black Point allotment, prior to June 1. Sheep grazing will be allowed south of Pedrioli Canyon in May to help control larkspur before cattle grazing occurs.

In accordance with 43 CFR 4130.8-1(f): Failure to pay grazing bills within 15 days of the due date specified in the bill shall result in a late fee assessment of \$25.00 or 10% of the grazing bill, whichever is greater, but not to exceed \$250.00. Payment made later than 15 days after the due date, shall include appropriate late fee assessment. Failure to make payment within 30 days may be a violation of 43 CFR sec. 4140.1(b)(1) and shall result in action by the authorized officer under 43 CFR sec. 4150.1 and 4160.1-2.

In accordance with 43 CFR 4130.6-2(d), actual use information for each use area will be submitted within 15 days of completing grazing use as specified on the grazing permit and grazing licenses. Actual use information will be provided for each pasture in the Black Point allotment.

In accordance with 43 CFR 4120.3-1(a), range improvements shall be installed, used, and maintained, and/or modified on the public lands, or removed from the public lands, in a manner consistent with multiple use management.

In accordance with 43 CFR 4130.3-2(c): In order to improve livestock and rangeland management on the public lands, all salt and/or mineral supplements will not be placed within 1/4 mile of any riparian area, wet meadow, or watering facility (either permanent or temporary) unless stipulated through a written agreement or decision.

In accordance with 43 CFR 4130.3-2(h): All grazing permittees shall provide reasonable access across private and/or leased lands to the Bureau of Land Management for the orderly management and protection of the public lands.

Pursuant to 43 CFR 10.4(g): The holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony (as defined at 43 CFR 10.2).

Further, pursuant to 43 CFR 10.4(c) and (d) you must stop activities in the immediate vicinity of the discovery and protect it from your activities for 30 days or until notified by the authorized officer.

The following range improvements will be developed on the Black Point allotment:

- 1a. Construct an extension(s) from the Black Point pipeline to T21N, R54E, sec. 9 and 28.
- 1b. Construct reservoirs in at least 2 of the following canyons: Water, Monroe, Sheep and Homestead.
- 2a. Construct an east-west Mountain Drift Fence between Cottonwood Canyon and Hildebrand Canyon.
- 2b. Thin approximately 1,200 acres of big sagebrush in the vicinity of KMA BP-8 using spike.
3. Reseed approximately 960 acres in the Walter's Canyon Burn with crested wheatgrass and forage kochia and construct a permanent fence around the seeding.
4. Develop permanent water sources (well) in the North and West pastures as Federal and State regulations allow.

Maintenance responsibility on Poison Spring (R-4154) is transferred from the permittee(s) on the Black Point allotment to the permittee of the Shannon Station allotment (primary user of the improvement).

RATIONALE: Through the allotment evaluation and multiple use decision process it was determined that the following standards and/or objectives are not being met.

Standard 2. Riparian and Wetland Sites is not currently being met. Several of the lentic and some of the lotic riparian areas were determined to be non-functional or functional-at-risk with a static or downward trend. In order to meet this standard all riparian areas must be in proper functioning condition (PFC) or making significant progress towards PFC. In addition, utilization objectives for riparian areas are set at 30%. Throughout the evaluation period utilization was consistently observed at heavy/severe levels.

Standard 3. Habitat is currently not being met. Mule deer habitat (key browse) studies showed the majority of key browse species were mature or decadent with low recruitment. In addition, some of the key browse species were severely hedged. Production (DPC) and frequency data showed the appropriate types of herbaceous vegetation are not present or occurred in low percentages. Appropriate herbaceous vegetation includes key species such as needleandthread, thurbers needlegrass, indian ricegrass, and bluebunch wheatgrass.

In order to ensure significant progress is being made towards achieving these standards the following management action(s) will be implemented: 1. implement a grazing system which will provide rest or spring/early summer use on riparian areas every other year; 2. develop water (reservoirs) in the valley pasture which will improve cattle distribution and reduce grazing pressure on currently over utilized riparian areas.

The current stocking level can be increased on the Black Point allotment. Use pattern mapping showed the average utilization of upland vegetation did not exceed 60% by the end of the grazing year since 1988. However, over utilization (heavy/severe use) on riparian vegetation is the primary reason why the riparian areas are not at proper functioning condition (PFC) or making

progress towards PFC. Wildlife habitat concerns are similar to riparian concerns. Over utilization of key browse species have caused deterioration of wildlife habitat. Livestock have contributed to over utilization of riparian areas and key browse species. Increased livestock management in the mountain pastures will help alleviate these problems.

The selected management actions in this multiple use decision are appropriate and will result in significant progress toward fulfillment of the standards and conformance with the guidelines for the Northeastern great Basin Area.

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:

4100.0-8: "The authorized officer shall manage livestock grazing on public lands under the principle of multiple use and sustained yield, and in accordance with applicable land use plans. Land use plans shall establish allowable resource uses (either singly or in combination), related levels of production or use to be maintained, areas of use, and resource condition goals and objectives to be obtained. The plans also set forth program constraints and general management practices needed to achieve management objectives. Livestock grazing activities and management actions approved by the authorized officer shall be in conformance with the land use plan as defined at 43 CFR 1601.0-5(b)."

4110.3: "The authorized officer shall periodically review the permitted use specified in a grazing permit or lease and shall make changes in the permitted use as needed to manage, maintain or improve rangeland productivity, to assist in restoring ecosystems to properly functioning condition, to conform with land use plans or activity plans, or to comply with the provisions of subpart 4180 of this part. These changes must be supported by monitoring, field observations, ecological site inventory or other data acceptable to the authorized officer."

4110.3-1: "Additional forage may be apportioned to qualified applicants for livestock grazing consistent with multiple-use management objectives."

4110.3-1(b): "Additional forage available on a sustained yield basis for livestock grazing use shall first be apportioned in satisfaction of suspended permitted use to the permittee(s) or lessee(s) authorized to graze in the allotment in which the forage is available."

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."

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 shall not exceed the livestock carrying capacity of the allotment. (b) All permits and leases shall be made subject to cancellation, suspension, or modification for any violation of these regulations or any term or condition of the permit or lease."

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. ..."

4130.3-3: "Following consultation, cooperation and coordination with the affected lessees or permittees, the State having lands or responsible for managing resources within the area, and the interested public, the authorized officer may modify terms and conditions of the permit or lease when the active use or related management practices are not meeting the land use plan, allotment management plan or other activity plan, or management objectives, or is not in conformance with the provisions of subpart 4180 of this part. To the extent practical, the authorized officer shall provide to affected permittees or lessees, States having lands or responsibility for managing resources within the affected area, and the interested public an opportunity to review, comment and give input during the preparation of reports that evaluate monitoring and other data that are used as a basis for making decisions to increase or decrease grazing use, or to change the terms and conditions of a permit or lease."

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."

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 within 15 days after receipt of such decision."

4180.1: "The authorized officer shall take appropriate action under subparts 4110, 4120, 4130 and 4160 of this part as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management needs to be modified to ensure that the following conditions exist.

- (a) Watersheds are in, or are making significant progress toward, properly functioning physical condition, including their upland, riparian-wetland, and aquatic components; soil and plant conditions support infiltration, soil moisture storage, and the release of water that are in balance with climate and landform and maintain or improve water quality, water quantity, and timing and duration of flow.
- (b) Ecological process, including the hydrologic cycle, nutrient cycle, and energy flow, are maintained, or there is significant progress toward their attainment, in order to support healthy biotic populations and communities.
- (c) Water quality complies with State water quality standards and achieves, or is making significant progress toward achieving, established BLM management objectives such as meeting wildlife needs.
- (d) Habitats are, or are making significant progress toward being, restored or maintained for Federal threatened and endangered species, Federal Proposed, Category 1 and 2 Federal candidate and other special status species."

4180.2(c): "The authorized officer shall take appropriate action as soon as practicable but not later than the next grazing year upon determining that existing grazing management practices or levels of grazing use on public lands are significant factors in failing to achieve the standards and conform with the guidelines that are made effective under this section. Appropriate action means implementing actions

pursuant to subparts 4110, 4120, 4130 and 4160 of this part that will result in significant progress toward conformance with the guidelines. Practices and activities subject to standards and guidelines include the development of grazing-related portions of activity plans, establishment of terms and conditions of permits, leases and other grazing authorizations, and range improvement activities such as vegetation manipulation, fence construction and development of water.

APPEAL: In accordance with 43 CFR 4160.4(a): “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 by following the requirements set out in § 4.470 of this title. As stated in that part, the appeal must be filed within thirty (30) days from receipt of this notice or within 30 days after the date the proposed decision becomes final as provided by § 4160.3(a). Appeals and petitions for stay of the decision shall be filed at the office of the authorized officer. The authorized officer shall promptly transmit the appeal and petition for stay and the accompanying administrative record to ensure their timely arrival at the Office of Hearings and Appeals.” Appeals and petitions for stay shall be filed with Jeffrey A. Weeks, Assistant Field Manager, Renewable Resources, 50 Bastian Road, Battle Mountain, Nevada 89820. The appeal shall state the reasons, clearly and concisely, why the appellant believes this decision was issued in error. All grounds of error not stated will be considered waived.

Should you wish to file a petition for stay, the appellant 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 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.

WILD HORSE AND BURRO MANAGEMENT DECISION

It has been determined through monitoring that a thriving ecological balance can be obtained through an Appropriate Management Level (AML) of 65 wild horses 780 AUMs for that portion of the Diamond Herd Management Area which occurs in the Black Point Allotment.

	Average <u>Actual Use</u>	<u>AML</u>
Wild Horses	105	65
AUMs	1,260	780

RATIONALE: Although the Standards for Rangeland Health for the Northeastern Great Basin Area were developed for livestock grazing, wild horse populations have contributed to the non-attainment of the standards.

Standard 2. Riparian and Wetland Sites is not currently being met. There are several lentic and lotic riparian areas that were determined to be non-functional or functional-at-risk with a static or downward trend. In order to meet this standard all riparian areas must be in proper functioning condition (PFC) or making significant progress towards PFC. In addition, utilization objectives

for riparian areas are set at 30%. Throughout the evaluation period utilization was consistently observed at heavy/severe levels.

Standard 3. Habitat is currently not being met. Mule deer habitat (key browse) studies showed the majority of key browse species were mature or decadent with low recruitment. In addition, some of the key browse species were severely hedged. Production (DPC) and frequency data showed the appropriate types of herbaceous vegetation are not present or occurred in low percentages. Appropriate herbaceous vegetation includes key species such as needleandthread, thurburs needlegrass, indian ricegrass, and bluebunch wheatgrass.

Use pattern mapping showed the average utilization of upland vegetation did not exceed 60% by the end of the grazing year since 1988. However, over utilization (heavy/severe use) on riparian vegetation is the primary reason why the riparian areas are not at proper functioning condition (PFC) or making progress towards PFC. Wild horses have contributed to the over utilization on riparian vegetation.

In order to decrease year long grazing pressure and over utilization of riparian areas by wild horses on the Black Point allotment, an AML for wild horses of 780 AUMs is appropriate. This AML for wild horse populations will also provide for continued improvement of upland vegetation.

AUTHORITY: The authority for this decision is contained in Sec. 3(a), Wild Horse and Burro Act (P. L. 92-195) and Title 43 of the Code of Federal Regulations including, but not limited to the following:

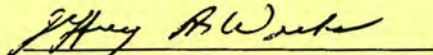
4700.0-6(a): "Wild horses and burros shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat."

4700.0-6(d): "In administering these regulations, the authorized officer shall consult with Federal and State wildlife agencies and all other affected interests, to involve them in planning for and management of wild horses and burros on the public lands."

APPEAL: In accordance with 43 CFR 4770.3 (a) "Any person adversely affected by a decision of the authorized officer in the administration of these regulations may file an appeal. Appeals and petitions for stay of a decision of the authorized officer must be filed within 30 days of receipt of the decision in accordance with 43 CFR part 4." Appeals and petitions for stay shall be filed with Jeffrey A. Weeks, Assistant Field Manager, Renewable Resources, 50 Bastian Road, Battle Mountain, Nevada 89820. The appeal shall state the reasons, clearly and concisely, why the appellant believes this decision was issued in error. All grounds of error not stated will be considered waived.

Should you wish to file a petition for stay, the appellant shall show sufficient justification based on the following standards:

1. The relative harm of 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.



Jeffrey A. Weeks
Assistant Field Manager,
Renewable Resources

CASE FILE COPY

AUTH NUMBER: 2704073
DATE PRINTED: 4/27/2015

Form 4130-2a
(February 1999)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

STATE NV
OFFICE LLNVB01000
AUTH NUMBER 2704073
PREFERENCE CODE 03
DATE PRINTED 04/27/2015
TERM 04/27/2015 TO 04/26/2025

GRAZING PERMIT

BUREAU OF LAND MANAGEMENT
MOUNT LEWIS FO
50 BASTIAN RD
BATTLE MOUNTAIN NV 89820

HIGH COUNTRY RANCHES, LLC
HC 60 BOX 44501
ROUND MOUNTAIN NV 89045

THIS GRAZING PERMIT IS OFFERED TO YOU UNDER 43 CFR PART 4100 BASED ON YOUR RECOGNIZED QUALIFICATIONS. YOU ARE AUTHORIZED TO MAKE GRAZING USE OF LANDS, UNDER THE JURISDICTION OF THE BUREAU OF LAND MANAGEMENT AND COVERED BY THIS GRAZING PERMIT, UPON YOUR ACCEPTANCE OF THE TERMS AND CONDITIONS OF THIS GRAZING PERMIT AND PAYMENT OF GRAZING FEES WHEN DUE. CONTACT YOUR LOCAL BLM OFFICE AT 775-635-4000 IF YOU HAVE QUESTIONS.

MANDATORY TERMS AND CONDITIONS

ALLOTMENT	PASTURE	LIVESTOCK		GRAZIN	PERIO	% P	TYPE USE	AUMS
		NUMBER	KIND	G BEGIN	D END			
10032 BLACK POINT		318	CATTLE	05/01	11/30	99	ACTIVE	2215
		1751	SHEEP	05/01	10/31	99	ACTIVE	2097

OTHER TERMS AND CONDITIONS:

GRAZING USE WILL BE IN ACCORDANCE WITH THE DIMAOND MOUNTAINS FINAL MULTIPLE USE DECISION DATED JUNAUARY 1, 2000.

CATTLE GRAZING IN THE BLACK POINT ALLOTMENT WILL BE AUTHORIZED IN ACCORDANCE WITH THE FOLLOWING GRAZING SCHEDULE.

EVEN YEARS

GRAZING WILL BE AVAILABLE IN THE DEER PASTURE BETWEEN 06/01-08/15 AND IN THE MINOLETTI AND COTTONWOOD SPRINGS PASTURE BETWEEN 08/15-10/30. THE POISON PASTURE WILL BE RESTED.

ODD YEARS

GRAZING WILL BE AVAILABLE IN THE MINOLETTI PASTURE BETWEEN 06/01-08/15 AND IN THE DEER AND POISON PASTURES BETWEEN 08/15-10/30. THE COTTONWOOD SPRINGS PASTURE WILL BE RESTED.

REASONABLE EFFORT WILL BE MADE TO ENSURE MINIMAL CATTLE DRIFT BETWEEN THE COTTONWOOD SPRINGS AND POISON PASTURES UNTIL THE COTTONWOOD DRIFT FENCE IS CONSTRUCTED.

11/01-11/30

CATTLE GRAZING IN NOVEMBER WILL BE AVAILABLE IN THE MINOLETTI SEEDING, COTTONWOOD SEEDING, AND BUCK FIELD.

THIS PERMIT REFLECTS YOUR ADJUSTED GRAZING PERMIT BASED UPON THE 1998 "ALLOTMENT EVALUATION" FOR THIS ALLOTMENT. THE TERM OF THIS PERMIT SHALL BE FOR TEN YEARS. THE TERMS AND CONDITIONS OF THIS PERMIT SHALL BE AMENDED OR CHANGED WHEN ADDITIONAL AND/OR

NEW MONITORING DATA REFLECTS THE NEED TO DO SO.

THE TERMS AND CONDITIONS OF THIS PERMIT MUST BE CONSISTENT WITH THE STANDARDS AND GUIDELINES APPROVED FEBRUARY 12, 1997 FOR THE NORTHEASTERN GREAT BASIN RESOURCE ADVISORY COUNCIL (RAC) AREA.

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CATTLE AUMS MAY BE RETURNED TO ACTIVE PREFERENCE IN INCREMENTS OF 448 AUMS UP TO A TOTAL OF 3,250 AUMS, AS MONITORING DATA INDICATES. A MINIMUM OF 2 YEARS OF MONITORING DATA WILL BE REQUIRED BEFORE AUMS ARE RETURNED TO ACTIVE PREFERENCE.

UTILIZATION OF "KEY FORAGE SPECIES" WILL NOT EXCEED 50% BEFORE SEED DISSEMINATION AND 60% BY THE END OF THE GRAZING YEAR.

KEY SPECIES AT THE 6 KMAS ARE TO MEET OR MAKE SIGNIFICANT PROGRESS TOWARD DPC.

RESIDUAL VEGETATION, APPROPRIATE FOR THE SITE, WILL BE LEFT IN RIPARIAN OR WETLAND HABITATS BY THE END OF THE GROWING YEAR. RESIDUAL VEGETATION IS CONSIDERED APPROPRIATE WHEN ALL RIPARIAN AREAS ARE AT OR MAKING PROGRESS TOWARDS PROPER FUNCTION

CONDITION (PFC).

IN ORDER TO PROTECT NATIVE FORAGE SPECIES DURING CRITICAL GROWTH PERIODS AND SAGE GROUSE BROOD REARING AREAS THERE WILL BE NO CATTLE GRAZING IN THE DRAINAGES SOUTH OF PEDRIOLI CANYON ON THE BLACK POINT ALLOTMENT, PRIOR TO JUNE 1. SHEEP GRAZING WILL BE

ALLOWED SOUTH OF PEDRIOLI CANYON IN MAY TO HELP CONTROL LARKSPUR BEFORE CATTLE GRAZING OCCURS.

THE TERM OF THIS PERMIT IS FOR TEN YEARS PROVIDED YOUR BASE LEASE IS NOT CANCELLED. IF YOUR BASE LEASE IS CANCELLED THIS TERM PERMIT WILL BECOME INVALID.

IN ACCORDANCE WITH 43 CFR 4130.8-1(F): FAILURE TO PAY GRAZING BILLS WITHIN 15 DAYS OF THE DUE DATE SPECIFIED IN THE BILL SHALL RESULT IN A LATE FEE ASSESSMENT OF \$25.00 OR 10 PERCENT OF THE GRAZING BILL, WHICHEVER IS GREATER, BUT NOT TO EXCEED \$250.00. 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 43 CFR SEC. 4140.1(B)(1) AND SHALL RESULT IN ACTION BY THE AUTHORIZED OFFICER UNDER 43 CFR SECTIONS 4150.1 AND 4160.1-2.

IN ACCORDANCE WITH 43 CFR 4130.3-2(D): ACTUAL USE INFORMATION, FOR EACH PASTURE/USE AREA, WILL BE SUBMITTED TO THE AUTHORIZED OFFICER WITHIN 15 DAYS OF COMPLETING GRAZING USE AS SPECIFIED ON THE GRAZING PERMIT AND/OR GRAZING LICENSES.

IN ACCORDANCE WITH 43 CFR 4120.3-1(A): ALL RANGE IMPROVEMENTS SHALL BE INSTALLED, USED, MAINTAINED, AND/OR MODIFIED ON THE PUBLIC LANDS, OR REMOVED FROM THESE LANDS, IN A MANNER CONSISTENT WITH MULTIPLE-USE MANAGEMENT.

IN ACCORDANCE WITH 43 CFR 4130.3-2(C): IN ORDER TO IMPROVE LIVESTOCK AND RANGELAND MANAGEMENT ON THE PUBLIC LANDS, ALL SALT AND/OR MINERAL SUPPLEMENTS WILL NOT BE PLACED WITHIN 1/4 MILE OF ANY RIPARIAN AREA, WET MEADOW, OR WATERING FACILITY (EITHER PERMANENT OR TEMPORARY) UNLESS STIPULATED THROUGH A WRITTEN AGREEMENT OR DECISION.

IN ACCORDANCE WITH 43 CFR 4130.3-2(H): ALL GRAZING PERMITTEES SHALL PROVIDE REASONABLE ACCESS ACROSS PRIVATE AND/OR LEASED LANDS TO THE BUREAU OF LAND MANAGEMENT FOR THE ORDERLY MANAGEMENT AND PROTECTION OF THE PUBLIC LANDS.

IN ACCORDANCE WITH 43 CFR 4130.3-3: THE AUTHORIZED OFFICER MAY MODIFY TERMS AND CONDITIONS OF THE PERMIT OR LEASE WHEN THE ACTIVE USE OR RELATED MANAGEMENT PRACTICES ARE NOT MEETING THE LAND USE PLAN,

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ALLOTMENT MANAGEMENT PLAN OR OTHER ACTIVITY PLAN, OR MANAGEMENT OBJECTIVES, OR IS NOT IN CONFORMANCE WITH THE PROVISIONS OF SUBPART 4180 RAC STANDARDS AND GUIDELINES.

PURSUANT TO 43 CFR 10.4(G) THE HOLDER OF THIS AUTHORIZATION MUST NOTIFY THE AUTHORIZED OFFICER, BY TELEPHONE, WITH WRITTEN CONFIRMATION IMMEDIATELY UPON THE DISCOVERY OF HUMAN REMAINS, FUNERARY OBJECTS, SACRED OBJECTS, OR OBJECTS OF CULTURAL PATRIMONY (AS DEFINED AT 43 CFR 10.2). FURTHER, PURSUANT TO 43 CFR 10.4(C) AND (D), YOU MUST STOP ACTIVITIES IN THE IMMEDIATE VICINITY OF THE DISCOVERY AND PROTECT IT FROM YOUR ACTIVITES FOR 30 DAYS OR UNTIL NOTIFIED BY THE AUTHORIZED OFFICER.

IN ACCORDANCE WITH 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 OF ANY TERM OR CONDITION OF THE PERMIT OR LEASE.

ALLOTMENT SUMMARY (AUMS)


<u>ALLOTMENT</u>	<u>ACTIVE AUMS</u>	<u>SUSPENDED AUMS</u>	<u>TEMP SUSPENDED AUMS</u>	<u>PERMITTED USE</u>
10032 BLACK POINT	4312	2307	0	6,619

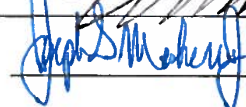
Standard Terms and Conditions

1. Grazing permit or lease terms and conditions and the fees charged for grazing use are established in accordance with the provisions of the grazing regulations now or hereafter approved by the Secretary of the Interior.
2. They are subject to cancellation, in whole or in part, at any time because of:
 - a. Noncompliance by the permittee/lessee with rules and regulations.
 - b. Loss of control by the permittee/lessee of all or a part of the property upon which it is based.
 - c. A transfer of grazing preference by the permittee/lessee to another party.
 - d. A decrease in the lands administered by the Bureau of Land Management within the allotment(s) described.
 - e. Repeated willful unauthorized grazing use.
 - f. Loss of qualifications to hold a permit or lease.
3. They are subject to the terms and conditions of allotment management plans if such plans have been prepared. Allotment management plans MUST be incorporated in permits or leases when completed.
4. Those holding permits or leases MUST own or control and be responsible for the management of livestock authorized to graze.
5. The authorized officer may require counting and/or additional or special marking or tagging of the livestock authorized to graze.
6. The permittee's/lessee's grazing case file is available for public inspection as required by the Freedom of Information Act.
7. Grazing permits or leases are subject to the nondiscrimination clauses set forth in Executive Order 11246 of September 24, 1964, as amended. A copy of this order may be obtained from the authorized officer.
8. Livestock grazing use that is different from that authorized by a permit or lease MUST be applied for prior to the grazing period and MUST be filed with and approved by the authorized officer before grazing use can be made.
9. Billing notices are issued which specify fees due. Billing notices, when paid, become a part of the grazing permit or lease. Grazing use cannot be authorized during any period of delinquency in the payment of amounts due, including settlement for unauthorized use.
10. The holder of this authorization must notify the authorized officer immediately upon the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony (cultural items), stop the activity in the area of the discovery and make a reasonable effort to protect the remains and/or cultural items.
11. Grazing fee payments are due on the date specified on the billing notice and MUST be paid in full within 15 days of the due date, except as otherwise provided in the grazing permit or lease. If payment is not made within that time frame, a late fee (the greater of \$25 or 10 percent of the amount owed but not more than \$250) will be assessed.
12. No Member of, or Delegate to, Congress or Resident Commissioner, after his/her election of appointment, or either before or after he/she has qualified, and during his/her continuance in office, and no officer, agent, or employee of the Department of the Interior, other than members of Advisory committees appointed in accordance with the Federal Advisory Committee Act (5 U.S.C. App.1) and Sections 309 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) shall be admitted to any share or part in a permit or lease, or derive any benefit to arise therefrom; and the provision of Section 3741 Revised Statute (41 U.S.C. 22), 18 U.S.C. Sections 431-433, and 43 CFR Part 7, enter into and form a part of a grazing permit or lease, so far as the same may be applicable.

THIS GRAZING PERMIT:

1. CONVEYS NO RIGHT, TITLE OR INTEREST HELD BY THE UNITED STATES IN ANY LANDS OR RESOURCES
2. IS SUBJECT TO (A) MODIFICATION, SUSPENSION OR CANCELLATION AS REQUIRED BY LAND PLANS AND APPLICABLE LAW; (B) ANNUAL REVIEW AND MODIFICATION OF TERMS AND CONDITIONS AS APPROPRIATE; AND (C) THE TAYLOR GRAZING ACT, AS AMENDED, THE FEDERAL LAND POLICY AND MANAGEMENT ACT, AS AMENDED, THE PUBLIC RANGELANDS IMPROVEMENT ACT, AND THE RULES AND REGULATIONS NOW OR HEREAFTER PROMULGATED THEREUNDER BY THE SECRETARY OF THE INTERIOR.

ACCEPTED:
SIGNATURE OF PERMITTEE:  DATE: 4-26-15

APPROVED
BLM AUTHORIZED OFFICER:  DATE: 4-28-15