

EUREKA_023



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

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In Reply To:
4120
276073
(NV-062)
(NV-912)

OCT 29 2001

Luther K. (Luke) Wise
Fish Creek Ranch, LLC
P.O. Box 864
Eureka, Nevada 89316

Dear Mr. Wise:

This letter is in response to your letter dated September 10, 2001, to the Bureau of Land Management (BLM) Nevada State Director concerning non-responses to three specific letters addressed to the field managers of the Battle Mountain and Ely Field Offices of the BLM.

In response to the letter you sent to Jerry Smith dated August 27, 2001, the Battle Mountain Field Office is responsible for the administrative billing on your grazing permit to simplify and reduce the billing and payment process, as a convenience to you. The Ely Field Office is responsible for the resource and grazing permit-related decisions on the Duckwater Allotment. You should have received a response from Jim Perkins of the Ely Field Office. (Copy enclosed.)

In your August 22, 2001, letter to the Battle Mountain Field Manager you requested information on BLM's authority to use the water from Upper and Lower Davis and Kinkead Springs. The BLM holds a federal reserve right, Public Water Reserve, on Kinkead (#R06929) and Upper Davis Spring (#R06927) based upon Presidential Executive Order.

Kinkead Spring and Upper and Lower Davis Springs are permitted on public land by the BLM under Section 4 Permit Numbers 4-590417, 4-590415, and 4-590416 respectively. The Davis Spring Pipeline is permitted on public land by the BLM under a Cooperative Range Agreement (#N6-R-0038).

These permits and agreements were assigned to the Fish Creek Ranch when the grazing permit was transferred to you on December 1, 1997. Terms and Conditions attached to the transfer of the grazing permit specifically state in ¶ 13, "in accordance with 43 CFR §4120.3-1(a): 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."

Providing water for wild horses from these water developments is consistent with the multiple-use mandate under which the BLM administers public lands, and is also consistent with the BLM's Public Water Reserve on the water sources identified herein.

In accordance with 43 CFR § 4120.3-1(c), the Davis Spring Pipeline Cooperative Agreement states in the "Special Conditions" section, that the permittee is "... responsible for the maintenance of the pipeline, troughs, and spring boxes. The pipeline will be maintained in serviceable condition." The pipeline was not maintained in serviceable condition, and the BLM reconstructed the pipeline in order to provide water for wild horses during the 2000 drought and emergency horse gather in the Fish Creek Herd Management Area.

If you have questions or additional concerns, you may contact Gene Kolkman, BLM Ely Field Manager at 775-289-1800.

Sincerely,



Jo Simpson
Chief, Office of Communication

1 Enclosure

1 - Ely Field Office letter dtd 10/04/01 (2 pp)

cc: The Honorable John Ensign, Las Vegas Office
(Attn: Margot Allen)
Director (WO-615, MS 406C LS) (Attn: P. Britell)