



CAVE VALLEY RANCH

AGRICULTURE DEVELOPMENT PLAN

Presentation to the Office of the Nevada State Engineer

Prepared by

Cave Valley Ranch, LLC

January 2008

**Cave Valley Ranch
Agricultural Development Plan**

**Submitted to:
Tracy Taylor, P.E. State Engineer
State of Nevada
Department of Conservation & Natural Resources
Division of Water Resources
901 S. Stewart Street, Suite 2002
Carson City, Nevada 89701**

**Pertaining to:
Groundwater Applications 53987 and 53988 in
Cave Valley**

January 2008

**Prepared by:
Michael K. McBeath, Manager (LLC)
Dana Johnson, Ranch Manager
Cave Valley Ranch, LLC
1932 Ivy Point Lane
Las Vegas, Nevada 89134**



Michael K. McBeath, Manager (LLC)

1/21/2007
Date



Dana Johnson, Ranch Manager

1-21-07
Date

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1. Purpose of Cave Valley Ranch Agriculture Development Plan

On October 19, 1989, the Las Vegas Valley Water District, as predecessor to the Southern Nevada Water Authority (“SNWA”), filed applications 53987 and 53988 in the Lincoln County portion of Cave Valley (proposed point of diversion) seeking 16 cfs of underground water as part of groundwater development project which proposes to transport the water to Las Vegas and other portions of Lincoln County outside of Cave Valley (proposed places of beneficial use).¹ Since the proposed places of beneficial use in applications 53987 and 53988 are outside of Cave Valley, the proposed point of diversion (i.e. “the basin of origin”), the proposed transfer of underground water is an “interbasin transfer of groundwater.” Nevada Revised Statutes (“NRS”) Section (“§”) 533.370.10.

Pursuant to NRS §533.370.6(d), “in determining whether an application for an interbasin transfer of groundwater must be rejected . . . , the State Engineer shall consider whether the proposed action is an appropriate long-term use which will not unduly limit the future growth and development in the basin from which the water is exported.” The Cave Valley Ranch Agriculture Plan is being submitted to the Office of the Nevada State Engineer by Cave Valley Ranch, LLC (“Cave Valley Ranch” or “Ranch”) as an “Interested Person” pursuant to Nevada Administrative Code (“NAC”) § 533.100. Pursuant to NAC §533.100.3 the Cave Valley Ranch, as an interested person, may testify at the hearing on applications 53987 and 53988 as to “matters of law” and “broad public issues.”

Pursuant to NRS §533.370.6(d) the Nevada Legislature has determined that it is the policy of the state of Nevada to protect the future growth and development within each basin.

Pursuant to NRS §533.370.6(d), as a matter of law, “in determining whether an application for an interbasin transfer of groundwater [applications 53987 and 53988] must be rejected . . . , the State Engineer shall consider whether the proposed action is an appropriate long-term use which will not unduly limit the future growth and development in the basin from which the water is exported [Cave Valley - Basin 180].”

In its submissions to the Office of the Nevada State Engineer in support of applications 53987 and 53988, the SNWA seeks to obtain all water not currently put to beneficial use, which is estimated at between 10,000 to 14,000 acre feet of water in the various reports and publications being submitted to the Office of the State Engineer as part of this proceeding. The SNWA submissions omit any reference to potential future growth and development within Cave Valley and limit its submissions on this issue to current land use assessments and laws controlling development within Lincoln County.² The purpose

¹ The State of Nevada, Department of Conservation & Natural Resources, Division of Water Resources (“NDWR”) has designated Cave Valley as Basin 180.

² SNWA has submitted the following documents: document titled Land Use Assessment for Cave, Dry Lake, and Delamar Valleys as Exhibit 241; the Lincoln County Development Code as Exhibit 402; Proposed Land Designation Land Status Map for Cave Valley Ranch Area as Exhibit 403; and Land Status

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of the Cave Valley Ranch Agriculture Development Plan is to provide to the Office of the Nevada State Engineer the future growth and development plans of the Cave Valley Ranch as it pertains to agriculture production within Cave Valley.³

2. Location of Cave Valley Ranch

The Cave Valley Ranch consists of approximately 3,280 deeded acres plus a grazing permit issued by the United States Department of the Interior, Bureau of Land Management (“BLM”), for the Cave Valley Ranch Allotment which, when added to the deeded lands, comprises approximately 38,000 acres of private and public land located at the northern most portion of Lincoln County and the southern most portion of White Pine County in Cave Valley, Nevada.

The Cave Valley Ranch Allotment is generally bounded on the west by the Cave Valley Road and on the east by the crest of the Schell Creek Range. The northern most boundary of the Cave Valley Ranch Allotment is the BLM range fence located at the very northern portion of Cave Valley and runs east to the crest of the Schell Creek Range. The southern most boundary of the Cave Valley Ranch Allotment is the BLM range fence located approximately 5-6 miles south of the junction of the Cave Valley Road and the Patterson Pass Road and runs east to the Crest of the Schell Creek Range. Also included are two BLM seedings on the west side of the Cave Valley Road. Reference is made to United States Geological Survey (“USGS”) 7 ½ minute maps for the area bounded in orange and marked **Exhibit 2066**.⁴ From the southern range fence to the northern range fence is approximately seventeen (17) miles. The distance from the Cave Valley Road to the crest of the Schell Creek Range is between five (5) miles at the most narrow point and approximately seven (7) miles at the widest point.

The substantial majority of the deeded lands comprising the Cave Valley Ranch are located in Township 9 North Range 64 East and the southern portion of Township 10 North Range 64 East. There are also 80 acres located in Township 9 North Range 63 East (Haggerty Wash) and 80 acres in Township 10 North Range 63 East (Cave Valley Wash). Reference is made to United States Geological Survey (“USGS”) 7 ½ minute maps for the area bounded in yellow and marked **Exhibit 2066**.

Map of Cave Valley Ranch as Exhibit 404. The SNWA did not include in its submission to the Nevada State Engineer a copy of the White Pine County development code.

³ Future growth and development plans that pertain to other possible commercial and residential development within Cave Valley will be submitted to the Office of the Nevada State Engineer in separate reports. See (1) Assessment of the Development Opportunity Associated With Cave Valley, Nevada prepared by the Sullivan Group (**Exhibit 2072**) and (2) Hydrology Report for Cave Valley Nevada Basin 180 January 2008 prepared by Lonnie C. Roy, P.E. (**Exhibit 2074**).

⁴ Exhibits with a number reference are references to the Exhibits submitted IN THE MATER OF APPLICATION NOS., 53987 through 53992, INCLUSIVE, FILED BY SOUTHERN NEVADA WATER AUTHORITY TO APPROPRIATE THE UNDERGROUND WATERS OF THE CAVE VALLEY, DRY LAKE VALLEY, AND DELAMAR VALLEY HYDROGRAPHIC BASINS (108, 181, 182) LINCOLN COUNTY, NEVADA. Exhibits with letter references are references to Exhibits attached to this Report.

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3. Description of Cave Valley Ranch

The 3,280 acres that make up the Cave Valley Ranch consists of six (6) areas or groups of 40 acre parcels that are usually associated with various springs, groups of springs, or streams for which the Cave Valley Ranch has water rights. The five areas are (1) the Cave Spring parcels, (2) the Homestead parcels, (3) the Parker Station parcels, (4) the Cave Valley Wash parcels, (5) the Mt. Grafton Wilderness Area (“Wilderness”) parcels, and (6) the Haggerty Wash parcel. With the exception of approximately 20 acres of the Homestead parcels there are little, if any, improvements other than fences and other minor livestock and range improvements.

A. Cave Spring Parcels

The Cave Spring parcels are located at the very southern portion of the deeded acres of the Ranch and total approximately 920 acres. Cave Spring flows from a cave opening in a rock outcropping on the east side of the area. Cave Spring flows west into a stock pond approximately one-half mile from the mouth of the spring. The Cave Spring Pond is approximately one surface acre and three acre feet of storage. Below the stock pond are irrigated meadows of approximately 130 acres. The remaining portion of the Cave Spring parcels which are not proposed for irrigation consist of approximately 750 acres of native pasture.

There is evidence of prior agriculture crop production on the Cave Spring parcels in the form of abandoned farm implements and diversion ditches for the flows from Cave Spring. Cave Spring was also the site of various building improvements that have long been abandoned. A portion of the Cave Spring parcel is fenced.

B. Homestead Parcels

The Homestead Parcels are located just north of the Cave Spring parcels and include the main ranch headquarters and consist of approximately 800 acres. The Homestead parcel includes the Homestead Reservoir (4 surface acres and approximately 20 acre feet), main ranch house, ranch manager’s house, workshop, and livestock improvements, all of which collectively total approximately 20 acres. The Homestead Reservoir is fed by Sheep Creek and its tributaries and Homestead Spring No.1 and Homestead Spring No. 2 located on deeded land immediately above the Homestead Reservoir. There are also a series of springs located on or just off of the deeded lands comprising the Homestead parcels (East Spring, House Spring, Small Spring, and various unnamed springs). Sheep Creek and the springs on the Homestead Parcel are the source of 320 acres of sub-irrigated meadow. The remaining 460 acres are native pasture.

There is evidence of prior agriculture crop production on the Homestead parcels in the form of abandoned farm implements and diversion ditches for Sheep Creek and the springs on the Homestead parcels. The Homestead parcels are fenced and cross fenced.

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C. Parker Station Parcels

The Parker Station parcels are located to the north and west of the Homestead parcels in the Cave Valley Wash. The Parker Station area includes the Parker Springs, which consist of three springs, and total approximately 360 acres of which 20 acres is sub-irrigated meadow and 340 acres is native pasture.

There is evidence of prior agriculture crop production on the Parker Station parcels including abandoned farm implements, irrigation sprinkler pipe, and diversion ditches. Parker Station also includes two abandoned buildings and livestock improvements including the original Parker Station, a stage coach and freight station that dates back to the late 1800's on the route between the Pioche mining district and the Ward and Ely mining districts. The Parker Station parcels are fenced and cross fenced.

D. Cave Valley Wash Parcels

The Cave Valley Wash parcels are located just north of the Parker Station parcels in the Cave Valley Wash and total approximately 600 acres of native pasture. At the north end of the Cave Valley Wash is the Urrutia Well which provides stockwater.

There is evidence of prior agriculture crop production on the Cave Valley Wash parcels in the form of diversion ditches. The Cave Valley Wash parcels are fenced and cross fenced.

E. Wilderness Parcels

The Wilderness parcels are located to the east of the Homestead, Parker Station, and Cave Valley Wash parcels and consist of 760 acres of native pasture. All Wilderness acres are located within the Mt. Grafton Wilderness Area.

There is no evidence of agriculture crop production, building improvements, or fences on the Wilderness parcels.

F. Haggerty Wash Parcel

The Haggerty Wash parcel is located west of the Cave Spring and Homestead parcels at the south end of the Haggerty Wash and consists of 80 acres of native pasture. As the parcel spans the Haggerty Wash and includes a portion of Haggerty Creek this parcel also includes some meadow in the riparian area along the creek.

An assessment of prior agriculture crop production on the Haggerty Wash parcel has not been completed. However, this parcel was the subject of a dispute between a prior owner of the parcel and the upstream owners of deeded land on Haggerty Creek.⁵ A protest by

⁵ Ruling In the Matter of Application 25411 Filed on January 5, 1970 By Murry Whipple Ranch to Appropriate Water From Haggerty Lower Spring in Lincoln County dated September 1, 1970.

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Valley Land and Cattle Company, a predecessor of Cave Valley Ranch, LLC, asserted historical irrigation use from Lower Haggerty Spring.

G. Analysis of Cave Valley Ranch Acreage

Based on the above descriptions Table 1 sets forth the classification of acreage that comprises the Cave Valley Ranch.

Area of the Cave Valley Ranch	Buildings & Other Improvements	Irrigated Pasture	Subirrigated Meadow	Undeveloped Native Pasture	Total Acreage
Cave Spring	3	130		787	920
Homestead	20		320	460	800
Parker Station			50	310	360
Cave Valley Wash				600	600
Wilderness				520	520
Haggerty Wash				80	80
Total Acreage	23	130	370	2,757	3,280

Table 1 - Classification of Acreage on the Cave Valley Ranch

4. History of Cave Valley Ranch

A. Cattle Production

For a colorful description of the history of sheep and cattle production in Cave Valley see “White River Valley Then and Now 1898 – 1980.”⁶ See also “White River Valley Centennial 1898 – 1998 Celebration of the Century Pictorial Pictures.”

B. Crop Production

The first recorded history of agriculture production in Cave Valley is contained in the “Deed” of Dorthea C. Metzger to James W. Lanter recorded May 1, 1888 which states in pertinent part as follows:

“grant, bargain, sell, and convey unto the said party of the second part, and to his heirs and assigns forever all of my right title and interest in and to the following

⁶ Published by Melayne Printing, Provo, Utah.

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described property. Lots <3> Three and <4> Four of Section <6> Six Township <9> Nine N. Range E. 64 also S.E. ¼ of [unreadable] of Section <6> Six Township <9> Nine N. Range E. 64 also N.W. ¼ of S.E. ¼ of Section <6> Township <9> Nine N. Range E. 64 in all containing <157> one hundred fifty seven 25/100 acres also all my right title and interest in and to my Homestead filed and recorded May 30th 1887 also all buildings stables and outhouses on said land also all my right title interest in the following described personal property <37> Thirty Seven head of Cattle branded D.M. on left hip <5> five head of horses branded D.M. on right hip <1> one Buckeye Mowing Machine <1> one hay rake <1> one Moline Plow <1> one Wagon <1> one set of Double harness and household fixtures.”⁷

The above described area is identified as what later became known as Parker Station. From the items of personal property set forth in this deed it would appear that both farming and ranching has been conducted on the Cave Valley Ranch since at least 1887 and likely well before that date.

5. Existing Water Rights

The Cave Valley Ranch is comprised of not only its deeded lands but also its water rights. Since the Cave Valley Ranch is actually a conglomeration of numerous separate ranches dating back in history to the late 1800’s, many of its water rights are claimed to be “vested” water rights.⁸ Many of these vested water rights are the subject of proofs filed with the Office of the Nevada State Engineer. However, there exist on the Cave Valley Ranch water rights that are asserted to be “vested” water rights for which proofs have not been filed. Furthermore, there exist certain water rights for which the Office of the State Engineer has issued certificates and permits. Finally, there are currently pending before the Office of the Nevada State Engineer various applications to appropriate the public waters of the State of Nevada, both surface and underground. All of these water rights are detailed in the following sections.

A. Claims of Vested Water Rights of Which Proofs Have Been Filed

Table 2 sets forth the proofs to vested water rights are currently recorded in the records of the Nevada Division of Water Resources in the name of Cave Valley Ranch, LLC.

⁷ Recorded May 1, 1988 in White Pine County as Instrument no. DQ of Deeds, Page 148.

⁸ NRS §533.085.1: “Nothing contained in this chapter [Chapter 533 – Adjudication of Vested Water Rights; Appropriation of Public Waters] shall impair the vested right of any person to the use of water, nor shall the right of any person to take and use water be impaired or affected by any of the provisions of this chapter where appropriations have been initiated in accordance with law prior to March 13, 1913.”; NRS §533.085.2: “Any and all appropriations based upon applications and permits on file in the State Engineer’s office on March 13, 1913, shall be perfected in accordance with the laws in force at the time of their filing.”

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Name of Source	Proof No.	Prior Proof / App.	Claimed Priority Date	Beneficial Use
Quartzite Spring No. 1	V01659		April 1, 1903	Stockwater
Brush Spring	V01675		April 1, 1903	Stockwater
North Branch Sheep Creek	V01678		January 1, 1903	Stockwater
Sheep Creek	V01680		January 1, 1903	Stockwater
North Creek	V01681		January 1, 1903	Stockwater
Mahogany Spring	V01697		December 31, 1890	Stockwater
Cave Valley or Sheep Creek	V01807		December 31, 1880	Irrigation
Wall Spring	V09522	9721	January 1, 1890	Stockwater
South Branch Sheep Creek	V09523		January 1, 1903	Stockwater
Sage Hen Spring	V09524	01658	January 1, 1903	Stockwater
Quartzite Spring No. 2	V09525	01660	January 1, 1903	Stockwater
Cabin Spring	V09526	9720	January 1, 1890	Stockwater
Canyon Spring	V09527		January 1, 1890	Stockwater

Table 2 - Proofs on File at the Nevada Division of Water Resources

B. Certificated Water Rights

Table 3 sets forth the following certificates recorded in the records of the Nevada Division of Water Resources in the name of Cave Valley Ranch, LLC.

Name of Source	Certificate No.	POC and PBU ⁹	Beneficial Use
Cave Spring	1060	January 31, 1918	Irrigation
Antelope Spring	540	July 25, 1919	Stockwater
Rosebud Spring	542	May 13, 1918	Stockwater

Table 3 - Certificates Issued by the Nevada Division of Water Resources

C. Permitted Water Rights

Table 4 describes the permits issued by the Nevada Division of Water Resources, although not currently recorded in the name of Cave Valley Ranch, LLC¹⁰, are nevertheless the property of Cave Valley Ranch, LLC by conveyance from the predecessor owner.

⁹ Date of filing of Proof of Completion ("POC") and Proof of Beneficial Use ("PBU") as recorded in the records of the Nevada Division of Water Resources.

¹⁰ Records of Conveyance have been filed by Cave Valley Ranch, LLC for permits 73168, 73169, and 73170 with the Nevada Division of Water Resources on June 25, 2007.

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Name of Source	Permit No.	Priority Date	Beneficial Use
Cave Valley Well No. 2 ¹¹	73168	August 19, 2005	Stockwater
Harris Well	73169	August 19, 2005	Stockwater
Urrutia Well	73170	August 19, 2005	Stockwater

Table 4 - Permits Issued by the Nevada Division of Water Resources

D. Claims of Vested Water Rights of Which Proofs Have Not Been Filed

Table 5 describes water rights that are either located directly on or immediately adjacent to the deeded lands of the Cave Valley Ranch. There is no current record that any proof has been filed for any of the following water rights although based on available information it is believed that the following water rights are vested water rights as defined by NRS §533.085.

Name of Source	Estimated Priority Date	Beneficial Use
Homestead Spring No. 1 ¹²	1880 to 1903	Stockwater/Irrigation
Homestead Spring No. 2	1880 to 1903	Stockwater/Irrigation
House Spring	1880 to 1903	Domestic/Stockwater/Irrigation
East Spring	1880 to 1903	Stockwater/Irrigation
Small Spring	1880 to 1903	Stockwater/Irrigation
Parker Spring ¹³	1880 to 1903	Stockwater/Irrigation

Table 5 - Claimed Vested Water Rights for Which Proofs Have Not Been Filed With the Nevada Division of Water Resources

E. Pending Applications for Surface Water

Table 6 describes the applications for appropriations of surface water that are currently pending before the Nevada Division of Water Resources.

¹¹ According to Well Log No. 7871 filed June 22, 1964 in the records of the Nevada Division of Water Resources Cave Valley Well No. 2 was drilled by the United State Department of the Interior, Bureau of Land Management, for livestock.

¹² Homestead Spring No. 1, Homestead Spring No. 2, East Spring, and Small Spring are described on the Map to Accompany Application to Appropriate Water for Irrigation & Domestic Use filed by Herbert C. Harris on July 15, 1965 shown in the records of the Nevada Division of Water Resources as Applications 22693, 22694, and 22695 which were cancelled on October 28, 1970.

¹³ Parker Spring is described on the Map to Accompany Application to Appropriate Water for Irrigation & Domestic Use filed by Herbert C. Harris on July 15, 1965 shown in the records of the Nevada Division of Water Resources as Applications 22692 which was cancelled on October 28, 1970.

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Name of Source	Application No.	Date Filed	Beneficial Use
Sheep Creek	76124	August 3, 2007	Fire Protection
Sheep Creek	76125	August 3, 2007	Recreation
Sheep Creek	76281	September 14, 2007	Stockwater

Table 6 - Applications to Appropriate Surface Water on File with the Nevada Division of Water Resources

F. Pending Applications for Ground Water

Table 7 describes the applications to appropriate underground water currently pending before the Nevada Division of Water Resources.

Name of Source	Application No.	Date Filed	Beneficial Use
Homestead Well	75779	May 24, 2007	Quasi Municipal
Homestead Well	76126	August 3, 2007	Stockwater
Homestead Well	76127	August 3, 2007	Recreation
Homestead Well	76128	August 3, 2007	Fire Protection
Parker Station Well No. 1	76248	September 7, 2007	Irrigation
Cave Valley Wash Well No. 2	76249	September 7, 2007	Irrigation
Parker Station Well No. 2	76250	September 7, 2007	Irrigation
Cave Valley Wash Well No. 1	76251	September 7, 2007	Irrigation
Homestead Well No. 2	76252	September 7, 2007	Irrigation
Mike Urrutia Well No. 2	76257	September 10, 2007	Irrigation
Cave Spring Well	76258	September 10, 2007	Irrigation

Table 7 - Applications to Appropriate Underground Water on File with the Nevada Division of Water Resources

G. Other Water Rights on the Cave Valley Ranch Allotment

Table 8 describes the water rights located on the Cave Valley Ranch Allotment that are not recorded in the name of Cave Valley Ranch, LLC.

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Name of Source	Application/Certificate No.	Date Filed	Beneficial Use
Upper Patterson Well ¹⁴	7485/1876	August 20, 1925	Stockwater
Quartzite Spring ¹⁵	No filing	N/A	Stockwater

Table 8 - Other Water Rights on the Cave Valley Ranch Allotment

6. Cave Valley Ranch Allotment

On May 17, 2006, the United States Department of the Interior, Bureau of Land Management, issued a grazing permit to Cave Valley Ranch, LLC for Allotment 00904, Cave Valley Ranch, for a term commencing May 17, 2006 and ending May 16, 2016. Pursuant to the terms of the grazing permit Cave Valley Ranch, LLC may graze 397 (2402 AUMS) cattle from May 1 to October 31. Reference is made to **Exhibit A** attached to this report for a copy of the grazing permit. The grazing use on the Cave Valley Ranch Allotment is subject to the Final Multiple Use Decision dated December 6, 1995. Reference is made to **Exhibit B** for a copy of the Final Multiple Use Decision for the Cave Valley Ranch Allotment.

7. Current Livestock Production

The Cave Valley Ranch has historically operated as a cow-calf operation with heifers used as needed for replacement of breeding stock with all remaining heifers and steers sold in the fall.

In November, 2007, a decision was made to sell approximately 225 head of mother cows and 179 calves, which was the majority of the breeding herd with the exception of the bulls and stray cows. The decision to sell was made based on current range conditions caused by severe drought in Cave Valley and most of Nevada and other parts of the West during 2007. Due to snow pack that was estimated at 36 percent of normal during the winter of 2006-2007 the springs on the Homestead parcels, Cave Spring, and Sheep Creek did not charge or flow resulting in no or very minimal native grass production. In addition, very limited Spring and Summer rains resulted in very poor native grass production on the entire Cave Valley Ranch Allotment. Based on predictions that the winter of 2007-2008 would only be slightly better than the winter of 2006-2007 a decision was made to sell in the fall of 2007 when cattle weights were at their peak rather than wait to the Spring to sell when cattle weights would be less due to winter weight loss.

¹⁴ Owner of record in the records of the Nevada Division of Water Resources is Gordon A. Kirkeby. Mr. Kirkeby has no grazing rights in the vicinity of the Upper Patterson Well.

¹⁵ Quartzite Spring is located in approximately Township 8 North, Range 64 East, Section 11.

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The Ranch is currently assessing the replacement of the herd due to very substantial winter snows. The tentative plan calls for the purchase of a pure bred commercial Black Angus herd of mother cows. All bulls currently owned are Black Angus bulls.

8. Future Livestock Production

The current capacity of the Cave Valley Ranch is estimated at 500 mother cows. The current BLM grazing permit is for approximately 2400 AUM's which coupled with deeded lands is currently estimated to support 500 cow-calf operation with supplemental winter feeding. When the acreage that is proposed to be put into agriculture crop production is in place it is estimated that the Ranch can support one-hundred to one-hundred fifty additional head of cattle.

9. Current Agriculture Crop Production

Current agriculture crop production is limited to native meadow grasses from irrigated and sub-irrigated meadows. Irrigated and sub-irrigated meadows are limited to approximately 500 acres out of a total of over 3,280 deeded acres comprising the Cave Valley Ranch. These irrigated meadows are totally dependent on springs and surface water for irrigation. During drought years like 2007 feed production on the meadows is severely impacted due to the significant reductions in spring outflows. The meadow grass production on the Cave Valley Ranch does not currently support the livestock capacity of the Cave Valley Ranch even in a good year.

Due to the severe drought conditions locally in 2006 and 2007, additional demand caused by the reduction in winter range in 2006 and 2007 due to rangeland fires in Nevada and other parts of the west, and demand from increasing numbers of dairy producers in California, alfalfa hay prices sky rocketed in 2007. This situation dramatically increased the need for the Cave Valley Ranch to be able to produce its own alfalfa hay for winter feed and for overall ranch diversity and economic stability.

10. Potential For Agriculture Crop Production

The State of Nevada Department of Conservation and Natural Resources commissioned a series of reports titled the Ground-Water Resources – Reconnaissance Series prepared by Mr. Thomas E. Eakin, Geologist with the United States Geological Survey, United States Department of the Interior. A part of that series is Report 13, Ground-Water Appraisal of Cave Valley in Lincoln and White Pine Counties, Nevada (December 1962). Reference is made to **Exhibit 2067** for a copy of Report 13. In Report 13 Mr. Eakin makes the following statements regarding the development of ground water in Cave Valley:

“However, the extent that ground water occurs in the valley fill, development is possible in Cave Valley. On a perennial basis the amount would be limited to the ground water actually recharging the permeable water yielding zones in the valley fill and in which the depth to water is shallow enough to pump economically. The

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rate at which ground water in Cave Valley could be pumped perennially under the above conditions is not known but may not exceed a few thousand acre-feet per year.”

Report 13, p. 14.

“Development

Ground water presently is used to a minor extent for stock supplies in Cave Valley, and well 9/63 – 1a1 is equipped with a small turbine pump. Water from this well may have been used to a limited extent for the irrigation of native meadow grasses. The volume of water discharged from wells and springs is probably less than 100 acre-feet a year. Although data are not available to indicate where moderate-to-large-capacity wells might be developed, yields of a few hundred gallons per minute probably could be developed along the principal channel and its tributaries in the latitude of T. 9N., and the southern part of T. 10N. Initial efforts to develop ground water in Cave Valley might well take advantage of the shallow depth to water in this area; that is, carefully constructed wells or infiltration systems may result in development of moderate supplies at a reasonable cost.”

Report 13, p. 15.

The above developable areas mentioned by Eakin in Report 13 are located on the Cave Valley Ranch. The reference to well 9/63 – 1a1 is the well at Parker Station with a water depth of 2’ and the turbine housing still in place to this day. All areas of the principal channel [i.e., the Cave Valley Wash] at Township 9 North and the southern part of Township 10 North are located on the Cave Valley Ranch. These areas are referred to in this report as the Cave Spring parcels, the Parker Station parcels, and the Cave Valley Wash parcels.

The conclusion in Report 13 is that there is sufficient perennial yield in the valley fill on the Cave Valley Ranch to develop underground water for irrigation.

It is the declared policy of White Pine County that “[a]gricultural production is necessary to help maintain the historical, cultural and economic viability of White Pine County.”¹⁶ White Pine County has declared the following specific policies that serve to implement this policy:

Policy 4-1: Preserve agricultural land and promote the continuation of agricultural pursuits, both traditional and non traditional, in White Pine County.

¹⁶ Section 4 of Article VI of the 2007 White Pine County Public Lands Policy Plan.

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Policy 4-2: The pursuit and production of renewable agricultural resources are consistent with the long term heritage of White Pine County. This private industry benefits White Pine County economically and culturally.

Policy 4-3: Opportunities for agricultural development on public lands should continue at levels that are consistent with historical customs, environmental sustainability, culture and compatibility with multiple uses.

The agriculture crop production proposed by the Cave Valley Ranch is supported by the policies of White Pine County. A substantial portion of the development proposed by the Cave Valley Ranch is located in the Cave Valley Wash located in White Pine County, Nevada.

11. National Resource Conservation Service

Based on the substantial potential for agriculture production in the Cave Spring, Homestead, Parker Station, and Cave Valley Wash areas, a decision was made in the Spring of 2007 to retain the services of Dana Johnson to determine the feasibility of agriculture crop production, principally the production of alfalfa crops for winter feed with any excess production available for sale. Dana was currently under contract to the Cave Valley Ranch for renovation of the Homestead Reservoir and was using the services of the Ely Service Center of the National Resource Conservation Service (“NRCS”), a Division of the United States Department of Agriculture, in the design of improvements to the Homestead Reservoir. Dana recommended that the Cave Valley Ranch retain the services of NRCS to assess the potential for agriculture crop production on the deeded acres comprising the Cave Valley Ranch.¹⁷

In May, 2007, NRCS, through its Ely Service Center, agreed to assess the potential for agriculture crop production on the Cave Valley Ranch. Performing those services would be NRCS employees Tim Stack and Clint Anderson.

Tim Stack graduated from Oregon State University in 1981 with a degree in Range and Wildlife Science and has worked for NRCS for 25 years and is presently District Conservationist in the Ely Service Center located in Ely, Nevada.

Clint Anderson graduated from the University of Nevada Reno in 2005 with degrees in Rangeland Management and Wildlife Biology and has worked at NRCS for 5 ½ years as a student trainee and Rangeland Management Specialist and is currently stationed at the Ely Service Center in Ely, Nevada.

12. Soil Survey

¹⁷ Effective June 1, 2007, Dana Johnson was hired as Ranch Manager for the Cave Valley Ranch.

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To be able to assess the potential for agriculture crop production on the lands comprising the Cave Valley Ranch a soils survey would have to be performed. Fortunately, a soils survey of the entire Cave Valley Ranch had already been completed by NRCS as part of a Sage Grouse habitat restoration project that had been conducted by the former owner of the Cave Valley Ranch. The soils report classified all soils on the Cave Valley Ranch. The soils report was the basis of the recommendations of the NRCS regarding the areas of the Cave Valley Ranch best suited for agriculture crop production. Reference is made to the soils report as **Exhibit 2068**.

13. Identification of Irrigable Land

Based on soils surveys conducted by NRCS the following areas were identified by NRCS as suitable acreage for irrigation of crops for agriculture production:

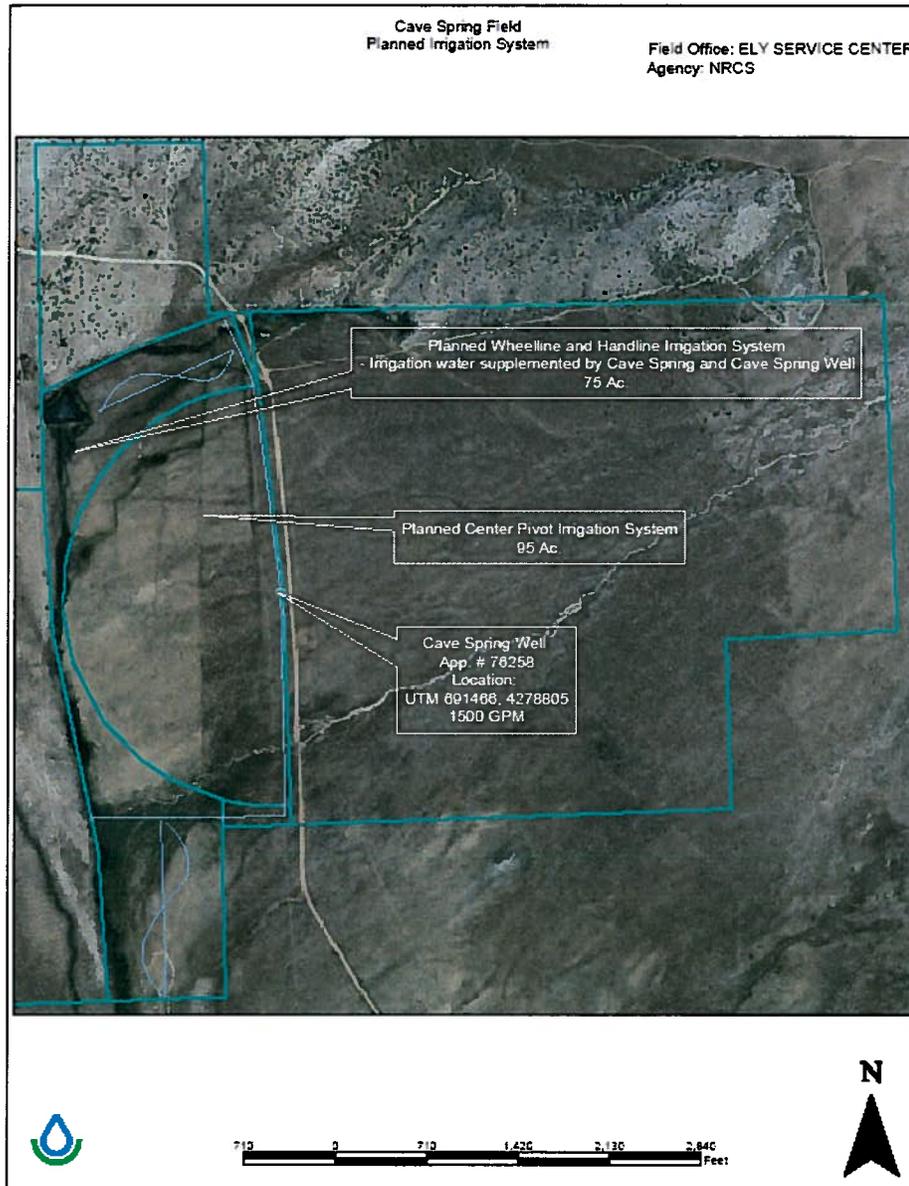
- Cave Spring parcels
- Homestead parcels
- Parker Station parcels
- Cave Valley Wash parcels

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The portions of the Cave Spring parcels (Cave Spring Field) identified by NRCS as suitable for agriculture crop production are depicted in Figure 1 and include a center pivot irrigation system and hand line irrigation system.

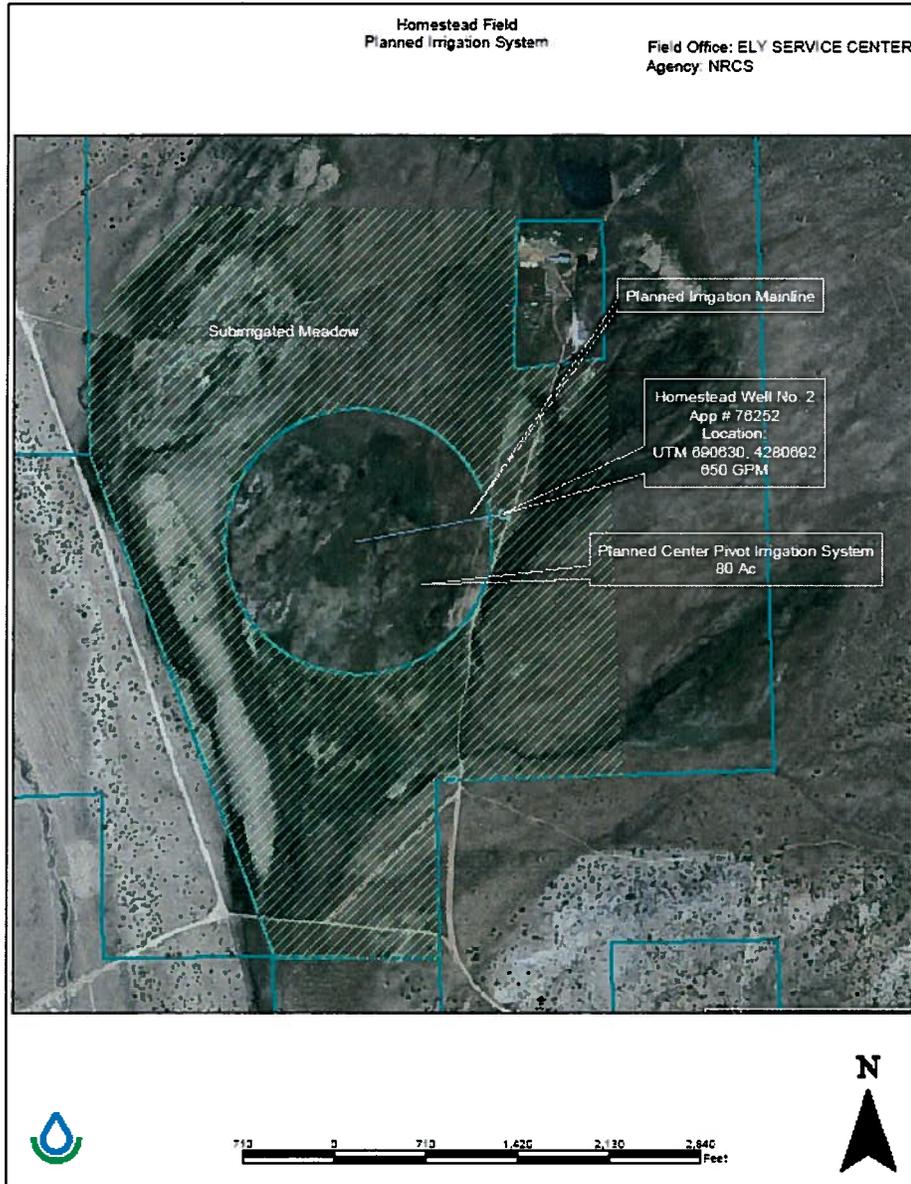
Figure 1 - Cave Spring Field



Cave Valley Ranch Agriculture Development Plan

The portions of the Homestead parcels (Homestead Field) identified by NRCS as suitable for agriculture crop production are depicted in Figure 2 and consist of a center pivot irrigation system and a handline irrigation system.

Figure 2 - Homestead Field



Cave Valley Ranch Agriculture Development Plan

The portions of the Parker Station parcels (Parker Station Field No. 2) identified as suitable for agriculture crop production by NRCS are depicted in Figure 3 and consist of a wheelline irrigation system and a handline irrigation system.

Figure 3 - Parker Station Field No. 2



Cave Valley Ranch Agriculture Development Plan

An additional portion of the Parker Station parcels (Parker Station Field No. 1) identified by NRCS as suitable for agriculture crop production is depicted in Figure 4 and consists of a center pivot irrigation system and a handline irrigation system.

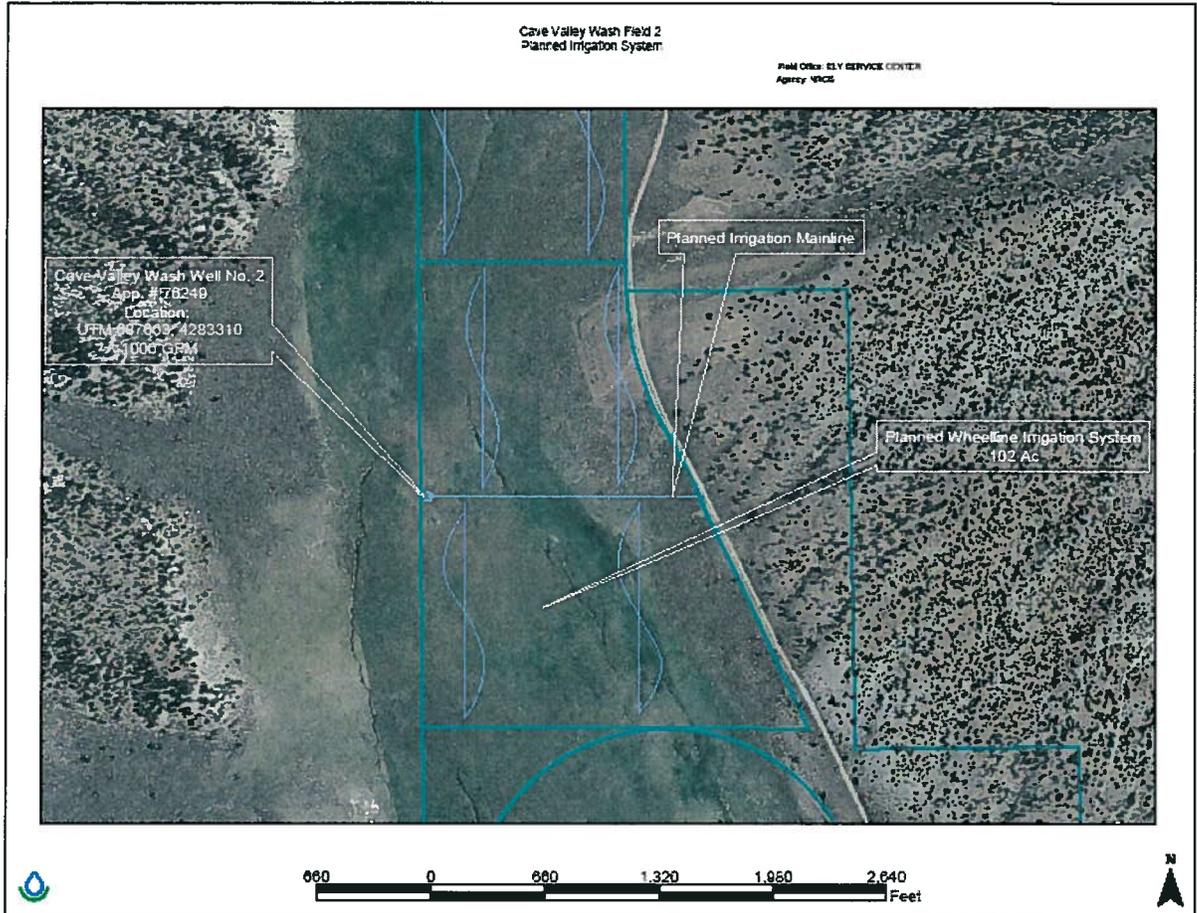
Figure 4 - Parker Station Field No. 1



Cave Valley Ranch Agriculture Development Plan

The portion of the Cave Valley Wash parcels (Cave Valley Wash Field No. 2) identified by NRCS as suitable for agriculture crop production are depicted in Figure 5 and consist of a wheelline irrigation system and a handline irrigation system.

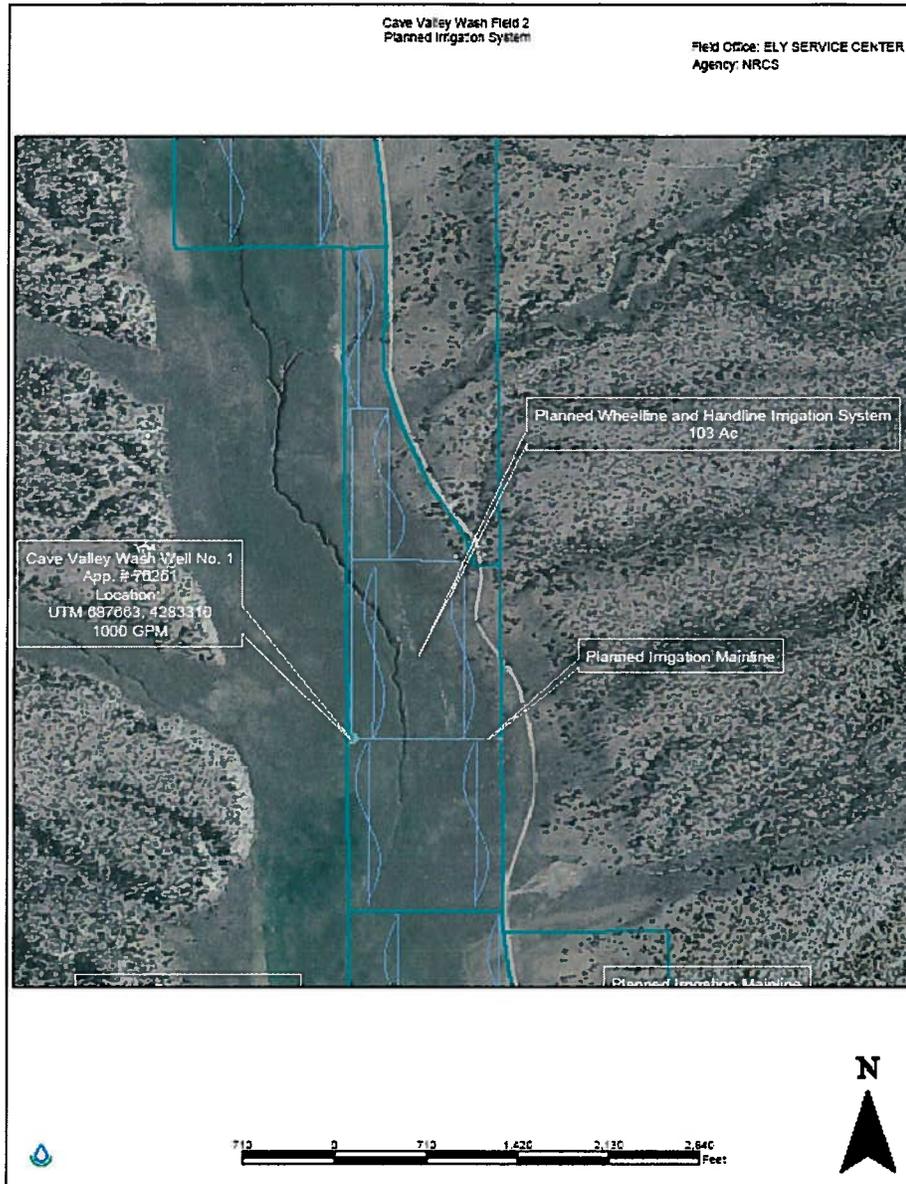
Figure 5 - Cave Valley Wash Field No. 2



Cave Valley Ranch Agriculture Development Plan

An additional portion of the Cave Valley Wash parcels (Cave Valley Wash Field No. 1) identified by NRCS as suitable for agriculture crop production is depicted in Figure 6 and consists of a wheelline irrigation system and a handline irrigation system.

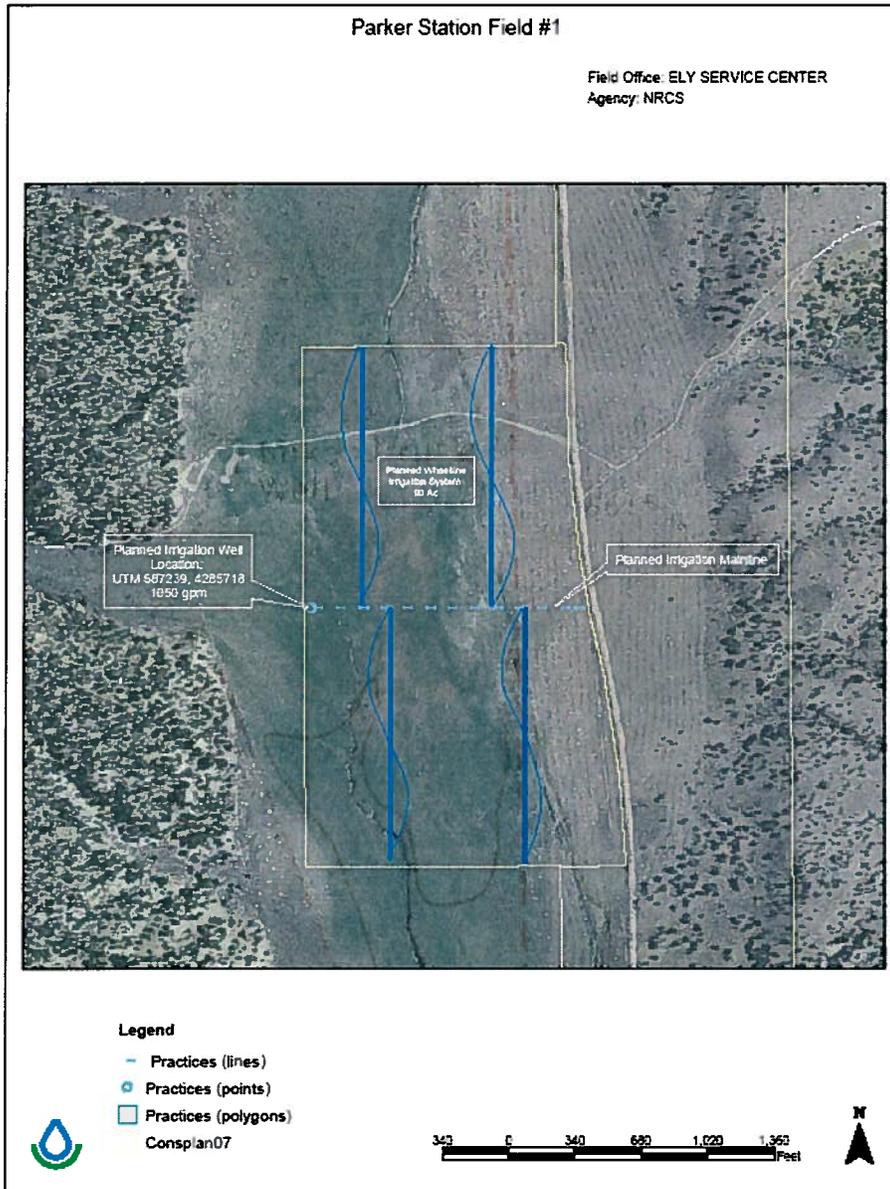
Figure 6 - Cave Valley Wash Field No. 1 (inadvertently captioned Field 2)



Cave Valley Ranch Agriculture Development Plan

The final portion of the Cave Valley Wash parcels (Mike Urrutia Field) identified as suitable by NRCS for agriculture crop production is depicted as Figure 7 and consists of a wheelline irrigation system and a handline irrigation system.

Figure 7 - Mike Urrutia Field (previously marked Parker Station Field #1)



Cave Valley Ranch Agriculture Development Plan

Based on the above information set forth in Figures 1 through 7 Table 9 has been prepared to compile the information to identify the areas identified by NRCS as suitable for irrigation on the Cave Valley Ranch.

Description of Area	Acres	Method of Irrigation
Cave Spring Field	170	Center Pivot/Handlines
Homestead Field	80	Center Pivot
Parker Station Field No. 2	103	Wheellines/Handlines
Parker Station Field No. 1	95	Center Pivot/Handlines
Cave Valley Wash Field No. 2	102	Wheellines/Handlines
Cave Valley Wash Field No. 1	103	Wheellines/Handlines
Mike Urrutia Field	80	Wheellines/Handlines
Total Acres	733	

Table 9 - Acreage Identified by NRCS as Irrigable Land

14. Preliminary Design of Proposed Irrigation System

Identification of irrigable land was performed with the assistance of NRCS Ely Service Center. Vegetation and soil data were utilized to determine suitable lands for alfalfa crop production and irrigated pasture. Most of the lands identified for development had been farmed historically for a variety of crops including alfalfa and grain at one time or another over the last 127 years. The earliest vested water right for irrigation on some of these lands dates back to 1880. It was determined to be economically feasible to develop water efficient irrigation systems utilizing underground water sources because of the existing reasonably shallow wells on the proposed crop lands. Irrigation systems were designed to maximize water conservation practices through sprinkler pivots, wheellines and handlines for optimum alfalfa production.

15. Applications for Underground Water

Based on the preliminary identification by NRCS of irrigable lands located on the Cave Valley Ranch and the preliminary irrigation system design recommended by NRCS on those lands an estimate of irrigation system water requirements and well locations were recommended by NRCS. NRCS calculated the water requirements based on soil types in an Excel Spreadsheet titled "Irrigation Water Management Jobsheet 449" based on certain variables. A calculation for each well location is referenced as **Exhibit 2066**.¹⁸ The product of these calculations is an estimated gallons per minute for each well location.

Based on those estimates Cave Valley Ranch, LLC filed seven Applications to Appropriate the Public Waters of the State of Nevada.

¹⁸ Exhibit 2066 are well calculations for irrigation only under the pivot and wheelline irrigation systems. See Table 10 for the revisions to these calculations when acreage under handline irrigation systems is added.

Cave Valley Ranch Agriculture Development Plan

The estimated gallons per minute for each well and the amount of underground water applied for are set forth in Table 10.

Name of Well	Application No.	Estimated GPM	CFS Applied For
Cave Spring Well	76258	1500	3.342
Homestead Well No. 2	76252	650	1.4482
Parker Station Well No. 2	76250	1005	2.23914
Parker Station Well No. 1	76248	750	1.671
Cave Valley Wash Well No. 2	76249	1000	2.228
Cave Valley Wash Well No. 1	76251	1000	2.228
Mike Urrutia Well No. 2	76257	880	1.96064
Total		6,785 gpm	15.11698 cfs

Table 10 - Well Gallons Per Minute and CFS Requirements

16. Future Applications for Surface Irrigation Water

The development of water resources on the Cave Valley Ranch will not be limited to the underground water discussed above. The Ranch will also develop surface water rights in all areas where underground water development is being proposed. These development plans are in the conceptual stage at this time and no specific plans have been prepared. However, as they have relevance to the development of Ranch underground water they will be discussed in this section.

A. Homestead Parcel

In April 2007 improvements to the Homestead Reservoir were completed. Those improvements included a 12" outflow structure including a 12" gate valve. It is currently anticipated that water from Sheep Creek and its tributaries will be diverted through a 12" pipe extending from the gate valve that will be extended to the upper contours of the Homestead parcels for a more even distribution of water to a substantial portion of the entire Homestead area. While there currently exists a channel and spreader dikes off that channel in the western and southern portions of the Homestead Parcel, coverage is limited to approximately one-half of the available area on the Homestead parcels. Plans will be made to design an irrigation system to maximize the coverage or the runoff from Sheep Creek and its tributaries and the springs on the Homestead parcels.

B. Cave Valley Wash

During spring runoff a substantial amount of water moves through the Cave Valley Wash from upstream tributaries. The Cave Valley Wash enters the deeded lands of the Cave Valley Ranch at approximately the location of the Urrutia Well. Further south, runoff from Blue Rock Canyon and Long Canyon enter the Cave Valley Wash located on the

Cave Valley Ranch Agriculture Development Plan

deeded lands of the Cave Valley Ranch. The feasibility of capturing some of this runoff for irrigation is currently being considered.

17. Estimated Crop Production

Estimated acreage under crop production assuming full implementation of this agriculture plan is set forth in Table 11.

Description of Area	Alfalfa	Meadow Grasses	Total Acres
Cave Spring Field	170	0	170
Homestead Field	80	240	320
Parker Station Field No. 2	103	5	108
Parker Station Field No. 1	95	45	140
Cave Valley Wash Field No. 2	102	0	102
Cave Valley Wash Field No. 1	103	0	103
Mike Urrutia Field	80	0	80
Total	733	290	1,023

Table 11 - Estimated Acreage Under Crop Production

Estimated crop production for alfalfa assuming full implementation of this agriculture plan is set forth in Table 12.

Description of Area	Acres	Production - Tons	Production - Value ¹⁹
Cave Spring Field	170	527	\$73,780
Homestead Field	80	248	\$34,720
Parker Station Field No. 2	103	319	\$44,660
Parker Station Field No. 1	95	295	\$41,300
Cave Valley Wash Field No. 2	102	316	\$44,240
Cave Valley Wash Field No. 1	103	319	\$44,660
Mike Urrutia Field	80	248	\$34,720
Total	733	2,272	\$318,080

Table 12 - Estimated Alfalfa Crop Production

Estimated crop production for meadow grass assuming full implementation of this agriculture plan is set forth in Table 13.

¹⁹ Production value based on a price per ton of \$140.

Cave Valley Ranch Agriculture Development Plan

Description of Area	Acres	Production - Tons	Production - Value ²⁰
Cave Spring Field	0	0	\$0
Homestead Field	240	360	\$50,400
Parker Station Field No. 2	5	7.5	\$1,050
Parker Station Field No. 1	45	67.5	\$9,450
Cave Valley Wash Field No. 2	0	0	\$0
Cave Valley Wash Field No. 1	0	0	\$0
Mike Urrutia Field	0	0	\$0
Total	290	435	\$60,900

Table 13 - Estimated Meadow Grass Crop Production

18. Conclusion

Pursuant to NRS §533.370.6(d), as a matter of both Nevada public policy and law, “in determining whether an application for an interbasin transfer of groundwater [applications 53987 and 53988] must be rejected . . . , the State Engineer shall consider whether the proposed action is an appropriate long-term use which will not unduly limit the future growth and development in the basin from which the water is exported [Cave Valley - Basin 180].” The Cave Valley Ranch has over 2,757 acres of undeveloped native pasture additional 210 acres that will require additional agriculture development. The proposed appropriations of the SNWA applications in Cave Valley will preclude all development of the water resources the Cave Valley Ranch will require for future growth and development of its cattle and agriculture crop production business in Cave Valley. The Cave Valley Ranch respectfully requests that the Nevada Division of Water Resources reserve sufficient water from the appropriations requested by SNWA to allow for future growth and development within Cave Valley.

²⁰ Production value based on a price per ton of \$140.

OPERATOR COPY

Form 4130-2a
(February 1999)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

GRAZING PERMIT

BUREAU OF LAND MANAGEMENT
ELY FO
HC33 BOX 33500
ELY NV 89301-9408

STATE NV
OFFICE 040
AUTH NUMBER 2702943
PREFERENCE CODE 03
DATE PRINTED 05/17/2006
TERM 05/17/2006

AUTH NUMBER: 2702943
DATE PRINTED: 5/17/2006

Bureau of Land Management
JUL 31 2006
RECEIVED

ELY, NV
CAVE VALLEY RANCH LLC
C/O MICHAEL MCBEATH
1932 IVY POINT LANE
LAS VEGAS NV 89134

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 PERMIT, UPON YOUR ACCEPTANCE OF THE TERMS AND CONDITIONS OF THIS PERMIT AND PAYMENT OF GRAZING FEES WHEN DUE. CONTACT YOUR LOCAL BLM OFFICE AT 775-289-1800 IF YOU HAVE QUESTIONS.

MANDATORY TERMS AND CONDITIONS

ALLOTMENT	PASTURE	LIVESTOCK NUMBER KIND	GRAZING PERIOD		% PL TYPE USE	AUMS
			BEGIN	END		
00904 CAVE VALLEY RANCH		397 CATTLE	05/01	10/31	100 ACTIVE	2402

OTHER TERMS AND CONDITIONS:

IN ACCORDANCE WITH SEC. 325, TITLE III, H.R. 2691, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACR, 2004 (P.L. 108-108), WHICH WAS ENACTED ON NOVEMBER 10, 2003, THIS GRAZING PERMIT OR LEASE IS RENEWED UNDER SECTION 402 OF THE FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976, AS AMENDED (42 U.S.C. 1752), TITLE III OF THE BANKHEAD-JONES FARM TENANT ACT (7 U.S.C. 410AAA-50). TERMS AND CONDITIONS CONTAINED IN THE IMMEDIATELY PRECEDING PERMIT OR LEASE HAVE BEEN INCORPORATED INTO THIS PERMIT OR LEASE IN TOTAL, OR, IF THIS PERMIT OR LEASE IS ISSUED AS A RESULT OF A PREFERENCE TRANSFER, IN-SO-FAR AS THEY REFLECT THE TRANSFER ACTION. THESE TERMS AND CONDITIONS SHALL CONTINUE IN EFFECT UNTIL SUCH TIME AS THE SECRETARY OF THE INTERIOR COMPLETES PROCESSING OF THIS PERMIT OR LEASE IN COMPLIANCE WITH ALL APPLICABLE LAWS AND REGULATIONS, AT WHICH TIME THIS PERMIT OR LEASE MAY BE CANCELED, SUSPENDED OR MODIFIED, IN WHOLE OR IN PART, TO MEET THE REQUIREMENTS OF SUCH APPLICABLE LAWS AND REGULATIONS.

ALLOT NO CONDITIONS

NV 00904 CAVE VALLEY RANCH #00904:
GRAZING USE IN WHITE PINE COUNTY, NEVADA WILL BE IN ACCORDANCE WITH THE NORTHEASTERN GREAT BASIN AREA STANDARDS AND GUIDELINES, GRAZING USE IN LINCOLN &/OR NYE COUNTY, NEVADA WILL BE IN ACCORDANCE WITH THE MOJAVE-SOUTHERN GREAT BASIN AREA STANDARDS AND GUIDELINES. GRAZING USE WILL ALSO BE IN ACCORDANCE WITH THE FINAL MULTIPLE USE DECISION DATED DECEMBER 6, 1995.

EXHIBIT A

OPERATOR COPY

AUTH NUMBER: 2702943
DATE PRINTED: 5/17/2006

THE AFOREMENTIONED GREAT BASIN AREA STANDARDS AND GUIDELINES FOR GRAZING ADMINISTRATION WERE DEVELOPED BY THE RESPECTIVE RESOURCE ADVISORY COUNCIL AND WERE APPROVED BY THE SECRETARY OF THE INTERIOR ON FEBRUARY 12, 1997.

OTHER TERMS AND CONDITIONS:

GRAZING USE WILL ALSO BE IN ACCORDANCE WITH 43 CFR SUBPART 4180 - FUNDAMENTALS OF RANGELAND HEALTH AND STANDARDS AND GUIDELINES FOR GRAZING ADMINISTRATION.

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 WOULD NOT PREVENT ATTAINMENT OF THE MULTIPLE-USE OBJECTIVES FOR THE ALLOTMENT.

DEVIATIONS FROM SPECIFIED GRAZING USE DATES WILL BE ALLOWED WHEN CONSISTENT WITH MULTIPLE-USE OBJECTIVES. SUCH DEVIATIONS WILL REQUIRE AN APPLICATION AND WRITTEN AUTHORIZATION FROM THE AUTHORIZED OFFICER PRIOR TO GRAZING USE.

THE AUTHORIZED OFFICER IS REQUIRING THAT AN ACTUAL USE REPORT (FORM 4130-5) BE SUBMITTED WITHIN 15 DAYS AFTER COMPLETING YOUR ANNUAL GRAZING USE.

THE PAYMENT OF YOUR GRAZING FEES IS DUE ON OR BEFORE THE DATE SPECIFIED IN THE GRAZING BILL. THIS DATE IS GENERALLY THE OPENING DATE OF YOUR ALLOTMENT. IF PAYMENT IS NOT RECEIVED WITHIN 15 DAYS OF THE DUE DATE, YOU WILL BE CHARGED A LATE FEE ASSESSMENT OF \$25 OR 10 PERCENT OF THE GRAZING BILL, WHICHEVER IS GREATER, NOT TO EXCEED \$250. PAYMENT WITH VISA, MASTERCARD OR AMERICAN EXPRESS IS ACCEPTED. FAILURE TO MAKE PAYMENT WITHIN 30 DAYS OF THE DUE DATE MAY RESULT IN TRESPASS ACTION.

PURSUANT TO 43 CFR 10.4 (G) THE HOLDER OF THIS AUTHORIZATION MUST NOTIFY THE AUTHORIZED OFFICER BY TELEPHONE, WITH WRITTEN CONFIRMATION, IMMEDIATELY UPON 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 TO PROCEED BY THE AUTHORIZED OFFICER.

IF FUTURE MONITORING DATA INDICATES THAT STANDARDS AND GUIDELINES FOR GRAZING MANAGEMENNT ARE NOT BEING MET, THE PERMIT WILL BE REISSUED SUBJECT TO REVISED TERMS AND CONDITIONS.

ALLOTMENT SUMMARY (AUMS)

<u>ALLOTMENT</u>	<u>ACTIVE AUMS</u>	<u>SUSPENDED AUM</u>	<u>PERMITTED USE</u>
00904 CAVE VALLEY RANCH	2403	2566	4,969

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. 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.
11. 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 PERMIT: 1. CONVEYS NO RIGHT, TITLE OR INTEREST HELD BY THE UNITED STATES IN ANY LANDS OR RESOURCES AND 2. IS SUBJECT TO (A) MODIFICATION, SUSPENSION OR CANCELLATION AS PROVIDED BY LAND PLANS AND APPLICABLE LAW; (B) 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: *Cave Valley Ranch LLC*
Donald K. McBeath, MANAGER DATE: 7/27/2006

APPROVED
 BLM AUTHORIZED OFFICER: *William E. Owen* DATE: 8/2/06



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Ely District Office
HC 33 Box 33500
Ely, Nevada 89301-9408



IN REPLY REFER TO:

4160 (NV-047)

CERTIFIED MAIL NO. P 313 269 801
Return Receipt Requested

DEC 06 1995

Bill Mull
P.O. Box 470
Panaca, NV 89042

NOTICE OF FINAL MULTIPLE USE DECISION FOR THE CAVE VALLEY RANCH ALLOTMENT

BACKGROUND INFORMATION:

The Resource Management Plan/Environmental Impact Statement and Record of Decision for the Egan Resource Area were issued in September, 1984 and February, 1987, respectively. The Egan Rangeland Program Summary was issued in May of 1988. These documents guide the management of public lands within the Cave Valley Ranch Allotment. The Egan Resource Area Record of Decision, dated February 1987, states in pertinent part:

"Monitoring studies will be used to determine if adjustments in livestock numbers are necessary...All vegetation will be managed for those successional stages which would best meet the objective of this proposed plan..." (short term objectives) "Future adjustments in livestock use will be based on data provided through the rangeland monitoring program." (long term objective)

"Implementation [of the range management program] will take place through coordination, consultation, and cooperation. Actions could include, but will not be limited to, change in seasons-of-use, change in livestock numbers, correction of livestock distribution problems, development of range improvements, and taking site-specific measures to achieve improvements in wildlife habitat."

Monitoring studies were evaluated based on monitoring data collected in 1988 and 1991. In accordance with Bureau policy and regulations, this data has been analyzed and evaluated in order to determine progress in meeting management objectives for the Cave Valley Ranch Allotment. Input was received from the permittee, the Nevada Division of Wildlife (NDOW), and the State N-4 Grazing Board, via a range consulting firm. See Appendix 1 for the Land Use Plan objectives covering livestock and wildlife. These objectives are in conformance with and formulated to accomplish the Egan Resource Management Plan multiple use objectives as they relate to all grazing use on the Cave Valley Ranch Allotment.

BASED ON THE EVALUATION OF MONITORING DATA FOR THE CAVE VALLEY RANCH ALLOTMENT, RECOMMENDATIONS FROM DISTRICT STAFF, AND INPUT RECEIVED THROUGH CONSULTATION, COORDINATION, AND COOPERATION FROM THE PERMITTEE AND PUBLIC INTEREST GROUPS, THE FINAL DECISION IS AS FOLLOWS:

The analysis of monitoring data has revealed that one of the two land use plan objectives is not being met and one of the four rangeland program summary objectives is not being met with current management practices. The primary resource problem is overutilization of a small portion of the allotment by cattle on the native range along with underutilization in that portion of the allotment south of Harris Well. Management practices can fix this distribution problem. Therefore no reduction in active preference is necessary. This decision will adjudicate and establish a period-of-use on the seedings. Wildlife are not contributing to the non-attainment of objectives and therefore no changes in wildlife are proposed. However, elk habitat objectives, populations and ecosystem impacts may be addressed in future evaluations.

LIVESTOCK MANAGEMENT DECISION

In accordance with 43 CFR 4110.3 and 4130.3-1(a), the permitted cattle use shall remain unchanged at 2,403 AUMs. The permitted use is as follows:

From:

Total (AUMs)	Active (AUMs)	Suspended (AUMs)	Period of Use
4,969	2,403	2,566	5/1 - 10/31

To:

Permitted Use	Historical Suspended	Period of Use
2,403	2,566	5/1 - 10/31

<u>Use Area</u>	<u>Permitted Use</u>	<u>Number</u>	<u>Period of Use</u>
Native Range	1,482	245	5/1 - 10/31
Cave Valley Seeding	726	120	5/1 - 10/31
Patterson Pass Seeding	194	32	5/1 - 10/31

In accordance with 43 CFR 4130.3-2, the following terms and conditions will be included in the term permit and annual authorization.

The permittee will be required to:

1. Pump Harris Well when cattle are in the southern portion of the allotment.
2. Cave Valley Well No. 2 will be shut down when cattle are in the southern portion of the allotment.
3. For control of the cattle use in the seedings as adjudicated, the gates at the seedings will be closed to prevent cattle drift onto the adjacent native range.
4. The permittee will be responsible for reporting actual use including the seedings.

RATIONALE:

Utilization data and use pattern mapping support the conclusion that no change is needed in the adjudicated livestock preference in order to meet the Land Use Plan and Rangeland Program Summary objectives. By controlling the water sources, cattle distribution will improve and allowable use levels will be met for the native vegetation and the meadow/riparian areas. Improving management practices will also improve or maintain ecological condition of the upland and meadow areas. Adjudicating the seedings and controlling use will maintain or improve condition of both the seedings and the uplands (see Appendix II for seeding locations within the allotment). Currently, wildlife utilization is not a concern. Recent elk census show that elk numbers are increasing within this allotment. Existing elk use on the uplands was not determined to be contributing to overutilization even though there is a dietary overlap.

AUTHORITY: The authority for this decision is contained in Title 43 of the Code of Federal Regulations, which states in part:

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 16010-5(b)."

4110.3: "The authorized officer shall periodically review the permitted use specified in a grazing permit or grazing 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... These changes must be supported by monitoring, field observations, ecological site inventory or other data acceptable to the authorized officer."

4120.3-1(a): "Range improvements shall be installed, used, maintained, and/or modified on the public lands, or removed from these lands, on a manner consistent with multiple-use management."

4130.3: "Livestock grazing permits and leases shall contain terms and conditions determined by the authorized officer to be appropriate to achieve the management and resource condition objectives for the public lands and other lands administered by the Bureau of Land Management..."

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 use shall not exceed the livestock carrying capacity of the allotment."

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..."

APPEAL:

Any applicant, permittee, lessee or other person whose interest is adversely affected by the final livestock grazing portion of this decision may file an appeal and petition for stay of the decision pending final determination on appeal. The appeal and petition for stay must be filed in the office of the Egan Area Manager, BLM, Ely District Office, HC 33 Box 33500, Nevada 89301-9408, as noted above, within 30 days following receipt of the final decision.

The appeal shall state the reasons, clearly and concisely, why the appellant thinks the final decision is in error.

Should you wish to file a motion 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.

As noted above the petition for stay must be filed in the office of the authorized officer.


Gene L. Drais, Manager
Egan Resource Area

CERTIFIED MAIL #

cc: Nevada Division of Wildlife, Reg. II	P 313 269 802
Nevada Division Reg. III	P 313 269 803
Nevada Division of Wildlife, Ely Office (c/o Curtis A. Baughman)	P 313 269 804
Nevada Division of Wildlife, Panaca Office (c/o Kraig Beckstrand)	P 313 269 805
N-4 Grazing Board	P 313 269 806
Resource Concepts, Inc.	P 313 269 807
U.S. Fish and Wildlife Service (Reno)	P 313 269 808
Natural Resources Defense Council	P 313 269 809
Wilderness Society	P 313 269 810
Farm Bureau	P 313 269 811
Sierra Club	P 313 269 812
Lincoln County Comissioners	P 313 269 813
Alan Chamberlain, County Commissioner	P 313 269 814

APPENDIX 1: Land Use Plan/Rangeland Program Summary Objectives

a. Allotment Specific Objectives

1. Land Use Plan (RMP) Objectives

- (a) Rangeland Management - "All vegetation will be managed for those successional stages which would best meet the objective of this proposed plan."
- (b) Wildlife - "Habitat will be managed for "reasonable numbers" of wildlife species as determined by the Nevada Division of Wildlife." (Egan ROD, p.6)
- (c) ~~Watershed - "Establish utilization limits to maintain cover, plant vigor, and soil fertility in consideration of plant phenology, physiology, terrain, water availability, wildlife needs, grazing system and aesthetic values."(Egan ROD, p.44)~~

2. Rangeland Program Summary (RPS) Objectives

- (a) "Provide forage for up to 1,181 AUMs of livestock use. Maintain the seedings in good or better condition. Maintain or enhance native vegetation with utilization not to exceed NRMH levels on key species. Maintain or improve current ecological condition of native range. Utilization will not exceed 50% on native key species and 60% on the crested wheatgrass seeding.
- (b) "Manage rangeland habitat and forage condition to support reasonable numbers of wildlife, as follows: deer 161 AUMs and elk 271 AUMs (30 elk). Maintain elk yearlong and mule deer yearlong habitat in a good or better condition." Utilization of key species will not exceed the levels listed in a. above.
- (c) "Protect sage grouse breeding complexes." This is accomplished by maintaining the big sagebrush sites within two miles of active strutting grounds for mid to late seral stage with a minimum of 30% shrub composition by weight.
- (d) "Improve and maintain habitat condition of meadows and riparian areas in fair condition to good or better for elk, mule deer, sage and blue grouse." Utilization levels will not exceed 55 percent on perennial grasses and grass-like species and 45 percent on shrubs along stream riparian areas and mesic meadows.

APPENDIX II

Cave Valley
Ranch Allotment
(0904)

CAVE VALLEY
SEEDING

PATTERSON PASS
SEEDING

