



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Mount Lewis Field Office
50 Bastian Road
Battle Mountain, NV 89820
<http://www.nv.blm.gov>



In Reply Refer To:
4110 (NV060)

APR 17 2008

CERTIFIED RECEIPT: (7007 0710 0004 4480 2415) RETURN RECEIPT REQUESTED

Gary Snow
PO Box 5520
Fallon, NV 89407

PROPOSED DECISION RUBY HILL AND ARAMBEL ALLOTMENTS

**TRANSFER OF GRAZING PREFERENCE FROM JAMES P. AND ROBERT ITHURRALDE
AND COTTONWOOD LAND AND LIVESTOCK, LLC
TO
GARY SNOW LIVESTOCK AND GRAIN**

Dear Mr. Snow:

INTRODUCTION

On February 27th, 2008 you submitted transfer documentation for grazing preferences you leased from James P. and Robert Ithurrealde and applied for a three-year grazing permit for the Ruby Hill Allotment. Likewise, on March 17th, 2008 you submitted transfer documentation for grazing preferences you leased from Cottonwood Land and Livestock, LLC and applied for a three-year grazing permit for the Arambel Allotment.

BACKGROUND

The Ruby Hill Allotment borders the west side of the town of Eureka, Nevada and runs both to the north and south. The Arambel Allotment borders the west boundary of the Ruby Hill Allotment approximately five miles west of Eureka, Nevada (see attached Maps 1&2). The grazing preference for both the Ruby Hill and Arambel Allotments will be transferred to Mr. Snow with no changes to the existing preference and Terms & Conditions that were established for these allotments in the Fish Creek Complex Final Multiple Use Decision dated September 2004 (a copy of the final decision can be requested at the above address).

Through this transfer, the following grazing preference along with terms and conditions will be specified on the grazing permit to be issued to Mr. Snow:

Terms & Conditions: Ruby Hill Allotment

Allotment	Dates	Kind	Number	AUM's
Ruby Hill	05/01-09/30	Sheep	1005	1011

1. Grazing use shall be in accordance with the Ruby Hill portion of the Fish Creek Complex Final Multiple Use Decision sated September 27, 2004.
2. Sheep camps will be placed a minimum of one-quarter (1/4) mile from all permanent water.
3. Sheep camps will be moved every five days. No two (2) sheep camps will camp in the same area in a grazing season.
4. New bed grounds will be used every night. Bed grounds will be a minimum of one-quarter (1/4) mile from previous bed grounds, permanent water sources, and from riparian-wetland and aspen.
5. In addition to continuing to haul water to current water haul locations, the permittee will be required to establish new water haul sites in areas previously receiving slight and/or light use as determined by the BLM in order to improve livestock distribution. The permittee will be required to herd sheep throughout the Ruby Hill Allotment to utilize the areas that have received slight and/or light use. If it is determined that utilization objectives are being met in any area, the permittee will be required to move sheep to other areas of the allotment that have not been grazed.
6. The permittee will be required to meet with BLM prior to each grazing year in order to determine an annual grazing plan that would ensure appropriate use throughout the allotment.
7. The permittee will be allowed five days flexibility prior to and following the scheduled use dates to move livestock.
8. No "double harvesting" will occur within the pastures. For example, the permittee will not be allowed to graze livestock in the spring of the grazing year then also graze in the fall of the same grazing year.
9. When utilization levels reach specified objectives in any use area or pasture the permittee will be required to remove livestock from that area, use may continue if livestock are kept in areas containing available forage. If livestock cannot be kept in proper areas, livestock removal will be required. The AUMs authorized for a use area or pastures, that are not utilized, will not be used in other rotating use areas or pastures.
10. The season of use in the Ruby Hill Allotment may be temporarily modified from the grazing management system at the discretion of the authorized officer on an annual basis if monitoring data indicates that changes are necessary to meet multiple use objectives and Standards for Rangeland Health.

Terms & Conditions: Arambel Allotment

Allotment	Dates	Kind	Number	AUM's
Arambel	05/01-10/31	Sheep	950	1149
Arambel (4-Corners Seeding)	04/15-05/15	Sheep	983	200

1. Grazing use shall be in accordance with the Arambel portion of the Fish Creek Complex Final Multiple Use Decision sated September 27, 2004.
2. Sheep camps will be placed a minimum of one-quarter (1/4) mile from all permanent water.
3. Sheep camps will be moved every five days. No two (2) sheep camps will camp in the same area in a grazing season.
4. New bed grounds will be used every night. Bed grounds will be a minimum of one-quarter (1/4) mile from previous bed grounds, permanent water sources, and from riparian-wetland and aspen.
5. In addition to continuing to haul water to current water haul locations, the permittee will be required to establish new water haul sites in areas previously receiving slight and/or light use as determined by BLM in order to improve livestock distribution. The permittee will be required to herd sheep throughout the Arambel Allotment to utilize the areas that have received slight and/or light use. If it is determined that utilization objectives are being met in any area, the permittee will be required to move sheep to other areas of the allotment that have not been grazed.
6. The permittee will be required to meet with BLM prior to each grazing year in order to determine an annual grazing plan that would ensure appropriate use throughout the allotment.
7. The permittee will be allowed five days flexibility prior to and following the scheduled use dates to move livestock.
8. No "double harvesting" will occur within the Arambel Allotment. For example, the permittee will not be allowed to graze livestock in the spring of the grazing year then also graze in the fall of the same grazing year.
9. If utilization levels reach specified objectives in any use area or pasture the permittee will be required to remove livestock from that area, use may continue if livestock are kept in areas containing available forage. If livestock cannot be kept in proper areas, livestock removal will be required. The AUMs authorized for a use area or pastures, that are not utilized, will not be used in other rotating use areas or pastures.
10. The season of use in each pasture may be temporarily modified from the grazing management system at the discretion of the authorized officer on an annual basis if

monitoring data indicates that changes are necessary to meet multiple use objectives and Standards for Rangeland Health.

Administrative Terms & Conditions in Common to Both Allotments

1. 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 no 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 Secs. 4150.1 and 4160.1-2
2. In accordance with 43 CFR 4130.3-2(D): Actual use information for each pasture will be submitted to the authorized officer within 15 days of completing grazing use as specified on the grazing permit and/or grazing licenses.
3. 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.
4. 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 ¼ mile of any riparian area, wet meadow, or watering facility (either permanent or temporary) unless stipulated through a written agreement or decision.
5. 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.
6. 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 plan are not meeting the Land Use Plan, Allotment Management Plan or other activity plan, or provisions of subpart 4180 RAC Standards and Guidelines.
7. 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.
8. 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.

A public consultation letter was issued on March 25th, 2008 to inform permittees and the interested public of the transfer of grazing preference and application for a three-year permit for the Ruby Hill and Arambel Allotments. The permittees and interested public were allowed a 15-day comment period from the date of the letter. Comments were received from the Nevada Division of Water Resources regarding established stock water permits that exist within the Ruby Hill Allotment that are in the name of James Ithurralde. The Division of Water Resources stated that Mr. Snow should verify, especially if there is any activity outside of previously established grazing patterns, that these water rights are pertinent to the area he is utilizing. Members of my staff will ensure that you, Mr. Snow, should verify these areas.

A Categorical Exclusion (CX) has been completed for the transfer of the grazing preference and a Documentation of Land Use Plan Conformance and NEPA Adequacy (DNA) has been completed for the issuance of a new term permit. The DNA was tiered to the Fish Creek Complex Evaluation and Rangeland Health Assessment Environmental Assessment NV062-EA04-69. The Fish Creek Complex Evaluation and Rangeland Health Assessment Environmental Assessment analyzed impacts of the grazing management decision which was proposed and finalized in 2004.

PROPOSED DECISION

It is my proposed decision to:

1. Transfer the grazing preference for the Ruby Hill Allotment from James P. and Robert Ithurralde to Gary Snow Livestock and Grain.
2. Transfer the grazing preferences for the Arambel Allotment from Cottonwood Land and Livestock, LLC to Gary Snow Livestock and Grain.
3. Issue two new term grazing permits to Mr. Snow for a period of three years, which can extend to ten years. Upon cancellation of the lease(s), the permit(s) would revert back to the Ithurralde's or Cottonwood Land and Livestock, LLC.

The permits will be issued consistent with the authorized use, grazing schedule and Terms & Conditions which became administratively final through the Fish Creek Complex Final Multiple Use Decision (FMUD) dated September 27th, 2004 and will not be modified through this decision.

RATIONALE

In accordance with 43 CFR 4110.2-3(3), Gary Snow has accepted the terms and conditions associated with the preference and permits once held by James P. and Robert Ithurralde and Cottonwood Land and Livestock, LLC. After review of Mr. Snow's transfer application and the base property that they have offered, it has been determined that the transferee is a qualified applicant as specified in 43 CFR 4110. The grazing preference and permit terms and conditions that will be specified on the grazing permit are in accordance with the 2004 Fish Creek Complex FMUD, Shoshone Eureka Resource Management Plan (RMP), allotment specific objectives, along with the Northeastern Great Basin Area Resource Advisory Council (RAC).

AUTHORITY

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

§43 CFR 4130.1-1(b): The authorized officer will determine whether applicants for the renewal of permits and leases or issuance of permits and leases that authorize use of new or transferred preference, and any affiliates, have a satisfactory record of performance. The authorized officer will not renew or issue a permit or lease unless the applicant and all affiliates have a satisfactory record of performance.

§43 CFR 4130.1-1(b)(2): The authorized officer will deem applicants for new permits and leases or transfer of grazing preference, including permits and leases that arise from transfer of preference, and any affiliates, to have a record of satisfactory performance when: (i) The applicant or affiliate has not had any Federal grazing permit or lease cancelled, in whole or in part, for violation of the permit or lease within the 36 calendar months immediately preceding the date of application; and (ii) The applicant or affiliate has not had any state grazing permit or lease, for lands within the grazing allotment for which a Federal permit or lease is sought, canceled, in whole or in part, for violation of the permit or lease within the 36 calendar months immediately preceding the date of application; and (iii) A court of competent jurisdiction has not barred the applicant or affiliate from holding a Federal grazing permit or lease.

§43 CFR 4130.2(d): The term of grazing permits of leases authorizing livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management shall be 10 years unless—(1) The land is being considered for disposal; (2) The land will be devoted to a public purpose which precludes grazing prior to the end of 10 years; (3) The term of the base property lease is less than 10 years, in which case the term of the Federal permit or lease shall coincide with the term of the base property lease; or (4) The authorized officer determines that a permit or lease for less than 10 years is in the best interest of sound land management.

§4130.2(a): 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.

§4130.2(b): The authorized officer shall consult, cooperative and coordinate with affected permittees, lessees, the interested public and the state having lands or responsibility for managing resources within the area before issuing or renewing grazing permits and leases.

§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.

PROTEST AND APPEAL PROVISIONS

Protest:

In accordance with 43 CFR 4160.2, any applicant, permittee, lessee or other interested public may protest the proposed decision under 4160.1 of this title, in person or in writing to the authorized officer (Douglas W. Furtado, authorized officer, Battle Mountain Field Office, 50 Bastian Road, Battle, NV 89820) within 15 days after receipt of such decision. The protest, if filed, must clearly and concisely state the reason(s) why the protestant thinks the proposed decision is in error.

In accordance with 43 CFR 4160.3 (a), in the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice.

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

Appeal:

In accordance with 43 CFR 4160.4, any person whose interest is adversely affected by a final decision of the authorize officer may appeal the decision for the purpose of a hearing before an administrative law judge. The appeal must be filed within 30 days after receipt of the final decision. Appeals and petitions for a stay of the decision shall be filed at the office of the authorized officer (Douglas W. Furtado, authorized officer, Mount Lewis Field Office, 50 Bastian Road, Battle Mountain, NV 89820). Additionally the person appealing must serve a copy on any person named in the decision as listed at the end of this decision and the Office of the Solicitor, Pacific Southwest Region, U.S. Department of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, CA 95825-1890 within 15 days of filing the appeal and petition for stay.

In accordance with 43 CFR 4.470, the appeal shall state the reason, clearly and concisely, why the appellant thinks the final decision of the authorized officer is in error.

A petition for stay, if filed, must show sufficient justification based on the following standards (43 CFR 4.471(c)):

- (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.

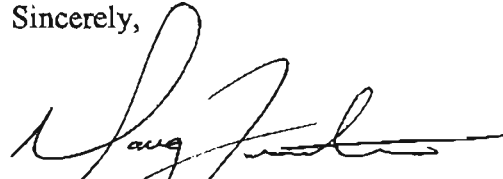
The appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

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

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "Doug Furtado", written over a horizontal line.

DOUGLAS W. FURTADO
Field Manager
Mount Lewis Field Office

Enclosures

cc: Interested Public

American Horse Protection Assoc.
1000 29th St.NW, Suite T-100
Washington DC 20007

Animal Welfare Institute
D.J. Schubert
3121 D Fire Rd PMB 327
Egg Harbor Township NJ 08234

Center for Biological Diversity
Paul J. Spitler
P.O. Box 2175
Bend OR 97709

Cottonwood Land and Livestock
Tom Belaustegi
71 Washington Street
Reno NV 89503

Eureka County Commissioners
PO Box 677
Eureka NV 89316

Eureka County Dept. of Natural Resources
Jim Baumann
P.O. Box 308
Eureka NV 89316

Eureka County Dept. of Natural Resources
Ken Conley
HC 66 Box 76
Beowawe NV 89821

Eureka County Dept. of Natural Resources
Leo Damele
HC 62 Box 62310
Eureka NV 89316

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Eureka County Dept. of Natural Resources
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Wallace ID 83873

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Martin Larralde
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Bakersfield CA 93308

National Mustang Association
PO Box 1367
Cedar City UT 84721

Natural Resources Advisory Commission
Jim Baumann, Chairman
PO Box 682
Eureka NV 89316

Nevada Cattlemens Association
Meghan Wereley
PO Box 310
Elko NV 89803

Nevada Commission for Preservation of
Wild Horses .
Cathy Barcomb
885 E Lake Blvd
Carson City NV 89704

Nevada Department of Wildlife
Mike Podborny
PO Box 592
Eureka NV 89316

Nevada Department of Wildlife
Dave Pulliam, Habitat Chief
1100 Valley Rd.
Reno NV 89512

Nevada Department of Wildlife Eastern
Region
Steve Foree, Supervisory Habitat Biologist
60 Youth Center Road
Elko NV 89801

Nevada Department of Wildlife So Region
D. Bradford Hardenbrook
4747 Vegas Drive
Las Vegas NV 89108

Nevada Dept of Agriculture
Jim Connelley, State Brand Inspector
4780 Idaho Street
Elko NV 89801-4672

Nevada State Clearing House
Krista Coulter
209 East Musser St Room 200
Carson City NV 89701

Nye County Commissioners
PO Box 153
Tonopah NV 89060

U.S. Fish and Wildlife Service
1340 Financial Blvd, Suite 234
Reno NV 89502

Western Watersheds Project
Katie Fite, Biodiversity Director
PO Box 2863
Boise ID 83701

Wild Horse Spirit, Ltd
Bobbi Royle
25 Lewers Creek Road
Carson City NV 89704

Wild Horses Organized Assistance
Dawn Lappin
PO Box 555
Reno NV 89504

Yomba Shoshone Tribe
Teresa M. Beck
HC 61 Box 6275
Austin NV 89310

Yomba Shoshone Tribe Environmental
Department
Teresa M. Beck
HC 61 Box 6275
Austin NV 89310

Thomas Gardner
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Paragonah UT 84760

Mandy McNitt
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Carson City NV 89706

Chad & Rosie Bliss
PO Box 585
Eureka NV 89316

James Ithurrealde
PO Box 26
Eureka NV 89316

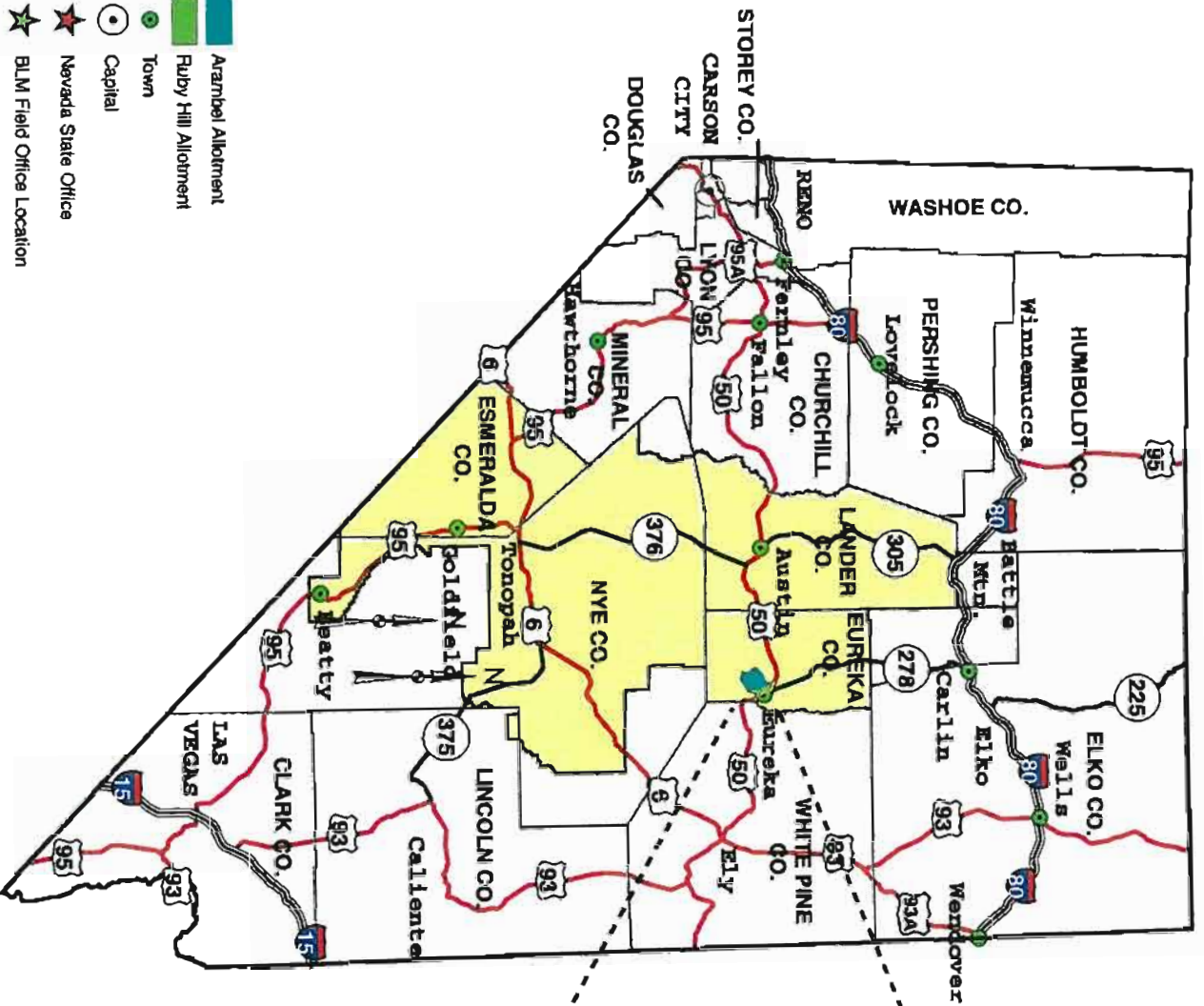
Pam Scutt
PO Box 1114
Verdi NV 89439









Vicki J. Cohen
1624 Palm Street, #242
Las Vegas NV 89104

Cindy MacDonald
3605 Silver Sand Ct.
N. Las Vegas NV 89032

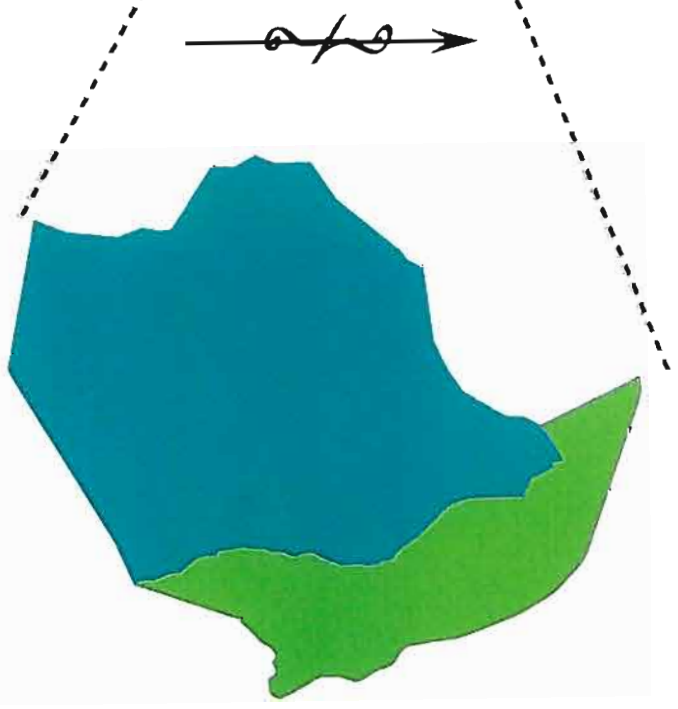
ATTACHMENTS

Map 1: Arambel / Ruby Hill



-  Arambel Allotment
-  Ruby Hill Allotment
-  Town
-  Capital
-  Nevada State Office
-  BLM Field Office Location
-  BLM Field Station Location
-  Battle Mountain District Boundary

Battle Mountain Field Office
 50 Bastian Road
 Battle Mountain, Nevada 89820

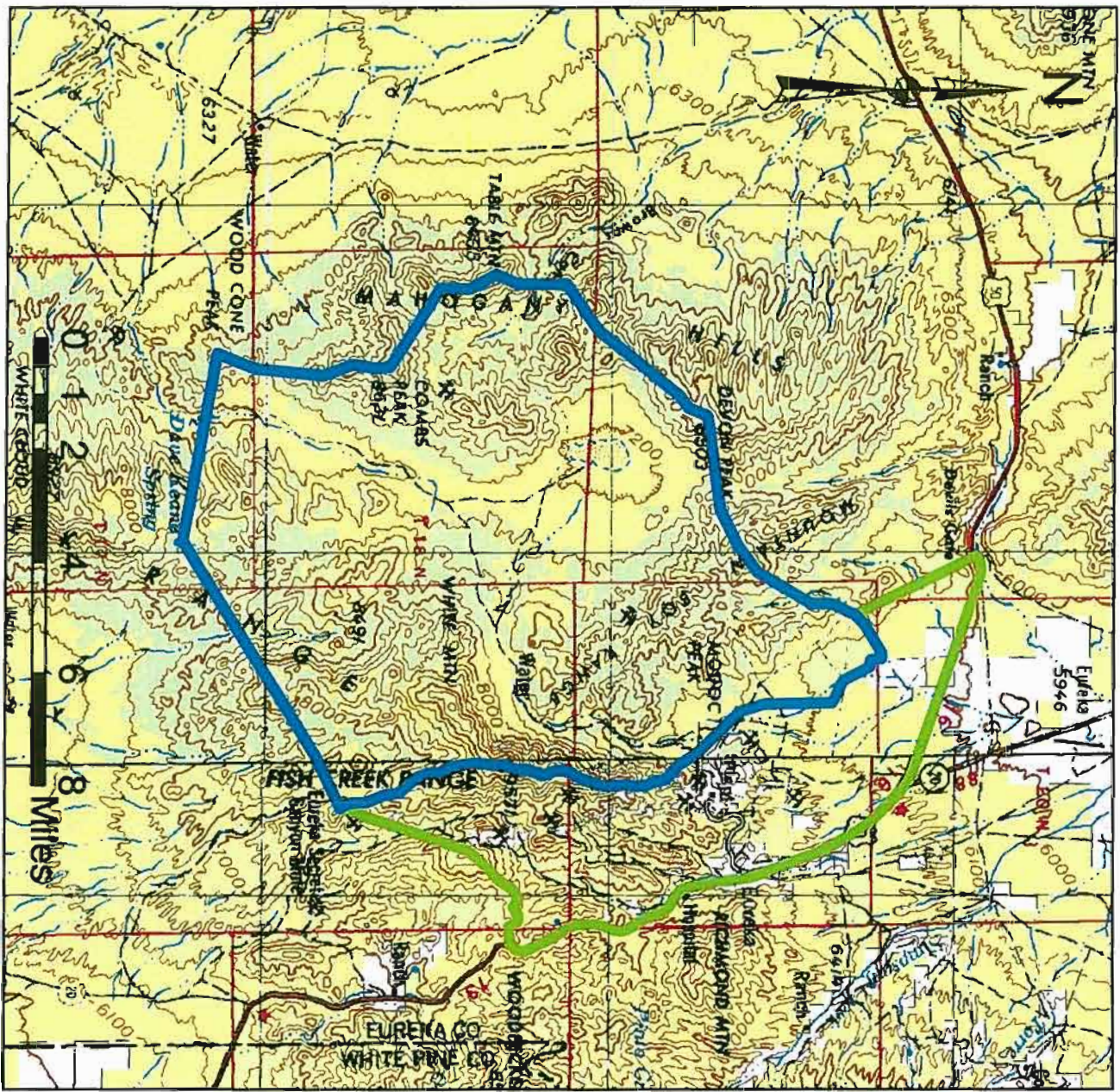


no scale







Data is published in the North American Datum 1983 (NAD 83), UTM, Zone 11N, meters, December 2007, SMFO BLM.
 No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual use or aggregate use with other data.

Map 2: Arambel / Ruby Hill



"No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual use or aggregate use with other data."

Legend	
Allotment Name	
	ARAMBEL
	RUBY HILL
Land Owner Status	
	BLM
	Private

Data is published in the North American Datum 1983 (NAD 83), UTM, Zone 11N, meters, December 2007, BMFO BLM.

Battle Mountain Field Office
 50 Bastian Road
 Battle Mountain, Nevada 89820