United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Battle Mountain Field Office
50 Bastain Road
Battle Mountain, Nevada 89820
http://www.nv.blm.gov

TAKE PRIDE IN AMERICA

In Reply Refer To:
4160
(NV062)

Dear Interested Public:

Enclosed please find the Carico Lake Allotment Final Multiple Use Decision, which includes the Finding of No Significant Impact (FONSI) and Environmental Assessment NV-062-EA-05-61 as amended.

If you have any further questions, please contact Dan Fletcher, Rangeland Management Specialist, at (775) 635-4188 or myself at (775) 635-4056.

Sincerely,

Douglas W. Furtado
Assistant Field Manager
Renewable Resources

Enclosures:

1. Carico Lake Allotment Final Multiple Use Decision
2. Environmental Assessment NV-062-EA-05-61.
3. Mailing List

United States Department of the Interior

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In Reply Refer To:
4130/4160

SEP 30 2005

FINAL MULTIPLE USE DECISION
CARICO LAKE ALLOTMENT

INTRODUCTION

The Carico Lake Allotment Rangeland Health Assessment analyzed monitoring data collected within the Carico Lake Allotment. Monitoring data was collected to determine whether current livestock management practices, grazing systems and existing wild horse populations in the allotment are meeting the Shoshone Eureka Resource Management Plan (SERA RMP) objectives, Standards for Rangeland Health and multiple use objectives within the Carico Lake Allotment. Refer to Attachment 1 of the enclosed Environmental Assessment (NV-062-EA05-61) for the Carico Lake Allotment specific objectives. The Carico Lake Rangeland Health Assessment was sent to the interested public July 22, 2005 for review and comment. Management actions for livestock, wild horses and wildlife habitat were identified as an outcome of the assessment and evaluation process. A thirty day comment period was provided for the interested public to comment and provide input, recommendations and alternatives for consideration regarding the evaluation, allotment specific objectives identified through the evaluation process and the management actions.

BACKGROUND

There are seven permittees within the Carico Lake Allotment including: Cortez Joint Venture, C-Ranches, Doby George LLC., Ellison Ranching Company, Filippini Ranching Company, Julian Tomera Ranches, Inc. and Silver Creek Ranch, Inc. The Bald Mountain Herd Management Area and the South Shoshone Herd Management Area are located within the Carico Lake Allotment.

On September 2, 2005, the Authorized Officer issued a Proposed Multiple Use Decision (PMUD), Environmental Assessment (EA) and unsigned Finding of No Significant Impact (FONSI) for the Carico Lake Allotment. The interested public was provided an opportunity to review the EA and Conformance Determination prior to the signing of the FONSI and the issuance of the Final Multiple Use Decision. Protests were received from Forest Guardians, Western Watersheds Project and Filippini Ranching Company.

The Carico Lake Allotment permittees and members of the interested public have met with the BLM on a continual basis throughout the allotment evaluation process. Intensive monitoring began in 1988. Discussions with permittees have focused on permittee livestock grazing operations and resource management issues within the Carico

Lake Allotment. Annual operating plan meetings have occurred most recently from 2002-2005 to identify and reach agreements to identify best management practices for the protection of rangeland resources within the allotment. In 2004, allotment evaluation meetings between permittees and BLM occurred to discuss the evaluation process and the additional monitoring data that would be collected in the summer of 2004. Permittee meetings/discussions have continued to occur during 2005 as BLM worked to complete the evaluation. These meetings with the permittees have involved discussions pertaining to the development of management alternatives that will ensure the attainment of the Standards for Rangeland Health and conform with the guidelines, while also maintaining the viability of their livestock operations. As a result, verbal commitments or written agreements have been reached with most of the permittees.

In late 2002, Forest Guardians and Western Watersheds Project filed a lawsuit against the Bureau of Land Management in Nevada for failing to mitigate water quality problems in the Carico Lake Allotment as mandated under the Clean Water Act and documented in a water quality analyses report prepared by the Battle Mountain Field Office in 2000. The lawsuit blamed the imperiled water quality on domestic cattle and sheep grazing on public lands administered by the BLM Battle Mountain Field Office. The plaintiffs accused the Battle Mountain Field Office of allowing grazing to continue despite the report that concluded the impacts of cattle grazing were largely causing the poor water quality within the Carico Lake Allotment. The lawsuit also stated that the BLM, despite the findings and recommendations of its own report failed to enact any measures or projects to mitigate water quality problems in the allotment. Riparian areas are located throughout Carico Lake Allotment. However, no state water quality standards aside from generic beneficial use standards have been identified by the Nevada Department of Environmental Protection (NDEP) in the Carico Lake Allotment. Riparian exclosures were constructed within the Cottonwood Basin area in 2002 to begin addressing the riparian and aspen habitat and water quality issues. These areas were identified for exclusion from grazing to restore quaking aspen stands and riparian areas that had been heavily impacted by livestock grazing. Management actions were identified in the Carico Lake Allotment Rangeland Health Assessment (CLARHA) to address the riparian and water quality issues throughout the allotment. These management actions were analyzed in the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61). It was determined that these management actions will result in significant progress towards the attainment of Proper Functioning Condition (PFC) for all riparian areas within the Carico Lake Allotment. The majority of the riparian issues are within the Shoshone Mountain Use Area and Toiyabe Mountain Use Area.

Consultation meetings and discussions with interest groups including Western Watersheds Project and Forest Guardians have occurred on a continual basis throughout the evaluation process. These meetings have focused on soliciting input, identifying their concerns and to provide these groups with an opportunity to review the monitoring data, our interpretation of the data and BLM's conclusions regarding the Standards and Guidelines within the allotment.

A Resource Advisory Council (RAC) tour was held with members of the RAC, permittees and interested public on July 14, 2005. This tour was held to discuss issues within the Carico Lake Allotment. The tour also provided participants an outline of the proposed grazing management actions, permitted use and terms and conditions that were identified in the Carico Lake Allotment Rangeland Health Assessment.

Permittee and interested public coordination meetings and discussions have continued to occur throughout the evaluation process in anticipation of the issuance of this Final Multiple Use Decision (FMUD).

Following the analysis, interpretation and evaluation of monitoring data, it was determined that SERA RMP objectives, Standards for Rangeland Health and multiple use objectives were not being fully attained. The evaluation also concluded that significant progress towards the attainment of the Standards for Rangeland Health and multiple use objectives was not occurring throughout the allotment. It was determined in the Conformance Determination that historic and current livestock and wild horse use were the causal factors for non-attainment of the SERA RMP objectives, Standards for Rangeland Health and multiple use objectives. As a result of the evaluation of the monitoring data, Proposed Management Actions have been developed that will ensure that Standards for Rangeland Health and multiple use objectives where they are met continue to be met and that significant progress is made towards those that are currently not met. Through the Carico Lake Allotment Rangeland Health Assessment, allotment specific objectives were identified for the Carico Lake Allotment. Again, refer to Attachment 1 of the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61) to reference the Carico Lake Allotment specific objectives and annual monitoring standards. In order to ensure progress towards and achieve the Standard for Rangeland Health, SERA RMP objectives and the Carico Lake Allotment specific objectives that were identified in the Carico Lake Rangeland Health Evaluation, changes in current livestock and wild horse management are required.

PROTESTS

Timely protests to the Proposed Multiple Use Decision were received from Forest Guardians, Western Watersheds Project and Filippini Ranching Company. I have carefully considered each protest and statement of reasons as to why the proposed decision was in error and have responded in Attachment 1 of this document.

After careful consideration of protests and written comments to the Carico Lake Allotment Environmental Assessment and the Carico Lake Allotment Proposed Multiple Use Decision the following additions/modifications will be made to the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61) and Final Multiple Use Decision.

- The protests resulted in the analysis of additional alternatives in the Environmental Assessment. This document is included for review.

- Based on the protests received, minor clarifications were made to several of the Terms and Conditions. Refer to Attachment 1 of this document for responses to protests.

- Minor editorial changes were made to the PMUD and incorporated in the FMUD.

- Livestock use by C-Ranches or any other permittee within the Cortez Joint Venture Use Area would have to be applied for each year and authorization would be at the discretion of the authorized officer. If livestock grazing is approved by the authorized officer in the Cortez Joint Venture Use Area, the total annual livestock use by C-Ranches would not exceed their permitted use of 9,880 AUMs. Refer the Cortez Joint Venture Use Area Livestock Management section of the proposed action in the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61) for a detailed discussion.

- The season of use for the Carico Lake Valley Use Area would be from July 1st - February 28th. The majority of livestock would be in private meadows from November 16th – January 31st. Dry cows would be allowed to graze flat around private meadows and drift in and out of private land from November 16th – January 31st in the Carico Lake Valley Use Area.

- The permittee will be required to meet with the BLM prior to each grazing year in order to determine an annual grazing management plan that will ensure appropriate use throughout the Ellison Ranching Company Use Area. Sheep grazing will be rotated (north/south or south/north) on an annual basis within the Shoshone Mountain Use Area and Harry Canyon Use Area to provide rest to key species during the critical growing period every other year.

After careful consideration of the statement of reasons included in the protests, information received through consultation, cooperation and coordination and other information pertinent to the matters addressed in this decision, my Final Decision is to implement the proposed action described in the attached Carico Lake Allotment Environmental Assessment (NV-062-EA05-61) for the authorization of livestock grazing use on the Carico Lake Allotment (Allotment #10003) for the seven livestock operators with a term of ten years. The management objectives, livestock management, wild horse appropriate management level and monitoring will be used to set the parameters in the development of annual authorized grazing use. Refer to Attachment 1 of the Carico Lake Allotment Environmental Assessment (NV-062-EA-062-EA05-61).

The management actions being implemented in this decision were analyzed in the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61) and BLM has acknowledged a Finding of No Significant Impact (FONSI). The FONSI has determined that the proposed action that is specified in this decision will not have a significant impact on Air quality, Cultural-Paleontological Resources, Invasive, Non Native Species, Migratory Birds, Native American Religious Concerns, Threatened and/or Endangered Animals, Water Quality, Wetlands and Riparian Zones, Forest/Woodlands, Grazing

Management, Minerals, Recreation, Socio-Economic Values, Soils, Special Status Species (plants and animals), Vegetation, Visual Resources, Wild Horses and Burros and Wildlife. These documents are included for your review.

The Final Multiple Use Decision for the Carico Lake Allotment will serve as the decision record for the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61).

The following is the FONSI for EA# - NV-062-EA05-61:

Finding of No Significant Impact and Decision Record
For
Carico Lake Allotment Rangeland Health Assessment
Project Number: NV-062-EA05-61

Carico Lake Allotment Environmental Assessment (EA) (NV-062-EA05-61), dated September 2005 has been reviewed through the interdisciplinary team process. After consideration of the environmental effects described in the EA and supporting documentation, it has been determined that the Proposed Action identified in the EA is not a major Federal action and will not significantly affect the quality of the human environment, individually or cumulatively with other actions in the area. No effects meet the definition of significance in context or intensity as described in 40 CFR 1508.27. Therefore, preparation of an Environmental Impact Statement (EIS) is not required as per Section 102 (2) of the National Environmental Policy Act.

It has been determined that the Proposed Action is in conformance with the approved Shoshone-Eureka Resource Management Plan, and is consistent with the plans and policies of neighboring local, county, state, tribal and federal agencies and governments. This finding and conclusion is based on the consideration of the Council on Environmental Quality's (CEQ) criteria for significance (40 CFR 1508.27), both with regard to the context and the intensity of impacts described in the EA.

Context:

The Carico Lake Allotment lies approximately 25 miles south of Battle Mountain, Nevada in Lander County, within the jurisdictional boundary of the Battle Mountain Field Office of the Bureau of Land Management (BLM). The allotment consists of portions of Reese River Valley, Carico Lake Valley, Grass Valley and Crescent Valley. In addition, portions of the Fish Creek Mountains, Shoshone Mountains and Toiyabe Mountains are within the allotment. The Carico Lake Allotment consists of approximately 563,736 acres of public land and 35,568 acres of private land. The Carico Lake Allotment Rangeland Health Assessment Evaluation was completed to summarize, analyze and interpret monitoring information that has been collected throughout the evaluation period to determine if livestock, wild horses and wildlife use within the Carico Lake Allotment are achieving Shoshone Eureka Resource Area Management Plan Objectives and the Nevada Northeastern Great Basin Resource Advisory Council (RAC) Standards for Rangeland Health.

Intensity:

1. Impacts that may be both beneficial and adverse.

The Environmental Assessment considered both beneficial and adverse impacts of the proposed management actions identified in the Carico Lake Allotment Rangeland Health

Assessment. The elimination of hot season grazing in riparian areas throughout the majority of the allotment, deferred grazing throughout the majority of the upland vegetative communities, proper use levels, management of wild horses at appropriate management levels, reduction in permitted use and the conversion of cattle to sheep in the Shoshone Mountains will be beneficial. Refer to pages 15-28 of the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61).

No measurable impacts will occur to cultural resources, Native American Religious Concerns, lands, recreation, sensitive species, or ecosystem and biodiversity. None of the environmental impacts disclosed above and discussed in detail in the EA are considered significant.

2. The degree to which the proposed action affects public health or safety.

The Proposed Action will not result in potentially substantial or adverse impacts to public health and safety.

3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

The Carico Lake Allotment lies approximately 25 miles south of Battle Mountain, Nevada in Lander County, within the jurisdictional boundary of the Battle Mountain Field Office Bureau of Land Management (BLM). The allotment consists of portions of Reese River Valley, Carico Lake Valley, Grass Valley and Crescent Valley. In addition, portions of the Fish Creek Mountains, Shoshone Mountains and Toiyabe Mountains are within the allotment. There are no park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas in the area of analysis. The EA did not identify any significant impacts to unique species or their habitats that occur on the allotment, or historical or cultural resources.

4. The degree to which the effects on the quality of the human environment are likely to be highly controversial.

Public input was requested during review of the EA and prior to the issuance of a final decision. All comments received were addressed and incorporated as pertinent. The effects of livestock grazing management practices are well known and documented, are not highly controversial, and are employed to meet resource objectives. The proposed action would reduce permitted livestock use, which may have a short term effect on ranching income. However, the expected improvements in rangeland health would provide for the long-term economic viability of the livestock operators and the health of wild horse populations. (EA Chapter IV).

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

There are no known effects of the Proposed Action identified in the EA, which are considered uncertain or involve unique or unknown risks. The effects analysis demonstrates the effects are not uncertain, and do not involve unique or unknown risk (EA Chapters IV & V).

6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

The proposed action will not establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration. Completion of the EA does not establish a precedent for other Rangeland Health Assessments and Decisions. Any future projects within the area or in surrounding areas will be analyzed on their own merits and implemented or not, independent of the actions currently selected.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.

Past and present activities within the Carico Lake Allotment include livestock grazing, mining, hunting, wild horse grazing, wild horse removal operations, invasive weed treatment, firewood cutting, fire suppression activities, development of water sources, construction of electrical transmission lines, construction of communication sites, road construction and recreation.

No significant cumulative impacts have been identified in the EA. Past, present, and reasonably foreseeable future actions on-going in the cumulative impact assessment area would not result in cumulatively significant impacts (EA Chapter V).

8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the NRHP or may cause loss or destruction of significant scientific, cultural, or historical resources.

The action complies with the National Historic Preservation Act. Implementation will have no significant adverse effect on districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places because the large size of the project area relative to the limited number of permitted livestock will ensure that grazing is dispersed (EA Chapter IV). The action will also not cause loss or destruction of significant cultural, or historical resources (EA Chapter IV).

9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the ESA of 1973.

The bald eagle occasionally migrates through the Carico Lake Allotment. Special status species known to be associated with habitat typical of the allotment are the Northern goshawk and Lewis' Woodpecker. The grazing management system and the establishment of Appropriate Management Level (AML) for wild horses will lead to the protection of the riparian and upland resources. This will improve wildlife habitat throughout the allotment. No additional species listed under the ESA of 1973 or BLM Special Status Species are known to occur within the area of analysis; and therefore, the project will not result in impacts to any listed species or their habitat. The action complies with the Endangered Species Act, in that potential effects of this decision on listed species have been analyzed and documented (EA Chapter IV). The action will not adversely affect any endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species act of 1973, as amended.

10. Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

The Proposed Action will not violate or threaten to violate any Federal, State, or local law or requirement imposed for the protection of the environment. Applicable laws and regulations were considered in the EA. Refer to page 2 of the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61).

Douglas W. Furtado
Assistant Field Manager, Renewable Resources
Battle Mountain Field Office

9/30/05
Date

Therefore, after carefully considering the protests that were received and making appropriate revisions to the Proposed Multiple Use Decision, it is my final decision to implement the management actions identified below for livestock, wild horse and wildlife management in the Carico Lake Allotment. These management actions will become effective at the conclusion of the appeal period for this decision.

LIVESTOCK GRAZING MANAGEMENT DECISION

Following the interdisciplinary analysis and evaluation of monitoring data, I have determined that the following management actions are appropriate to ensure significant progress towards the attainment of the Standards for Rangeland Health approved by the Northeastern Great Basin Resource Advisory Council and the Shoshone-Eureka Area (SERA) RMP multiple use objectives and the Carico Lake Allotment monitoring and management objectives. It is my final decision to implement the following livestock management actions for the Carico Lake Allotment.

Cortez Joint Venture

1. **Establish the total active permitted use for Cortez Joint Venture Use Area at 1,741 AUMs.**

Rationale:

Use pattern mapping data was collected in accordance with the Nevada Rangeland Monitoring Handbook in 1988, 1989, 1990, 1991 and 1996. This data was used to analyze the carrying capacity. The carrying capacity was based on weighted average utilization and actual use. Refer to CLARHA Appendix 11. The carrying capacity was identified along with a grazing management plan to ensure that improved livestock distribution will occur in the short-term. The following table illustrates the average actual livestock use compared to the weighted average utilization and the total acres that exceeded the Rangeland Program Summary initial utilization objective 60% by the end of the grazing year for the Carico Lake Allotment.

	1988	1989	1990	1991	1996
61-80% Utilization	132,940 acres	63,418 acres	145,280 acres	177,957 acres	14,453 acres
Average Actual Use (Livestock)	22,031 AUMs	24,097 AUMs	28,520 AUMs	31,441 AUMs	26,342 AUMs

Key management areas CL-35, CL-40 and CL-41 are located within the Cortez Joint Venture Use Area. It was determined in the Conformance Determination that key area CL-40 has experienced a significant downward trend since 1998 as revealed by the frequency study. Trend could not be determined at CL-35 and CL-41 as a result of only having baseline frequency data. Furthermore, it was determined through the analysis of monitoring data that CL-40 and CL-41 were failing to meet Resource Advisory Council (RAC) Standard 3 habitat. Riparian areas within the use area are limited; however, these

areas were failing to meet RAC Standard 2 Riparian and Wetland sites, which is the result of hot season grazing and poor livestock distribution. Livestock were identified as a causal factor for non-attainment of RAC Standard 2 and RAC Standard 3.

A reduction in active permitted use is required since the actual use be livestock accompanied by year-round livestock grazing that has occurred throughout the Cortez Joint Venture Use Area has resulted in the failure to meet the SERA RMP objectives, Standards for Rangeland Health, multiple use objectives, allotment specific objectives and downward trend at the key management areas. This reduction in active permitted use is deemed necessary since existing livestock grazing practices are the causal factor for not meeting the Standards and Guidelines. The existing permitted use level would result in failure to meet Carico Lake Allotment annual monitoring standards, allotment specific objectives and SERA RMP objectives. In addition, this level of use would fail to make significant progress toward the attainment of the Standards for Rangeland Health. The reduction in active permitted use accompanied by the management actions being implemented in this decision will ensure significant progress is made by implementing a stocking level consistent with meeting allowable use levels, improving distribution, providing rest or deferment for key perennial species and incorporating terms and conditions that will prevent excessive use. For detailed analysis of monitoring data regarding these findings refer to the Carico Lake Allotment Rangeland Health Assessment Pages 42-245, Appendix 6, 7, 10 and 11 and the Carico Lake Conformance Determination.

Through the evaluation of monitoring data and the carrying capacity analysis a range of AUMs was provided to the permittee and was dependant upon commitment to management. Carrying capacity was calculated allotment wide as the result of permittees throughout the allotment not submitting actual use reports by use area or pasture. The range of AUMs for Cortez Joint Venture was 1,741 AUMs desired carrying capacity and 2,221 AUMs potential carrying capacity. Although Cortez Joint Venture is not in the livestock business they have agreed to accept the desired carrying capacity of 1,741 AUMs.

The permitted use in addition to the implementation of the management actions will ensure that significant progress will be made towards the attainment of the SERA RMP objectives, Standards for Rangeland Health, multiple use objectives and allotment specific objectives provided that the Grazing Stipulations and the Terms and Conditions identified below are adhered to. Significant progress will be made when Annual Monitoring Standards for the Carico Lake Allotment are achieved. Monitoring data will continue to be collected to ensure that allotment specific objectives are being attained within the Cortez Joint Venture Use Area. Refer to Attachment 1 of the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61).

This management selection will implement Guidelines 1.1, 1.3, 2.1, 2.3, 2.4, 3.1, 3.2, 3.3, 3.6, and 4.1 which have been developed for the Northeastern Great Basin Area of Nevada to establish significant progress toward conformance with the Standards for Rangeland Health for Upland Sites, Riparian and Wetland Sites, and Habitat.

2. Establish the Cortez Joint Venture Use Area within the Carico Lake Allotment. Refer to Attached Map in Appendix A.

The establishment of use areas will provide for the orderly administration of the range and ensure that significant progress towards the attainment of the multiple use objectives, allotment specific objectives and the Standards for Rangeland Health throughout the Cortez Joint Venture Use Area will occur. Use areas will improve livestock actual use information on an annual basis throughout the allotment. The submission of actual use by use area will provide information regarding management of livestock. This will aid in determining if future modifications to livestock management for each permittee in relation to their use areas are needed to attain SERA RMP objectives, multiple use objectives, allotment specific objectives and the Standards for Rangeland Health.

The establishment of use areas will be in conformance with the Northeastern Great Basin RAC Guidelines 1.1, 1.3, 2.1, 2.3, 2.4, 3.1, 3.2, 3.3, 3.6 and 4.1.

Implement the following grazing management system with terms and conditions for the Cortez Joint Venture portion of the Carico Lake Allotment:

PASTURE	SEASON OF USE	KIND OF LIVESTOCK	PERCENT PUBLIC LAND	NUMBER OF LIVESTOCK	AUMS
Cortez Joint Venture Use Area	02/01 – 03/31	Cattle	100%	898	1,741

Terms and Conditions

1. All exclosures on public land including areas that have been fenced off for the purpose of mining or mine reclamation throughout the Cortez Joint Venture portion of the Carico Lake Allotment will be closed to livestock grazing unless grazing use is applied for by permittee and is authorized in writing by the authorized officer.

2. The permittee will be required to meet with the BLM prior to each grazing year in order to determine an annual grazing management plan that will ensure appropriate use throughout the Cortez Joint Venture Use Area.

3. Utilization of "Key Upland Forage Species" will not exceed 40% by the end of the grazing year.

4. Utilization of key riparian-wetland herbaceous species shall be limited to a minimum 4-inch stubble height by July 31st of each year. Utilization of key riparian-wetland herbaceous species shall be limited to a 6-inch stubble height by the end of the growing season, if grazing starts or extends past July 31st.

5. Utilization of riparian woody or browse key species shall be limited to 30% of available stems by the end of the growing season. (For example aspen, elderberry, serviceberry)

6. Riparian bank shearing and trampling shall be limited to 10% (10 feet in 100 feet of bank).

7. Utilization of key shrub browse species shall be no greater than 25% during the critical growth period, and no more than 40% following the end of the growing season.

8. If annual monitoring standards are attained in any use area, the permittee will be required to remove livestock from that area. The permittee will have 5 days upon notification to remove livestock.

9. If further disturbance from mining occurs within the Cortez Joint Venture Use Area active permitted use may be adjusted following site specific analysis.

10. The permittee will be allowed five days flexibility prior to and following the scheduled use dates to move livestock.

11. The season of use in the permittee use area 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. Any use in excess of the total permitted use for the permittee within the Carico Lake Allotment will constitute temporary non-renewable use.

12. 1,272 AUMs of active permitted use was reduced in the 2005 Final Multiple Use Decision. 403 AUMs of active permitted use was reduced due to the fencing project identified in the 2000 South Pipeline EIS.

13. In accordance with 43 CFR 4130.3-3: The authorized officer may modify terms and conditions of the permit or lease when the active use or related management practices are not meeting the land use plan, allotment management plan or other activity plan, or management objectives, or is not in conformance with the provision of subpart 4180 RAC Standards and Guidelines.

Rationale:

Key management areas CL-35, CL-40 and CL-41 are located within the Cortez Joint Venture Use Area. It was determined in the Conformance Determination that key area CL-40 has experienced a significant downward trend since 1998 as revealed by the frequency study. Trend could not be determined at CL-35 and CL-41 as a result of only having baseline frequency data. Furthermore, it was determined through the analysis of monitoring data that CL-40 and CL-41 were failing to meet Resource Advisory Council (RAC) Standard 3 habitat. Riparian areas within the use area are limited; however, these areas were failing to meet RAC Standard 2 Riparian and Wetland sites, which is the result of hot season grazing and poor livestock distribution. Livestock were identified as a causal factor for non-attainment of RAC Standard 2 and RAC Standard 3. A change in grazing management is required due to the level of livestock use being identified as a

causal factor for the failure to meet the SERA RMP objectives, Standards for Rangeland Health, multiple use objectives, allotment specific objectives and downward trend at the key management areas.

The grazing management system will establish the season of use for this use area from February 1st – March 31st. This season of use will be primarily for cheatgrass reduction, which is present throughout the use area. Hot season grazing will be eliminated from riparian areas, which will result in improved riparian habitat. The elimination of hot season grazing will allow for adequate residual cover of riparian herbaceous species, which will limit bank trampling where appropriate and hoof action along stream banks and springs to facilitate the establishment of riparian species. The elimination of hot season grazing within the use area will improve water quality. Refer to Attachment 1 of for a comparison of riparian areas prior to and following the elimination of hot season grazing. Livestock distribution, as revealed by use pattern maps, has been a problem throughout the use area. The season of use, permitted use, terms and conditions and improvements in distribution through herding will ensure that livestock are dispersed properly throughout the use area. In addition, the key perennial grasses that are present will not be grazed during the critical growing period. This will allow for these plants to increase vigor, productivity and seedling establishment. The elimination of grazing during the critical growing period will improve the vegetative community by allowing for sufficient key herbaceous plant seedling and young plant recruitment. The expected improvement in the vegetative community will enhance soil site stability, which will limit the redistribution of and loss of soil resources by wind and water. Hydrologic function will also be enhanced with improvement in the vegetative community. This will allow the site to adequately capture, store and release water from rainfall or snowmelt events. Furthermore, improvement in the plant community will improve the integrity of the biotic community, which will allow for the use area to resist loss of function and structure following disturbance allowing for recovery.

In addition, the grazing management system and the Terms and Conditions will provide for the orderly administration of the range and ensure that significant progress towards the attainment of the multiple use objectives, allotment specific objectives and the Standards for Rangeland Health throughout the Cortez Joint Venture Use Area will occur. Significant progress will be made when Annual Monitoring Standards for the Carico Lake Allotment are achieved. Monitoring data will continue to be collected to ensure that allotment specific objectives are being attained within the Cortez Joint Venture Use Area. Refer to Attachment 1 of the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61). Management actions and objectives conform with the *Management Guidelines for Sage Grouse and Sagebrush Ecosystems In Nevada* (BLM 2000) and to *Guidelines to Manage Sage Grouse Populations and Their Habitats* (Connelly et. al. 2000) also known as the Western Association of Fish and Wildlife Agencies (WAFAWA) *Guidelines for Sage Grouse Management*, until augmented or superseded by the State of Nevada's South Central Nevada Sage Grouse Conservation Plan, which is now under development.

The grazing management system will be in conformance with the Northeastern Great Basin RAC Guidelines including 1.1, 1.3, 2.1, 2.3, 2.4, 3.1, 3.2, 3.3, 3.6, 4.1 Vegetation Guidelines and BLM/WAWFA sage grouse guidelines.

3. Issue a ten year permit for the Cortez Joint Venture Use Area portion of the Carico Lake Allotment with the following terms and conditions.

Grazing use will be in accordance with the Cortez Joint Venture Use Area portion of the Carico Lake Allotment Final Multiple Use Decision dated September 30, 2005.

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.

Actual use information, for each pasture/use area will be submitted to the authorized officer within 15 days of completing grazing use as specified on the grazing permit and/or grazing licenses.

Permittee will be required to maintain all range improvement projects for which maintenance responsibility is assigned in accordance with 43 CFR 4140.

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.

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.

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.

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

The terms and conditions of this permit may be modified if additional information indicates that revision is necessary to conform with 43 CFR 4180.

Rationale:

Issuance of a new ten year permit is based on the analysis of the management actions in the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61) and Finding of No Significant Impact (FONSI), the evaluation of monitoring data and the evaluation of Land Use Plan objectives, Standards for Rangeland Health and multiple use objectives. Refer to Attachment 1 of the Environmental Assessment for the Carico Lake Allotment specific objectives. The terms and conditions for grazing within the Cortez Joint Venture Use Area portion of the Carico Lake Allotment will result in the attainment of multiple use objectives and is consistent with the Northeastern Great Basin RAC standards and conforms with the guidelines. The environmental assessment and Finding of No Significant Impact (FONSI) have been completed and this Final Multiple Use Decision will authorize the issuance of a new ten year grazing permit and terms and conditions. These terms and conditions will ensure compliance with all applicable laws and regulations governing livestock grazing on public lands.

The ten year permit and terms and conditions will be in conformance with the Northeastern Great Basin RAC Guidelines including 1.1, 1.3, 2.1, 2.3, 2.4, 3.1, 3.2, 3.3, 3.6 and 4.1.

C-Ranches

1. **Establish the total active permitted use for C-Ranches Use Area from 13,405 to 9,880 AUMs.**

Rationale:

Use pattern mapping data was collected in accordance with the Nevada Rangeland Monitoring Handbook in 1988, 1989, 1990, 1991 and 1996. This data was used to analyze the carrying capacity. The carrying capacity was based on weighted average utilization and actual use. Refer to CLARHA Appendix 11. The carrying capacity was identified along with a grazing management plan to ensure that improved livestock distribution will occur in the short-term. The following table illustrates the average actual livestock use compared to the weighted average utilization and the total acres that exceeded the Rangeland Program Summary initial utilization objective 60% by the end of the grazing year for the Carico Lake Allotment.

	1988	1989	1990	1991	1996
61-80% Utilization	132,940 acres	63,418 acres	145,280 acres	177,957 acres	14,453 acres
Average Actual Use (Livestock)	22,031 AUMs	24,097 AUMs	28,520 AUMs	31,441 AUMs	26,342 AUMs

Key management areas CL-14, CL-16, CL-17, CL-18, CL-20, CL-21, CL-22, CL-23, CL-27, CL-28, CL-29, CL-31, CL-32, CL-34, CL-36, CL-37 and CL-39 are located within C-Ranches Use Area. It was determined in the Conformance Determination that key management areas CL-14, CL-18, CL-20, CL-21, CL-22, CL-27, CL-28, CL-32, CL-

34 and CL-37 have experienced a downward trend since 1996. Key areas CL-17 and CL-39 have experienced a slightly upward trend since 1996. Trend was not apparent at key areas CL-23, CL-29 and CL-36. Trend was not determined at CL-31 due to only having baseline data available. Furthermore, it was determined through the analysis of monitoring data that all of the key management areas within the C-Ranches Use Area were failing to meet the Resource Advisory Council (RAC) Standard 3 habitat. In addition, the majority of riparian areas within the C-Ranches Use Area were failing to meet RAC Standard 2 Riparian and Wetland Sites, which is the result of hot season grazing and poor livestock distribution. Livestock were identified as a causal factor for non-attainment of RAC Standard 2 and RAC Standard 3.

A reduction in active permitted use is required since the actual use be livestock accompanied by year-round livestock grazing that has occurred throughout the C-Ranches Use Area has resulted in the failure to meet the SERA RMP objectives, Standards for Rangeland Health, multiple use objectives, allotment specific objectives and downward trend at the key management areas. This reduction in active permitted use is deemed necessary since existing livestock grazing practices are the causal factor for not meeting the Standards and Guidelines. The existing permitted use level would result in failure to meet Carico Lake Allotment annual monitoring standards, allotment specific objectives and SERA RMP objectives. In addition, this level of use would fail to make significant progress toward the attainment of the Standards for Rangeland Health. The reduction in active permitted use accompanied by the management actions being implemented in this decision will ensure significant progress is made by implementing a stocking level consistent with meeting allowable use levels, improving distribution, providing rest or deferment for key perennial species and incorporating terms and conditions that will prevent excessive use. For detailed analysis of monitoring data regarding these findings refer to the Carico Lake Allotment Rangeland Health Assessment Pages 42-245, Appendix 6, 7, 10 and 11 and the Carico Lake Conformance Determination.

Through the evaluation of monitoring data and the carrying capacity analysis a range of AUMs was provided to the permittee and was dependant upon commitment to livestock management. Carrying capacity was calculated allotment wide as the result of permittees throughout the allotment not submitting actual use reports by use area or pasture. The range of AUMs for C-Ranches was 7,745 AUMs desired carrying capacity and 9,880 AUMs potential carrying capacity. On July 1st, 2005 BLM and C-Ranches had a meeting to discuss the range of AUMs and C-Ranches commitment to implement intensive livestock management. The outcome of the meeting was that C-Ranches would support the potential carrying capacity provided that BLM commit to funding pasture fences in the future. BLM personnel explained the process to implement a proposed project. This process will include site specific analysis including NEPA, archeological clearances and public input prior to project initiation. The NEPA document will screen the proposals for compliance with all LUP objectives, pertinent laws, regulations, and bureau policies. Range improvement projects would also be subject to district priorities.

The permitted use in addition to the implementation of the management actions will ensure that significant progress will be made towards the attainment of the SERA RMP objectives, Standards for Rangeland Health, multiple use objectives and allotment specific objectives provided that the Grazing Stipulations and the Terms and Conditions identified below are adhered to. Significant progress will be made when Annual Monitoring Standards for the Carico Lake Allotment are achieved. Monitoring data will continue to be collected to ensure that allotment specific objectives are being attained within the C-Ranches Use Area. Refer to Attachment 1 of the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61).

This management selection will implement Guidelines 1.1, 1.3, 2.1, 2.3, 2.4, 3.1, 3.2, 3.3, 3.6, and 4.1 which have been developed for the Northeastern Great Basin Area of Nevada to establish significant progress toward conformance with the Standards for Rangeland Health for Upland Sites, Riparian and Wetland Sites, and Habitat.

2. Establish the following use areas for C-Ranches portion of the Carico Lake Allotment. Refer to Attached Map in Appendix A.

USE AREAS	
Carico Lake Valley	**Toiyabe Flat**
Shoshone Mountain	**Toiyabe Mountain**

The establishment of use areas will provide for the orderly administration of the range and ensure that significant progress towards the attainment of the multiple use objectives, allotment specific objectives and the Standards for Rangeland Health throughout the C-Ranches Use Area will occur. Use areas will improve livestock actual use information on an annual basis throughout the allotment. The submission of actual use by use area will provide information regarding management of livestock. This will aid in determining if future modifications to livestock management for each permittee in relation to their use areas are needed to attain SERA RMP objectives, multiple use objectives, allotment specific objectives and the Standards for Rangeland Health.

The establishment of use areas will be in conformance with the Northeastern Great Basin RAC Guidelines 1.1, 1.3, 2.1, 2.3, 2.4, 3.1, 3.2, 3.3, 3.6 and 4.1.

3. Implement the following grazing management system with terms and conditions for the C-Ranches Use Area within the Carico Lake Allotment.

PASTURE	SEASON OF USE	KIND OF LIVESTOCK	PERCENT PUBLIC LAND	TOTAL AUMS
Toiyabe Mountain Use Area	04/01-06/30	Cattle	100%	9,880
Toiyabe Flat Use Area	07/01-11/15	Cattle	100%	
Shoshone Mountain Use Area	04/01-06/30	Cattle	100%	
Carico Lake Valley Use Area	07/01-11/15	Cattle	100%	
Carico Lake Valley Use Area*	11/16-03/31	Cattle	100%	

*Livestock would be allowed to graze flat around private meadows and drift in and out of private land from 11/16-01/31.

Terms and Conditions

1. All exclosures on public land including areas that have been fenced off for the purpose of mining or mine reclamation throughout the C-Ranches and Cortez Joint Venture portion of the Carico Lake Allotment will be closed to livestock grazing unless grazing use is applied for by permittee and is authorized in writing by the authorized officer.

2. The permittee will be required to meet with the BLM prior to each grazing year in order to determine an annual grazing management plan that will ensure appropriate use throughout the C-Ranches Use Area.

3. Livestock use within the Cortez Use Area will be applied for each year and authorization will be at the discretion of the authorized officer. If livestock grazing is approved by the authorized officer in the Cortez Joint Venture Use Area, the total annual livestock use by C-Ranches would not exceed their total active permitted use of 9,880 AUMs.

4. Livestock will be allowed to graze flat around private meadows and drift in and out of private land from 11/16-01/31 within the Carico Lake Valley Use Area.

5. Utilization of "Key Upland Forage Species" will not exceed 40% by the end of the grazing year.

6. Utilization of key riparian-wetland herbaceous species shall be limited to a minimum 4-inch stubble height by July 31st of each year. Utilization of key riparian-wetland herbaceous species shall be limited to a 6-inch stubble height by the end of the growing season, if grazing starts or extends past July 31st.

7. Utilization of riparian woody or browse key species shall be limited to 30% of available stems by the end of the growing season. (For example aspen, elderberry, serviceberry)

8. Riparian bank shearing and trampling shall be limited to 10% (10 feet in 100 feet of bank).

9. Utilization of key shrub browse species shall be no greater than 25% during the critical growth period, and no more than 40% following the end of the growing season.

10. If annual monitoring standards are attained in any use area, the permittee will be required to remove livestock from that area. The permittee will have five days upon notification to remove livestock.

11. The permittee will be allowed five days flexibility prior to and following the scheduled use dates to move livestock.

12. The season of use in the permittee use area 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. Any use in excess of the total permitted use for the permittee within the Carico Lake Allotment will constitute temporary non-renewable use.

13. 3,525 AUMs of active permitted use was reduced in the 2005 Final Multiple Use Decision.

14. In accordance with 43 CFR 4130.3-3: The authorized officer may modify terms and conditions of the permit or lease when the active use or related management practices are not meeting the land use plan, allotment management plan or other activity plan, or management objectives, or is not in conformance with the provision of subpart 4180 RAC Standards and Guidelines.

Rationale:

It was determined in the Conformance Determination that key management areas CL-14, CL-16, CL-17, CL-18, CL-20, CL-21, CL-22, CL-23, CL-27, CL-28, CL-29, CL-31, CL-32, CL-34, CL-36, CL-37 and CL-39 are located within C-Ranches Use Area. Key management areas CL-14, CL-18, CL-20, CL-21, CL-22, CL-27, CL-28, CL-32, CL-34 and CL-37 have experienced a downward trend since 1996. Key areas CL-17 and CL-39 have experienced a slightly upward trend since 1996. Trend was not apparent at key areas CL-23, CL-29 and CL-36. Trend was not determined at CL-31 due to only having baseline data available. Furthermore, it was determined through the analysis of monitoring data that all of the key management areas within the C-Ranches Use Area were failing to meet the Resource Advisory Council (RAC) Standard 3 habitat. In addition, the majority of riparian areas within the C-Ranches Use Area were failing to meet RAC Standard 2 Riparian and Wetland Sites, which is the result of hot season grazing and poor livestock distribution. Livestock were identified as a causal factor for non-attainment of RAC Standard 2 and RAC Standard 3. A change in grazing management is required due to the level of livestock use being identified as a causal factor for the failure to meet the SERA RMP objectives, Standards for Rangeland Health, multiple use objectives, allotment specific objectives and downward trend at the key management areas.

The grazing management system will establish a season of use from March 1st - February 28th within the Cortez Joint Venture Use Area. This season of use will be primarily for cheatgrass reduction, which is present throughout the use area. In addition, the key perennial grasses that are present will not be grazed during the critical growing period. This will allow for these plants to increase vigor, productivity and seedling establishment. The elimination of grazing during the critical growing period will improve the vegetative community by allowing for sufficient key herbaceous plant seedling and young plant recruitment. Livestock use within the Cortez Joint Venture Use Area will have to be applied for each year and authorization will be at the discretion of the authorized officer. If livestock grazing is approved by the authorized officer in the Cortez Joint Venture Use

Area, the total annual livestock use by C-Ranches would not exceed their active permitted use of 9,880 AUMs.

The grazing management system will establish a season of use from April 1st – June 30th in the Toiyabe Mountain Use Area and Shoshone Mountain Use Area. The season of use will eliminate hot season grazing within these use areas where the majority of riparian habitat exists within the C-Ranches Use Area. The elimination of hot season grazing will allow for the recovery of riparian areas throughout these use areas. The elimination of hot season grazing will allow for adequate residual cover of riparian herbaceous species, which will limit bank trampling where appropriate and hoof action along stream banks and springs to facilitate the establishment of riparian species. Furthermore, the elimination of hot season grazing accompanied by the new Terms and Conditions within the use areas will improve water quality by improving the vigor and production of riparian species, which will lead to greater vegetative cover on stream banks and floodplains. Water quality is expected to improve in the short-term, since year-round grazing impacts will be eliminated. This will allow riparian zones to increase capture of sediments and will decrease pollutants such as fecal colliform and turbidity, since livestock use along riparian zones will be significantly less or eliminated. These factors will ensure that significant progress is being made towards the attainment of Proper Functioning Condition (PFC). Refer to Attachment 1 for a comparison of riparian areas prior to and following the elimination of hot season grazing. Although livestock grazing will occur during the critical growing period for upland herbaceous species, proper use levels have been identified for the season of use.

The grazing management system will establish the season of use from July 1st – November 15th in the Toiyabe Flat Use Area and the Carico Lake Valley Use Area. Riparian areas are limited in these two use areas; however, where there is hot season grazing, the construction of riparian exclosures will be considered. The majority of livestock will be in private meadows from November 16th – January 31st. Livestock will be allowed to graze flats around private meadows and drift in and out of private land from November 16th – January 31st in the Carico Lake Valley Use Area. Grazing within the Toiyabe Flat Use Area and the Carico Lake Valley Use Area will be after completion of the critical growing period. The elimination of grazing during the critical growing period will improve the vegetative community by allowing for sufficient key herbaceous plant seedling and young plant recruitment. This will allow for improvement in the plant communities by enhancing key perennial species productivity, which will in turn provide plants an opportunity to produce seed and increase in the vegetative communities. The expected improvement in the vegetative community will enhance soil site stability, which will limit the redistribution of and loss of soil resources by wind and water. Hydrologic function will also be enhanced with improvement in the vegetative community. This will allow the site to adequately capture, store and release water from rainfall or snowmelt events. Furthermore, improvement in the plant community will improve the integrity of the biotic community, which will permit the use area to resist loss of function and structure following disturbance allowing for recovery. Livestock distribution, as revealed by use pattern maps, has been a problem throughout the use area. The season of use,

permitted use, terms and conditions and improvements in distribution through herding will ensure that livestock are dispersed properly throughout the use area.

In addition, the grazing management system and the Terms and Conditions will provide for the orderly administration of the range and ensure that significant progress towards the attainment of the multiple use objectives, allotment specific objectives and the Standards for Rangeland Health throughout the C-Ranches Use Area will occur. Significant progress will be made when Annual Monitoring Standards for the Carico Lake Allotment are achieved. Monitoring data will continue to be collected to ensure that allotment specific objectives are being attained within the C-Ranches Use Area. Refer to Attachment 1 of the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61). Management actions and objectives conform with the *Management Guidelines for Sage Grouse and Sagebrush Ecosystems In Nevada* (BLM 2000) and to *Guidelines to Manage Sage Grouse Populations and Their Habitats* (Connelly et. al. 2000) also known as the Western Association of Fish and Wildlife Agencies (WAFAWA) *Guidelines for Sage Grouse Management*, until augmented or superseded by the State of Nevada's South Central Nevada Sage Grouse Conservation Plan, which is now under development.

On July 1st and 8th, 2005, BLM met with C-Ranches to discuss a grazing management system. C-Ranches was in support of the grazing management system identified in this document.

The grazing management system will be in conformance with the Northeastern Great Basin RAC Guidelines including 1.1, 1.3, 2.1, 2.3, 2.4, 3.1, 3.2, 3.3, 3.6, 4.1 Vegetation Guidelines and BLM/WAWFA sage grouse guidelines.

4. Issue a ten year permit for the C-Ranches Use Area portion of the Carico Lake Allotment with the following terms and conditions:

Grazing use will be in accordance with the C-Ranches Use Area portion of the Carico Lake Allotment Final Multiple Use Decision dated September 30, 2005.

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.

Actual use information, for each pasture/use area will be submitted to the authorized officer within 15 days of completing grazing use as specified on the grazing permit and/or grazing licenses.

Permittee will be required to maintain all range improvement projects for which maintenance responsibility is assigned in accordance with 43 CFR 4140.

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.

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.

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.

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. The terms and conditions of this permit may be modified if additional information indicates that revision is necessary to conform with 43 CFR 4180.

Rationale:

Issuance of a new ten year permit is based on the analysis of the management actions in the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61) and Finding of No Significant Impact (FONSI), the evaluation of monitoring data and the evaluation of Land Use Plan objectives, Standards for Rangeland Health and multiple use objectives. Refer to Attachment 1 of the Environmental Assessment for the Carico Lake Allotment specific objectives. The terms and conditions for grazing within the C-Ranches Use Area portion of the Carico Lake Allotment will result in the attainment of multiple use objectives and is consistent with the Northeastern Great Basin RAC standards and conforms with the guidelines. The environmental assessment and Finding of No Significant Impact (FONSI) have been completed and this Final Multiple Use Decision will authorize the issuance of a new ten year grazing permit and terms and conditions. These terms and conditions will ensure compliance with all applicable laws and regulations governing livestock grazing on public lands.

The ten year permit and terms and conditions will be in conformance with the Northeastern Great Basin RAC Guidelines including 1.1, 1.3, 2.1, 2.3, 2.4, 3.1, 3.2, 3.3, 3.6 and 4.1.

5. **Develop a Formal Agreement with C-Ranches that will identify a multiyear schedule for the repair of existing Range Improvement Projects. Work will begin in 2006 to repair critical water development projects needed to facilitate the implementation of the C-Ranches grazing system.**

Rationale:

Range improvements throughout C-Ranches Use Area are in disrepair. Ensuring proper maintenance will aid in the attainment of allotment specific objectives.

Doby George LLC.

1. **Establish the total active permitted use for Doby George LLC. Use Area at 295 AUMs.**

Rationale:

Use pattern mapping data was collected in accordance with the Nevada Rangeland Monitoring Handbook in 1988, 1989, 1990, 1991 and 1996. This data was used to analyze the carrying capacity. The carrying capacity was based on weighted average utilization and actual use. Refer to CLARHA Appendix 11. The carrying capacity was identified along with a grazing management plan to ensure that improved livestock distribution will occur in the short-term. The following table illustrates the average actual livestock use compared to the weighted average utilization and the total acres that exceeded the Rangeland Program Summary initial utilization objective 60% by the end of the grazing year for the Carico Lake Allotment.

	1988	1989	1990	1991	1996
61-80% Utilization	132,940 acres	63,418 acres	145,280 acres	177,957 acres	14,453 acres
Average Actual Use (Livestock)	22,031 AUMs	24,097 AUMs	28,520 AUMs	31,441 AUMs	26,342 AUMs

Key management areas CL-24, CL-25 and CL-37 are located within the Doby George LLC. Use Area. It was determined in the Conformance Determination that a downward trend has occurred since 1996 at key areas CL-24 and CL-37. A downward trend occurred since 1998 at key area CL-25. Furthermore, it was determined through the analysis of monitoring data that CL-24, CL-25 and CL-37 were failing to meet Resource Advisory Council Standard 3 habitat. Riparian areas within the use were also failing to meet RAC Standard 2 Riparian and Wetland Sites, which is the result of hot season grazing and poor livestock distribution. Livestock were identified as a causal factor for the non-attainment of RAC Standard 2 and RAC Standard 3.

A reduction in active permitted use is required since the actual use be livestock accompanied by year-round livestock grazing that has occurred throughout the Doby George LLC. Use Area has resulted in the failure to meet the SERA RMP objectives, Standards for Rangeland Health, multiple use objectives, allotment specific objectives

and downward trend at the key management areas. This reduction in active permitted use is deemed necessary since existing livestock grazing practices are the causal factor for not meeting the Standards and Guidelines. The existing permitted use level would result in failure to meet Carico Lake Allotment annual monitoring standards, allotment specific objectives and SERA RMP objectives. In addition, this level of use would fail to make significant progress toward the attainment of the Standards for Rangeland Health. The reduction in active permitted use accompanied by the management actions being implemented in this decision will ensure significant progress is made by implementing a stocking level consistent with meeting allowable use levels, improving distribution, providing rest or deferment for key perennial species and incorporating terms and conditions that will prevent excessive use. For detailed analysis of monitoring data regarding these findings refer to the Carico Lake Allotment Rangeland Health Assessment Pages 42-245, Appendix 6, 7, 10 and 11 and the Carico Lake Conformance Determination.

Through the evaluation of monitoring data and the carrying capacity analysis a range of AUMs was provided to the permittee and was dependant upon commitment to management. Carrying capacity was calculated allotment wide as the result of permittees throughout the allotment not submitting actual use reports by use area or pasture. The range of AUMs for Doby George LLC. was 231 AUMs desired carrying capacity and 295 AUMs potential carrying capacity. The potential carrying capacity of 295 was specified for Doby George LLC based on their commitment to implement intensive livestock management.

The permitted use in addition to the implementation of the management actions will ensure that significant progress will be made towards the attainment of the SERA RMP objectives, Standards for Rangeland Health and allotment specific objectives provided that the Grazing Stipulations and the Terms and Conditions identified below are adhered to. Significant progress will be made when Annual Monitoring Standards for the Carico Lake Allotment are achieved. Monitoring data will continue to be collected to ensure that allotment specific objectives are being attained within the Doby George LLC. Use Area. Refer to Attachment 1 of the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61).

This management selection will implement Guidelines 1.1, 1.3, 2.1, 2.3, 2.4, 3.1, 3.2, 3.3, 3.6, and 4.1 which have been developed for the Northeastern Great Basin Area of Nevada to establish significant progress toward conformance with the Standards for Rangeland Health for Upland Sites, Riparian and Wetland Sites, and Habitat.

2. Establish the Doby George LLC. Use Area within the Carico Lake Allotment. A portion of the Shoshone Mountains is within the Doby George LLC. Use Area. Refer to Attached Map in Appendix A.

The establishment of use areas will provide for the orderly administration of the range and ensure that significant progress towards the attainment of the multiple use objectives, allotment specific objectives and the Standards for Rangeland Health throughout the

Doby George LLC. Use Area will occur. Use areas will improve livestock actual use information on an annual basis throughout the allotment. The submission of actual use by use area will provide information regarding management of livestock. This will aid in determining if future modifications to livestock management for each permittee in relation to their use areas are needed to attain SERA RMP objectives, multiple use objectives, allotment specific objectives and the Standards for Rangeland Health.

The establishment of use areas will be in conformance with the Northeastern Great Basin RAC Guidelines 1.1, 1.3, 2.1, 2.3, 2.4, 3.1, 3.2, 3.3, 3.6 and 4.1.

3. Implement the following grazing management system and terms and conditions for the Doby George LLC. Use Area.

PASTURE	SEASON OF USE	KIND OF LIVESTOCK	PERCENT PUBLIC LAND	NUMBER OF LIVESTOCK	AUMS
Doby George LLC., Use Area	04/01 – 06/30	Sheep	100%	493	295

Terms and Conditions

1. All exclosures including areas that have been fenced off for the purpose of mining or mine reclamation throughout the Doby George LLC., Use Area will be closed to livestock grazing unless grazing use is applied for by Doby George LLC., and is authorized in writing by the authorized officer.

2. Sheep camps will be moved every five days. No two (2) sheep camps will camp in the same area in a grazing season.

3. New bed grounds will be used every night. Sheep bedding grounds will be a minimum of one quarter (1/4) mile from permanent water, aspen stands and previous bed grounds.

4. Utilization of "Key Upland Forage Species" will not exceed 40% by the end of the grazing year.

5. Utilization of key riparian-wetland herbaceous species shall be limited to a minimum 4-inch stubble height by July 31st of each year. Utilization of key riparian-wetland herbaceous species shall be limited to a 6-inch stubble height by the end of the growing season, if grazing starts or extends past July 31st.

6. Utilization of riparian woody or browse key species shall be limited to 30% by the end of the growing season. (For example aspen, elderberry, serviceberry)

7. Riparian bank shearing and trampling shall be limited to 10% (10 feet in 100 feet of bank).

8. Utilization of key shrub browse species shall be no greater than 25% during the critical growth period, and no more than 40% following the end of the growing season.

9. The permittee will be required to herd sheep throughout their established use area to utilize areas that have received slight and/or light use. If it is determined that annual monitoring standards are attained in an area, the permittee will be required to remove livestock (sheep) from that area immediately upon notification to other portions of the use area that have not been grazed.

10. The permittee will be allowed five days flexibility prior to and following the scheduled use dates to move livestock.

11. The permittee will be required to meet with the BLM prior to each grazing year in order to determine an annual grazing management plan that will ensure appropriate use throughout the Doby George Use Area.

12. The season of use in Doby George LLC., Use Area 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 allotment specific objectives and Standards for Rangeland Health. Any use in excess of the total permitted use for the Doby George LLC., Use Area within the Carico Lake Allotment will constitute temporary non-renewable use.

13. 105 AUMs of active permitted use was reduced in the 2005 Final Multiple Use Decision.

14. In accordance with 43 CFR 4130.3-3: The authorized officer may modify terms and conditions of the permit or lease when the active use or related management practices are not meeting the land use plan, allotment management plan or other activity plan, or management objectives, or is not in conformance with the provision of subpart 4180 RAC Standards and Guidelines.

Rationale:

Key management areas CL-24, CL-25 and CL-37 are located within the Doby George LLC. Use Area. It was determined in the Conformance Determination that a downward trend has occurred since 1996 at key areas CL-24 and CL-37. A downward trend occurred since 1998 at key area CL-25. Furthermore, it was determined through the analysis of monitoring data that CL-24, CL-25 and CL-37 were failing to meet Resource Advisory Council Standard 3 habitat. Riparian areas within the use were also failing to meet RAC Standard 2 Riparian and Wetland Sites, which is the result of hot season grazing and poor livestock distribution. Livestock were identified as a causal factor for the non-attainment of RAC Standard 2 and RAC Standard 3. A change in grazing management is required due to the level of livestock use being identified as a causal factor for the failure to meet the SERA RMP objectives, Standards for Rangeland Health,

multiple use objectives, allotment specific objectives and downward trend at the key management areas.

The grazing management system will establish a season of use from April 1st – June 30th within the Doby George LLC., Use Area. The grazing management system will allow existing upland plants to increase vigor, productivity, cover and seedling establishment. Due to the nature of sheep grazing and herding, it is expected that a certain percentage of the Doby George LLC., Use Area will be deferred annually. Although livestock grazing will occur during the critical growing period for upland herbaceous species, proper use levels have been identified. This will limit use on native upland rangeland during the critical growing period, allow forage plants to gain in vigor, and produce seed. Proper vegetative management maintains or improves the plant community for protection of soil and water resources. Sufficient seedling and young plant recruitment is needed to maintain and increase herbaceous species in the plant community. Healthy plant communities must be able to complete their life cycle by preventing damage during the critical growth period. Critical growth period in a plant growth cycle occurs when food reserves are the lowest and grazing is the most harmful. The Doby George LLC. portion of the Shoshone Mountain Use Area is more suitable to sheep grazing due to topography, distance from water, composition of vegetation, riparian and aspen values. Sheep prefer to graze and bed on upland areas away from riparian areas, which will ensure that critical riparian, water quality and watershed issues are addressed within the Doby George LLC. portion of the Shoshone Mountain Use Area. Sheep will not concentrate on riparian areas due to herding and existing water developments throughout the use area. Sheep use would be limited to one pass by the herd through any one area per year. This would include the use of natural water sources. Sheep would be watered at springs or streams along the route taken by the herd. After watering, sheep would not remain on site to graze meadows or other riparian vegetation. Sheep would not concentrate on riparian areas due to herding and existing water developments throughout the allotment. The elimination of hot season grazing will allow for adequate residual cover of riparian herbaceous species, which will limit bank trampling where appropriate and hoof action along stream banks and springs to facilitate the establishment of riparian species. Furthermore, the elimination of hot season grazing accompanied by the new Terms and Conditions within the use areas will improve water quality by improving the vigor and production of riparian species, which will lead to greater vegetative cover on stream banks and floodplains. Water quality is expected to improve in the short-term, since year-round grazing impacts will be eliminated. This will allow riparian zones to increase capture of sediments and will decrease pollutants such as fecal colliform and turbidity, since livestock use along riparian zones will be significantly less or eliminated. These factors will ensure that significant progress is being made towards the attainment of Proper Functioning Condition (PFC). Refer to Attachment 1 for a comparison of riparian areas prior to and following the elimination of hot season grazing. Livestock distribution, as revealed by use pattern maps, has been a problem throughout the use area. The season of use, permitted use, terms and conditions and improvements in distribution through herding will ensure that livestock are dispersed properly throughout the use area. The biodiversity of upland vegetative communities will be improved due to the intensive nature of sheep herding. Herding will ensure that better livestock distribution occurs

within the use areas. Sheep are herded more effectively than cattle and utilize areas that will not normally be grazed by cattle.

The expected improvement in the vegetative community will enhance soil site stability, limiting the redistribution of and loss of soil resources by wind and water. Hydrologic function will also be enhanced with improvement in the vegetative community. This will allow the site to adequately capture, store and release water from rainfall or snowmelt events. Furthermore, improvement in the plant community will improve the integrity of the biotic community, which will allow the use area to resist loss of function and structure following disturbance allowing for recovery.

In addition, the grazing management system and the Terms and Conditions will provide for the orderly administration of the range and ensure that significant progress towards the attainment of the multiple use objectives, allotment specific objectives and the Standards for Rangeland Health throughout the Doby George LLC. Use Area will occur. Significant progress will be made when Annual Monitoring Standards for the Carico Lake Allotment are achieved. Monitoring data will continue to be collected to ensure that allotment specific objectives are being attained within the Doby George LLC. Use Area. Refer to Attachment 1 of the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61). Management actions and objectives conform with the *Management Guidelines for Sage Grouse and Sagebrush Ecosystems In Nevada* (BLM 2000) and to *Guidelines to Manage Sage Grouse Populations and Their Habitats* (Connelly et. al. 2000) also known as the Western Association of Fish and Wildlife Agencies (WAFAWA) *Guidelines for Sage Grouse Management*, until augmented or superseded by the State of Nevada's South Central Nevada Sage Grouse Conservation Plan, which is now under development.

The grazing management system will be in conformance with the Northeastern Great Basin RAC Guidelines including 1.1, 1.3, 2.1, 2.3, 2.4, 3.1, 3.2, 3.3, 3.6, 4.1 Vegetation Guidelines and BLM/WAWFA sage grouse guidelines.

4. Issue a ten year permit for the Doby George LLC., portion of the Carico Lake Allotment with the following terms and conditions:

Grazing use will be in accordance with the Doby George LLC., portion of the Carico Lake Allotment Final Multiple Use Decision dated September 30, 2005.

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.

Actual use information, for each pasture/use area will be submitted to the authorized officer within 15 days of completing grazing use as specified on the grazing permit and/or grazing licenses.

Permittee will be required to maintain all range improvement projects for which maintenance responsibility is assigned in accordance with 43 CFR 4140.
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.

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.

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.

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

The terms and conditions of this permit may be modified if additional information indicates that revision is necessary to conform with 43 CFR 4180.

Rationale:

Issuance of a new ten year permit is based on the analysis of the management actions in the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61) and Finding of No Significant Impact (FONSI), the evaluation of monitoring data and the evaluation of Land Use Plan objectives, Standards for Rangeland Health and allotment specific objectives. Refer to Attachment 1 of the Environmental Assessment for the Carico Lake Allotment specific objectives. The terms and conditions for grazing within the Doby George LLC. Use Area portion of the Carico Lake Allotment will result in the attainment of allotment specific objectives and is consistent with the Northeastern Great Basin RAC standards and conforms with the guidelines. At the completion of the environmental assessment and Finding of No Significant Impact (FONSI) and this Final Multiple Use Decision will authorize the issuance of a new ten year grazing permit and terms and conditions. These terms and conditions will ensure compliance with all applicable laws and regulations governing livestock grazing on public lands.

The ten year permit and terms and conditions will be in conformance with the Northeastern Great Basin RAC Guidelines including 1.1, 1.3, 2.1, 2.3, 2.4, 3.1, 3.2, 3.3, 3.6 and 4.1.

Ellison Ranching Company

On July 11, 2005 a partial transfer occurred between Filippini Ranching Company and Ellison Ranching Company. Filippini Ranching Company transferred 11,299 AUMs of their total grazing preference of 12,077 AUMs to Ellison Ranching Company. In addition, 199 AUMs of suspended use was attached to the transfer to Ellison Ranching Company.

1. **Implement the agreement between BLM and Ellison Ranching Company to establish the total active permitted use for the recently acquired Ellison Ranching Company grazing permit at 8,902 AUMs.**

2. **Establish the total active permitted use for the Ellison Ranching Company historical grazing permit at 1,561 AUMs.**

3. **The total active permitted use for the Ellison Ranching Company historical grazing permit and the recently acquired grazing permit will be 10,463 AUMs.**

Rationale:

Use pattern mapping data was collected in accordance with the Nevada Rangeland Monitoring Handbook in 1988, 1989, 1990, 1991 and 1996. This data was used to analyze the carrying capacity. The carrying capacity was based on weighted average utilization and actual use. Refer to CLARHA Appendix 11. The carrying capacity was identified along with a grazing management plan to ensure that improved livestock distribution will occur in the short-term. The following table illustrates the average actual livestock use compared to the weighted average utilization and the total acres that exceeded the Rangeland Program Summary initial utilization objective 60% by the end of the grazing year for the Carico Lake Allotment.

	1988	1989	1990	1991	1996
61-80% Utilization	132,940 acres	63,418 acres	145,280 acres	177,957 acres	14,453 acres
Average Actual Use (Livestock)	22,031 AUMs	24,097 AUMs	28,520 AUMs	31,441 AUMs	26,342 AUMs

Key management areas including CL-5, CL-6, CL-7, CL-8, CL-11, CL-13, CL-24, CL-25, CL-30, CL-33 and CL-38 are located within the Ellison Ranching Company historical use area and newly acquired use areas from Filippini Ranching Company. It was determined in the Conformance Determination that a downward trend has occurred at key areas CL-13, CL-24, and CL-30 since 1996. Key area CL-25 experienced a downward trend since 1998. An upward trend was experienced at key areas CL-11 and Cl-33 since 1996. Trend was static at CL-38. Trend was not determined at key areas CL-5, CL-6,

CL-7 and CL-8 due to only having baseline frequency data available. In addition, it was determined through the analysis of monitoring data that CL-6, CL-7, CL-8, CL-11, CL-13, CL-24, CL-25, CL-30, CL-33 and CL-38 were failing to meet Resource Advisory Council (RAC) Standard 3. The majority of these key areas are within Ellison Ranching Company's newly acquired use areas. Riparian areas throughout the newly acquired Ellison Ranching Company Use Area from Filippini Ranching Company were failing to meet RAC Standard 2 Riparian and Wetland Sites, which is the result of hot season grazing and poor livestock distribution. Livestock were identified as a causal factor for non-attainment of RAC Standard 2 and RAC Standard 3.

A reduction in active permitted use is required since the actual use be livestock accompanied by year-round livestock grazing that has occurred throughout the newly acquired and historical Ellison Ranching Company Use Area has resulted in the failure to meet the SERA RMP objectives, Standards for Rangeland Health, multiple use objectives, allotment specific objectives and downward trend at the key management areas. This reduction in active permitted use is deemed necessary since existing livestock grazing practices are the causal factor for not meeting the Standards and Guidelines. The existing permitted use level would result in failure to meet Carico Lake Allotment annual monitoring standards, allotment specific objectives and SERA RMP objectives. In addition, this level of use would fail to make significant progress toward the attainment of the Standards for Rangeland Health. The reduction in active permitted use accompanied by the management actions being implemented in this decision will ensure significant progress is made by implementing a stocking level consistent with meeting allowable use levels, improving distribution, providing rest or deferment for key perennial species and incorporating terms and conditions that will prevent excessive use. For detailed analysis of monitoring data regarding these findings refer to the Carico Lake Allotment Rangeland Health Assessment Pages 42-245, Appendix 6, 7, 10 and 11 and the Carico Lake Conformance Determination.

Through the evaluation of monitoring data and the carrying capacity analysis a range of AUMs was provided to the permittee and was dependant upon commitment to management. Carrying capacity was calculated allotment wide as the result of permittees throughout the allotment not submitting actual use reports by use area or pasture. The range of AUMs for Ellison Ranching Company was 8,202 AUMs desired carrying capacity and 10,463 AUMs potential carrying capacity. The potential carrying capacity of 10,463 AUMs was specified for Ellison Ranching Company based on their commitment to implement intensive livestock management.

In addition, the carrying capacity was identified along with a grazing management plan to ensure that uniform distribution will be possible in the short-term. The carrying capacity was implemented for this use area due to herding and the potential for sheep to use areas that were inaccessible to cattle due to slope and distance from water. Additionally, cattle grazing will be isolated to established pastures that have been burned by wildfire and rehabilitated. The majority of grazing within these pastures by cattle will be after the completion of the critical growing period in the fall and winter when herbaceous species are in dormancy. It has been determined that the carrying capacity for livestock grazing

within the Ellison Ranching Company Use Area of the Carico Lake Allotment will attain allotment specific objectives.

The permitted use in addition to the implementation of the management actions will ensure that significant progress will be made towards the attainment of the SERA RMP objectives, Standards for Rangeland Health and allotment specific objectives provided that the Grazing Stipulations and the Terms and Conditions identified below are adhered to. Significant progress will be made when Annual Monitoring Standards for the Carico Lake Allotment are achieved. Monitoring data will continue to be collected to ensure that allotment specific objectives are being attained within the Ellison Ranching Company Use Area. Refer to Attachment 1 of the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61).

This management selection will implement Guidelines 1.1, 1.3, 2.1, 2.3, 2.4, 3.1, 3.2, 3.3, 3.6, and 4.1 which have been developed for the Northeastern Great Basin Area of Nevada to establish significant progress toward conformance with the Standards for Rangeland Health for Upland Sites, Riparian and Wetland Sites, and Habitat.

4. **Establish the following use areas within the Ellison Ranching Company portion of the Carico Lake Allotment. Refer to Attached Map in Appendix A.**

USE AREAS	
Antelope Pasture	Harry Canyon Use Area
Cedars Pasture	Moss Fire Use Area
Cedars North Pasture	Shoshone Mountain Use Area
Cedars South Pasture	Wood Canyon Use Area
Fish Creek Mountains Use Area	

The establishment of use areas will provide for the orderly administration of the range and ensure that significant progress towards the attainment of the multiple use objectives, allotment specific objectives and the Standards for Rangeland Health throughout the Ellison Ranching Company Use Area will occur. Use areas will improve livestock actual use information on an annual basis throughout the allotment. The submission of actual use by use area will provide information regarding management of livestock. This will aid in determining if future modifications to livestock management for each permittee in relation to their use areas are needed to attain SERA RMP objectives, multiple use objectives, allotment specific objectives and the Standards for Rangeland Health.

The establishment of use areas will be in conformance with the Northeastern Great Basin RAC Guidelines 1.1, 1.3, 2.1, 2.3, 2.4, 3.1, 3.2, 3.3, 3.6 and 4.1.

5. **Implement the agreement between BLM and Ellison Ranching Company to convert 6,403 AUMs of active use from cattle to sheep use in the Shoshone Mountain Use Area, Harry Canyon Use Area and the Moss Fire Use Area. Upon the conversion of AUMs, identify the appropriate terms and conditions for authorizing sheep in the Shoshone Mountain Use Area, Harry Canyon Use Area and the Moss Fire Use Area. 2,499 AUMs will remain available for cattle. Identify the appropriate terms and conditions for authorizing cattle in the Antelope Pasture, Cedars Pasture, Moss Fire Use Area, Wood Canyon Pasture, Cedars North Pasture and Cedars South Pasture.**

Rationale:

Key management areas including CL-5, CL-6, CL-7, CL-8, CL-11, CL-13, CL-24, CL-25, CL-30, CL-33 and CL-38 are located within the Ellison Ranching Company historical use area and newly acquired use areas from Filippini Ranching Company. It was determined in the Conformance Determination that a downward trend has occurred at key areas CL-13, CL-24, and CL-30 since 1996. Key area CL-25 experienced a downward trend since 1998. An upward trend was experienced at key areas CL-11 and Cl-33 since 1996. Trend was static at CL-38. Trend was not determined at key areas CL-5, CL-6, CL-7 and CL-8 due to only having baseline frequency data available. In addition, it was determined through the analysis of monitoring data that CL-6, CL-7, CL-8, CL-11, CL-13, CL-24, CL-25, CL-30, CL-33 and CL-38 were failing to meet Resource Advisory Council (RAC) Standard 3. The majority of these key areas are within Ellison Ranching Company's newly acquired use areas. Riparian areas throughout the newly acquired Ellison Ranching Company Use Area from Filippini Ranching Company were failing to meet RAC Standard 2 Riparian and Wetland Sites, which is the result of hot season grazing and poor livestock distribution. Livestock were identified as a causal factor for non-attainment of RAC Standard 2 and RAC Standard 3. A change in grazing management is required due to the level of livestock use being identified as a causal factor for the failure to meet the SERA RMP objectives, Standards for Rangeland Health, multiple use objectives, allotment specific objectives and downward trend at the key management areas.

The conversion of cattle AUMs to sheep AUMs will eliminate cattle grazing within the Shoshone Mountain Use Area and Harry Canyon Use Area. The evaluation of monitoring data has revealed that upland, riparian and water quality issues are prevalent throughout these two use areas. Hot season livestock grazing will be eliminated within the use areas, which will improve sensitive riparian and aspen habitat. The elimination of hot season grazing will allow for adequate residual cover of riparian herbaceous species, which will limit bank trampling where appropriate and hoof action along stream banks and springs to facilitate the establishment of riparian species. The Shoshone Mountain Use Area and the Harry Canyon Use Area are more suitable to sheep grazing due to topography, distance from water, composition of vegetation, riparian and aspen values. Sheep prefer to graze and bed on upland areas away from riparian areas, which will ensure that critical riparian, water quality and watershed issues are addressed within the Shoshone Mountain Use Area and the Harry Canyon Use Area. Sheep will not

concentrate on riparian areas due to herding and existing water developments throughout the allotment. Sheep use would be limited to one pass by the herd through any one area per year. This would include the use of natural water sources. Sheep would be watered at springs or streams along the route taken by the herd. After watering, sheep would not remain on site to graze meadows or other riparian vegetation. Sheep would not concentrate on riparian areas due to herding and existing water developments throughout the allotment. This level of livestock management will improve water quality throughout the two use areas. These factors will ensure that significant progress is being made towards the attainment of Proper Functioning Condition (PFC). Refer to Attachment 1 for a comparison of riparian areas prior to and following the elimination of hot season grazing. The biodiversity of upland vegetative communities will be improved due to the intensive nature of sheep herding. Herding will ensure that better livestock distribution occurs within the use areas. Sheep are herded more effectively than cattle and utilize areas that will not normally be grazed by cattle. These areas can be influenced by topography and distance from water.

Sheep use will be permitted within the Moss Fire Use Area in the spring on an annual basis dependant on cheatgrass production. This will aid in reducing cheatgrass that is present throughout this use area. Sheep will be used to reduce the amount of fuel and reduce the vegetative height of cheatgrass. This will aid in creating a firebreak.

Due to the nature of sheep grazing and herding, it is expected that a certain percentage of the Ellison Ranching Company Use Area will be deferred annually. Although livestock grazing will occur during the critical growing period for upland herbaceous species proper use levels have been identified. This will limit use on native upland rangeland during the critical growing period, allow forage plants to gain in vigor, and produce seed. Proper vegetative management will maintain or improve the plant community for protection of soil and water resources. Sufficient seedling and young plant recruitment is needed to maintain and increase herbaceous species in the plant community. Healthy plant communities must be able to complete their life cycle by preventing damage during the critical growth period. Critical growth period in a plant growth cycle occurs when food reserves are the lowest and grazing is the most harmful.

Cattle use will occur in the Antelope Pasture, Cedars Pasture, Moss Fire Use Area, Wood Canyon Pasture, Cedars North Pasture and Cedars South Pasture. The majority of these pastures and use areas have been burned and rehabilitated. The season of use in these pastures and use areas will be from December 1st – April 30th. The majority of use in these pastures will be deferred until the dormant season. This will limit use on native upland rangeland during the critical growing period, allow forage plants to gain in vigor and produce seeds. Due to the number of pastures and use areas in the grazing management system the majority of livestock grazing on a year-to-year basis will be prior to the critical growing period. Although livestock grazing will occur during the critical growing period for upland herbaceous species in some pastures, proper use levels have been identified.

The conversion of cattle to sheep AUMs will be in conformance with the Northeastern Great Basin RAC Guidelines including 1.1, 1.3, 3.1, 3.2, 3.3, 3.6, 4.1 Vegetation Guidelines and BLM/WAWFA sage grouse guidelines.

6. Implement the agreed upon grazing management system between BLM and Ellison Ranching Company and terms and conditions for the Ellison Ranching Company Use Area.

PASTURE	SEASON OF USE	KIND OF LIVESTOCK	PERCENT PUBLIC LAND	NUMBER OF LIVESTOCK	AUMS
*Fish Creek Mountains Use Area	02/15-02/28 03/01-04/30 11/01-02/28	Sheep Sheep Sheep	100% 100% 100%	1,218 1,218 1,218	112 489 960
**Shoshone Mountains Use Area	03/01-06/30	Sheep	100%	6,545	5,250
**Harry Canyon Use Area	11/01-02/28	Sheep	97%	1,507	1,153
**Antelope Pasture, Cedars Pasture, Moss Fire Use Area, Wood Canyon Pasture, Cedars North Pasture and Cedars South Pasture	12/01-02/28	Cattle	100%	506	1,497
**Antelope Pasture, Cedars Pasture, Moss Fire Use Area, Wood Canyon Pasture, Cedars North Pasture and Cedars South Pasture	03/01-04/30	Cattle	100%	500	1,002

***The Fish Creek Mountain Use Area is Ellison Ranching Company's historical use area within the Carico Lake Allotment.**
****These use areas were permitted to Filippini Ranching Company prior to the July 11, 2005 transfer of grazing privileges to Ellison Ranching Company.**
*****Limited trailing would occur in the Fish Creek drainage located in the Fish Creek Mountains Use Area.**

Terms and Conditions

1. All exclosures on public land including areas that have been fenced off for the purpose of mining or mine reclamation throughout the Ellison Ranching Company Use Area will be closed to livestock grazing unless grazing use is applied for by Ellison Ranching Company and is authorized in writing by the authorized officer.

2. Sheep camps will be moved every five days. No two (2) sheep camps will camp in the same area in a grazing season.

3. New bed grounds will be used every night. Sheep bedding grounds will be a minimum of one quarter (1/4) mile from permanent water, aspen stands and previous bed grounds.

4. Utilization of "Key Upland Forage Species" will not exceed 40% by the end of the grazing year.

5. Utilization of key riparian-wetland herbaceous species shall be limited to a minimum 4-inch stubble height by July 31st of each year. Utilization of key

riparian-wetland herbaceous species shall be limited to a 6-inch stubble height by the end of the growing season, if grazing starts or extends past July 31st.

6. Utilization of riparian woody or browse key species shall be limited to 30% of available stems by the end of the growing season. (For example aspen, elderberry, serviceberry)

7. Riparian bank shearing and trampling shall be limited to 10% (10 feet in 100 feet of bank).

8. Utilization of key shrub browse species shall be no greater than 25% during the critical growth period, and no more than 40% following the end of the growing season.

9. The permittee will be required to herd sheep throughout their established use area to utilize areas that have received slight and/or light use. If it is determined that annual monitoring standards are attained in an area, the permittee will be required to remove livestock (sheep) from that area immediately upon notification to other portions of the use area that have not been grazed.

10. If annual monitoring standards are attained in any use area, the permittee will be required to remove livestock (cattle) from that area. The permittee will have five days upon notification to remove livestock (cattle).

11. The permittee will be allowed five days flexibility prior to and following the scheduled use dates to move livestock.

12. The permittee will be required to meet with the BLM prior to each grazing year in order to determine an annual grazing management plan that will ensure appropriate use throughout the Ellison Ranching Company Use Area. Sheep grazing will be rotated (north/south or south/north) on an annual basis within the Shoshone Mountain Use Area and Harry Canyon Use Area to provide rest to key species during the critical growing period every other year.

13. The season of use in Ellison Ranching Company Use Area 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 allotment specific objectives and Standards for Rangeland Health. Any use in excess of the total permitted use for the Ellison Ranching Company Use Area within the Carico Lake Allotment will constitute temporary non-renewable use.

14. 2,954 AUMs of active permitted use was reduced in the 2005 Final Multiple Use Decision. A decision was issued on August 9, 1990 by the Area Manager involving Echo Bay Mining Operation. This decision reduced active preference of the recently acquired Filippini Ranching Company permit by 199 AUMs and

68 AUMs of active preference was suspended from the Ellison Ranching Company historic permit.

15. In accordance with 43 CFR 4130.3-3: The authorized officer may modify terms and conditions of the permit or lease when the active use or related management practices are not meeting the land use plan, allotment management plan or other activity plan, or management objectives, or is not in conformance with the provision of subpart 4180 RAC Standards and Guidelines.

Rationale:

Key management areas including CL-5, CL-6, CL-7, CL-8, CL-11, CL-13, CL-24, CL-25, CL-30, CL-33 and CL-38 are located within the Ellison Ranching Company historical use area and newly acquired use areas from Filippini Ranching Company. It was determined in the Conformance Determination that a downward trend has occurred at key areas CL-13, CL-24, and CL-30 since 1996. Key area CL-25 experienced a downward trend since 1998. An upward trend was experienced at key areas CL-11 and Cl-33 since 1996. Trend was static at CL-38. Trend was not determined at key areas CL-5, CL-6, CL-7 and CL-8 due to only having baseline frequency data available. In addition, it was determined through the analysis of monitoring data that CL-6, CL-7, CL-8, CL-11, CL-13, CL-24, CL-25, CL-30, CL-33 and CL-38 were failing to meet Resource Advisory Council (RAC) Standard 3. The majority of these key areas are within Ellison Ranching Company's newly acquired use areas. Riparian areas throughout the newly acquired Ellison Ranching Company Use Area from Filippini Ranching Company were failing to meet RAC Standard 2 Riparian and Wetland Sites, which is the result of hot season grazing and poor livestock distribution. Livestock were identified as a causal factor for non-attainment of RAC Standard 2 and RAC Standard 3. A change in grazing management is required due to the level of livestock use being identified as a causal factor for the failure to meet the SERA RMP objectives, Standards for Rangeland Health, multiple use objectives, allotment specific objectives and downward trend at the key management areas.

The grazing management system will establish the season of use for sheep within the Fish Creek Mountains Use Area from November 1st – April 28th. The Harry Canyon Use Area season of use for sheep will be from November 1st – February 28th. The season of use for sheep within the Shoshone Mountain Use Area will be from March 1st – June 30th. The grazing management system will allow existing upland plants to increase vigor, productivity, cover and seedling establishment. Due to the nature of sheep grazing and herding, it is expected that a certain percentage of the Ellison Ranching Company Use Area will be deferred annually. Although livestock grazing will occur during the critical growing period for upland herbaceous species, proper use levels have been identified. This will limit use on native upland rangeland during the critical growing period, allow forage plants to gain in vigor, and produce seed. Proper vegetative management maintains or improves the plant community for protection of soil and water resources. Sufficient seedling and young plant recruitment is needed to maintain and increase herbaceous species in the plant community. Healthy plant communities must be able to

complete their life cycle by preventing damage during the critical growth period. Critical growth period in a plant growth cycle occurs when food reserves are the lowest and grazing is the most harmful. The expected improvement in the vegetative community will enhance soil site stability, limiting the redistribution of and loss of soil resources by wind and water. Hydrologic function will also be enhanced with improvement in the vegetative community. This will allow the site to adequately capture, store and release water from rainfall or snowmelt events. Furthermore, improvement in the plant community will improve the integrity of the biotic community, which will allow the use area to resist loss of function and structure following disturbance allowing for recovery.

Riparian areas throughout the newly acquired Ellison Ranching Company Use Area from Filippini Ranching Company were failing to meet RAC Standard 2 Riparian and Wetland Sites, which is the result of hot season grazing and poor livestock distribution. Riparian and water quality issues within these use areas, which include the Shoshone Mountain Use Area, Harry Canyon Use Area and Fish Creek Mountains Use Area are prevalent. Livestock, specifically cattle, have been identified as the causal for the non-attainment of the standard. These use areas are more suitable to sheep grazing due to topography, distance from water, composition of vegetation, riparian and aspen values. Sheep prefer to graze and bed on upland areas away from riparian areas, which will ensure that critical riparian, water quality and watershed issues are addressed within the use areas. Sheep will not concentrate on riparian areas due to herding and existing water developments throughout the allotment. The elimination of hot season grazing will allow for adequate residual cover of riparian herbaceous species, which will limit bank trampling where appropriate and hoof action along stream banks and springs to facilitate the establishment of riparian species. Furthermore, the elimination of hot season grazing accompanied by the new Terms and Conditions within the use areas will improve water quality by improving the vigor and production of riparian species, which will lead to greater vegetative cover on stream banks and floodplains. Water quality is expected to improve in the short-term, since year-round grazing impacts will be eliminated. This will allow riparian zones to increase capture of sediments and will decrease pollutants such as fecal colliform and turbidity, since livestock use along riparian zones will be significantly less or eliminated. These factors will ensure that significant progress is being made towards the attainment of Proper Functioning Condition (PFC). Refer to Attachment 1 for a comparison of riparian areas prior to and following the elimination of hot season grazing. Livestock distribution, as revealed by use pattern maps, has been a problem throughout the use area. The season of use, permitted use, terms and conditions and improvements in distribution through herding will ensure that livestock are dispersed properly throughout the use area. The biodiversity of upland vegetative communities will be improved due to the intensive nature of sheep herding. Herding will ensure that better livestock distribution occurs within the use areas. Sheep are herded more effectively than cattle and utilize areas that will not normally be grazed by cattle, which will improve distribution.

The management system will also establish a season of use from December 1st – April 30th for cattle within the Ellison Ranching Company Use Area. Cattle use will occur in the Antelope Pasture, Cedars Pasture, Moss Fire Use Area, Wood Canyon Pasture,

Cedars North Pasture and Cedars South Pasture. The majority of these pastures and use areas have been burned and rehabilitated. The majority of use in these pastures will be deferred until the dormant season. This will limit use on native upland rangeland during the critical growing period, allow forage plants to gain in vigor and produce seeds. Due to the number of pastures and use areas in the grazing management system the majority of livestock grazing on a year-to-year basis will be prior to the critical growing period. Although livestock grazing will occur during the critical growing period for upland herbaceous species in some pastures, proper use levels have been identified.

The expected improvement in the vegetative community will enhance soil site stability, limiting the redistribution of and loss of soil resources by wind and water. Hydrologic function will also be enhanced with improvement in the vegetative community. This will allow the site to adequately capture, store and release water from rainfall or snowmelt events. Furthermore, improvement in the plant community will improve the integrity of the biotic community, which will allow the use area to resist loss of function and structure following disturbance allowing for recovery.

In addition, the grazing management system and the Terms and Conditions will provide for the orderly administration of the range and ensure that significant progress towards the attainment of the multiple use objectives, allotment specific objectives and the Standards for Rangeland Health throughout the Ellison Ranching Company Use Area will occur. Significant progress will be made when Annual Monitoring Standards for the Carico Lake Allotment are achieved. Monitoring data will continue to be collected to ensure that allotment specific objectives are being attained within the Ellison Ranching Company Use Area. Refer to Attachment 1 of the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61). Management actions and objectives conform with the *Management Guidelines for Sage Grouse and Sagebrush Ecosystems In Nevada* (BLM 2000) and to *Guidelines to Manage Sage Grouse Populations and Their Habitats* (Connelly et. al. 2000) also known as the Western Association of Fish and Wildlife Agencies (WAFAWA) *Guidelines for Sage Grouse Management*, until augmented or superseded by the State of Nevada's South Central Nevada Sage Grouse Conservation Plan, which is now under development.

The grazing management system will be in conformance with the Northeastern Great Basin RAC Guidelines including 1.1, 1.3, 2.1, 2.3, 2.4, 3.1, 3.2, 3.3, 3.6, 4.1 Vegetation Guidelines and BLM/WAWFA sage grouse guidelines.

7. **Develop a formal agreement with Ellison Ranching Company that will identify a multi-year schedule for the repair existing Range Improvement Projects that were recently acquired from Filippini Ranching Company. Work will begin in 2006 to repair critical water development projects needed to facilitate the implementation of the Ellison Ranching Company grazing system.**

Rationale:

Range improvements throughout the newly acquired portion of the Ellison Ranching Company Use Area are in disrepair. Ensuring proper maintenance will aid in the attainment of allotment specific objectives.

8. **Issue a ten year permit for the Ellison Ranching Company portion of the Carico Lake Allotment with the following terms and conditions:**

Grazing use will be in accordance with the Ellison Ranching Company portion of the Carico Lake Allotment Final Multiple Use Decision dated September 30, 2005.

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.

Actual use information, for each pasture/use area will be submitted to the authorized officer within 15 days of completing grazing use as specified on the grazing permit and/or grazing licenses.

Permittee will be required to maintain all range improvement projects for which maintenance responsibility is assigned in accordance with 43 CFR 4140.

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.

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.

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.

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 The terms and conditions of this permit may be modified if additional information indicates that revision is necessary to conform with 43 CFR 4180.

Rationale:

Issuance of a new ten year permit is based on the analysis of the management actions in the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61) and Finding of No Significant Impact (FONSI), the evaluation of monitoring data and the evaluation of Land Use Plan objectives, Standards for Rangeland Health and multiple use objectives. Refer to Attachment 1 of the Environmental Assessment for the Carico Lake Allotment specific objectives. The terms and conditions for grazing within the Ellison Ranching Company Use Area portion of the Carico Lake Allotment will result in the attainment of allotment specific objectives and is consistent with the Northeastern Great Basin RAC standards and conforms with the guidelines. The environmental assessment and Finding of No Significant Impact (FONSI) have been completed and this Final Multiple Use Decision will authorize the issuance of a new ten year grazing permit and terms and conditions. These terms and conditions will ensure compliance with all applicable laws and regulations governing livestock grazing on public lands.

The ten year permit and terms and conditions will be in conformance with the Northeastern Great Basin RAC Guidelines including 1.1, 1.3, 2.1, 2.3, 2.4, 3.1, 3.2, 3.3, 3.6 and 4.1.

Filippini Ranching Company

1. **Establish the total active permitted use for the Filippini Ranching Company Use Area at 777 AUMs.**

Rationale:

Numerous meetings have occurred with representatives of Filippini Ranching Company and they have stated that 777 AUMs was what they planned on retaining following the transfer. Filippini Ranching Company applied to retain 777 AUMs as part of the transfer of grazing privileges to Ellison Ranching Company. BLM approved the transfer on July 14, 2005. A suitability analysis was conducted to derive the carrying capacity for the Filippini Ranching Company Use Area. Monitoring studies including ecological site inventory, production, utilization, frequency and line-intercept were completed within the Filippini Ranching Company Use Area. A suitability analysis using ecological site inventory data was used to determine the carrying capacity within the Filippini Ranching Company Use Area. Due to the absence of use area specific actual use data, ecological

site inventory data was used to determine the carrying capacity within the Filippini Ranching Company Use Area. The analysis of this data is supportive of the 777 AUMs that were applied for. Filippini Ranching Company has also agreed to use private property in conjunction with public land for the period of livestock use. Current livestock grazing use levels were determined to be a causal factor for failing to meet the SERA RMP objectives, Standards for Rangeland Health, multiple use objectives and allotment specific objectives. Key management areas CL-9, CL-10 and CL-12 are located within the Filippini Ranching Company Use Area. It was determined in the Conformance Determination that CL-10 was in downward trend and CL-12 was in upward trend since 1996 as revealed by the frequency data. Trend was unable to be determined at key area CL-9 due to only having baseline frequency data available. Furthermore, it was determined through the analysis of monitoring data that CL-9, CL-10 and CL-12 were failing to meet RAC Standard 3 habitat and livestock were identified as a causal factor. For detailed analysis of monitoring data regarding these findings refer to the Carico Lake Allotment Rangeland Health Assessment Pages 42-245, Appendix 10 and 11 and the Carico Lake Conformance Determination.

The active permitted use in addition to the implementation of the management actions will ensure that significant progress will be made towards the attainment of the SERA RMP objectives, Standards for Rangeland Health, multiple use objectives and allotment specific objectives provided that the Grazing Stipulations and the Terms and Conditions identified below are adhered to. Significant progress will be made when Annual Monitoring Standards for the Carico Lake Allotment are achieved. Refer to Attachment 1 of the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61). Monitoring data will continue to be collected to ensure that allotment specific objectives are being attained within the Filippini Ranching Company Use Area.

This management selection will implement Guidelines 1.1, 1.3, 2.1, 2.3, 2.4, 3.1, 3.2, 3.3, 3.6, and 4.1 which have been developed for the Northeastern Great Basin Area of Nevada to establish significant progress toward conformance with the Standards for Rangeland Health for Upland Sites, Riparian and Wetland Sites, and Habitat.

2. **Establish the Filippini Ranching Company Use Area within the Carico Lake Allotment as requested by Filippini Ranching Company and agreed on by Ellison Ranching Company. Refer to Attached Map in Appendix A for the Location of the New Rangeline.**

The establishment of use areas will provide for the orderly administration of the range and ensure that significant progress towards the attainment of the multiple use objectives, allotment specific objectives and the Standards for Rangeland Health throughout the Filippini Ranching Company Use Area will occur. The establishment of use areas will improve livestock actual use information on an annual basis. The submission of actual use by use area will provide information regarding management of livestock. This will aid in determining if future modifications to livestock management for each permittee in relation to their use area is needed to attain SERA RMP objectives, multiple use objectives, allotment specific objectives and the Standards for Rangeland Health.

The establishment of use areas will be in conformance with the Northeastern Great Basin RAC Guidelines 1.1, 1.3, 2.1, 2.3, 2.4, 3.1, 3.2, 3.3, 3.6 and 4.1.

3. Implement the following grazing management system and terms and conditions for the Filippini Ranching Company Use Area within the Carico Lake Allotment.

PASTURE	SEASON OF USE	KIND OF LIVESTOCK	PERCENT PUBLIC LAND	NUMBER OF LIVESTOCK	AUMS
Filippini Ranching Company Use Area	03/01-04/30	Cattle	100%	388	777

Terms and Conditions

1. All exclosures on public land including areas that have been fenced off for the purpose of mining or mine reclamation throughout the Filippini Ranching Company Use Area will be closed to livestock grazing unless grazing use is applied for by Filippini Ranching Company and is authorized in writing by the authorized officer.

2. Utilization of "Key Upland Forage Species" will not exceed 40% by the end of the grazing year.

3. Utilization of key shrub browse species shall be no greater than 25% during the critical growth period, and no more than 40% following the end of the growing season.

4. If annual monitoring standards are attained in the use area, the permittee will be required to remove livestock from that area. The permittee will have five days upon notification to remove livestock.

5. The permittee will be allowed five days flexibility prior to and following the scheduled use dates to move livestock.

6. The season of use in Filippini Ranching Company Use Area 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 allotment specific objectives and Standards for Rangeland Health. Any use in excess of the total permitted use for the Filippini Ranching Company Use Area within the Carico Lake Allotment will constitute temporary non-renewable use.

7. In accordance with 43 CFR 4130.3-3: The authorized officer may modify terms and conditions of the permit or lease when the active use or related management practices are not meeting the land use plan, allotment management plan or other activity plan, or management objectives, or is not in conformance with the provision of subpart 4180 RAC Standards and Guidelines.

Rationale:

Key management areas CL-9, CL-10 and CL-12 are located within the Filippini Ranching Company Use Area. It was determined in the Conformance Determination that CL-10 was in downward trend and CL-12 was in upward trend since 1996 as revealed by the frequency data. Trend was unable to be determined at key area CL-9 due to only having baseline frequency data available. Furthermore, it was determined through the analysis of monitoring data that CL-9, CL-10 and CL-12 were failing to meet RAC Standard 3 habitat and livestock were identified as a causal factor. A change in grazing management is required due to the level of livestock use being identified as a causal factor for the failure to meet the SERA RMP objectives, Standards for Rangeland Health, multiple use objectives, allotment specific objectives and downward trend at the key management areas.

The grazing management system will establish a season of use from March 1st – April 30th within the Filippini Ranching Company Use Area. This season of use will be primarily for cheatgrass reduction, which is present throughout the use area. Proper use levels have been identified within the Filippini Ranching Company Use Area. This will allow for these plants to increase vigor, productivity and seedling establishment. The elimination of grazing during the critical growing period will improve the vegetative community by allowing for sufficient key herbaceous plant seedling and young plant recruitment. Livestock distribution, as revealed by use pattern maps, has been a problem throughout the use area. The season of use, permitted use, terms and conditions and improvements in distribution through herding will ensure that livestock are dispersed properly throughout the use area.

Livestock grazing will occur prior to the critical growing period for upland herbaceous species. These changes will ensure that significant progress towards the attainment of the multiple use objectives, allotment specific objectives and the Standards for Rangeland Health throughout the Filippini Ranching Company Use Area will occur provided that the Terms and Conditions are adhered to. Refer to the Carico Lake Allotment Rangeland Health Assessment Pages 42-245, Appendix 10, Appendix 11 and the Carico Lake Conformance Determination.

In addition, the grazing management system and the Terms and Conditions will provide for the orderly administration of the range and ensure that significant progress towards the attainment of the multiple use objectives, allotment specific objectives and the Standards for Rangeland Health throughout the Filippini Ranching Company Use Area will occur. Significant progress will be made when Annual Monitoring Standards for the Carico Lake Allotment are achieved. Monitoring data will continue to be collected to ensure that allotment specific objectives are being attained within the Filippini Ranching Company Use Area. Refer to Attachment 1 of the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61). Management actions and objectives conform with the *Management Guidelines for Sage Grouse and Sagebrush Ecosystems In Nevada* (BLM 2000) and to *Guidelines to Manage Sage Grouse Populations and Their Habitats* (Connelly et. al. 2000) also known as the Western Association of Fish and Wildlife

Agencies (WAFAWA) *Guidelines for Sage Grouse Management*, until augmented or superseded by the State of Nevada's South Central Nevada Sage Grouse Conservation Plan, which is now under development.

The grazing management system will be in conformance with the Northeastern Great Basin RAC Guidelines including 1.1, 1.3, 2.1, 2.3, 2.4, 3.1, 3.2, 3.3, 3.6, 4.1 Vegetation Guidelines and BLM/WAWFA sage grouse guidelines.

4. **Develop a formal agreement with Filippini Ranching Company that will identify a multi-year schedule for the repair of existing Range Improvement Projects. Work will begin in 2006 to repair critical water development projects within the Filippini Ranching Company Use Area.**

Rationale:

Range improvements within the Filippini Ranching Company Use Area are in disrepair. Ensuring proper maintenance will aid in the attainment of multiple use objectives.

5. **Issue a ten year permit for the Filippini Ranching Company Use Area portion of the Carico Lake Allotment with the following terms and conditions:**

Grazing use will be in accordance with the Filippini Ranching Company Use Area portion of the Carico Lake Allotment Final Multiple Use Decision dated September 30, 2005.

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.

Actual use information, for each pasture/use area will be submitted to the authorized officer within 15 days of completing grazing use as specified on the grazing permit and/or grazing licenses.

Permittee will be required to maintain all range improvement projects for which maintenance responsibility is assigned in accordance with 43 CFR 4140.

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.

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.

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.
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

The terms and conditions of this permit may be modified if additional information indicates that revision is necessary to conform with 43 CFR 4180.

Rationale:

Issuance of a new ten year permit is based on the analysis of the management actions in the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61) and Finding of No Significant Impact (FONSI), the evaluation of monitoring data and the evaluation of Land Use Plan objectives, Standards for Rangeland Health and multiple use objectives. Refer to Attachment 1 of the Environmental Assessment for the Carico Lake Allotment specific objectives. The terms and conditions for grazing within the Filippini Ranching Company Use Area portion of the Carico Lake Allotment will result in the attainment of allotment specific objectives and is consistent with the Northeastern Great Basin RAC standards and conforms with the guidelines. The environmental assessment and Finding of No Significant Impact (FONSI) have been completed and this Final Multiple Use Decision will authorize the issuance of a new ten year grazing permit and terms and conditions. These terms and conditions will ensure compliance with all applicable laws and regulations governing livestock grazing on public lands.

The ten year permit and terms and conditions will be in conformance with the Northeastern Great Basin RAC Guidelines including 1.1, 1.3, 2.1, 2.3, 2.4, 3.1, 3.2, 3.3, 3.6 and 4.1.

Julian Tomera Ranches, Inc.

1. **Establish the total active permitted use for Julian Tomera Ranches, Inc., Use Area at 914 AUMs.**

Rationale:

Use pattern mapping data was collected in accordance with the Nevada Rangeland Monitoring Handbook in 1988, 1989, 1990, 1991 and 1996. This data was used to

analyze the carrying capacity. The carrying capacity was based on weighted average utilization and actual use. Refer to CLARHA Appendix 11. The carrying capacity was identified along with a grazing management plan to ensure that improved livestock distribution will occur in the short-term. The following table illustrates the average actual livestock use compared to the weighted average utilization and the total acres that exceeded the Rangeland Program Summary initial utilization objective 60% by the end of the grazing year for the Carico Lake Allotment.

	1988	1989	1990	1991	1996
61-80% Utilization	132,940 acres	63,418 acres	145,280 acres	177,957 acres	14,453 acres
Average Actual Use (Livestock)	22,031 AUMs	24,097 AUMs	28,520 AUMs	31,441 AUMs	26,342 AUMs

Key management areas CL-24, CL-25, CL-29 and CL-37 are located within the Julian Tomera Ranches, Inc. Use Area. It was determined in the Conformance Determination that key areas CL-24 and CL-37 experienced a downward trend since 1996 and CL-25 experienced a downward trend since 1998 as revealed by the frequency study. Trend was not apparent at key area CL-29. Furthermore, key areas CL-24, CL-25 and CL-37 were failing to meet Resource Advisory Council (RAC) Standard 3 habitat. Riparian areas throughout the Julian Tomera Ranches, Inc. Use Area were failing to meet RAC Standard 2 Riparian and Wetland Sites, which is the result of hot season grazing and poor livestock distribution. Livestock were identified as a causal factor for non-attainment of RAC Standard 2 and RAC Standard 3.

A reduction in active permitted use is required since the actual use be livestock accompanied by year-round livestock grazing that has occurred throughout the Julian Tomera Ranches, Inc. Use Area has resulted in the failure to meet the SERA RMP objectives, Standards for Rangeland Health, multiple use objectives, allotment specific objectives and downward trend at the key management areas. This reduction in active permitted use is deemed necessary since existing livestock grazing practices are the causal factor for not meeting the Standards and Guidelines. The existing permitted use level would result in failure to meet Carico Lake Allotment annual monitoring standards, allotment specific objectives and SERA RMP objectives. In addition, this level of use would fail to make significant progress toward the attainment of the Standards for Rangeland Health. The reduction in active permitted use accompanied by the management actions being implemented in this decision will ensure significant progress is made by implementing a stocking level consistent with meeting allowable use levels, improving distribution, providing rest or deferment for key perennial species and incorporating terms and conditions that will prevent excessive use. For detailed analysis of monitoring data regarding these findings refer to the Carico Lake Allotment Rangeland Health Assessment Pages 42-245, Appendix 6, 7, 10 and 11 and the Carico Lake Conformance Determination.

Through the evaluation of monitoring data and the carrying capacity analysis a range of AUMs was provided to the permittee and was dependant upon commitment to management. Carrying capacity was calculated allotment wide as the result of permittees throughout the allotment not submitting actual use reports by use area or pasture. The

range of AUMs for Julian Tomera Ranches, Inc. was 716 AUMs desired carrying capacity and 914 AUMs potential carrying capacity. The potential carrying capacity of 914 AUMs was specified for Julian Tomera Ranches, Inc. based on their commitment to implement intensive livestock management.

In addition, the carrying capacity was identified along with a grazing management plan to ensure that uniform distribution will be possible in the short-term. The carrying capacity was implemented for this use area due to herding and the potential for sheep to use areas that were inaccessible to cattle due to slope and distance from water. It has been determined that the carrying capacity for livestock grazing within the Julian Tomera Ranches, Inc. Use Area of the Carico Lake Allotment will attain allotment specific objectives.

The permitted use in addition to the implementation of the management actions will ensure that significant progress will be made towards the attainment of the SERA RMP objectives, Standards for Rangeland Health, multiple use objectives and allotment specific objectives provided that the Grazing Stipulations and the Terms and Conditions identified below are adhered to. Significant progress will be made when Annual Monitoring Standards for the Carico Lake Allotment are achieved. Monitoring data will continue to be collected to ensure that allotment specific objectives are being attained within the Julian Tomera Ranches, Inc. Use Area. Refer to Attachment 1 of the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61).

This management selection will implement Guidelines 1.1, 1.3, 2.1, 2.3, 2.4, 3.1, 3.2, 3.3, 3.6, and 4.1 which have been developed for the Northeastern Great Basin Area of Nevada to establish significant progress toward conformance with the Standards for Rangeland Health for Upland Sites, Riparian and Wetland Sites, and Habitat.

2. Establish the Julian Tomera Ranches, Inc. Use Area within the Carico Lake Allotment. The Shoshone Mountains are within the Julian Tomera Ranches, Inc. Use Area. Refer to Attached Map in Appendix A.

The establishment of use areas will provide for the orderly administration of the range and ensure that significant progress towards the attainment of the multiple use objectives, allotment specific objectives and the Standards for Rangeland Health throughout the Julian Tomera Ranches, Inc. Use Area will occur. Use areas will improve livestock actual use information on an annual basis throughout the allotment. The submission of actual use by use area will provide information regarding management of livestock. This will aid in determining if future modifications to livestock management for each permittee in relation to their use areas are needed to attain SERA RMP objectives, multiple use objectives, allotment specific objectives and the Standards for Rangeland Health.

The establishment of use areas will be in conformance with the Northeastern Great Basin RAC Guidelines 1.1, 1.3, 2.1, 2.3, 2.4, 3.1, 3.2, 3.3, 3.6 and 4.1.

3. Implement the following grazing management system and terms and conditions for the Julian Tomera Ranches, Inc. Use Area within the Carico Lake Allotment.

PASTURE	SEASON OF USE	KIND OF LIVESTOCK	PERCENT PUBLIC LAND	NUMBER OF LIVESTOCK	AUMS
Julian Tomera Ranches, Inc. Use Area	03/01-05/31	Sheep	100%	1,511	914

Terms and Conditions

1. All exclosures on public land including areas that have been fenced off for the purpose of mining or mine reclamation throughout the Julian Tomera Ranches, Inc., Use Area will be closed to livestock grazing unless grazing use is applied for by Julian Tomera Ranches Inc., and is authorized in writing by the authorized officer.

2. Sheep camps will be moved every five days. No two (2) sheep camps will camp in the same area in a grazing season.

3. New bed grounds will be used every night. Sheep bedding grounds will be a minimum of one quarter (1/4) mile from permanent water, aspen and previous bed grounds.

4. Utilization of "Key Upland Forage Species" will not exceed 40% by the end of the grazing year.

5. Utilization of key riparian-wetland herbaceous species shall be limited to a minimum 4-inch stubble height by July 31st of each year.

6. Utilization of riparian woody or browse key species shall be limited to 30% of available stems by the end of the growing season. (For example aspen, elderberry, serviceberry)

7. Riparian bank shearing and trampling shall be limited to 10% (10 feet in 100 feet of bank).

8. Utilization of key shrub browse species shall be no greater than 25% during the critical growth period, and no more than 40% following the end of the growing season.

9. The permittee will be required to herd sheep throughout their established use area to utilize areas that have received slight and/or light use. If it is determined that annual monitoring standards are attained in an area, the permittee will be required to remove livestock (sheep) from that area immediately upon notification to other portions of the use area that have not been grazed.

10. The permittee will be allowed five days flexibility prior to and following the scheduled use dates to move livestock.

11. The permittee will be required to meet with the BLM prior to each grazing year in order to determine an annual grazing management plan that will ensure appropriate use throughout Julian Tomera Ranches, Inc., Use Area.

12. The season of use in Julian Tomera Ranches, Inc., Use Area 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. Any use in excess of the total permitted use for the Julian Tomera Ranches, Inc. Use Area within the Carico Lake Allotment will constitute temporary non-renewable use.

13. 326 AUMs of active permitted use was reduced in the 2005 Final Multiple Use Decision.

14. In accordance with 43 CFR 4130.3-3: The authorized officer may modify terms and conditions of the permit or lease when the active use or related management practices are not meeting the land use plan, allotment management plan or other activity plan, or management objectives, or is not in conformance with the provision of subpart 4180 RAC Standards and Guidelines.

Rationale:

Key management areas CL-24, CL-25, CL-29 and CL-37 are located within the Julian Tomera Ranches, Inc. Use Area. It was determined in the Conformance Determination that key areas CL-24 and CL-37 experienced a downward trend since 1996 and CL-25 experienced a downward trend since 1998 as revealed by the frequency study. Trend was not apparent at key area CL-29. Furthermore, key areas CL-24, CL-25 and CL-37 were failing to meet Resource Advisory Council (RAC) Standard 3 habitat. Riparian areas throughout the Julian Tomera Ranches, Inc. Use Area were failing to meet RAC Standard 2 Riparian and Wetland Sites, which is the result of hot season grazing and poor livestock distribution. Livestock were identified as a causal factor for non-attainment of RAC Standard 2 and RAC Standard 3. A change in grazing management is required due to the level of livestock use being identified as a causal factor for the failure to meet the SERA RMP objectives, Standards for Rangeland Health, multiple use objectives, allotment specific objectives and downward trend at the key management areas.

The grazing management system will establish a season of use from March 1st – May 31st within the Julian Tomera Ranches, Inc., Use Area. The grazing management system will allow existing upland plants to increase vigor, productivity, cover and seedling establishment. Due to the nature of sheep grazing and herding, it is expected that a certain percentage of the Julian Tomera Ranches Inc., Use Area will be deferred annually. Although livestock grazing will occur during the critical growing period for upland herbaceous species, proper use levels have been identified. This will limit use on native upland rangeland during the critical growing period, allow forage plants to gain in

vigor, and produce seed. Proper vegetative management maintains or improves the plant community for protection of soil and water resources. Sufficient seedling and young plant recruitment is needed to maintain and increase herbaceous species in the plant community. Healthy plant communities must be able to complete their life cycle by preventing damage during the critical growth period. Critical growth period in a plant growth cycle occurs when food reserves are the lowest and grazing is the most harmful.

The Julian Tomera Ranches, Inc. Use Area is within the Shoshone Mountain Use Area and is suitable to sheep grazing due to topography, distance from water, composition of vegetation, riparian and aspen values. Sheep prefer to graze and bed on upland areas away from riparian areas, which will ensure that critical riparian, water quality and watershed issues are addressed within the Shoshone Mountain Use Area. Sheep will not concentrate on riparian areas due to herding and existing water developments throughout the use area. Sheep use would be limited to one pass by the herd through any one area per year. This would include the use of natural water sources. Sheep would be watered at springs or streams along the route taken by the herd. After watering, sheep would not remain on site to graze meadows or other riparian vegetation. Sheep would not concentrate on riparian areas due to herding and existing water developments throughout the allotment. Livestock distribution, as revealed by use pattern maps, has been a problem throughout the use area. The season of use, permitted use, terms and conditions and improvements in distribution through herding will ensure that livestock are dispersed properly throughout the use area. The biodiversity of upland vegetative communities will be improved due to the intensive nature of sheep herding. Herding will ensure that better livestock distribution occurs within the use area. Sheep are herded more effectively than cattle and utilize areas that will not normally be grazed by cattle. These areas can be influenced by topography and distance from water.

The expected improvement in the vegetative community will enhance soil site stability, limiting the redistribution of and loss of soil resources by wind and water. Hydrologic function will also be enhanced with improvement in the vegetative community. This will allow the site to adequately capture, store and release water from rainfall or snowmelt events. Furthermore, improvement in the plant community will improve the integrity of the biotic community, which will allow the use area to resist loss of function and structure following disturbance allowing for recovery.

In addition, the grazing management system and the Terms and Conditions will provide for the orderly administration of the range and ensure that significant progress towards the attainment of the multiple use objectives, allotment specific objectives and the Standards for Rangeland Health throughout the Julian Tomera Ranches, Inc. Use Area will occur. Significant progress will be made when Annual Monitoring Standards for the Carico Lake Allotment are achieved. Monitoring data will continue to be collected to ensure that allotment specific objectives are being attained within the Julian Tomera Ranches Inc., Use Area. Refer to Attachment 1 of the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61). Management actions and objectives conform with the *Management Guidelines for Sage Grouse and Sagebrush Ecosystems In Nevada* (BLM 2000) and to *Guidelines to Manage Sage Grouse Populations and Their*

Habitats (Connelly et. al. 2000) also known as the Western Association of Fish and Wildlife Agencies (WAFAWA) *Guidelines for Sage Grouse Management*, until augmented or superseded by the State of Nevada's South Central Nevada Sage Grouse Conservation Plan, which is now under development.

The grazing management system will be in conformance with the Northeastern Great Basin RAC Guidelines including 1.1, 1.3, 2.1, 2.3, 2.4, 3.1, 3.2, 3.3, 3.6, 4.1 Vegetation Guidelines and BLM/WAWFA sage grouse guidelines.

4. Issue a ten year permit for the Julian Tomera Ranches, Inc., Use Area portion of the Carico Lake Allotment with the following terms and conditions:

Grazing use will be in accordance with the Julian Tomera Ranches, Inc., Use Area portion of the Carico Lake Allotment Final Multiple Use Decision dated September 30, 2005.

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.

Actual use information, for each pasture/use area will be submitted to the authorized officer within 15 days of completing grazing use as specified on the grazing permit and/or grazing licenses.

Permittee will be required to maintain all range improvement projects for which maintenance responsibility is assigned in accordance with 43 CFR 4140.

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.

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.

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.

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

The terms and conditions of this permit may be modified if additional information indicates that revision is necessary to conform with 43 CFR 4180.

Rationale:

Issuance of a new ten year permit is based on the analysis of the management actions in the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61) and Finding of No Significant Impact (FONSI), the evaluation of monitoring data and the evaluation of Land Use Plan objectives, Standards for Rangeland Health and multiple use objectives. Refer to Attachment 1 of the Environmental Assessment for the Carico Lake Allotment specific objectives. The terms and conditions for grazing within the Julian Tomera Ranches, Inc. Use Area portion of the Carico Lake Allotment will result in the attainment of multiple use objectives and is consistent with the Northeastern Great Basin RAC standards and conforms with the guidelines. The environmental assessment and Finding of No Significant Impact (FONSI) have been completed and this Final Multiple Use Decision will authorize the issuance of a new ten year grazing permit and terms and conditions. These terms and conditions will ensure compliance with all applicable laws and regulations governing livestock grazing on public lands.

The ten year permit and terms and conditions will be in conformance with the Northeastern Great Basin RAC Guidelines including 1.1, 1.3, 2.1, 2.3, 2.4, 3.1, 3.2, 3.3, 3.6 and 4.1.

Silver Creek Ranch, Inc.

1. **Establish the total active permitted use for Silver Creek Ranch, Inc., Use Area at 884 AUMs.**

Rationale:

Use pattern mapping data was collected in accordance with the Nevada Rangeland Monitoring Handbook in 1988, 1989, 1990, 1991 and 1996. This data was used to analyze the carrying capacity. The carrying capacity was based on weighted average utilization and actual use. Refer to CLARHA Appendix 11. The carrying capacity was identified along with a grazing management plan to ensure that improved livestock distribution will occur in the short-term. The following table illustrates the average actual livestock use compared to the weighted average utilization and the total acres that exceeded the Rangeland Program Summary initial utilization objective 60% by the end of the grazing year for the Carico Lake Allotment.

	1988	1989	1990	1991	1996
61-80% Utilization	132,940 acres	63,418 acres	145,280 acres	177,957 acres	14,453 acres
Average Actual Use (Livestock)	22,031 AUMs	24,097 AUMs	28,520 AUMs	31,441 AUMs	26,342 AUMs

Key management areas CL-22, CL-23, CL-31 and CL-34 are located within the Silver Creek Ranch, Inc. Use Area. It was determined in the Conformance Determination that key areas CL-22 and CL-34 have experienced a downward trend since 1996. Trend was not apparent at CL-23 and was not determined at CL-31 due to only having baseline frequency data available. Furthermore, it was determined through the analysis of monitoring data that CL-22, CL-23, CL-31 and CL-34 were failing to meet RAC Standard 3 habitat. In addition, it was determined that riparian areas within the use area were failing to meet RAC Standard 2 Riparian and Wetland habitat. Livestock were identified as a causal factor for non-attainment of RAC Standard 2 and RAC Standard 3.

A reduction in active permitted use is required since the actual use be livestock accompanied by year-round livestock grazing that has occurred throughout the Silver Creek Ranch, Inc. Use Area has resulted in the failure to meet the SERA RMP objectives, Standards for Rangeland Health, multiple use objectives, allotment specific objectives and downward trend at the key management areas. This reduction in active permitted use is deemed necessary since existing livestock grazing practices are the causal factor for not meeting the Standards and Guidelines. The existing permitted level would result in failure to meet Carico Lake Allotment annual monitoring standards, allotment specific objectives and SERA RMP objectives. In addition, this level of use would fail to make significant progress toward the attainment of the Standards for Rangeland Health. The reduction in active permitted use accompanied by the management actions being implemented in this decision will ensure significant progress is made by implementing a stocking level consistent with meeting allowable use levels, improving distribution, providing rest or deferment for key perennial species and incorporating terms and conditions that will prevent excessive use. For detailed analysis of monitoring data regarding these findings refer to the Carico Lake Allotment Rangeland Health Assessment Pages 42-245, Appendix 6, 7, 10 and 11 and the Carico Lake Conformance Determination.

Through the evaluation of monitoring data and the carrying capacity analysis a range of AUMs was provided to the permittee and was dependant upon commitment to management. Carrying capacity was calculated allotment wide as the result of permittees throughout the allotment not submitting actual use reports by use area or pasture. The range of AUMs for Silver Creek Ranch, Inc. was 693 AUMs desired carrying capacity and 884 AUMs potential carrying capacity. The potential carrying capacity of 884 was specified for Silver Creek Ranch, Inc. based on their commitment to implement intensive livestock management.

In addition, the carrying capacity was identified along with a grazing management plan to ensure that uniform distribution will be possible in the short-term. The carrying capacity was implemented for this use area due to herding and the potential for sheep to use areas

that were inaccessible to cattle due to slope and distance from water. It has been determined that the carrying capacity for livestock grazing within the Silver Creek Ranch, Inc. Use Area of the Carico Lake Allotment will attain allotment specific objectives.

The permitted use in addition to the implementation of the management actions will ensure that significant progress will be made towards the attainment of the SERA RMP objectives, Standards for Rangeland Health, multiple use objectives and allotment specific objectives provided that the Grazing Stipulations and the Terms and Conditions identified below are adhered to. Significant progress will be made when Annual Monitoring Standards for the Carico Lake Allotment are achieved. Monitoring data will continue to be collected to ensure that allotment specific objectives are being attained within the Silver Creek Ranch, Inc. Use Area. Refer to Attachment 1 of the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61).

This management selection will implement Guidelines 1.1, 1.3, 2.1, 2.3, 2.4, 3.1, 3.2, 3.3, 3.6, and 4.1 which have been developed for the Northeastern Great Basin Area of Nevada to establish significant progress toward conformance with the Standards for Rangeland Health for Upland Sites, Riparian and Wetland Sites, and Habitat.

2. Establish the Silver Creek Ranch, Inc. Use Area within the Carico Lake Allotment. A portion of the Toiyabe Mountains are within the Silver Creek Ranch, Inc. Use Area. Refer to Attached Map in Appendix A.

The establishment of use areas will provide for the orderly administration of the range and ensure that significant progress towards the attainment of the multiple use objectives, allotment specific objectives and the Standards for Rangeland Health throughout the Silver Creek Ranch, Inc. Use Area will occur. Use areas will improve livestock actual use information on an annual basis throughout the allotment. The submission of actual use by use area will provide information regarding management of livestock. This will aid in determining if future modifications to livestock management for each permittee in relation to their use areas are needed to attain SERA RMP objectives, multiple use objectives, allotment specific objectives and the Standards for Rangeland Health.

The establishment of use areas will be in conformance with the Northeastern Great Basin RAC Guidelines 1.1, 1.3, 2.1, 2.3, 2.4, 3.1, 3.2, 3.3, 3.6 and 4.1.

3. Implement the following grazing management system and terms and conditions for the Siiver Creek Ranch, Inc. Use Area.

PASTURE	SEASON OF USE	KIND OF LIVESTOCK	PERCENT PUBLIC LAND	NUMBER OF LIVESTOCK	AUMS
Silver Creek Ranch, Inc. Use Area	04/01-06/30	Sheep	100%	1,477	884

Terms and Conditions

1. All exclosures on public land including areas that have been fenced off for the purpose of mining or mine reclamation throughout the Silver Creek Ranch, Inc. Use Area will be closed to livestock grazing unless grazing use is applied for by Silver Creek Ranch, Inc. and is authorized in writing by the authorized officer.

2. Sheep camps will be moved every five days. No two (2) sheep camps will camp in the same area in a grazing season.

3. New bed grounds will be used every night. Sheep bedding grounds will be a minimum of one quarter (1/4) mile from permanent water, aspen stands and previous bed grounds.

4. Utilization of "Key Upland Forage Species" will not exceed 40% by the end of the grazing year.

5. Utilization of key riparian-wetland herbaceous species shall be limited to a minimum 4-inch stubble height by July 31st of each year. Utilization of key riparian-wetland herbaceous species shall be limited to a 6-inch stubble height by the end of the growing season, if grazing starts or extends past July 31st.

6. Utilization of riparian woody or browse key species shall be limited to 30% of available stems by the end of the growing season. (For example aspen, elderberry, serviceberry)

7. Riparian bank shearing and trampling shall be limited to 10% (10 feet in 100 feet of bank).

8. Utilization of key shrub browse species shall be no greater than 25% during the critical growth period, and no more than 40% following the end of the growing season.

9. The permittee will be required to herd sheep throughout their established use area to utilize areas that have received slight and/or light use. If it is determined that annual monitoring standards are attained in an area, the permittee will be required to remove livestock (sheep) from that area immediately upon notification to other portions of the use area that have not been grazed.

10. The permittee will be allowed five days flexibility prior to and following the scheduled use dates to move livestock.

11. The permittee will be required to meet with the BLM prior to each grazing year in order to determine an annual grazing management plan that will ensure appropriate use throughout the Silver Creek Ranch, Inc., Use Area.

12. The season of use in Silver Creek Ranch, Inc., Use Area 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. Any use in excess of the total permitted use for the Silver Creek Ranch, Inc. Use Area within the Carico Lake Allotment will constitute temporary non-renewable use.

13. 316 AUMs of active permitted use was reduced in the 2005 Final Multiple Use Decision.

14. In accordance with 43 CFR 4130.3-3: The authorized officer may modify terms and conditions of the permit or lease when the active use or related management practices are not meeting the land use plan, allotment management plan or other activity plan, or management objectives, or is not in conformance with the provision of subpart 4180 RAC Standards and Guidelines.

Rationale:

Key management areas CL-22, CL-23, CL-31 and CL-34 are located within the Silver Creek Ranch, Inc. Use Area. It was determined in the Conformance Determination that key areas CL-22 and CL-34 have experienced a downward trend since 1996. Trend was not apparent at CL-23 and was not determined at CL-31 due to only having baseline frequency data available. Furthermore, it was determined through the analysis of monitoring data that CL-22, CL-23, CL-31 and CL-34 were failing to meet RAC Standard 3 habitat. In addition, it was determined that riparian areas within the use area were failing to meet RAC Standard 2 Riparian and Wetland habitat. Livestock were identified as a causal factor for non-attainment of RAC Standard 2 and RAC Standard 3. A change in grazing management is required due to the level of livestock use being identified as a causal factor for the failure to meet the SERA RMP objectives, Standards for Rangeland Health, multiple use objectives, allotment specific objectives and downward trend at the key management areas.

The grazing management system will establish a season of use from April 1st – June 30th within the Silver Creek Ranch, Inc., Use Area, which is located in the Toiyabe Mountains. The grazing management system will allow existing upland plants to increase vigor, productivity, cover and seedling establishment. Due to the nature of sheep grazing and herding, it is expected that a certain percentage of the Silver Creek Ranch, Inc., Use Area will be deferred annually. Although livestock grazing will occur during the critical growing period for upland herbaceous species proper use levels have been identified. This will limit use on native upland rangeland during the critical growing period, allow forage plants to gain in vigor, and produce seed. Proper vegetative management maintains or improves the plant community for protection of soil and water resources. Sufficient seedling and young plant recruitment is needed to maintain and increase herbaceous species in the plant community. Healthy plant communities must be able to complete their life cycle by preventing damage during the critical growth period. Critical growth period in a plant growth cycle occurs when food reserves are the lowest

and grazing is the most harmful. The Toiyabe Mountains are suitable to sheep grazing due to topography, distance from water, composition of vegetation, riparian and aspen values. Sheep prefer to graze and bed on upland areas away from riparian areas, which will ensure that critical riparian, water quality and watershed issues are addressed within the Silver Creek Ranch, Inc. portion of the Toiyabe Mountain Use Area. Sheep will not concentrate on riparian areas due to herding and existing water developments throughout the use area. Sheep use would be limited to one pass by the herd through any one area per year. This would include the use of natural water sources. Sheep would be watered at springs or streams along the route taken by the herd. After watering, sheep would not remain on site to graze meadows or other riparian vegetation. Sheep would not concentrate on riparian areas due to herding and existing water developments throughout the allotment. Livestock distribution, as revealed by use pattern maps, has been a problem throughout the use area. The season of use, permitted use, terms and conditions and improvements in distribution through herding will ensure that livestock are dispersed properly throughout the use area. The biodiversity of upland vegetative communities will be improved due to the intensive nature of sheep herding. Herding will ensure that better livestock distribution occurs within the use areas. Sheep are herded more effectively than cattle and utilize areas that will not normally be grazed by cattle. These areas can be influenced by topography and distance from water.

The expected improvement in the vegetative community will enhance soil site stability, limiting the redistribution of and loss of soil resources by wind and water. Hydrologic function will also be enhanced with improvement in the vegetative community. This will allow the site to adequately capture, store and release water from rainfall or snowmelt events. Furthermore, improvement in the plant community will improve the integrity of the biotic community, which will allow the use area to resist loss of function and structure following disturbance allowing for recovery.

In addition, the grazing management system and the Terms and Conditions will provide for the orderly administration of the range and ensure that significant progress towards the attainment of the multiple use objectives, allotment specific objectives and the Standards for Rangeland Health throughout the Silver Creek Ranch, Inc. Use Area will occur. Significant progress will be made when Annual Monitoring Standards for the Carico Lake Allotment are achieved. Monitoring data will continue to be collected to ensure that allotment specific objectives are being attained within the Silver Creek Ranch, Inc. Use Area. Refer to Attachment 1 of the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61). Management actions and objectives conform with the *Management Guidelines for Sage Grouse and Sagebrush Ecosystems In Nevada* (BLM 2000) and to *Guidelines to Manage Sage Grouse Populations and Their Habitats* (Connelly et. al. 2000) also known as the Western Association of Fish and Wildlife Agencies (WAFAWA) *Guidelines for Sage Grouse Management*, until augmented or superseded by the State of Nevada's South Central Nevada Sage Grouse Conservation Plan, which is now under development.

The grazing management system will be in conformance with the Northeastern Great Basin RAC Guidelines including 1.1, 1.3, 2.1, 2.3, 2.4, 3.1, 3.2, 3.3, 3.6, 4.1 Vegetation Guidelines and BLM/WAWFA sage grouse guidelines.

4. Issue a ten year permit for the Silver Creek Ranch, Inc., portion of the Carico Lake Allotment with the following terms and conditions:

Grazing use will be in accordance with the Silver Creek Ranch, Inc., portion of the Carico Lake Allotment Final Multiple Use Decision dated September 30, 2005.

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.

Actual use information, for each pasture/use area will be submitted to the authorized officer within 15 days of completing grazing use as specified on the grazing permit and/or grazing licenses.

Permittee will be required to maintain all range improvement projects for which maintenance responsibility is assigned in accordance with 43 CFR 4140.

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.

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.

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.

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

The terms and conditions of this permit may be modified if additional information indicates that revision is necessary to conform with 43 CFR 4180.

Rationale:

Issuance of a new ten year permit is based on the analysis of the management actions in the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61) and Finding of No Significant Impact (FONSI), the evaluation of monitoring data and the evaluation of Land Use Plan objectives, Standards for Rangeland Health and multiple use objectives. Refer to Attachment 1 of the Environmental Assessment for the Carico Lake Allotment specific objectives. The terms and conditions for grazing within the Silver Creek Ranch, Inc. Use Area portion of the Carico Lake Allotment will result in the attainment of multiple use objectives and is consistent with the Northeastern Great Basin RAC standards and conforms with the guidelines. The environmental assessment and Finding of No Significant Impact (FONSI) have been competed and this Final Multiple Use Decision will authorize the issuance of a new ten year grazing permit and terms and conditions. These terms and conditions will ensure compliance with all applicable laws and regulations governing livestock grazing on public lands.

The ten year permit and terms and conditions will be in conformance with the Northeastern Great Basin RAC Guidelines including 1.1, 1.3, 2.1, 2.3, 2.4, 3.1, 3.2, 3.3, 3.6 and 4.1.

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

§4100.0-8 Land use plans.

The authorized officer shall manage livestock grazing on public lands under the principle of multiple use and sustained yield, and in accordance with applicable land use plans. Land use plans shall establish allowable resource uses (either singly or in combination), related levels of production or use to be maintained, areas of use, and resource condition goals and objectives to be obtained. The plans also set forth program constraints and general management practices needed to achieve management objectives. Livestock grazing activities and management actions approved by the authorized officer shall be in conformance with the land use plan as defined at 43 CFR 1601.0-5(b).
[53 FR 10233, Mar. 29, 1988]

§4110.3 Changes in permitted use.

The authorized officer shall periodically review the permitted use specified in a grazing permit or lease and shall make changes in the permitted use as needed to manage, maintain or improve rangeland productivity, to assist in restoring ecosystems to properly functioning condition, to conform with land use plans or activity plans, or to comply with the provisions of subpart 4180 of this part. These changes must be supported by monitoring, field observations, ecological site inventory or other data acceptable to the authorized officer.
[60 FR 9963, Feb. 22, 1995]

§4120.3-1 Conditions for range improvements.

(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.
(b) Prior to installing, using, maintaining, and/or modifying range improvements on the public lands, permittees or lessees shall have entered into a cooperative range improvement agreement with the Bureau of Land Management or must have an approved range improvement permit.
(c) The authorized officer may require a permittee or lessee to maintain and/or modify range improvements on the public lands under §4130.3-2 of this title.
(d) The authorized officer may require a permittee or lessee to install range improvements on the public lands in an allotment with two or more permittees or lessees and/or to meet the terms and conditions of agreement.
(e) A range improvement permit or cooperative range improvement agreement does not convey to the permittee or cooperator any right, title, or interest in any lands or resources held by the United States.
(f) Proposed range improvement projects shall be reviewed in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4371 *et seq.*). The decision document following the environmental analysis shall be considered the proposed decision under subpart 4160 of this part.
[49 FR 6452, Feb. 21, 1984, as amended at 60 FR 9964, Feb. 22, 1995; 61 FR 4227, Feb. 5, 1996]

§4130.3-1 Mandatory terms and conditions

(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.
(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.
(c) Permits and leases shall incorporate terms and conditions that ensure conformance with subpart 4180 of this part.
[49 Fr 6453, Feb. 21, 1984, as amended at 53 FR 10234, Mar.29, 1988. Redesignated at 60 FR 9965, Feb. 22, 1995, and amended at 60 FR 9966, Feb. 22, 1995]

§4110.3-2 Decreasing permitted use.

(a) Permitted use may be suspended in whole or in part on a temporary basis due to drought, fire, or other natural causes, or to facilitate installation, maintenance, or modification of range improvements.
(b) When monitoring or field observations show grazing use or patterns of use are not consistent with the provisions of subpart 4180, or grazing use is otherwise causing an unacceptable level or pattern of utilization, or when use exceeds the livestock carrying capacity as determined through monitoring, ecological site inventory or other acceptable

methods, the authorized officer shall reduce permitted grazing use or otherwise modify management practices.
[53 FR 10234, Mar. 29, 1988, as amended at 60 FR 9963, Feb. 22, 1995]

§4110.3-3 Implementing reductions in permitted use.

(a) After consultation, cooperation, and coordination with the affected permittee or lessee, the State having lands or managing resources within the area, and the interested public, reductions of permitted use shall be implemented through a documented agreement or by decision of the authorized officer. Decisions implementing §4110.3-2 shall be issued as proposed decisions pursuant to §4160.1, except as provided in paragraph (b) of this section.
(b) When the authorized officer determines that the soil, vegetation, or other resources on the public lands require immediate protection because of conditions such as drought, fire, flood, insect infestation, or when continued grazing use poses an imminent likelihood of significant resource damage, after consultation with, or a reasonable attempt to consult with, affected permittees or lessees, the interested public, and the State having lands or responsible for managing resources within the area, the authorized officer shall close allotments or portions of allotments to grazing by any kind of livestock or modify authorized grazing use notwithstanding the provisions of paragraph (a) of this section. Notices of closure and decisions requiring modification of authorized grazing use may be issued as final decisions effective upon issuance or on the date specified in the decision. Such decisions shall remain in effect pending the decision on appeal unless a stay is granted by the Office of Hearings and Appeals in accordance with 43 CFR 4.21.
[60 FR 9963, Feb. 22, 1995]

§4130.3 Terms and conditions.

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.
[60 FR 9966, Feb. 22, 1995]

§4130.3-1 Mandatory terms and conditions.

(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.
(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.
(c) Permits and leases shall incorporate terms and conditions that ensure conformance with subpart 4180 of this part.
[49 FR 6453, Feb. 21, 1984, as amended at 53 FR 10234, Mar. 29, 1988. Redesignated at 60 FR 9965, Feb. 22, 1995, and amended at 60 FR 9966, Feb. 22, 1995]

§4130.3-2 Other terms and conditions.

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. These may include but are not limited to:
(a) The class of livestock that will graze on an allotment;
(b) The breed of livestock in allotments within which two or more permittees or lessees are authorized to graze;
(c) Authorization to use, and directions for placement of supplemental feed, including salt, for improved livestock and rangeland management on the public lands;
(d) A requirement that permittees or lessees operating under a grazing permit or lease submit within 15 days after completing their annual grazing use, or as otherwise specified in the permit or lease, the actual use made;
(e) The kinds of indigenous animals authorized to graze under specific terms and conditions;
(f) Provision for livestock grazing temporarily to be delayed, discontinued or modified to allow for the reproduction, establishment, or restoration of vigor of plants, provide for the improvement of riparian areas to achieve proper functioning condition or for the protection of other rangeland resources and values consistent with objectives of applicable land use plans, or to prevent compaction of wet soils, such as where delay of spring turnout is required because of weather conditions or lack of plant growth;
(g) The percentage of public land use determined by the proportion of livestock forage available on public lands within the allotment compared to the total amount available from both public lands and those owned or controlled by the permittee or lessee; and (h) A statement disclosing the requirement that permittees or lessees shall provide reasonable administrative access across private and leased lands to the Bureau of Land Management for the orderly management and protection of the public lands.
[49 FR 6453, Feb. 21, 1984; 49 FR 12704, Mar. 30, 1984. Redesignated at 60 FR 9965, Feb. 22, 1995, and amended at 60 FR 9966, Feb. 22, 1995]

§4130.3-3 Modification of permits or leases.

Following consultation, cooperation, and coordination with the affected lessees or permittees, the State having lands or responsible for managing resources within the area, and the interested public, the authorized officer may modify terms and conditions of the permit or lease when the active use or related management practices are not meeting the land use plan, allotment management plan or other activity plan, or management objectives, or is not in conformance with the provisions of subpart 4180 of this part. To the extent practical, the authorized officer shall provide to affected permittees or lessees, States having lands or responsibility for managing resources within the affected area, and the interested public an opportunity to review, comment and give input during the preparation of reports that evaluate monitoring and other data that are used as a basis for making decisions to increase or decrease grazing use, or to change the terms and conditions of a permit or lease.
[60 FR 9966, Feb. 22, 1995]

§4160.3 Final decisions.

(a) In the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice unless otherwise provided in the proposed decision.
(b) Upon the timely filing of a protest, the authorized officer shall reconsider her/his proposed decision in light of the protestant's statement of reasons for protest and in light of other information pertinent to the case. At the conclusion to her/his review of the protest, the authorized officer shall serve her/his final decision on the protestant or her/his agent, or both, and the interested public.
(c) A period of 30 days following receipt of the final decision, or 30 days after the date the proposed decision becomes final as provided in paragraph (a) of this section, is provided for filing an appeal and petition for stay of the decision pending final determination on appeal. A decision will not be effective during the 30-day appeal period, except as provided in paragraph (f) of this section. See §§4.21 and 4.470 of this title for general provisions of the appeal and stay processes.
(d) When the Office of Hearings and Appeals stays a final decision of the authorized officer regarding an application for grazing authorization, an applicant who was granted grazing use in the preceding year may continue at that level of authorized grazing use during the time the decision is stayed, except where grazing use in the preceding year was authorized on a temporary basis under §4110.3-1(a). Where an applicant had no authorized grazing use during the previous year, or the application is for designated ephemeral or annual rangeland grazing use, the authorized grazing use shall be consistent with the final decision pending the Office of Hearings and Appeals final determination on the appeal.
(e) When the Office of Hearings and Appeals stays a final decision of the authorized officer to change the authorized grazing use, the grazing use authorized to the permittee or lessee during the time that the decision is stayed shall not exceed the permittee's or lessee's authorized use in the last year during which any use was authorized.
(f) Notwithstanding the provisions of §4.21(a) of this title pertaining to the period during which a final decision will not be in effect, the authorized officer may provide that the final decision shall be effective upon issuance or on a date established in the decision and shall remain in effect pending the decision on appeal unless a stay is granted by the Office of Hearings and Appeals when the authorized officer has made a determination in accordance with §4110.3-3(b) or §4150.2(d). Nothing in this section shall affect the authority of the Director of the Office of Hearings and Appeals or the Interior Board of Land Appeals to place decisions in full force and effect as provided in §4.21(a)(1) of this title.
[43 FR 29067, July 5, 1978, as amended at 46 FR 5791, Jan. 19, 1981; 47 FR 41713, Sept. 21, 1982; 47 FR 46702, Oct. 20, 1982; 49 FR 6455, Feb. 21, 1984; 49 FR 12705, Mar. 30, 1984; 60 FR 9969, Feb. 22, 1995; 61 FR 4227, Feb. 5, 1996]

§4160.4 Appeals.

Any person whose interest is adversely affected by a final decision of the authorized officer may appeal the decision for the purpose of a hearing before an administrative law judge by following the requirements set out in §4.470 of this title. As stated in that part,

the appeal must be filed within 30 days after receipt of the final decision or within 30 days after the date the proposed decision becomes final as provided in §4160.3(a). Appeals and petitions for a stay of the decision shall be filed at the office of the authorized officer. The authorized officer shall promptly transmit the appeal and petition for stay and the accompanying administrative record to ensure their timely arrival at the Office of Hearings and Appeals.
[60 FR 9969, Feb. 22, 1995, as amended at 61 FR 4227, Feb. 5, 1996]

§4180.1 Fundamentals of rangeland health.

The authorized officer shall take appropriate action under subparts 4110, 4120, 4130, and 4160 of this part as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management needs to be modified to ensure that the following conditions exist.
(a) Watersheds are in, or are making significant progress toward, properly functioning physical condition, including their upland, riparian-wetland, and aquatic components; soil and plant conditions support infiltration, soil moisture storage, and the release of water that are in balance with climate and landform and maintain or improve water quality, water quantity, and timing and duration of flow.
(b) Ecological processes, including the hydrologic cycle, nutrient cycle, and energy flow, are maintained, or there is significant progress toward their attainment, in order to support healthy biotic populations and communities.
(c) Water quality complies with State water quality standards and achieves, or is making significant progress toward achieving, established BLM management objectives such as meeting wildlife needs.
(d) Habitats are, or are making significant progress toward being, restored or maintained for Federal threatened and endangered species, Federal Proposed, Category 1 and 2 Federal candidate and other special status species.
[60 FR 9969, Feb. 22, 1995]

§4180.2 Standards and guidelines for grazing administration.

(c) The authorized officer shall take appropriate action as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management practices or levels of grazing use on public lands are significant factors in failing to achieve the standards and conform with the guidelines that are made effective under this section. Appropriate action means implementing actions pursuant to subparts 4110, 4120, 4130, and 4160 of this part that will result in significant progress toward fulfillment of the standards and significant progress toward conformance with the guidelines. Practices and activities subject to standards and guidelines include the development of grazing-related portions of activity plans, establishment of terms and conditions of permits, leases and other grazing authorizations, and range improvement activities such as vegetation manipulation, fence construction and development of water.

APPEAL PROCEDURES LIVESTOCK DECISION

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

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

The appeal and any petition for stay must be filed at the office of the authorized officer (Douglas W. Furtado, Assistant Field Manager, Renewable Resources, 50 Bastian Road, Battle Mountain, Nevada 89820). Within 15 days of filing the appeal and any petition for stay, the appellant also must serve a copy of the appeal and any petition for stay on any person named in the decision and listed at the end of the decision, and on the Office of the Solicitor, Regional Solicitor, Pacific Southwest Region, U.S. Department of the Interior, 2800 Cottage Way, Room E-1712, Sacramento, California 95825-1890.
Pursuant to 43 CFR 4.471(c), a petition for stay, if filed, must show sufficient justification based on the following standards:

(1) The relative harm to the parties if the stay is granted or denied;
(2) The likelihood of the appellant's success on the merits;
(3) The likelihood of immediate and irreparable harm if the stay is not granted; and,
(4) Whether the public interest favors granting the stay.

43 CFR 4.471(d) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

Any person named in the decision from which an appeal is taken (other than the appellant) who wishes to file a response to the petition for a stay may file with the Hearings Division in Salt Lake City, Utah, a motion to intervene in the appeal, together with the response, within 10 days after receiving the petition. Within 15 days after filing the motion to intervene and response, the person must serve copies on the appellant, the Office of the Solicitor and any other person named in the decision (43 CFR 4.472(b)).

At the conclusion of any document that a party must serve, the party or it's 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)).

WILD HORSE MANAGEMENT DECISION

1. **Establish an Appropriate Management Level range for wild horses within the Bald Mountain Herd Management Area of 129-215 (1,548-2,580 AUMs) wild horses year-round.**

Rationale:

Use pattern mapping data was collected in accordance with the Nevada Rangeland Monitoring Handbook in 1988, 1989, 1990, 1991 and 1996. This data was used to analyze the carrying capacity. The carrying capacity was based on weighted average utilization and actual use. Refer to CLARHA Appendix 11. The carrying capacity was identified to ensure that uniform distribution will be possible in the short-term. The following table illustrates the average actual wild horse use compared to the weighted average utilization and the total acres that exceeded the Rangeland Program Summary initial utilization objective 60% by the end of the grazing year for the Carico Lake Allotment.

	1988	1989	1990	1991	1996
61-80% Utilization	132,940 acres	63,418 acres	145,280 acres	177,957 acres	14,453 acres
Average Actual Use (Wild Horses)	3,036 AUMs	3,732 AUMs	6,396 AUMs	7,656 AUMs	5,892 AUMs

Key management areas including CL-16, CL-20, CL-21, CL-22, CL-23, CL-27, CL-28, CL-31, CL-32, CL-34 and CL-36 are located within the Bald Mountain Herd Management Area. It was determined in the Conformance Determination that key areas CL-20, CL-21, CL-22, CL-27, CL-28, CL-32 and CL-34 have experienced a downward trend since 1996 as indicated by the frequency data. Trend was not apparent act CL-16 and CL-23. Trend was not determined at CL-31 due to only having baseline frequency data available. Trend appears to be upward at CL-36 as revealed by the frequency study.

All key management areas within the Bald Mountain HMA were failing to meet Resource Advisory Council (RAC) Standard 3 habitat. Riparian areas throughout the Bald Mountain Herd Management Use Area were failing to meet RAC Standard 2 Riparian and Wetland Sites. Wild horses were identified as a causal factor for non-attainment of RAC Standard 2 and RAC Standard 3. An Appropriate Management Level for wild horses is required due to this level of wild horse use being identified as a causal factor for failure to meet the SERA RMP objectives, Standards for Rangeland Health, multiple use objectives, allotment specific objectives and downward trend at the key management areas. For detailed analysis of monitoring data regarding these findings refer to the Carico Lake Allotment Rangeland Health Assessment Pages 42-245, Appendix 6, 7, 10 and 11 and the Carico Lake Conformance Determination.

Bald Mountain HMA records indicate that wild horses have concentrated near Hot Springs Point causing deterioration of the resources. Records from the 1980's state that wild horses frequently use water at the hot springs in the summer months. Little use by wild horses has been documented at Summit Spring. Wild horses have heavily depended upon Sheep Corral Spring, and have utilized Dead Ox Canyon Spring, Red Mountain

Springs, and Dry Canyon Spring. The Riparian Proper Functioning Condition Assessment specifically identified wild horse use and hoof action as contributing to negative impacts and poor ratings on Wenban Spring Complexes, Copper Canyon (north), and Dead Ox East Spring. AML does not currently exist, which inhibits the ability to manage wild horses in balance with range resources within the HMA. Use pattern maps revealed that heavy utilization was occurring throughout the HMA in 1988, 1989, 1990 and 1991. Livestock and wild horse use have been identified as the causal factors of the non-attainment of the riparian and habitat standard in addition to the heavy utilization as indicated by the use pattern maps.

Wild horse population distribution is not uniform throughout the HMA. The majority of the population has historically been concentrated on the southeast portion of the HMA in the vicinity of Hot Springs Point and Copper Canyon. Distribution maps indicate that this has been especially pronounced in the winter months. This concentration of large numbers of wild horses has contributed to over utilization, which has lead to the disappearance of key perennial grasses resulting in deficient herbaceous species production throughout the HMA.

The desired carrying capacity was chosen for the Bald Mountain HMA, and utilized as the upper range for the AML for several reasons. The analysis of riparian areas documented wild horse impacts to the riparian areas that contributed to the less than favorable ratings. Additionally, though not completely in balance, the wild horses are distributed across more of the HMA than those of South Shoshone particularly in the summer months. Bald Mountain HMA wild horses also intermix with the wild horses within the Callaghan HMA. Both HMAs occupy the same mountain range, and have adjoining boundaries. For these reasons, it was determined that the desired carrying capacity would be utilized as the upper range of AML. Furthermore it was determined that the lower range of AML would allow for appropriately scheduled gathers and improved range and riparian conditions over the long term. As with South Shoshone HMA, when the Bald Mountain HMA is gathered, genetic testing will be completed to determine the genetic health of the herd as well as the degree of similarity between the genetics of the Bald Mountain, South Shoshone and Callaghan HMAs. Refer to Appendix 11 in the CLARHA for a detailed discussion of the carrying capacity analysis.

Significant progress towards meeting the standard will occur with the establishment and achievement of an AML within the Bald Mountain HMA. This will result in a thriving natural ecological balance, improved herd distribution and reduced concentration of animals. Significant progress will result in the attainment of short-term and long-term key management area objectives and riparian objectives within the HMA.

The Appropriate Management Level (AML) for wild horses will ensure that significant progress will be made towards the attainment of the SERA RMP objectives, Standards for Rangeland Health, multiple use objectives and allotment specific objectives. Significant progress will be made when Annual Monitoring Standards for the Carico Lake Allotment are achieved. Monitoring data will continue to be collected to ensure that allotment specific objectives are being attained within the Bald Mountain Herd

Management Area. Refer to Attachment 1 of the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61).

2. **Establish an Appropriate Management Level range for wild horses within the South Shoshone Herd Management Area of 60-100 (720-1,200 AUMs) wild horses year-round.**

Rationale:

Use pattern mapping data was collected in accordance with the Nevada Rangeland Monitoring Handbook in 1988, 1989, 1990, 1991 and 1996. This data was used to analyze the carrying capacity. The carrying capacity was based on weighted average utilization and actual use. Refer to CLARHA Appendix 11. The carrying capacity was identified to ensure that uniform distribution will be possible in the short-term. The following table illustrates the average actual wild horse use compared to the weighted average utilization and the total acres that exceeded the Rangeland Program Summary initial utilization objective 60% by the end of the grazing year for the Carico Lake Allotment.

	1988	1989	1990	1991	1996
61-80% Utilization	132,940 acres	63,418 acres	145,280 acres	177,957 acres	14,453 acres
Average Actual Use (Wild Horses)	3,036 AUMs	3,732 AUMs	6,396 AUMs	7,656 AUMs	5,892 AUMs

Key management areas CL-24, CL-25, CL-26, CL-29 and CL-37 are located within the South Shoshone Herd Management Area. It was determined in the Conformance Determination that key areas CL-24, CL-26 and CL-37 experienced a downward trend since 1996 and CL-25 experienced a downward trend since 1998 as revealed by the frequency study. Trend was not apparent at key area CL-29. Furthermore, key areas CL-24, CL-25 and CL-37 were failing to meet Resource Advisory Council (RAC) Standard 3 habitat. Riparian areas throughout the South Shoshone Herd Management Use Area were failing to meet RAC Standard 2 Riparian and Wetland Sites. Wild horses were identified as a causal factor for non-attainment of RAC Standard 2 and RAC Standard 3. The Appropriate Management Level for wild horses is required due to this level of wild horse use being identified as a causal factor for failure to meet the SERA RMP objectives, Standards for Rangeland Health, multiple use objectives, allotment specific objectives and downward trend at the key management areas. For detailed analysis of monitoring data regarding these findings refer to the Carico Lake Allotment Rangeland Health Assessment Pages 42-245, Appendix 6, 7, 10 and 11 and the Carico Lake Conformance Determination.

Census and distribution flights have documented movement patterns that reveal wild horses utilize springs and riparian areas in the northern portion of the HMA infrequently. The northern portion of this HMA has the highest concentration of perennial springs; however, these areas have been minimally impacted by wild horses. Water sources are not as plentiful in the southern portion of the HMA; however, this is where the majority of the wild horse concentration occurs. Cedar Springs located north of Wood Canyon is

used by wild horses. The riparian Functioning Condition Assessment specifically identified wild horse use and hoof action as contributing to negative impacts and poor ratings on these springs. Wild horses have also been identified as contributing to negative impacts in Cottonwood Creek.

Due to the inability to control the wild horse populations by gathering excess numbers the population has exceeded the capacity of the land. In addition, census and distribution flights reveal that uniform distribution of wild horses within the HMA has not occurred. The majority of the wild horses have historically concentrated in the far southern portion of the HMA, which has caused moderate to heavy utilization as indicated by use pattern maps collected in 1988-1991. Monitoring data reveals that key perennial grasses are absent from the majority of key management areas within the HMA. It has been determined that livestock and wild horses are the causal factor for the absence of these grasses.

The potential carrying capacity was utilized for the South Shoshone HMA, and represents the low range of AML. The distribution imbalance across the HMA is more pronounced than that of the Bald Mountain HMA, and it is anticipated that careful planning and implementation of a wild horse gather to achieve AML will improve the distribution imbalances across the HMA, allowing for the potential carrying capacity to be utilized. In addition, the riparian damage documented by wild horses is less prevalent within this HMA as compared to the Bald Mountain HMA. A lower annual rate of increase is documented for the South Shoshone HMA as well as a current decline of the population. Utilizing the potential carrying capacity as the low range of AML is the appropriate, conservative decision to ensure the viability of the herd into the future. Future monitoring and census data will be utilized to determine if the AML is valid over the long term. In addition, when the HMA is gathered to achieve AML, blood will be sampled and analyzed for genetic viability to further determine the appropriateness of the AML and proper management of the South Shoshone HMA.

Significant progress towards meeting the standard will occur with the establishment and achievement of AML within the South Shoshone HMA. This will result in a thriving natural ecological balance, improved herd distribution and reduced concentration of animals. Significant progress will result in the attainment of short-term and long-term key management area objectives and riparian objectives within the HMA.

The Appropriate Management Level (AML) for wild horses will ensure that significant progress will be made towards the attainment of the SERA RMP objectives, Standards for Rangeland Health, multiple use objectives and allotment specific objectives. Significant progress will be made when Annual Monitoring Standards for the Carico Lake Allotment are achieved. Monitoring data will continue to be collected to ensure that allotment specific objectives are being attained within the South Shoshone Herd Management Area. Refer to Attachment 1 of the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61).

Rationale Common to the Bald Mountain and South Shoshone HMAs:

In order to allow for improved range health conditions and upward trend throughout the allotment, AML will remain at the level established in this document until these HMAs are re-evaluated. Monitoring data will continue to be collected at the existing monitoring studies within the HMAs to evaluate rangeland health and ensure that significant progress is being made toward the attainment of SERA RMP objectives, Standards for Rangeland Health, multiple use objectives and allotment specific objectives. This information will be utilized to determine if AML should be adjusted in the future to maintain thriving natural ecological balance and a healthy wild horse population.

Periodic gathers will be required to maintain the wild horse population at the established AML. This will require either removing the annual increase in population each year or gathering less frequently and removing larger numbers. Removing only a few horses per year is far less desirable for the following reasons:

1. Gathering once a year to remove excess wild horses would be cost prohibitive and could not be accomplished with the numerous HMAs gathered annually in Nevada.

2. Annual gathers would have more severe impacts to herd stability and band integrity.

3. Frequent gathers make the animals far more difficult to capture and greatly increases the chances for more horses to be injured or killed.

4. The Wild Free Roaming Horse and Burro Act require that "all management actions shall be at the minimum feasible level".

For these reasons, the AML for the two HMAs will be established as a range, which will ensure maintenance of a thriving natural ecological balance, reduced frequency of gathers and minimal stress to the wild horse population as a result of gathers. Implementation of the proposed AML ranges would allow 3-4 years to pass after each gather before the upper range of AML is exceeded.

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

§4180.1 Fundamentals of rangeland health.

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

(a) Watersheds are in, or are making significant progress toward, properly functioning physical condition, including their upland, riparian-wetland, and aquatic components; soil and plant conditions support infiltration, soil moisture storage, and the release of water that are in balance with climate and landform and maintain or improve water quality, water quantity, and timing and duration of flow.
(b) Ecological processes, including the hydrologic cycle, nutrient cycle, and energy flow, are maintained, or there is significant progress toward their attainment, in order to support healthy biotic populations and communities.
(c) Water quality complies with State water quality standards and achieves, or is making significant progress toward achieving, established BLM management objectives such as meeting wildlife needs.
(d) Habitats are, or are making significant progress toward being, restored or maintained for Federal threatened and endangered species, Federal Proposed, Category 1 and 2 Federal candidate and other special status species.
[60 FR 9969, Feb. 22, 1995]

§4180.2 Standards and guidelines for grazing administration.

(c) The authorized officer shall take appropriate action as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management practices or levels of grazing use on public lands are significant factors in failing to achieve the standards and conform with the guidelines that are made effective under this section. Appropriate action means implementing actions pursuant to subparts 4110, 4120, 4130, and 4160 of this part that will result in significant progress toward fulfillment of the standards and significant progress toward conformance with the guidelines. Practices and activities subject to standards and guidelines include the development of grazing-related portions of activity plans, establishment of terms and conditions of permits, leases and other grazing authorizations, and range improvement activities such as vegetation manipulation, fence construction and development of water.

§4700.0-6 Policy

(a) Wild horses and burros shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat.
(d) In administering these regulations, the authorized officer shall consult with Federal and State wildlife agencies and all other affected interest, to involve them in planning for and management of wild horses and burros on the public lands.

§4710.3-1 Herd Management Areas

In delineating each herd management area, the authorized officer shall consider the appropriate management level for the herd, the habitat requirements of the animals, the relationships with other users of the public and adjacent private lands, and the constraints contained in 4710.4. The authorized officer shall prepare a herd management area plan, which may cover one or more herd management areas.

§4710.4 Constraints on Management

Management of wild horses and burros shall be undertaken with the objective of limiting the animals' distribution to herd areas. Management shall be at the minimum level necessary to attain the objectives identified in approved land use plans and herd management area plans.

§4720.1 Removal of excess animals from public lands

Upon examination of current information and a determination by the authorized officer that an excess of wild horses or burros exists, the authorized officer shall remove the excess animals immediately in the following order.
(a) Old, sick, or lame animals shall be destroyed in accordance with subpart 4730 of this title;
(b) Additional excess animals for which an adoption demand by qualified individuals exists shall be humanely captured and made available for private maintenance in accordance with subpart 4750 of this title; and
(b) Remaining excess animals for which no adoption demand by qualified individuals exists shall be destroyed in accordance with subpart 4730 of this part. *However, the appropriation language has prohibited the use of government funds to destroy healthy excess wild horses.*

§4770.3 Administrative Remedies

(a) Any person who is adversely affected by a decision of the authorized officer in the administration of these regulations may file an appeal. Appeals and petitions for stay of a decision of the authorized officer must be filed within 30 days of receipt of the decision in accordance with 43 CFR part 4.
[59 FR 7643, Feb. 16, 1994]

WILDLIFE MANAGEMENT DECISION

1. Retain short-term big game numbers 1,241 AUMs in the Carico Lake Allotment.

Rationale:

Monitoring data indicated that the Standards for Rangeland Health were not being attained at the majority of key management area and riparian areas within the Carico Lake Allotment; therefore, short-term reasonable numbers of wildlife AUMs will be retained. Monitoring data will continue to be collected throughout the allotment to ensure that multiple use objectives are being attained. An increase in livestock, wild horse, and wildlife numbers may be authorized in the future through a re-evaluation if it is determined through further monitoring that additional forage has become available and that SERA RMP objectives, Standards for Rangeland Health, allotment specific objectives and multiple use objectives are being met. Wildlife, big game AUMs, would receive first priority for any future reallocation, at which time big game forage allocation

would be increased from 1,241 AUMs to 1,750 AUMs (long-term objective of the SERA RMP/RPS). The authorization of a grazing increase would be dependent upon further monitoring, NEPA analysis, and issuance of a Decision.

APPEAL PROCEDURES WILD HORSE AND WILDLIFE DECISIONS

Within 30 days of receipt of this wild horse and wildlife decision, you have the right to appeal to the Board of Land Appeals, Office of the Secretary, in accordance with regulations at 43 CFR 4.4. If an appeal is taken, you must follow the procedures outlined in the enclosed, "Information on Taking Appeals to the Board of Land Appeals". Please also provide this office with a copy of your Statement of Reasons. An appeal should be in writing and specify the reasons, clearly and concisely, as to why you think the decision is in error.

In addition, within 30 days of receipt of these decisions you have a right to file a petition for a stay (suspension) of the decision together with your appeal in accordance with the regulations at 43 CFR 4.21. The petition must be served upon the same parties identified in items 2, 3 and 4 of the enclosed form titled "Information on Taking Appeals to the Board of Land Appeals". The appellant has the burden of proof to demonstrate that a stay should be granted.

AUTHORIZED OFFICER'S SIGNATURE:

If future monitoring indicates that SERA Land Use Plan objectives, RPS objectives Carico Lake Allotment specific objectives and RAC Standards are not being achieved, further adjustments will be made accordingly.

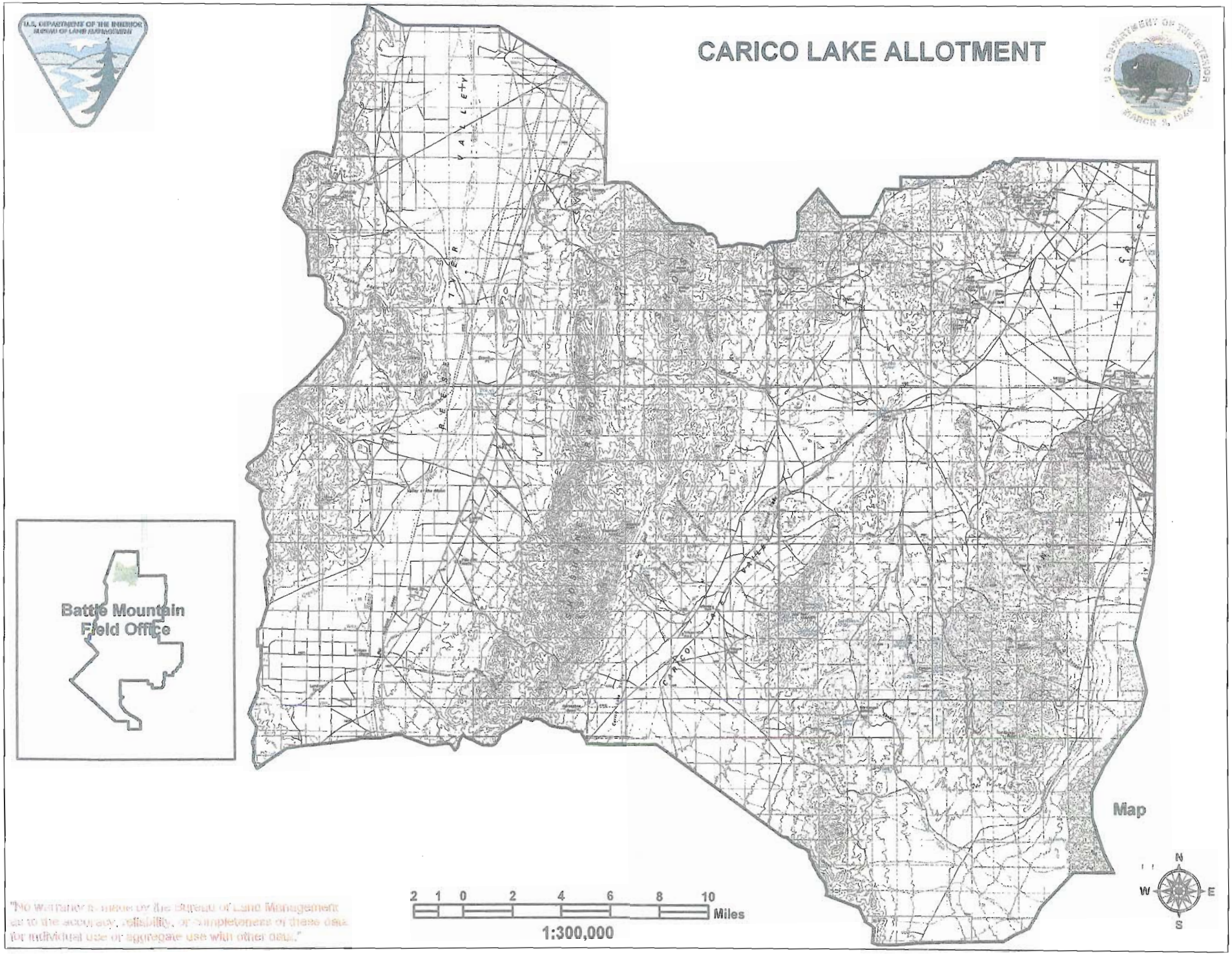
These decisions are consistent with 43 CFR 4180 and the Northeastern Great Basin RAC Standards and Guidelines for rangeland health and healthy wild horse and burro populations.

Douglas W. Furtado
Assistant Field Manager
Renewable Resources

9/30/05
Date

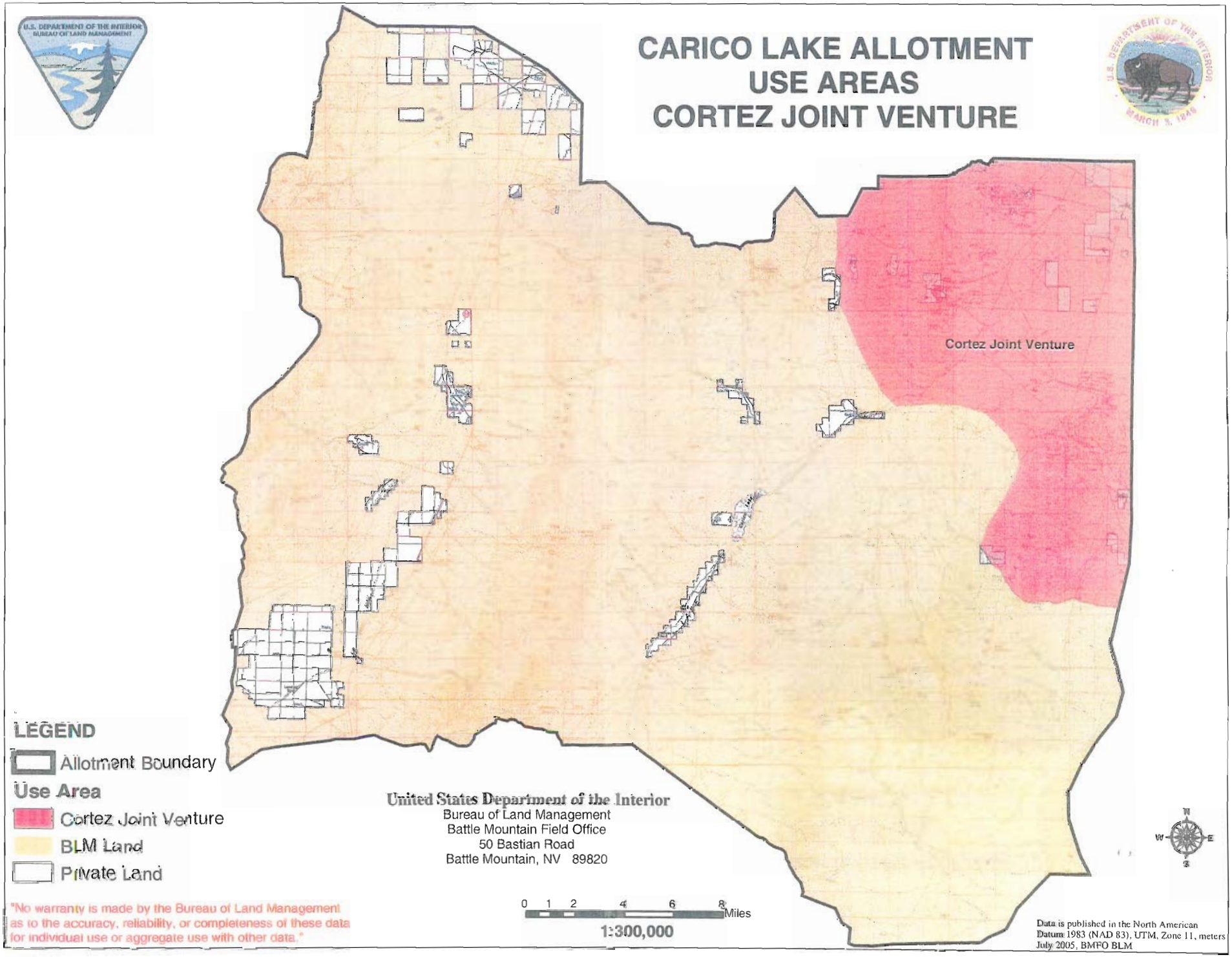
APPENDIX A

CARICO LAKE ALLOTMENT



"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."

CARICO LAKE ALLOTMENT
USE AREAS
CORTEZ JOINT VENTURE

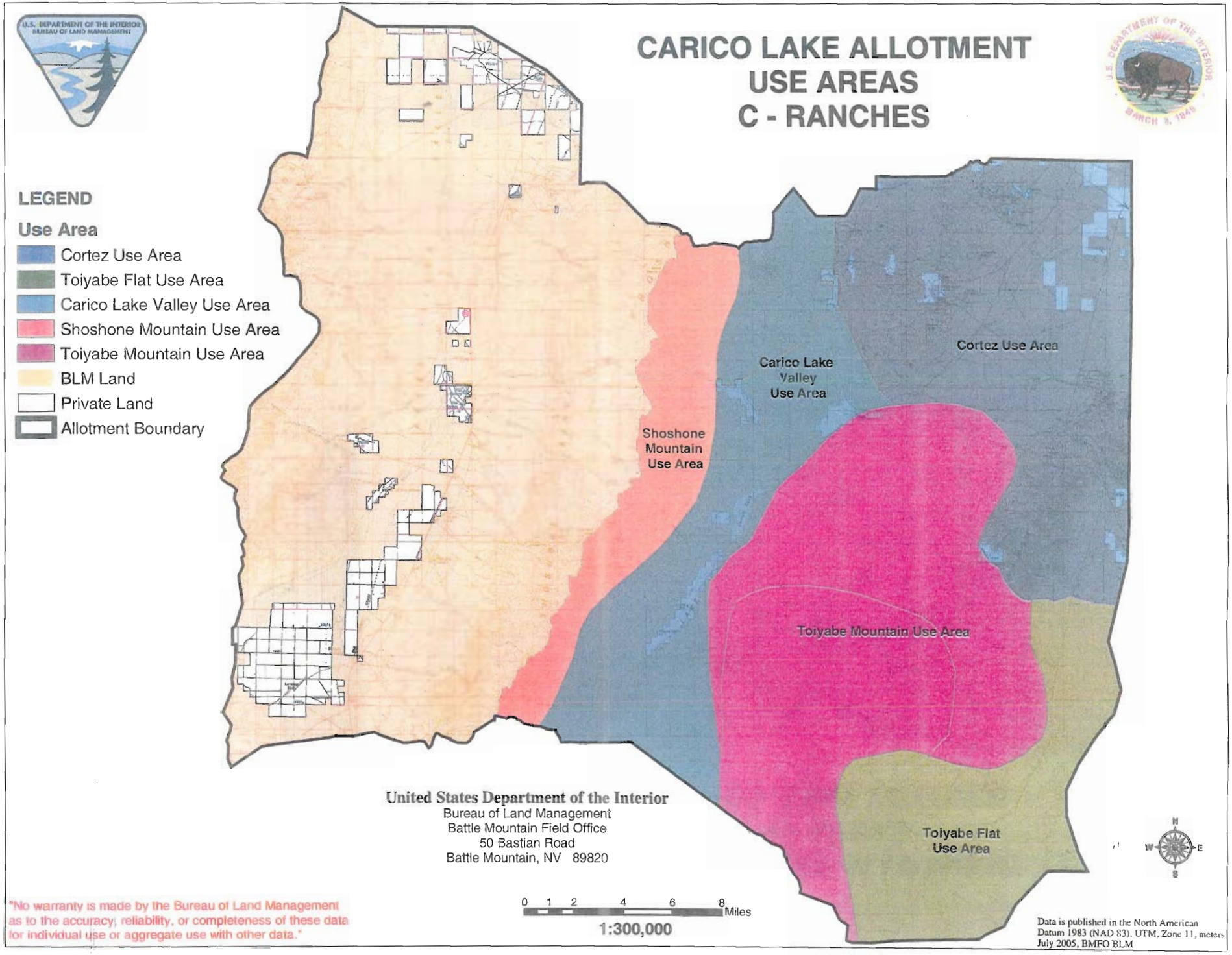


United States Department of the Interior
Bureau of Land Management
Battle Mountain Field Office
50 Bastian Road
Battle Mountain, NV 89820

"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."

Data is published in the North American Datum 1983 (NAD 83), UTM, Zone 11, meters
July 2005, BMFO BLM

CARICO LAKE ALLOTMENT
USE AREAS
C - RANCHES



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50 Bastian Road
Battle Mountain, NV 89820

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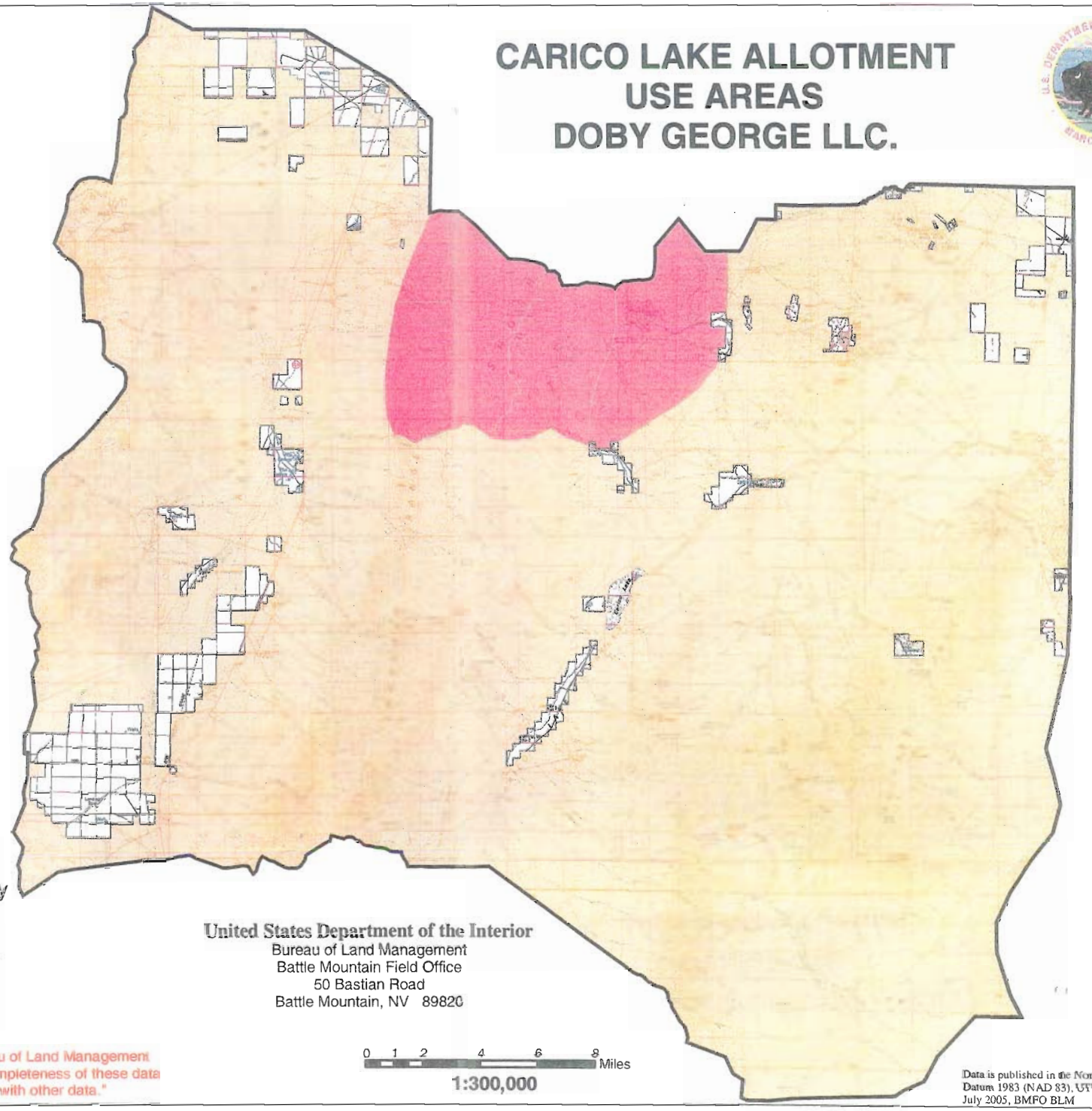
July 2005, BMFO BLM

CARICO LAKE ALLOTMENT
USE AREAS
DOBY GEORGE LLC.



LEGEND

- Allotment Boundary

Use Area

- Doby George LLC.
- BLM Land
- Private Land

United States Department of the Interior
Bureau of Land Management
Battle Mountain Field Office
50 Bastian Road
Battle Mountain, NV 89820

0 1 2 4 6 8 Miles

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N W E S

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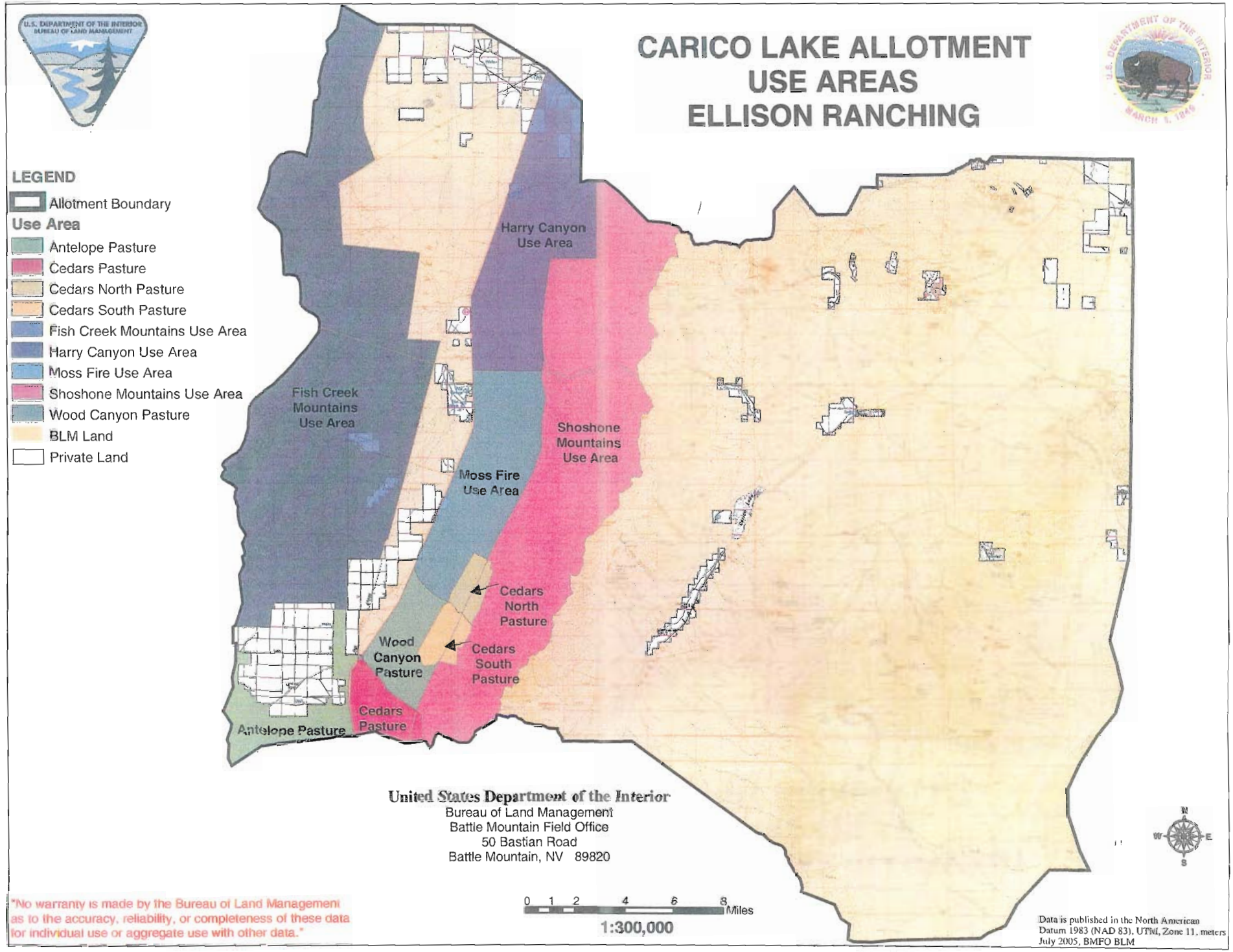
Data is published in the North American Datum 1983 (NAD 83), UTM, Zone 11, meters
July 2005, BMFO BLM

CARICO LAKE ALLOTMENT
USE AREAS
ELLISON RANCHING



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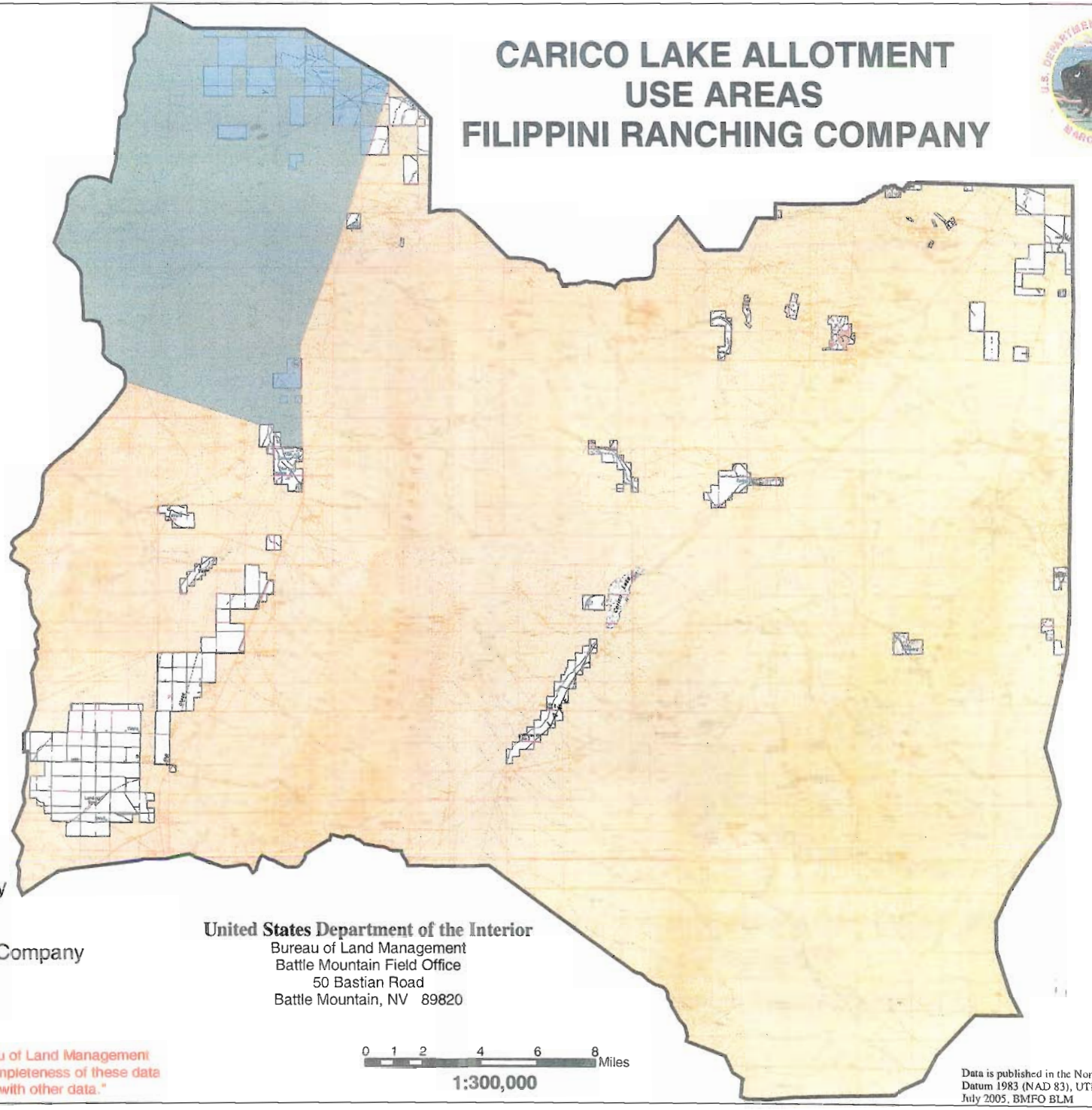
Battle Mountain, NV 89820

Data is published in the North American Datum 1983 (NAD 83), UTM, Zone 11, meters
July 2005, BMFO BLM

CARICO LAKE ALLOTMENT
USE AREAS
FILIPPINI RANCHING COMPANY



LEGEND

- Allotment Boundary

Use Area

- Filippini Ranching Company
- BLM Land
- Private Land

United States Department of the Interior
Bureau of Land Management
Battle Mountain Field Office
50 Bastian Road
Battle Mountain, NV 89820

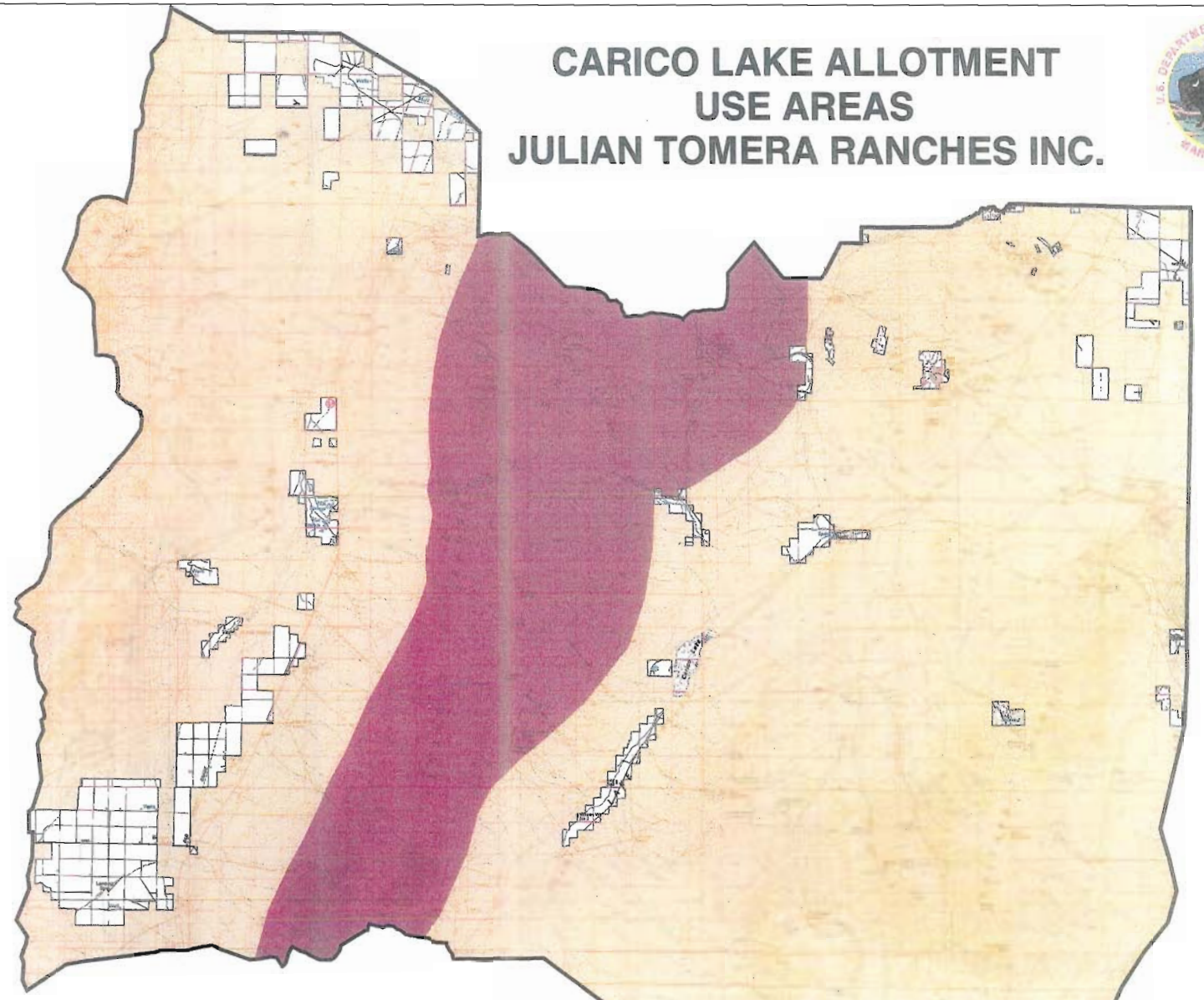
0 1 2 4 6 8 Miles

1:300,000

N W E S

Data is published in the North American Datum 1983 (NAD 83), UTM, Zone 11, meters
July 2005, BMFO BLM

CARICO LAKE ALLOTMENT
USE AREAS
JULIAN TOMERA RANCHES INC.



LEGEND

- Allotment Boundary

Use Area

- Julian Tomera Ranches Inc.
- BLM Land
- Private Land

United States Department of the Interior
Bureau of Land Management
Battle Mountain Field Office
50 Bastian Road
Battle Mountain, NV 89820

0 1 2 4 6 8 Miles

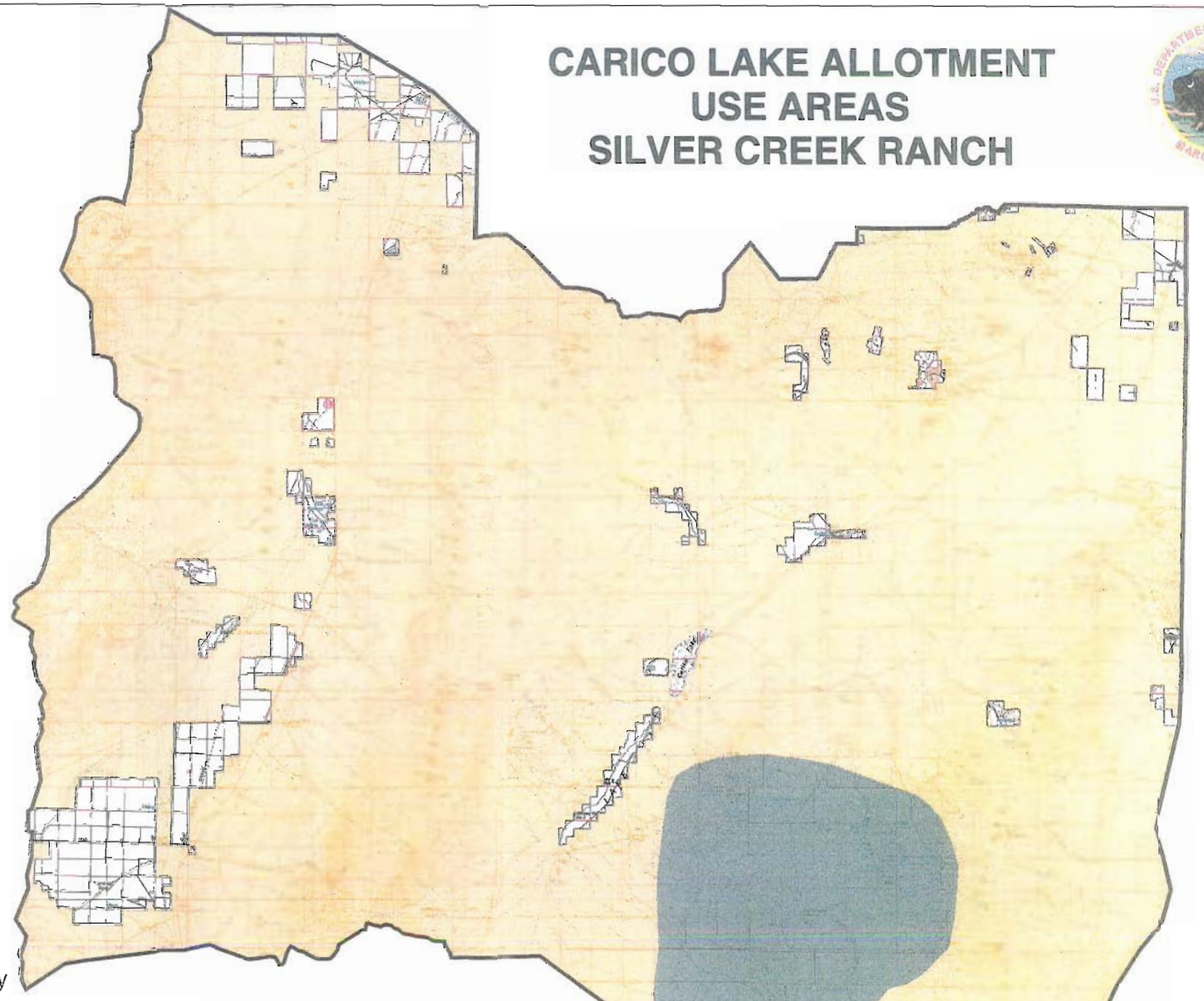
1:300,000

N W E S

"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."

Data is published in the North American Datum 1983 (NAD 83), UTM, Zone 11, meters
July 2005, BMFO BLM

CARICO LAKE ALLOTMENT
USE AREAS
SILVER CREEK RANCH



LEGEND

- Allotment Boundary

Use Area

- Silver Creek Ranch
- BLM Land
- Private Land

"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."

United States Department of the Interior
Bureau of Land Management
Battle Mountain Field Office
50 Bastian Road
Battle Mountain, NV 89820

0 1 2 4 6 8 Miles

1:300,000

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July 2005, BMFO BLM

ATTACHMENT 1

I. Introduction and Responses to Protests

Monitoring information was collected from 1989 – 2003 and was analyzed in the Carico Lake Allotment Rangeland Health Assessment (July 2004) to determine if management practices were meeting SERA RMP objectives, Standards for Rangeland Health, multiple use objectives and allotment specific objectives as identified in the evaluation.

The Carico Lake Allotment Rangeland Health Assessment was sent to the interested public July 22, 2005 for a thirty day review and comment period. The Proposed Multiple Use Decision, Environmental Assessment and unsigned Finding of No Significant Impact was issued on September 2, 2005. Meetings with affected parties have been held throughout the evaluation period and following the issuance of the Carico Lake Allotment Proposed Multiple Use Decision. Protest Points are addressed below.

Protest from Forest Guardians received September 15, 2005

Protest Point 1: The BLM fails to determine the suitability of the allotment for livestock grazing as required by FLPMA.

Response 1: Following the analysis, interpretation and evaluation of monitoring data, it was determined that SERA RMP objectives, Standards for Rangeland Health and multiple use objectives were not being fully attained. The evaluation also concluded that significant progress towards the attainment of the Standards for Rangeland Health and multiple use objectives were not occurring throughout the allotment. As a result of the evaluation of the monitoring data, Management Actions were developed that would ensure that Standards for Rangeland Health and multiple use objectives continue to be met and that significant progress is made towards those that are currently not met.

Refer to NV-062-EA05-61 for a detailed analysis of the management actions. BLM has conducted monitoring since the late 1970s and continued until late 2004 prior to the issuance of the Rangeland Health Assessment. BLM utilized a vast amount of approved manuals, handbooks and Technical References to assess the data that was collected on the allotment. The carrying capacity analysis was based on use pattern mapping data collected throughout the Carico Lake Allotment. BLM Technical Reference "Rangeland Monitoring, Analysis, Interpretation and Evaluation TR 4400-7" was utilized to determine the carrying capacity. Refer to Appendix 11 of the Carico Lake Allotment Rangeland Health Assessment (CLARHA) for a detailed discussion of the carrying capacity analysis.

Protest Point 2: BLM fails to take the hard look required by NEPA.

Response 2: Refer to the CLARHA, CLARHA Appendices, Environmental Assessment (NV-062-EA05-61) and Finding of No Significant Impact.

Protest Point 3: The EA needs to consider a range of reasonable alternatives.

Response 3: Agreed. Refer to the revised Carico Lake Allotment Environmental Assessment (NV-062-EA05-61) for the analysis of an additional alternative.

Protest Point 4: The EA lacks a no grazing alternative.

Response 4: The no grazing alternative was considered, but eliminated from detailed analysis. The no grazing alternative was determined not to be in compliance with the SERA Land Use Plan. Refer to pages 14-15 of the Carico Lake Allotment Environmental Assessment (NV-062-EA-05-61).

Protest Point 5: The EA needs to consider setting livestock grazing levels below the carrying capacity and ten-year average.

Response 5: Agreed. Refer to Response 3.

Protest Point 6: BLM should consider a reallocation of AUMs to livestock, wild horses and wildlife. For example 50% livestock, 25% wild horses and 25% wildlife.

Response 6: Agreed. The reallocation of AUMs to livestock, wild horses and wildlife alternative was considered, but eliminated from detailed analysis. Refer to pages 15-16 of the Carico Lake Allotment Environmental Assessment (NV-062-EA-05-61).

Protest Point 7: The reduction in permitted numbers, small change to sheep and rotation plan may reduce further damage to the allotment in and possibly bring very minor improvements in local areas, but it is clear that this allotment needs significant recovery throughout, that will not occur with these minor changes.

Response 7: Disagree. The conversion of cattle to sheep affects a significant portion of the Carico Lake Allotment. In addition, remember that this allotment has been grazed season long by the primary operators, which has led to degraded upland and riparian conditions. The elimination of hot season grazing throughout the majority of riparian areas is expected to dramatically improve these sensitive resources. In addition, proper use levels based on the most recent science have been initiated. The livestock grazing management system will also be based on permittee herding of livestock to designated use areas, existing water wells will be used to facilitate herding as well. In addition, refer to pages 308-343 of the CLARHA for a detailed discussion of the monitoring plan. The evaluation identified proper use levels in conjunction with a grazing management plan that provides for deferment, proper use levels for season of use, conversion of cattle to sheep for a significant portion of the allotment, elimination of hot season grazing, etc....., which is expected to have a profound positive impact on upland and riparian conditions throughout the allotment. In addition, BLM is committed to building riparian exclosures to improve riparian areas where hot season grazing will continue to occur subject to all NEPA requirements.

Protest Point 8: We believe that this evaluation is not truly complete without sufficient sampling being undertake in those streams where the best available data indicates that fecal coliform and turbidity levels are above the acceptable criteria.

Response 8: Water quality monitoring will be added to Attachment 1 of the PMUD.

Protest Point 9: The EA also notes in the analysis (p. 31), but not specifically in the description of the proposed action, that "10-20 riparian areas would be exclude livestock and wild horses". However, it fails to mentions where these will be, how big they will be, what criteria will be sued to determine if, when and where they will build and how large they will be. Without such information, the public cannot seriously believe that they will be built and that they will significantly improve conditions on the allotment.

Response 9: Refer to map of riparian exclosure locations in the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61). In addition, refer to Appendix 6 in the CLARHA. BLM will plan for construction of the following exclosures within the Carico Lake Allotment. The construction of these exclosures will be dependant on site specific NEPA analysis, cultural inventories and Consultation, Cooperation and Coordination with the interested publics.

SPRING NAME	ACRES
Bald Mountain Spring	0.1
Carico Lake Playa	40 acres
Cooks Creek Spring #1	<1 acre
Corral Complex	<1 acre
Dry Canyon	<0.50 acres
Elder Creek	<1 acre
Hot Springs Point	2 acres
Red Mountain Spring	0.10 acres
Redrock Spring #1	0.10 acres
Stone Cabin Basin	5-15 acres
Summit Spring	0.1 acres
Toiyabe Spring #3	<1 acre
Toiyabe Spring #6	0.1 acres
Upper Wood	<0.10 acres
Wenban Complex 3	0.1 acres
Wenban Spring	0.15 acres
Wilson Creek source	<1 acre

Protest Point 10: The analysis states, (p.246) that overall, "The majority of riparian-wetland-acquatic habitats are in poor condition due to livestock and wild horse degradation, 93.6 (12.24 miles) of the lotic and 97.1% (59.3 acres) of the lentic were not at PC." Utilization information for these areas shows use from heavy (60-80%) to severe. Even if permitted reductions and some type of rotation system occur, the simple truth is that cattle tend to congregate in riparian and aquatic zones, especially in hot

environments. We see nothing in the proposed changes that will protect and restore these areas.

Response 10: Improvement in riparian areas is expected to occur due to the conversion of cattle to sheep in the Shoshone Mountain and Harry Canyon Use Areas, elimination of hot season grazing in the majority of riparian areas, cattle within the Ellison Ranching Company Use Area utilizing pastures with no riparian areas, construction of riparian exclosures in pastures where hot season grazing would continue to occur, etc..... These management actions have been successfully used in other grazing allotments to improve riparian condition. Riparian areas are very resilient and improvement will be achieved during the first full year, under the grazing management system. Refer to the pictures included for your review in this attachment for a comparison of riparian areas prior to and following the elimination of hot season grazing.

Protest Point 11: "According to the Endangered Species Act, ...the BLM is required to conduct a Biological Assessment to determine the effects of permit reissuance on such species."

Response 11: Action agencies (in this case the BLM) are not required to prepare biological assessments for actions that are not major construction activities (ESA Section 7 Consultation Handbook, March 1998, page 3-11). Moreover, the BLM has determined that no effect to the bald eagle will result from the proposed action. No consultation with, or concurrence from, the Fish and Wildlife Service is required for proposed actions that will have no effect on a listed species (ESA Section 7 Consultation Handbook, March 1998, page 3-12).

An occurrence of a bald eagle on Carico Lake allotment is unusual, if not rare. No bald eagles have been documented from the allotment during winter bald eagle surveys (National Triennial Mid-Winter Bald Eagle Count and Wintering Birds of Prey Survey) conducted in 1992, 1995, 1998, 2001 and 2004 despite the presence of a survey route that traverses large portions of the allotment. The allotment contains no wetlands that constitute high-value bald eagle habitat.

Bald eagles that winter in central Nevada apparently feed primarily, or exclusively, on carrion and black-tailed jackrabbits. Any assertion that the proposed action would affect the bald eagle would be beyond reasonable expectation.

Protest Point 12: The EA and Decision look at only one level for wild horse populations and do not make it clear how this level was determined. This arbitrary determination is in violation of the APA.

Response 12: Refer to Appendix 11 for a detailed account of how carrying capacity was calculated for livestock and wild horses. In addition, the percentages used for livestock and wild horses are outlined in the SERA LUP and RPS. This allocation of AUMs is for 86% livestock and 14% wild horses as identified in the RPS. Furthermore, adjustments

were made to wild horse numbers following the analysis and interpretation of monitoring data that was available within the Carico Lake Allotment.

Protest from Western Watersheds Project received September 19, 2005

Protest Point 1: We Protest the disparity in allocation of AUMs between livestock, wildlife and wild horses. This is not a balanced and fair allocation of public resources.

Response 1: The reallocation of AUMs to livestock, wild horses and wildlife alternative was considered, but eliminated from detailed analysis. Refer to pages 15-16 of the Carico Lake Allotment Environmental Assessment (NV-062-EA-05-61). Refer to Appendix 11 for a detailed account of how carrying capacity was calculated for livestock and wild horses. In addition, the percentages used for livestock and wild horse AUMs are outlined in the SERA LUP and RPS. This allocation of AUMs is for 86% livestock and 14% wild horses as identified in the RPS.

Protest Point 2: We Protest the failure to sufficiently reduce AUMs. BLM has not assured that many important values of public lands, ranging from special status species habitats to cultural sites, will be protected or enhanced under the action alternative.

Response 2: BLM has provided a range of AUMs to each permittee. The potential weighted average takes into account the permittees commitment to improved livestock management. Refer to Carico Lake Allotment Environmental Assessment (NV-062-EA05-61) and the Finding of No Significant Impact (FONSI). It is expected that with the reduction in AUMs for livestock and wild horses, grazing management systems, seasons of use, elimination of hot season grazing, conversion of cattle to sheep, proper use levels, etc., that significant progress towards attainment of the standards would occur.

Protest Point 3: We Protest the failure to place the current proposed AUM reduction in context. Most other allotments in Nevada have had at least one grazing decision that reduced AUMs since the TGA and Carico Lake has not. In these other allotments, BLM is now in the process of FURTHER reducing AUMs on many allotments that continue to be overstocked. Instead of acting to cut AUMs in Carico Lake to levels that experience in other allotments is showing is necessary, and that extreme degradation of the allotment lands and waters shows is necessary, BLM in Carico appears to be making only the first round of cuts and not putting in place the much lower sustainable numbers.

Response 3: The AUM reduction is based on permittee commitment to intensive livestock grazing management and the evaluation of monitoring data. The primary operators within the allotment have historically grazed livestock on a year-round basis with minimal intensive management, which has negatively impacted upland and riparian conditions throughout the allotment. In addition, to the reduction in permitted active use, the Carico Lake Allotment Environmental Assessment (NV-062-EA-05-61) analyzed many changes in livestock management including elimination of hot season grazing throughout the majority of riparian areas, conversion of cattle to sheep, identification of

proper use levels based on the most recent science, a grazing management system, etc..... It is our contention that the reason that the further reduction in AUMs by other offices is occurring due to the lack of ensuring that livestock permittees are complying with the original decision.

Protest Point 4: We protest the failure to consider a reasonable range of alternatives that focus on:

- a series of restoration alternatives that focus on passive restoration of livestock damaged lands and many other alternatives;
- a reasonable balancing of AUMs and use between wild horses, wildlife and livestock;
- a series of management actions (required diligent herding and reporting, grazing a controllable number of livestock, etc.) that do not rely on a large number of rangeland facilities (including many new facilities) to continue or extend livestock use here.

Response 4: Refer to the revised Carico Lake Allotment Environmental Assessment (NV-062-EA05-61).

Protest Point 5: We Protest the failure to establish a series of watershed-level reference areas that are closed to livestock use in order to gauge the effect of livestock on lands of the allotment, as well as to provide areas that serve as refugia for native wildlife species whose habitats are degraded by livestock or are displaced by livestock, displaced by mining activity, etc. Such ungrazed reference areas are particularly critical, especially since areas of the allotment will be grazed by both sheep and cattle.

Response 5: Non-grazed reference areas are proposed to be built within the allotment to serve as a comparison to areas utilized by livestock and wild horses; however, it is not expected that they would be watershed level areas. Large watershed areas will be grazed with a strict season of use rather than year-round, which has occurred historically in the Carico Lake Allotment. For example year-round grazing will be eliminated in the Fish Creek Mountains Use Area, Toiyabe Mountain Use Area and Shoshone Mountains Use Area and short duration season of use have been identified for these use areas. The livestock management identified for these use areas is expected to dramatically improve the upland and riparian habitats. Refer to Carico Lake Allotment Environmental Assessment (NV-062-EA05-61).

Protest Point 6: We Protest stocking lands on the basis, at least partially, of cheatgrass production. BLM states it will mange certain pastures to use grazing to control cheatgrass, so you are stocking with cheatgrass as forage base at least to some extent. Production of cheatgrass fluctuates wildly and you have not shown that stocking at the levels proposed is sustainable.

Response 6: The pastures that have been identified for early season use due to cheatgrass include the Cortez Joint Venture Use Area, the Filippini Ranching Company

Use Area and the Moss Fire Use Area. Cheatgrass is prevalent in these use areas. It is expected that the early season of use will reduce the levels of cheatgrass production. This season of use will also eliminate livestock grazing in during the critical growing period for perennial grasses. This is expected to allow for these plants to increase vigor, productivity and seedling establishment. The elimination of grazing during the critical growing period would improve the vegetative community by allowing for sufficient key herbaceous plant seedling and young plant recruitment.

Protest Point 7: We Protest the failure to set stocking rates at levels that will allow you to undertake rehab or restoration necessary actions to deal with the serious cheatgrass and invasive species problems across the allotment. The need for large-scale restoration actions in this landscape so damaged by livestock, mining, fires and other factors necessitates stocking lands at levels that will allow measures to restore native vegetation.

Response 7: BLM is in support of large-scale restoration projects; however, it is unknown at this time when funding will be available. In instances of rehabilitation projects, for example the rehabilitation of the Moss Fire Use Area, temporary reductions in active permitted use would be made. In addition, objectives for reopening the rehabilitation project would be identified. Rehabilitation projects would be subject to site specific NEPA analysis, cultural inventories, consultation, cooperation and coordination with the interested public, etc...

Protest Point 8: We protest the methods used for determining carrying capacity in the allotment. PMUD at 15 states that permittees had not submitted actual use reports by use area or pasture.

Response 8: In instances where permittees failed to submit actual use reports the grazing bill for that grazing year was used.

Protest Point 9: We Protest the failure to assess the harmful and increasingly invasive, nature of forage kochia. We are increasingly concerned about the use of forage kochia in post-fire seedings and ask that you NOT consider forage kochia a basis for sustainable use, but instead act to restore kochia seedings to native vegetation as the next stage of post-fire recovery.

Response 9: Forage kochia was identified in the 1999 Northern Nevada Fire Complex Burned Area Rehabilitation Plan. A proposed seeding project will not be implemented without a thorough site specific NEPA analysis, including public review. The NEPA document will screen the proposals for compliance with all LUP, pertinent laws, regulations, and bureau policies. The NEPA document would include a range of alternative that would include native seeding and non-native seeding, etc.

Protest Point 10: We Protest the failure to assess impacts of serious erosion and desertification on the allotment (gullying, rills, accelerated runoff, site desiccation, loss of microbiotic crusts, etc.) in the vast areas of lands away from the flat land Key Areas. Such assessment is critical to understand the health of ecological processes, watersheds,

special status species habitats, etc. by relying on the flat Key Areas, you eliminate vast areas of slopes or sites closer to water, fences, etc. plus, now that greatly increased sheep trampling and grazing will be introduced to side hills and areas more distant from water, it is essential to understand the current condition of such sites.

Response 10: Excessive erosion was not noted within the allotment. Refer to pages 258-341 in the CLARHA. BLM recognizes that the majority of the plant communities within the allotment is a significant departure from the biotic community and is not functioning properly. The attributes for rangeland health identify three interrelated attributes including soil/site stability, hydrologic function and the integrity of the biotic community. Through the evaluation process BLM determined that the majority of the key management and riparian areas are in degraded condition and developed management actions including the elimination of hot season riparian grazing throughout the majority of the allotment, proper use levels and the deferment of the majority of the allotment until after the critical growth period. This is expected to enhance the upland and riparian communities throughout the allotment, which will improve soils, riparian areas and vegetation communities.

Protest Point 11: We Protest the failure to regulate motorized use by permittees in unroaded areas of the allotment. Permittee activities (water hauling, salt placement, sheep camp parking) are often a primary cause of roading in Nevada wild lands.

Response 11: These are undesignated lands and these lands are open for vehicles. Any future revision or closure would be addressed in the RMP.

Protest Point 12: We Protest the failure to adequately evaluate the current operative condition, whether repair to a functioning state is even feasible and ecological impacts of all existing livestock facilities on this allotment.

Response 12: Refer to Attachment 1 in the CLARHA. BLM continues to assess the condition of range improvements throughout the allotment. If projects are identified that are not allowing for attainment of allotment specific objectives they will be removed. Key Management Areas are located at the appropriate distances from livestock facilities to assess ecological impacts.

Protest Point 13: We protest BLM promising ranchers such as C-Ranch new fences (that BLM is conveniently delaying to a later date) and thus segmenting NEPA analysis. The full impacts of all linked actions (fences associated with implementation of this Decision) must be assessed in an EIS.

Response 13: The grazing management system identified for C-Ranches would be dependant on herding of livestock into use areas to coincide with seasons of use. BLM has not promised any projects, but has committed to planning for additional fencing, which would aid in improved distribution and management benefiting the public land. BLM personnel explained the process to implement a proposed project. A proposed project will not be implemented without a thorough site specific NEPA analysis,

including public review. The NEPA document will screen the proposals for compliance with all LUP, pertinent laws, regulations, and bureau policies. The CLARHA does not authorize proposed projects or management actions, but is a vehicle to identify a number of possible solutions to improve existing resource conditions. The next step in the overall Evaluation process is for Management to determine if the data shows conformance with RAC Standards (CFR §4180) and to select those solutions that will achieve RAC Standards. The selected solutions go forward as the proposed actions in the Environmental Analysis (EA). The EA will only carry those actions, which are necessary to achieve RH objectives. In most cases, this includes changes in stocking rate, use periods (seasons-of-use), utilization levels, and vegetative and other monitoring objectives. Very seldom will an EA for a multiple use decision (MUD) include proposed projects, if it does, it would include only those proposed projects essential for system function (e.g. riparian exclosures). Including all the necessary site specific information for large projects into the MUD EA would further bloat an already large document and more importantly, the BLM cannot guarantee that projects identified in a MUD will ever be implemented due to the uncertainty of funding.

Protest Point 14: We Protest the inclusion of a term that "all projects on public land must be in working order", without having adequately assessed the current ecological conditions – or the degradation that has been caused, or may be caused, by projects. For example, past development/de-watering of springs has significantly reduced flows at spring sources. Continued livestock degradation of watershed has accelerated desertification processes, and aquifer levels have declined. As BLM relies on old and new projects as part of the claim that significant progress will be made towards attaining the FRH, essential baseline information on watersheds, flow rates, aquifer characteristics (including mining effects/drawdown) must be collected and analysis be conducted as part of this process.

Response 14: Refer to Response 12 and 2000 South Pipeline EIS.

Protest Point 15: We Protest the failure of BLM to assess the impacts of this Decision on springs and seeps – including the impacts on aquifers and watersheds.

Response 15: The management actions were analyzed in detail to determine if additional measures need to be taken. Refer to Carico Lake Allotment Environmental Assessment (NV-062-EA05-61). It is expected that the elimination of hot season grazing within the majority of riparian areas in addition to constructing exclosures in areas where hot season grazing will continue to occur will dramatically improve riparian areas throughout the allotment. In addition, identification of proper use levels, season of use, etc. is expected to improve the overall watershed health of the Carico Lake Allotment.

Protest Point 16: We Protest Battle Mountain BLM limiting itself to the inadequate Northeastern Nevada RAC standards. These standards do not adequately reflect the full range of environmental values and conditions that the grazing regulations require be addressed in a FRH assessment.

Response 16: Standards and Guidelines were determined by the Nevada State Directors to be in conformance with the LUP in 1997. The BMFO then completed a LUP maintenance action to include the Standards and guidelines with the LUP.

Protest Point 17: We Protest the failure to correct serious flaws and deficiencies in the FRH Determinations. For example, given that the photos, water quality monitoring data, lentic and lotic assessments, etc. all show extreme degradation of riparian areas and riparian areas and their surroundings are almost always important cultural sites in the arid Great Basin, BLM can not support a claim that cultural standards are being met.

Response 17: Based on the evaluation of existing information pertaining to range improvements and grazing, cultural resources are being recognized within the context of multiple-use management within the Carico Lake Allotment. BLM has recognized the degraded condition of riparian resources where cultural resources have a high probability of being located. Cultural resources will be protected from disturbance through implementation of the grazing management system, which includes the elimination of hot season grazing throughout the majority of the riparian areas within the allotment in addition to the construction of riparian exclosures in areas where hot season grazing would remain. Furthermore, prior to the implementation of any proposed projects a cultural inventory would be completed and if necessary mitigated. Before vegetation manipulations would occur site specific NEPA analysis and coordination with the Native American tribes would occur.

Protest Point 18: We Protest continuing to claim that Wildlife Habitat Management or other Objectives are partially met, simply because lands at higher elevations are relatively less degraded than lower elevations. We have observed extensive areas of bare soil interspaces, sparse understory grasses and altered shrub structure in higher elevations. Plus, aspen across the allotment are severely degraded, clones have been extirpated and other are on the verge of extirpation.

Response 18: Refer to CLARHA pages 49-256 and Appendix 10. The livestock grazing management system, conversion of cattle to sheep, elimination of hot season grazing in riparian areas, reduction in permitted active use, proper use levels, etc., is expected to dramatically improve upland and riparian conditions. This is expected to benefit wildlife throughout the allotment.

Protest Point 19: We Protest the very serious failure to assess the impacts of sheep grazing on top of cattle grazing on the lands of this allotment. You have not adequately assessed impacts of overlapping sheep and cattle use on the very same acreage of land or within the same watershed or wildlife habitats.

Response 19: Refer to Appendix 11 of the CLARHA for the carrying capacity calculation discussion. Cattle and sheep use in the overlapping use areas were responsible for utilization levels as indicated by the use pattern mapping data and actual use. The carrying capacity calculation factored the overlapping of sheep and cattle. Year-round grazing by cattle within the use areas where there is cattle and sheep

overlapping has historically occurred in the Carico Lake Allotment. The sheep operators generally utilize the Carico Lake Allotment for short periods of time in the spring and/or fall. The grazing management system has identified season of use, which eliminates year-round grazing by cattle, proper use levels, etc., in these use areas for cattle and sheep. Refer to the Carico Lake Allotment Environmental Assessment (NV-062-EA-05-61).

Protest Point 20: We Protest the conclusion that BLM cure water quality problems or make significant progress in most areas of the allotment, given that livestock numbers under the Decision will be similar to Actual Use levels of the past the SAME amount of livestock waste, trampling, soil erosion, vegetation removal through consumption and breakage, etc. will still be occurring on the allotment. Plus, runoff may be accelerated due to increased devegetation and de-stabilization of slopes by increased sheep use.

Response 20: Refer to Responses 2, 3 and 6. In addition, refer to the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61).

Protest Point 21: We Protest the failure to address the very significant impacts of increasing grazing use (sheep conversion) on the few remaining better condition areas of the allotment.

Response 21: Refer to carrying capacity analysis in Appendix 11. Refer to the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61). Season of use, proper use levels, elimination of hot season grazing, etc. is expected to result in improvement throughout the Shoshone Mountain and Harry Canyon Use Areas.

Protest Point 22: We Protest the failure to careful examine the impacts of sheep and cattle grazing in infestation and spread of invasive species across the Carico Lake and other neighboring allotment lands. What weeds are present in other lands grazed by Carico livestock and how will livestock serve as vectors of weed spread throughout Carico Lake and what management actions can be taken to reduce infestations?

Response 22: Refer to the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61).

Protest Point 23: We Protest the failure to conduct necessary pre-decisional systematic baseline surveys of important special status plant and animal species on these lands. This is critical, as you plan to greatly extend and shift more livestock use onto steeper slopes and lands further from water sources through conversion of a large number of cattle AUMs to sheep AUMs. Unless you know current species occurrence, the condition of habitats and the condition and viability of populations across this allotment and surrounding lands, it is impossible to assess impacts of greatly increased sheep trampling, browsing and grazing impacts to special status species, cultural sites, spread of invasive species, conflicts with recreational uses, etc.

Response 23: Inventories and monitoring of various types have been conducted over the years by BLM and NDOW biologists and others for various plant and animal species, particularly sage grouse, breeding birds, bats, pygmy rabbits, mule deer, raptors, and spring snails. We also have access to, and regularly make use of, the Nevada Natural Heritage database.

Protest Point 24: We Protest the failure to assess how loss of microbiotic crusts or wind and water soil erosion process, will be accelerated under the proposed actions.

Response 24: Refer to the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61).

Protest Point 25: We Protest the failure to assess the current impacts to important wildlife and special status species of the cumulative impacts of mining and mining exploration in this allotment and surrounding lands. This includes accurate studies of combined impacts of aquifer drawdown and proposed spring developments that inevitably accompany riparian fencing projects.

Response 25: Refer to the Carico Lake Allotment Environmental Assessment (NV-062-EA05-61) and the 2000 South Pipeline EIS.

Protest Point 26: We Protest the confusion surrounding wild horse issues and the failure to take actions to deal with many conflicts (such as fences) that may be harming not only horses, but also native wildlife such as pronghorn and sage grouse (example – the Bob Town fence, which although it may be a division fence, should be removed if it is causing mortality or conflicts).

Response 26: The Cedars Pasture has not been breached by wild horses within at least the last 3 years. In the 1970's when the Carico Lake Allotment boundary fence was constructed, it impeded movement of wild horses on historically used trails. As a mitigation measure, a wild horse crossing structure was installed. Though wild horses did not use the structure, they continued to jump the fence and enter the Austin Allotment portion of the HMA especially in the spring. Water was and still is limited in this portion of the HMA. During the latest census flight in March 2005 only 3 wild horses were located in the Cedars Pasture.

Protest Point 27: We Protest the lack of large livestock-free areas as reference sites for scientific study and to serve as essential habitat for species that have been extirpated by livestock and linked fire impacts in portions of this allotment.

Response 27: Refer to Response 5.

Protest Point 28: We Protest the lack of action and planning to restore sage grouse to the western slope of the Shoshone Range, where Assessment states they have been extirpated. Plus extirpation of sage grouse there elevates the need to provide necessary residual cover of 7-9" of native grass height as protective nesting cover to ensure greater

nest success, the need to remove (and Not build more) fences (as fences cause mortality, may be avoided by grouse, help intensify livestock use), the need to restore sagebrush and native grasses and forbs and then need to maximize recover of spring, seeps, wet meadows across the allotment and surrounding lands.

Response 28: Known sage grouse leks on Carico Lake Allotment are concentrated on the eastern base of the Shoshone Range in the Cook's Creek and Wilson Creek areas. See Figure 1., page 30 of the CLARHA for available information regarding lek attendance over time. Sage grouse winter at high elevations of the allotment, reportedly in Cottonwood Basin and on Horse Mountain, which is typical based on our recent telemetry work in the nearby Fish Creek and Battle Mountains. Proposed changes in grazing management should contribute substantially to habitat improvement. The location of nesting habitats is extremely important but unknown. Native *Poa secunda* dominates the understory grasses on most parts of the allotment. Grass (and forb) diversity increases with slope and distance from water.

Protest from Filippini Ranching Company received September 19, 2005

Protest Point 1: FRC does not protest the total active permitted use for FRC of 777 AUMs, except as expressed to BLM's errors in calculation of permitted use. BLM use incorrect mid-point utilization levels for its grazing capacity determinations. The Evaluation notes that BLM combined "zero" (0%), "slight" (1-20%) and "light" (21-40%) utilization classes into a single "light" (0-40%) utilization class. This in itself is unreasonable, but regardless of this fat, the mid-point of the modified utilization class is 20%, not 30% as used by BLM in the Evaluation. The same is true for the combination by BLM of the "heavy" (61-80%) and "severe (81-100%) utilization classes into a single "heavy" (61-100% utilization class. We believe there was little or no "severe" utilization within the allotment. Nevertheless the mid-point of the modified utilization class is 80%, not 70% as used by BLM in the Evaluation. BLM failed to use its own 1996, 2003, and 2004 key area utilization and actual use data to determine grazing capacity and to include such computations within the Evaluation and the resultant PMUD.

Response 1: After careful review of the use pattern maps included in the CLARHA Appendices you are correct that there was no severe utilization in the allotment. In addition, there was no slight utilization within the allotment. BLM utilizes the Nevada Rangeland Monitoring Handbook 1984 and the Interagency Technical Reference 1734-03 Utilization Studies and Residual Measurements as revised 1999. These handbooks identify six utilization classes, which are No Use (0%), Slight Use (1-20%), Light Use (21-40%), Moderate Use (41-60%), Heavy Use (61-80%) and Severe Use (81-100%).

BLM will eliminate the sentence on page 7 of the CLARHA, which says, "The utilization that is recorded is then placed in Light (0-40%), Moderate (41-60%) and Heavy (61-100%) classes to create the use pattern map." BLM will replace the preceding sentence with utilization is recorded and place in the, "No Use (0%), Slight Use (1-20%), Light Use (21-40%), Moderate Use (41-60%), Heavy Use (61-80%) and Severe Use (81-

100%)." In addition, the Use Pattern Map Acres table identified on page 48 utilization categories column will be updated to reflect Light 21-40% and Heavy 61-80%.

Refer to the carrying capacity analysis in Appendix 11 of the CLARHA. You will note that the proper midpoints were utilized in determining the carrying capacity for each permittee.

BLM would like to thank you for pointing out the errors in verbiage and apologize for the confusion that this has caused.

As far as BLM's failure to use utilization data collected in 1996, 2003 and 2004 this was impossible to calculate due to permittee failure to submit accurate actual use reports by use areas that the key areas represented.

Protest Point 2: FRC does not protest the establishment of the FRC Area of Use as depicted and described by the PMUD, but protest the use of such Area of Use By Ellison Ranching Company to the extent it is not consistent with that use agreed to between FRC and Ellison.

Response 2: BLM received the Contract of Purchase and Sale, signed May 14, 2005 by all parties, as part of the transfer of grazing preference process. BLM has reviewed this document and is not aware of the agreed upon use between FRC and Ellison that you reference. BLM was under the impression that you agreed with us that sheep use would be primarily in the Fish Creek Mountains portion of the Filippini Ranching Company Use Area, which has historically been inaccessible to cattle due to slope and distance from water. This portion of the Filippini Ranching Company Use Area has historically been and will continue to be grazed by Ellison Ranching Company.

Protest Point 3: FRC does not protest the proposed kind of livestock or percent public land, Term and Condition #1, but protests the remainder of grazing management system and terms and conditions of the permit. (including Term and Condition 2-11)

Term and Condition 2 is unreasonable. The provision that FRC is "required to meet with the BLM' each year is unreasonable and may place the permit at jeopardy through no fault of FRC. For example, if BLM schedules do not permit such timely meeting, this term and condition could be deemed to have not been met, placing the permit in jeopardy of cancellation. In addition, FRC's use within its Area of Use cannot "ensure appropriate use throughout the allotment", because FRC cannot control the actions and uses of other permittees in other Areas of Use. FRC agrees to abide by the management system proposed herein, which should provide all of the "assurance" of "appropriate use" in FRC's Area of Use.

Term and Condition 3 is unreasonable and is not otherwise in conformance with the Land Use Plan:

a. Utilization is, or should be, an objective, not a term and condition of the permit.

b. The restriction of utilization of "key upland forage species" to 40% is not in conformance with the Land Use Plan, constitutes an illegal modification of the Land Use Plan and is not supported by the data or science.

To the extent BLM intends to modify and/or add allotment specific "monitoring management" objectives other than those prescribed by the Land Use Plan, as specified by the RPS, FRC protests such modifications and/or additions for all of the Statement of Reasons herein. BLM used an erroneous allowable utilization level in its calculations, not in conformance with the allotment specific allowable utilization levels prescribed by the LUP, as specified in the RPS. BLM does not have the authority to change LUP prescribed utilization levels in a grazing decision. Assuming BLM has the authority to change the LUP prescribed utilization levels in a grazing decision, the data provide no rational basis for a change from the LUP prescribed 60% allowable utilization to the proposed lower allowable utilization levels. There exists no nexus between utilization below the LUP prescribed utilization levels, but above the proposed utilization levels and any purported downward trends. Therefore, there exists no reasonable basis to conclude that the LUP prescribed utilization levels should be lowered (in a LUP amendment). There exists no nexus between utilization at or below the proposed allowable utilization levels and improved range condition (or frequency of occurrence).

Term and Condition 4, 5 and 6 is not applicable to the FRC proposed area of Use. If BLM deems such T&C applicable, then the PMUD and its supporting documents have failed to properly identify the locations where such T&C may apply.

Term and Condition 7 is unreasonable and is not otherwise in conformance with the Land Use Plan:

a. Utilization is, or should be, an objective, not a term and condition of the permit
b. The restriction of utilization of "key shrub browse species" to 25% and 40% is not in conformance with the Land Use Plan, constitutes an illegal modification of the Land Use Plan, and is not supported by the data or science.

Term and Condition 8 and 9: Term and Condition 8 is unreasonable because the utilization restrictions are unreasonable and otherwise not in conformance with the Land Use Plan. Term and Condition 8 is further unreasonable, because it may be logistically impossible for livestock to be removed from an area in 3-5 days, due to any number of factors, including inclement weather, baby calves, etc. Term and condition 9 is unreasonable because the proposed season of use is unreasonable. The Term and Condition #9 is further unreasonable, because flexibility of only 5 days does not account for any number of factors beyond the control of the permittee, including inclement weather, wet soils, baby calves not able to travel, etc..

Term and Condition 10 and 11: Term and Condition 10 and 11 are unreasonable and illegal to the extent that the T&C's preclude administrative remedy to any modification ordered by BLM. FRC will not forego its administrative remedies under 43 CFR 4160 or judicial remedies on the basis of these T&C's

Response 3:

Grazing Management system, number of livestock and the number of AUMS response:

BLM has met with FRC representatives since October 2004 discussing the possibility of the transfer of grazing privileges to Ellison Ranching Company. BLM met with Hank Filippini and Shawn Mariluch on February 28, 2005 to discuss the impending sale of the allotment. We discussed the grazing season within there use area, which was agreed to be March – April. The use area is dominated by Salt Desert Shrub communities and the season of use identified was in compliance with the RAC vegetation guidelines and would improve the use area. FRC intended use their private land in conjunction with the public land. BLM has met with FRC numerous times since this meeting. BLM has received no indications that season of use adjustments were required by FRC until FRC representatives contacted us to say that they would protest the season of use. BLM was contacted on September 16, 2005 and the protest was received on September 19, 2005.

As identified in the Resource Management Plan Record of Decision the Carico Lake Allotment has been identified as an "I" (Improve the current unsatisfactory condition) allotment. Category "I" allotments will receive the highest priority for development because grazing management is most needed to improve the basic resources and/or resolve serious resource use conflicts.

Key management areas CL-9, CL-10 and CL-12 are located within the Filippini Ranching Company Use Area. It was determined that CL-10 was in downward trend and CL-12 was in upward trend since 1996 as revealed by the frequency data. Trend was unable to be determined at key area CL-9 due to only having baseline frequency data available. Furthermore, it was determined through the analysis of monitoring data that CL-9, CL-10 and CL-12 were failing to meet RAC Standard 3 habitat and livestock were identified as a causal factor. For detailed analysis of monitoring data regarding these findings refer to the Carico Lake Allotment Rangeland Health Assessment Pages 42-245, Appendix 10 and 11 and the Carico Lake Conformance Determination.

The collection of monitoring data revealed that key perennial grass species were missing, annual species were present in excessive levels and the sites were dominated by shrubs. This reveals that range conditions are an issue at the key areas. In addition, the Major Land Resource Handbook reveals that in many of the range sites that shrub dominance, absence of key perennial grasses and the invasion of a site by annual species is an indicator of abusive management. Historic and current livestock grazing has been determined to be the causal factors for non-attainment of the standards.

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

of species), Vegetation structure (life forms, cover, heights or age classes), Vegetation distribution (patchiness, corridors) and Vegetation productivity and Vegetation nutritional value. Refer to Appendix 5. This appendix illustrates the production at each key management area. The majority of production studies found that key perennial grasses were missing, the sites were dominated by shrubs and/or annual species and production was well below what is expected for the range site. In addition refer to Appendix 2. The key perennial grass remaining at the majority of the key management areas was Sandberg bluegrass. Sandberg bluegrass is highly drought resistant. It is one of the earliest grasses to green up in the spring and matures early. Sandberg bluegrass is palatable to livestock, wild horses and wildlife. It has high energy content; however, it is a poor source of protein. The production and population of Sandberg bluegrass tend to fluctuate with precipitation. It produces little forage in drought years, which makes it a less dependable food source than other perennial bunchgrasses. Sandberg bluegrass increases under grazing pressure. Sandberg bluegrass and cheatgrass often occur on the same site. CL9, CL-10 and CL-12 failed to meet this standard and livestock grazing was determined to be a causal factor. Refer to Appendix 10 of the CLARHA.
The SERA RMP objectives including the following were not met:

1. Initially manage livestock use at existing levels and determine if such use can be maintained. **The current grazing permit is for 33,453 AUMs of livestock use. Average actual use during the evaluation period was 25,012 AUMs. Use pattern map data indicated that utilization objectives were exceeded throughout the allotment in 1988, 1989, 1990, 1991 & 1996 as indicated by use pattern mapping data.**

2. Establish a grazing management program designed to provide key forage plants with adequate rest from grazing during the critical growth period. **A grazing management system has not been formally established for the Cortez Joint Venture Use Area portion of the Carico Lake Allotment.**

3. Achieve through the management of livestock and wild horses, utilization levels to allow more plants to complete growth cycles and to increase storage of reserves for future growth. **A grazing management system has not been formally established for the Carico Lake Allotment. Current season of use is year-round throughout the Cortez Joint Venture portion of the Carico Lake Allotment. Use pattern map data indicated that utilization objectives were exceeded throughout the allotment in 1988, 1989, 1990, 1991 & 1996 as indicated by use pattern mapping data.**

4. Increase vegetation production for all grazing animals while protecting sensitive resource values. **The majority of the key management areas within the allotment were dominated by shrubs. The absence of key perennial grasses was noted at many key areas, which negatively affected the sites productivity.**

5. Maintain and improve wildlife habitat and reduce habitat conflicts while providing for other appropriate resource values. **The majority of the key**

management areas within the allotment were dominated by shrubs. The absence of key perennial grasses was noted at many key areas, which negatively affected the sites productivity. The majority of riparian-wetland-aquatic habitats are in poor condition due to livestock and wild horse degradation. 93.6% (12.24 miles) of the lotic and 97.1% (59.3 acres) of the lentic were not at PFC. Aspen groves are in poor condition, with some stands failing to regenerate due to over use by large ungulates.

6. Improve selected riparian and stream habitat to good or better condition. **The majority of riparian-wetland-aquatic habitats are in poor condition due to livestock and wild horse degradation. 93.6% (12.24 miles) of the lotic and 97.1% (59.3 acres) of the lentic were not at PFC.**

7. Provide habitat sufficient to allow big game populations to achieve reasonable numbers in the long-term. **The majority of the key management areas within the allotment were dominated by shrubs. The absence of key perennial grasses was noted at many key areas, which negatively affected the sites productivity. The majority of riparian-wetland-aquatic habitats are in poor condition due to livestock and wild horse degradation. 93.6% (12.24 miles) of the lotic and 97.1% (59.3 acres) of the lentic were not at PFC. Aspen groves are in poor condition, with some stands failing to regenerate due to over use by large ungulates.**

8. Improve and maintain habitat for state-listed sensitive species and federally listed threatened and endangered species. **The majority of the key management areas within the allotment were dominated by shrubs. The absence of key perennial grasses was noted at many key areas, which negatively affected the sites productivity. The majority of riparian-wetland-aquatic habitats are in poor condition due to livestock and wild horse degradation. 93.6% (12.24 miles) of the lotic and 97.1% (59.3 acres) of the lentic were not at PFC. Aspen groves are in poor condition, with some stands failing to regenerate due to over use by large ungulates.**

Protest Point 3 continued: Term and Condition 2 response

To BLM's knowledge FRC representatives have never been turned away due to BLM schedules. BLM believes that it is important to meet annually in person or by phone to ensure that active communication occurs; thereby, building positive working relationships. BLM will delete the Term and Condition, but hope that this is not a sign of FRC's unwillingness to work together in the future.

Protest Point 3 continued: Term and Condition 3 response

Refer to the CLARHA pages 42-256, Appendix 6, 7, and 10. BLM has determined that the level of use as prescribed by the LUP has resulted in the non-attainment or exceeding the SERA RMP objectives, Standards for Rangeland Health, multiple use objectives and

allotment specific objectives. Refer to pages 22 and 23 of the Nevada Rangeland Monitoring Handbook which states the following at the time of its creation: "Allowable use is the degree of utilization desirable, given our best understanding of proper use and attainable on various parts of the range or allotment considering the present nature and condition of the resource, management objectives and level of management. Proper use is a degree of utilization of current year's growth which, if continued, will maintain or improve the long-term productivity of the site. Proper use varies with season, the ecological site, the physiological requirement of the plant species and other factors."

"Determination of allowable use is part of the planning process. Local specification for acceptable degree of use should be based upon research data and on the experience of the manager and range user."

"The degree of allowable use identified for a key species for one or more years serves as a guideline or reference point to evaluate the impacts grazing may be having on the overall welfare of the plant community. In monitoring degrees of utilization, the primary concern is the trend in the plant community resulting from various levels of use."

Through the evaluation of monitoring data it was determined that the Standards for Rangeland Health were not being attained throughout the allotment. Historic and current livestock grazing has been determined to be the causal factors for non-attainment of the standards. This level of use as revealed by the frequency study has led to 17 key management areas in downward trend, 5 were slightly upward trend, 5 trend not apparent and undetermined on 8 key areas due to only having baseline data available. Although five key areas were in arguably upward trend, the condition of the vegetative community at these sites is well below the capability and does not represent a desirable plant community. The downward trend indicated by the frequency study can be attributed to current livestock management.

Refer to response 3 of this section grazing management system, number of livestock and the number of AUMS response. In addition, refer to page 10 of the Resource Management Plan Amendment Record of Decision. This state the following for short-term management actions: Continue existing rangeland monitoring studies and establish new studies as necessary to determine what adjustments in livestock use and wild horse numbers are needed to meet the objectives of this amendment. Actions include, but will not be limited to, change in season-of-use, implementation of deferment and rest rotation grazing systems, change in livestock numbers, correction of livestock distribution problems, alteration of the number of wild horses and development of range improvements. Specific measures to improve wildlife habitat could include, but not limited to, restricting livestock use along streams to late summer or fall, limiting grazing use on riparian areas to moderate levels, fencing meadows and stream corridors, limiting grazing use on bitterbrush to moderate levels by winter in crucial mule deer winter range, constructing wildlife guzzlers for water and planting desirable shrub and forb species in vegetation manipulation projects.

In addition, refer to 43 CFR 4180 – Fundamentals of Rangeland Health and Standards and Guidelines for Grazing Administration. This says that the authorized officer shall take appropriate action under subparts 4110, 4120, 4130 and 4160 of this part as practicable, but not later than the start of the next grazing year upon determining that existing grazing management needs to be modified to ensure that the following conditions exist:

(a) Watersheds are in, or are making significant progress toward, properly functioning physical condition, including their upland, riparian-wetland, and aquatic components; soil and plant conditions support infiltration, soil moisture storage, and the release of water that are in balance with climate and landform and maintain or improve water quality, water quantity, and timing and duration of flow.

(b) Ecological processes, including the hydrologic cycle, nutrient cycle, and energy flow, are maintained, or there is significant progress toward their attainment, in order to support healthy biotic populations and communities.

(c) Water quality complies with State water quality standards and achieves, or is making significant progress toward achieving, established BLM management objectives such as meeting wildlife needs.

(d) Habitats are, or are making significant progress toward being, restored or maintained for Federal threatened and endangered species, Federal Proposed, Category 1 and 2 Federal candidate and other special status species.

The 40% utilization objective was based on current literature and science and is expected to make significant progress towards the attainment of the standards. This states that Salt desert shrubland 4-8" average annual precipitation of which a significant portion of the Carico Lake Allotment falls in should have utilization objectives between 25-35%. It was determined that the 40% utilization objective in conjunction with the changes in season of use, conversion of cattle to sheep, the deferment of the majority of the allotment until after the critical growth period and proper use levels that significant progress towards the Standards for Rangeland Health would occur. Refer to Range Management Principles and Practices by Jerry L. Holechek, Rex D. Piper and Carlton H. Herbel. Refer to Appendix 2 in the CLARHA.

Protest Point 3 continued: Term and Condition 4, 5 and 6 responses

Agreed these will be taken out of the Final Multiple Use Decision as they do not apply to the FRC Use Area.

Protest Point 3 continued: Term and Condition 7 response

Refer to Protest Point 3 continued: Term and Condition 3 response

Protest Point 3 continued: Term and Condition 8 and 9 response

BLM will work with permittees if unforeseen circumstances prevent the permittee from removing all of the livestock with 3-5 days. This reiterates the need to keep the lines of communication open and working together in the future. In addition, refer to the grazing management system, number of livestock and the number of AUMS response.

Protest Point 3 continued: Term and Condition 10 and 11 response

BLM agrees that any modifications would require administrative remedies under 43 CFR 4160.

Protest Point 4: FRC protests the rationale section for the FRC portion of the PMUD.

a. The PMUD rationale regarding "cheatgrass control is not reasonable. See SOR 8, 9, and 10. The PMUD rationale to prove "cheatgrass control, which is present throughout the use area" is not equally applied to all of the permittees within the Carico Lake allotment, where cheatgrass also exists and the Decision inequitably require FRC to curtail its season of use, but does not do so to all of the other permittees. As such, the decision is arbitrary and capricious.
b. The PMUD rationale regarding "increase vigor, productivity and seedling establishment" is not supported by the data. See SOR 8.
c. The PMUD rationale regarding "critical growing season" is not supported by the data. Se SOR 8.

Response 4:

a. BLM will replace the word control with reduce. As you well know by the amount of grazing that has occurred in the Moss Fire Use Area over the years cheatgrass levels have not been controlled. It is the BLM's standpoint that cheatgrass fine fuel loadings would be reduced under the grazing management system. BLM has identified virtually the same season of use for Ellison Ranching Company and Cortez Joint Venture where cheatgrass is present in their use areas operations. Again the season of use identified for the FRC Use Area has been agreed upon through numerous meetings and has recently become a point of contention by FRC.

b. Grazing prior to the critical growing period, the proper use levels that have been identified and the stocking levels are expected to allow for improvements in the native vegetative community. Refer to Carico Lake Allotment Environmental Assessment (NV-062-EA05-61).

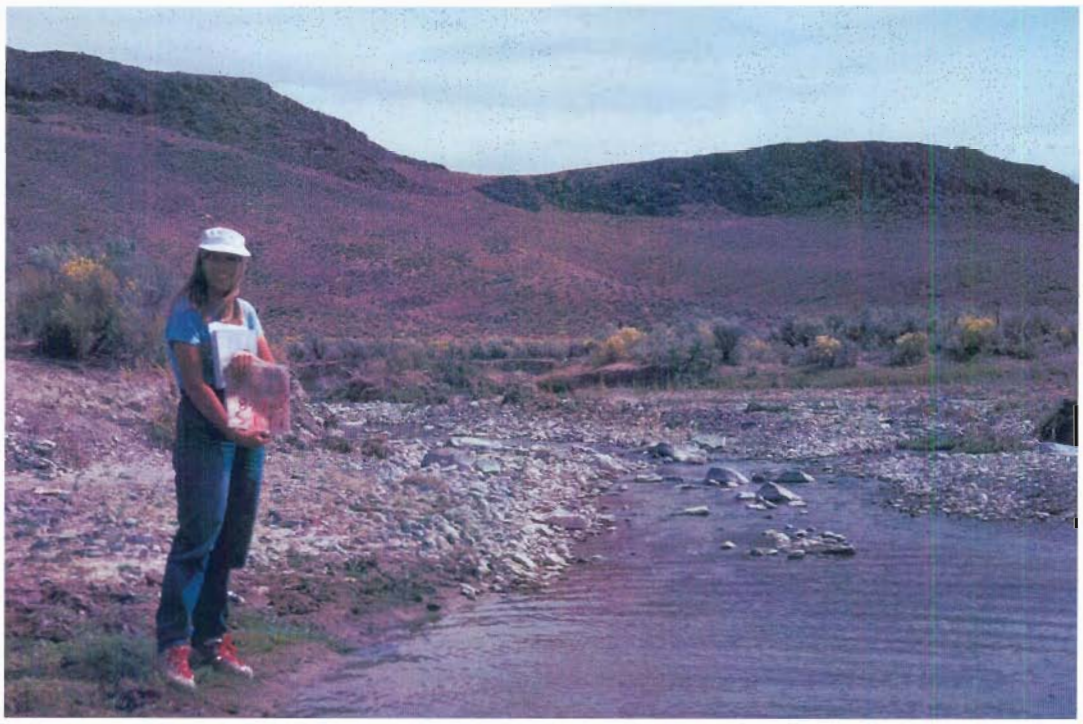
c. Grazing prior to the critical growth period would allow perennial herbaceous species within the use area to set seed, increase vigor and seedling establishment, which is expected to improve the vegetative communities.

Protest Point 5: To the extent BLM intends to modify and/or add allotment specific "monitoring and management" objectives other than those prescribed by the Land Use Plan, as specified by the RPS, FRC protests such modification and/or additions.

Response 5: Refer to Response for Protest Point 3.

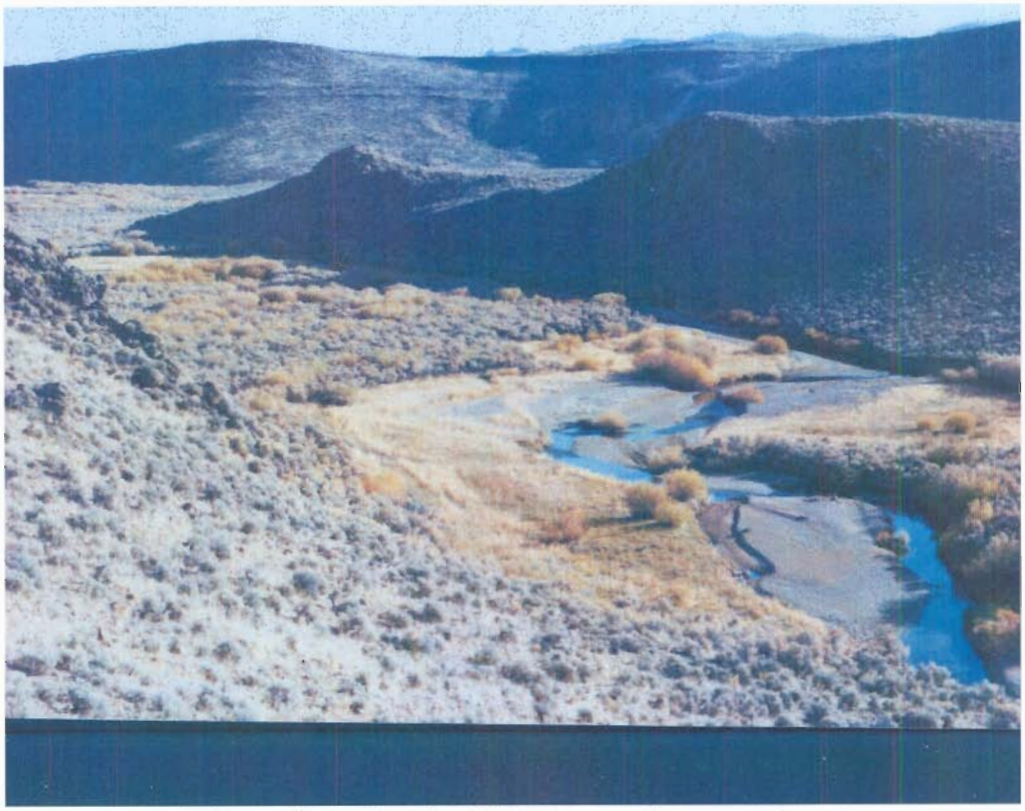
Susie Creek, S-2, 1980 – Season long grazing

Susie Creek S-2, 1994 - Riparian Pasture constructed 1990; grazing is cow-calf pairs Mar-May most years; occasional fall use in Nov.



Pie Creek S-1, 1985 – Season long grazing

Pie Creek S-1, 1999 - Riparian pasture constructed in 1989; grazing is cow-calf pairs and/or yearlings off early May to mid June annually.



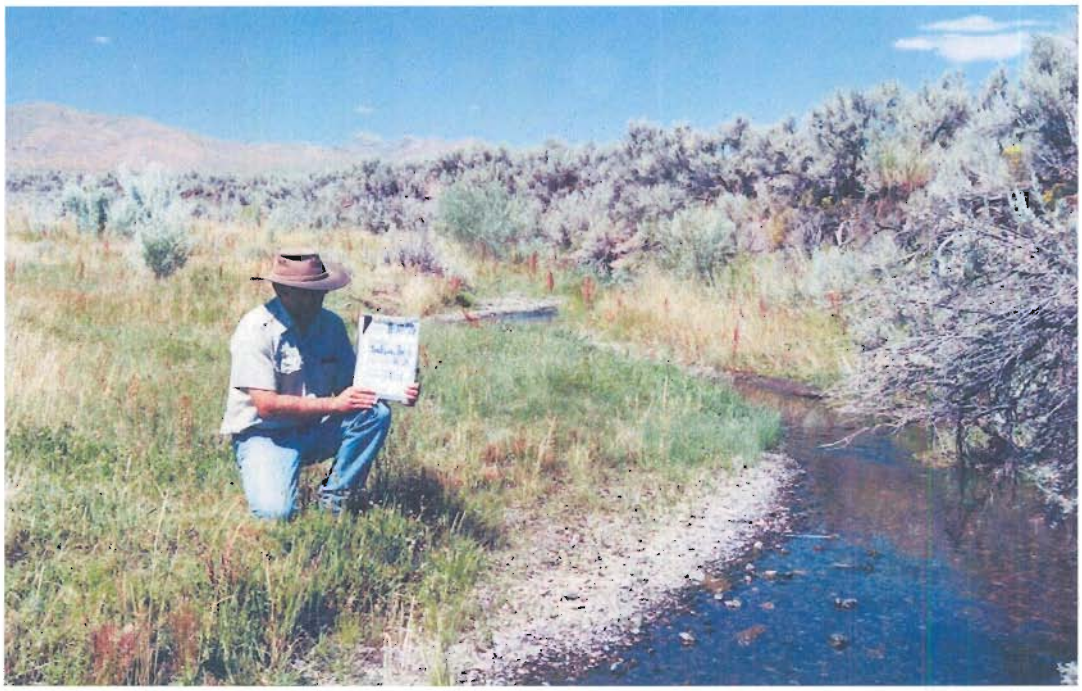
Salmon Falls Creek; 1977: season long grazing

Salmon Falls Creek, 1999: FMUD implemented in 1988; this area receives no more than one in four years hot season use; use in other years is rest, early, or fall by cow-calf pairs or yearlings.

Winters Creek, S-1, 1980; season long grazing

Winters Creek, S-1, 1999 May - June grazing by yearling heifers in 1998 and 1999

Indian Jack Creek; 1992; season long grazing

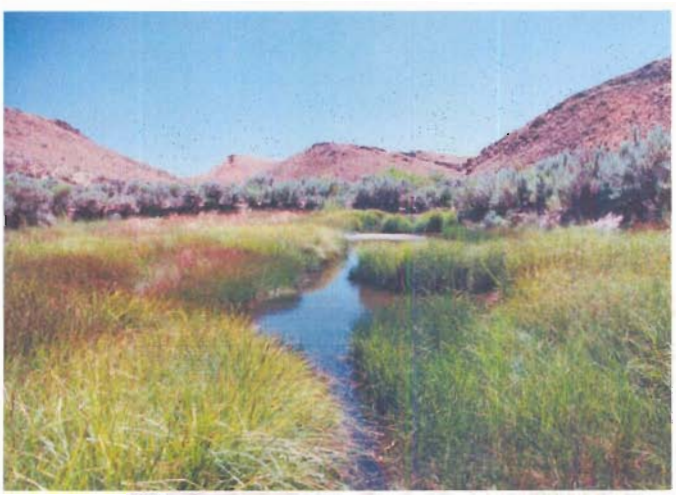


Indian Jack Creek; 1998; two years rest in 1993/94; 1995-1998 grazing by cow-calf pairs off by late June two years in three (rest third year); starts over 4th year

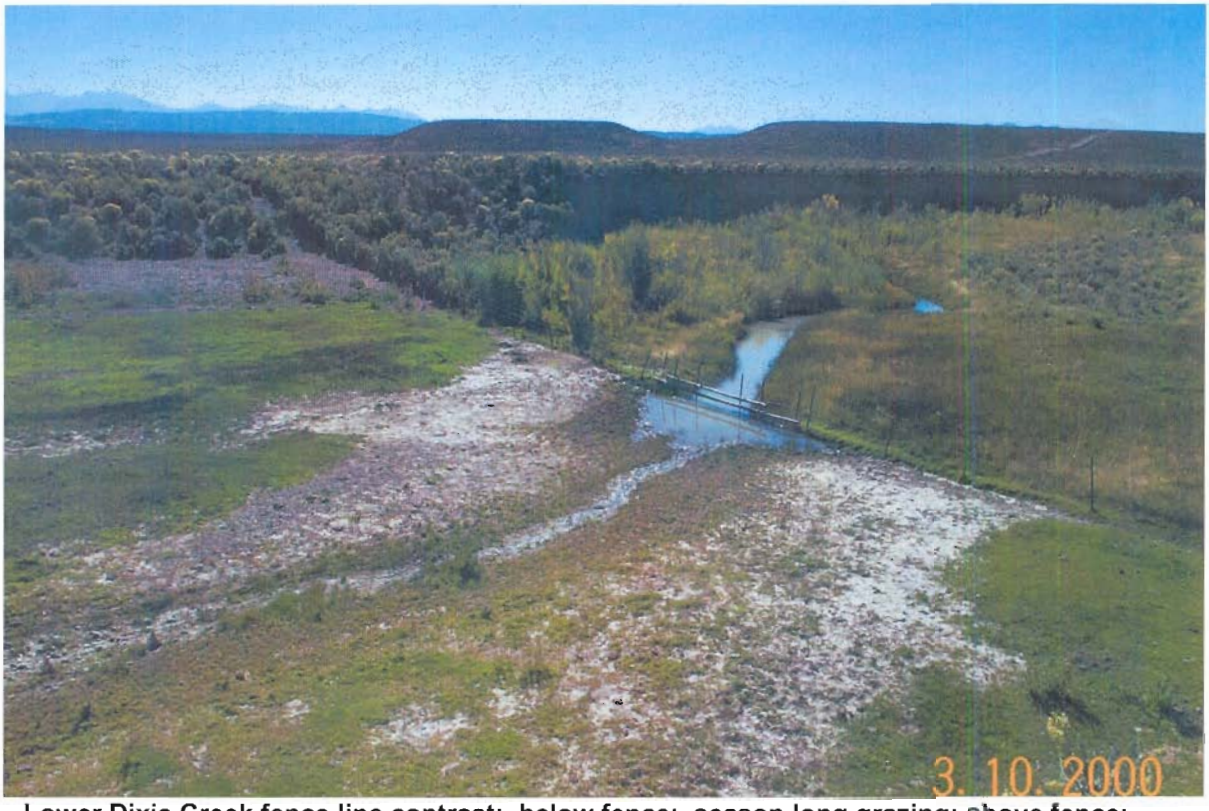
Coyote Creek: 1977; season long grazing

Coyote Creek; 1999: rest for initial period (several years) followed by use from cow-calf pairs from March until about mid July alternating with rest every other year.

Beaver Creek, Between S-4 and S-5: insert: 1988 season long grazing; main picture: 1999 following 2 years hot season use (one year by yearlings; one year by cow-calf pairs) over a period of seven years.



The area (a riparian pasture was put in place in 1993) was rested in the remaining 5 years.



Lower Dixie Creek fence line contrast: below fence: season long grazing; above fence: exclosure with intermittent trespass use occurring annually for about nine years

FOREST GUARDIANS

Douglas Furtado
Assistant Field Manager, Renewable Resources
Bureau of Land Management
Battle Mountain Field Office
50 Bastian Road
Battle Mountain, NV 89820

September 20, 2005

RE: Protest of Proposed Multiple Use Decision: Carico Lake Allotment 4180 (NV 62.00)

Via e-mail, fax and postal mail

Dear Mr. Douglas Furtado

Thank you for sending a copy of the Environmental Assessment (EA) and Proposed Multiple Use Decision for the Carico Lake Allotment. This protest, pursuant to 43 CFR 4160.2, is on behalf of our 1,600 members, who use our public lands for a variety of purposes.

INTRODUCTION

Overall, we believe the BLM analysis has failed to fully analyze the effects of the decision under the National Environmental Policy Act (NEPA), and has failed to look at the long-term impacts of grazing, and failed to protect water quality, riparian areas, wildlife including TES species, and has arbitrarily determined a level of wild horses on this allotment.

Given the failures in analysis and the documented effects of grazing, we believe the decision to continue grazing on this allotment is a violation of NEPA, the Endangered Species Act (ESA), the Federal Land Policy and Management Act (FLPMA), the Clean Water Act (CWA) and the Administrative Procedures Act (APA). Generally, the EA and the recent Rangeland Health Assessment describes marginal conditions that are directly attributable to past and present livestock grazing on the allotment. We firmly believe that a period of long-term rest is necessary to ensure that long-term productivity of sites throughout the allotment. A no-grazing alternative – which is not even considered – is clearly the action that best meets the needs of all Americans, rather than the proposed action, which benefits only a few permittees.

Where action is necessary to protect the resources of the Allotment, BLM needs to take appropriate or necessary action. BLM's proposed action will violate the National Environmental Policy Act, FLPMA, and regulations implementing these and other laws by failing to protect resources.

Further, the BLM needs to comply with its duties under NEPA to take the required "hard look" at the impacts of current grazing practices and the proposed actions. If BLM did take

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that hard look, we believe it would find that significant reductions in actual livestock grazing use would be required.

GENERAL PROTESTS REGARDING BLM GRAZING ALLOTMENT EVALUATION AND EA REQUIREMENTS

I. THE BLM FAILS TO DETERMINE THE SUITABILITY OF THE ALLOTMENT FOR LIVESTOCK GRAZING, AS REQUIRED BY FLPMA.

The Secretary of the Interior, through the Interior Board of Land Appeals (IBLA) recently concluded that BLM was in violation of NEPA and the Federal Land Policy Management Act (FLPMA) where it failed to conduct site-specific NEPA reviews. To our knowledge, BLM has never undertaken a site-specific analysis of livestock grazing in the important recreation and riparian corridors in the area of the allotments. Nor has the BLM shown that it has balanced the competing resource values to ensure that BLM lands are managed properly. A proper suitability analysis would also weigh the ***economic*** costs and benefits of grazing at various levels; this analysis avoids this issue altogether except to examine whether the permittee will be financially hurt by a lowering or eliminating of livestock grazing preference. But what of the economic costs to the taxpayer of subsidizing the permittee at the expense of thousands of recreationists or other potential allotment uses? The EA also needs to address all the foregone benefits of alternative uses, including income and employment in industries that would take advantage of those alternative uses (guiding and outfitting, hotels and lodging, retail, eating and drinking establishments). These uses are foregone because livestock grazing at the Allotment reduces recreational values there.

Given its flaws, the BLM clearly cannot rely on this EA to meet its burden under NEPA and FLPMA. Nor has BLM prepared other documents pursuant to NEPA or FLPMA that meet the burdens enunciated by the IBLA. Therefore, prior to making a decision that permits any level of livestock grazing on this allotment, the BLM must complete an adequate suitability review pursuant to FLPMA and NEPA.

II. THE EA FAILS TO TAKE THE HARD LOOK REQUIRED BY NEPA.

A. LEGAL BACKGROUND

The National Environmental Policy Act (NEPA) requires each federal agency to prepare and circulate for public review and comment a detailed environmental impact statement prior to any major federal action that may have a significant effect on the environment. 42 U.S.C. § 4332(2)(C); 40 C.F.R. §§ 1502.5, 1508.3; Robertson v. Methow Valley Citizen's Council, 490 U.S. 332, 336, 109 S.Ct. 1835, 1839 (1989); Foundation for North American Wild Sheep v. United States Dept. of Agriculture, 681 F.2d 1172, 1177-78 (9th Cir. 1982). When a federal agency is not certain whether an EIS is required, it must prepare an EA. 40 C.F.R. §§ 1501.3, 1501.4, 1508.9; see also North American Wild Sheep, 681 F.2d at 1178; Sierra Club V. Marsh, 769 F.2d 868, 870 (1st Cir. 1985). If the EA concludes that the proposed project will have no significant impact on the human environment, the agency may issue a "Finding of No Significant Impact" (FONSI), and proceed with the proposed action. If the agency concludes that there may be a significant effect, then it must prepare an environmental impact statement. See 40 C.F.R. § 1501.4; Greenpeace Action v. Franklin, 14 F.3d 1324, 1328 n.4 (9th Cir. 1992); Smith v. U.S. Forest Service, 33 F.3d 1072, 1074 n.1 (9th Cir. 1994).

Congress intended that requiring agencies to prepare these NEPA documents would help "prevent or eliminate damage to the environment and biosphere by focusing Government and public attention on the environmental effects of proposed agency action." Marsh v. Oregon Natural Res. Council, 490 U.S. 360, 371 & n.14, 109 S.Ct. 1851, 1858 & n.14 (1989) (citations and quotations omitted); see also Robertson v. Methow Valley Citizen's Council, 490 U.S. at 349, 109 S.Ct. at 1844. Only in this way, Congress concluded, would an agency elevate the consideration of the environmental effects of its proposed actions to the same level as other, more traditional, factors. See North American Wild Sheep, 681 F.2d at 1177.

Federal courts have interpreted NEPA to require that when preparing an EA, agencies must take a hard look at the potential impacts of a project, and ensure that when a FONSI is made, that the EA convincingly concludes that no significant impacts will occur in order to forego an EIS. An agency must "supply a convincing statement of reasons why potential effects are insignificant." Save the Yaak Committee v. Block, 840 F.2d 714, 717 (9th Cir. 1988) quoting The Steamboaters v. FERC, 759 F.2d 1382, 1393 (9th Cir. 1985) (emphasis added).

The agency's statement of reasons, "'is crucial' to determining whether the agency took a 'hard look' at the potential environmental impact of a project." Save the Yaak, 840 F.2d at 717 quoting Kleppe v. Sierra Club, 427 U.S. 390, 410 n.21, 96 S.Ct. 2718, 2730 n.21 (1976); see also Sierra Club v. U.S. Dep't of Transportation, 753 F.2d 120, 127 (D.C. Cir. 1985) (in preparing EA, agency must take "hard look" and make a "convincing case" for a finding of no significant impact). Reviewing courts must confirm, "the agency decision is founded on a reasoned evaluation of the relevant factors." Inland Empire Public Lands Council v. Schultz, 992 F.2d 977, 980 (9th Cir. 1993); Greenpeace Action, 14 F.3d at 1332 (citing Marsh, 490 U.S. at 373-74, 109 S.Ct. at 1859; Citizens to Preserve Overton Park, 401 U.S. at 416, 91 S.Ct. at 824 (1971)).

In addition, Council on Environmental Quality (CEQ) regulations recognize that intelligent decisionmaking can only derive from high quality information. EAs must provide "evidence and analysis" for their conclusions that doing a FONSI or full EIS is required. 40 C.F.R. § 1508.9. Information included in NEPA documents "must be of high quality. Accurate scientific analysis ... [is] essential to implementing NEPA." 40 C.F.R. § 1500.1(b). Where an agency has outdated, insufficient, or no information on potential impacts, it must develop the information as part of the NEPA process.

B. THE EA NEEDS TO CONSIDER A RANGE OF REASONABLE ALTERNATIVES

The requirements of NEPA and regulations implementing it clearly require agencies to consider all reasonable alternatives to an agency action in preparing environmental review documents, including EAs. NEPA requires agencies to:

> Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources. 42 U.S.C. § 4332(2)(E). This duty to consider reasonable alternatives is independent and of wider scope than the duty to complete an EIS. See Bob Marshall Alliance v. Hodel, 852 F.2d 1223, 1228-29 (9th Cir. 1988), cert. denied, 489 U.S. 1066 (1989) ("Consideration of alternatives is critical to the goals of NEPA even where a proposed action does not trigger the EIS process"); Natural Resources Defense Council v. U.S. Dept. of the Navy, 857 F.Supp. 734, 739-40 (C.D. Cal. 1994) (duty to consider reasonable alternatives is independent and of wider scope than the duty to complete an EIS); Sierra Club v. Watkins, 808 F.Supp. 852, 870 (D.D.C. 1991) (same); Sierra Club v. Alexander, 484 F.Supp. 455 (N.D.N.Y. 1980) (same). It is intended to ensure that each agency decisionmaker identifies, evaluates, and takes into account all possible approaches to a particular proposal which would better address environmental concerns and the policy goals of NEPA.

Federal courts and CEQ regulations implementing NEPA make clear that the discussion of alternatives is "the heart" of the NEPA process. 40 C.F.R. § 1502.14. In order to "sharply defin[e] the issues and provid[e] a clear basis for choice among options by the decisionmaker and the public," environmental documents must explore and evaluate "all reasonable alternatives." Id.

C: THE EA LACKS A NO GRAZING ALTERNATIVE

We believe that the BLM has violated NEPA by failing to analyze a No Grazing alternative. The BLM is not required to issue another grazing permit if it determines that it cannot meet the requirements of FLMPA to protect wildlife, water and other resources while allowing continued grazing. Thus, the "No Action" alternative should be to consider a No Grazing Alternative, rather than to renew the current grazing permit under the same terms and conditions. By considering the pro-active step of reissuing the current permit as the "No Action" alternative, the BLM has turned NEPA on its head.

D: THE EA NEEDS TO CONSIDER SETTING LIVESTOCK GRAZING LEVELS BELOW THE CARRYING CAPACITY AND TEN-YEAR AVERAGE.

The EA needs to analyze an alternative that would permit livestock grazing below the carrying capacity and ten-year average in order to speed recovery of resources or to favor other important values on the allotment (such as wilderness and/or recreation).

BLM's analysis here is exactly the sort struck down by a Federal District Court in Phoenix in 1996. Seidman v. Gunzel, CIV No. 94-2266-PHX-RGS. In that case, the Forest Service

established the allotment capacity, and examined only use at the maximum capacity or at zero AUMs. The court ruled that the Forest Service must examine livestock grazing levels between zero and the maximum sustainable level. The Court held that the agency must consider the full range of alternatives, that is not only from zero to status quo, and/or the number determined in the production utilization survey, ***but all other numbers in between***, coupled with a consideration of all of the competing values that are involved in any government lands' use, including all of the recreational and wildlife concerns as well as the grazing concerns. (Seidman v. Gunzel, CIV No. 94-2266-PHX-RGS, at 31 (emphasis added).)

BLM must therefore consider livestock grazing on the allotments at several levels below the carrying capacity and ten-year average. If BLM is to have any hope of improving conditions on the allotment, it must consider improve the allotment's trend by reducing numbers or seasonal use. A reduction in livestock use appears to be a "reasonable" way of achieving these goals, and thus the BLM must consider it. Failure to consider such an alternative therefore clearly violates NEPA's requirements that agencies consider "a range of reasonable alternatives."

In this case, the BLM proposes, but quickly dismisses a "Further decrease in Livestock Grazing Alternative," apparently because it does not permit the maximum use of the allotment arbitrarily determined in a theoretical carrying capacity analysis, and also because it allows for future reductions in grazing to be made if the preferred alternative does not lead to meeting of various objectives. In effect, the BLM is admitting that the Proposed Action might not lead to ecological turn-around that is needed to meet the SERA RMP, rangeland health and other goals, but still refuses to consider an alternative that will further reduce grazing to the point that it ensures these goals will be met.

We believe that this is a violation of NEPA, FLMPA, the Administrative Procedures Act (APA), and that the agency should be looking at actions that ensure all goals are met. The agency should be using the precautionary principle to protect the public lands, rather than only considering the one alternative that absolutely maximizes capacity using an abstract formula that ignores the detrimental results of years of grazing that occurred at similar stocking levels. Further, under that maxim capacity alternative, over 80 percent is allocated to livestock and less than 20 percent (actually close to 15 percent) is made available for all wildlife and the wild horses in the area. What would be the effect if say 50 percent were allocated to livestock, 25 percent to horses and 25 percent to wildlife or simply remain unused? While the EA needs not look at those specific figures, to satisfy the requirements of NEPA, it should include an alternative that addresses the effects of a further stocking decrease (below recent actual use levels).

While the permitted livestock use on the allotment is 33,453 AUMs, the average use is 25,012 AUMs or just under 75% of the permitted levels (p 246). The result of this level of livestock grazing, along some but significantly less grazing from wild horses and other wildlife has resulted in "utilization levels... exceeded throughout the allotment" throughout the late 1980's and 1990's.

The basic problem with the recommended decision is it fails to reduce actual grazing use. While the proposed Livestock Permittee Management Actions reduce permitted numbers, the reductions bring permitted numbers down to just slightly (58 AUMs) below the average use during the evaluation period. (See chart below.) From the extensive monitoring information presented in the evaluation, it is clear that significant damage has resulted from that level of use.

PERMITTEE	PROPOSED AUMs
Cortez	1741
C-Ranches	9880
Doby George LLC.	295
Ellison	10463
Filippini	777
Julian Tomera	914
Silver Creek	884
Total	24954
Average During Evaluation Period	25012
Actual Reduction proposed	58

While the livestock management proposal does include a partial change in livestock from cattle to sheep for one permittee and an allotment pastures/use areas rotation, we strongly believe that overstocking is the fundamental problem on this allotment. Further, it is not explained how this allotment-wide rotation system would work, as it is our understanding that there are few fences in the allotment. The reduction in permitted numbers, small change to sheep and rotation plan may reduce further damage to the allotment in, and possibly bring very minor improvements in local areas, but it is clear that this allotment needs significant recovery throughout, that will not occur with these minor changes.

Bringing the permitted numbers down to the average use will still mean that much of the allotment will have to be used at 60% or greater to sustain that level of animal use. This is inconsistent with the proposed annual monitoring standards that would reduce allowable utilization to 40% in most areas and 25% in some areas. Those utilization levels would only sustain the proposed permitted numbers in the absolute wettest of years, or if livestock distribution was absolutely perfect throughout the allotment, and possibly not even then.

Permittees generally try to run livestock levels at the permitted numbers, but in this case if they do so and utilization levels are enforced, they are likely to be consistently left with nowhere to go at the end of the year.

Further, the utilization guidelines taken from Holecheck's research presented in the appendices show that guidelines that show 30-40 percent is considered moderate grazing for most of the range types presented on this allotment. Thus, the 40% guideline is actually on the high side. Some of Holecheck's work also discusses and recommends use between 0-30 percent to repair and restore damaged rangelands, which would be more appropriate on this allotment.

Moreover, in explaining the chart presented, the BLM also states, "Research indicates that there are very little biological benefits to vegetative community from lighter use levers." We contest this unsupported statement and believe that it is taken out of context. While range research shows this statement is generally true for areas that are currently in a health condition and meeting ecological needs, other research (including that of Holechek) shows that lighter utilization is needed to allow for recovery.

Thus, we must also contest the formulas used to calculate the carrying capacity of this allotment. We do not believe that the series of formula presented in appendix 11 have any factual or scientific basis.

Normally, the potential forage production of an area is based on measuring the actual ungrazed production for a small area during the course of a year, then using that as a basis to determine allowable pounds/acre in various pastures/keys areas/ecological units. The total production of these various units is then added up to get the total forage potential for the allotment. Then management decisions are made to decide how much is to be left unconsumed to protect the ecology of the area, and how much can be consumed by wildlife, livestock, and in this case wild horses. From the appendices is clear that the BLM has this information but has failed to use it.

The formulas presented here have no such basis in reality. We believe they are an arbitrary and capricious formulation that must be corrected as the NEPA process moves forward. The clearest indication that there is something wrong with these formulas is that they purport to show that consistent overuse of parts of the allotment will ultimately allow for a carrying capacity that is at the same levels of actual use of the evaluation period, which has consistently caused damage to the allotment resources.

Simply put, allow continued use at those levels will keep the allotment in its current, unacceptable condition and fail to improve water quality, riparian conditions, or provide wildlife habitat. The failure to even consider an alternative that would reduce livestock levels below the full levels of the BLM's arbitrary capacity analysis is a clear violation of NEPA.

E. THE EA FAILS TO ANALYZE THE EFFECTS OF INVASIVE NON-NATIVE SPECIES.

Livestock grazing, which is an extensive land use throughout the Southwest, can lead to the proliferation of noxious weeds (Jones 2001). Grazing by livestock can aid the spread and establishment of alien species in three ways: 1) dispersing seeds in hair/wool and dung; 2) opening up habitat for weedy species; and 3) reducing competition from native species by eating them (Fleischner 1994). A multitude of studies have found increased densities, cover or biomass of exotic plant species in grazed versus ungrazed sites (Green and Kaufman 1995; Drut 1994; Harper et al. 1996). Kitchen and Hall (1996) found that spring grazing by sheep resulted in higher percent cover of exotic annuals, and favored halogeton and cheatgrass (Bromus tectorum) expansion. Grazing can reduce leaf area to the point where native plants cannot complete photosynthesis, or can prevent native plants from reaching reproductive maturity (Knapp 1996). Annual noxious weeds, such as cheatgrass, have a competitive advantage over native plants in overgrazed environments. Livestock also can transport noxious weed seeds on their hides or hooves (Knapp 1996).

In a recent extensive literature review, Jones (2001) illustrated how cattle disseminate weed seeds in their hair/wool and hooves; increase the "invasibility" of sites; and maintain weedy communities by preferentially grazing on natives. The ability of cattle to increase a site's susceptibility to invasion has received the most attention from the scientific community. Sites become invasible due to increased bare soils as a result of grazing, which offer greater opportunity for weed establishment, with less competition.[1] Evans and Young (1972) found that increased soil erosion [shown to be caused by grazing] also loosens surface soils and helps bury seeds. Exotic seeds adapted to more erosion-prone environments will benefit from this alteration while native species likely will not. Deposition of nitrogen-rich livestock dung also increases invasion of nitrophilous weeds such as cheatgrass by stimulating germination and enhancing growth over that of native plants (Evans and Young 1975; Smith and Nowak 1990; Trent et al. 1994; Young and Allen 1997). Finally, cattle grazing can compound the above impacts by creating warmer and drier soil microclimates, through soil compaction, and loss of plant, microbiotic crust and litter cover. The resulting warmer, drier microclimate reduces the competitive vigor of many native grasses (Piemeissal 1951; Archer and Smeins 1991), thus further increasing viability of aggressive exotics.

Once they are established, weeds negatively impact western arid ecosystems in numerous ways. Weed infestations reduce biodiversity (Randall 1996), increase fire frequency (Esque 1999; Brooks et al. 1999), disrupt nutrient cycling (Vitousek 1990), alter soil microclimate (Evans and Young 1984), reduce effectiveness of wildlife habitat (Davidson et al. 1996; Knick and Rotenberry 1997), and can expedite loss of topsoil in xeric environments (Lacy et al. 1989).

The evidence for cattle's implication in spread and establishment of exotic weeds is greater than any evidence to the contrary. Examples of studies documented cattle harms to native plant communities include:

- Rawlings et al. (1997) found that the part of Canyonlands National Park that had been grazed most intensively prior to 1967 has since been extensively invaded by cheatgrass.
- In a study of 530 different rangeland sites in southern Utah, Gelbard (1999) found that cheatgrass cover was five times greater on sites without cryptobiotic soils (disturbed by either cattle or motorized use) than on sites with undisturbed crusts (and 64% of all sites that were disturbed and lacking crusts were attributed to cattle grazing).
- Bich et al. (1995) found that both density and basal area of Indian ricegrass (Oryzopsis hymenoides), a native bunchgrass, increased with decreasing grazing intensity, while density and foliar cover of snakeweed (Gutierrezia spp.) increased with increasing grazing intensity.

The productivity of cheatgrass is extremely variable – in consecutive years, tenfold differences in cheatgrass production have been observed (Young and Allen 1997). Cheatgrass production is extremely low under drought conditions, and may provide no forage in some years (Young and Allen 1997). Stewart and Young (1939, as cited in Knapp 1996) determined that perennial grasses produced twice as much vegetative biomass as cheatgrass in wet years, and 12 times as much herbage as cheatgrass in drought conditions. In areas where cheatgrass forms dense monocultures, forage options are extremely limited, and small variations in weather may lead to large-scale population swings among native grazers.

Many areas in the West – including large parts of this allotment - that were once dominated by perennial plant species are now dominated by introduced annuals such as those mentioned above. Overgrazing is a major cause of this conversion. Rather than addressing the threat of exotic weed proliferation, the BLM claims, "grazing can help prevent the spread of undesirable plant species" and can minimize, or at least have no effect on, the spread of invasive weeds such as cheatgrass (See Jones 2001). In supporting this claim, the agency has cited Sheley (1995), an article that appears in a magazine, not a peer-referred journal. This paper is a two-page set of grazing recommendations, based on no experimental evidence of its own (or any other studies for that matter) that goes into no detail on the "proper grazing management practices" that can supposedly control weeds (Jones 2001).

This EA briefly discuss, but failed to take a hard look at the effects of invasive/non-native species, and buys into the undocumented theory that continued grazing will help manage cheatgrass and other non-native species.

III. WATER QUALITY AND RIPARIAN AREAS

We note the overall conclusions of the Allotment Evaluation show that Riparian and Wetland Standards are not being met and that there is no significant progress being made towards meeting these standards. Despite the clear problems with water quality and riparian areas, the BLM constantly makes the unsupported assumption that by avoiding hot-season grazing, these areas will quickly recover and more towards meeting all required goals. However, no where does the agency point to studies or other allotments in the area that show how avoiding hot-season grazing will successfully allow desert riparian areas to recover. Making such a conclusion without support is a violation of the Administrative Procedures Act.

Without restating the specific data and conclusions provided in the Evaluation, we must simply note that the allotment is failing to meet most of the Watershed Management Objectives, is not actually meeting any of them and is only partially meeting two of these standards. The various sections on water quality (p. 225-231 etc) make it clear that the various sampling that has occurred show that the levels of fecal coliform and turbidity are above acceptable standards for the state's water quality criteria.

The evaluation argues that this should not be considered a violation of State Water Quality Law. We have difficulty with this interpretation. The best available data consistently show fecal coliform and turbidity above acceptable criteria. While the number of samples may not meet the specific requirements of NAC445A.119, state water quality laws and enforcement are based on the federal Clean Water Act. If the state had clear evidence of exceedences, why was no further testing or insufficient testing done? It clearly appears that the BLM and State have decided to ignore the best available data and not do sufficient testing, and chosen instead to allow the loophole of sampling requirements in NAC445A.119 to allow them to say that consistent exceedences of water quality standards are not a violation of the law.

We believe that this evaluation is not truly complete without sufficient sampling being undertaken in those streams where the best available data indicates that fecal coliform and turbidity levels are above the acceptable criteria. The failures to meet acceptable criteria in 39% of samples of fecal coliform and 44% of turbidity on cold-water streams cannot be ignored, even if they do not fulfill all of the sampling requirements in NAC445A.119, they are still the best available information. Even if certain changes are made to improve conditions in these areas, post change sampling must be required to insure that these changes do in fact lead to consistent fecal coliform and turbidity levels that are within the acceptable criteria. There is no such requirement in this decision.

We are especially concerned with exceedences on Fish Creek, which has potential as a trout fishery. Fish Creek has clear problems with excess temperature, along with other exceedences, that prevent it from being considered

We note the overall conclusions of the evaluation show that Riparian and Wetland Standards are not being met and that there is no significant progress being made towards meeting these standards (p 251). Again, without restating the detailed information in the evaluation, it is clear that Fish Creek and most of the riparian areas within this allotment are in unacceptable conditions, and throughout the allotment, appear to violate RAC Standard 2. . Even if certain changes are made to slightly reduce use in an effort to improve conditions on the allotment, we are concerned that ANY continued grazing in these key riparian areas will prevent or significantly hinder any potential recovery.

The analysis states, (p246) that overall, "The majority of riparian-wetland-aquatic habitats are in poor condition due to livestock and wild horse degradation, 93.6 (12.24 miles) of the lotic and 97.1% (59.3 acres) of the lentic were not at PC." Utilization information for these areas shows use from heavy (60-80%) to severe. Even if permitted reductions and some type of rotation system occur, the simple truth is that cattle tend to congregate in riparian and aquatic zones, especially in arid hot environments. We see nothing in the proposed changes that will protect and restore these areas.

The EA also notes in the analysis (p. 31), but not specifically in the description of the proposed action, that "10-20 riparian areas would be exclude livestock and wild horses" [sic]. However, it fails to mention where these will be, how big they will be, what criteria will be used to determine if, when, and where they will be build and how large they will be. Without such information, the public cannot seriously believe that they will be build, and that they will significantly improve conditions on the allotment.

While the proposed action is likely to bring minor improvements to the allotments water quality and riparian areas, these improvements will be limited, or not clearly described, will take years or decades to make a difference, and will leave water quality and riparian areas at risk of violating CWA standards, the requirements of the SERA RMP, rangeland health standards and other goals.

IV. ENDANGERED SPECIES ACT

We note the overall conclusions of the evaluation show that Habitat Standards were being met in only three of 35 key management areas (8.6%) and that there is no significant progress being made towards meeting these standards (p 253). Current and historic livestock grazing were causal factors that have resulting in this non-attainment.

Without restating the specific data and conclusions provided in the Evaluation, we must simply note that the allotment is failing to meet ALL of the Wildlife Habitat Management Objectives. This is a clear indication that significant changes in management are needed. We believe that the slight reduction from current actual-use livestock numbers might be enough to prevent further degradation, but will not be sufficient to actually improve conditions so that wildlife management objective will be met.

According to the Endangered Species Act, if threatened or endangered species, or proposed threatened or endangered species 'may be present' within the proposed project area, or if a proposed action 'may affect' a listed or proposed species, the BLM is required to conduct a Biological Assessment to determine the effects of permit reissuance on such species [Section 7(a)(2), Section 7(a)(3)]. It is a violation of the Endangered Species Act to issue permits for grazing allotments without conducting a Biological Assessment to determine the impacts of permit issuance on federally listed species that may be present of affected by the proposed action. Allotments included in this proposed action either support listed or proposed species, support habitat where such species may be present, and or support habitat important to the recovery of such species. It is a violation of the Endangered Species Act to issue grazing permits for grazing allotments prior to consulting with the Fish and Wildlife Service regarding impacts of permit issuance on listed or proposed species.

Also according to the Endangered Species Act:

"It is...declared to be the policy of congress that all Federal departments and agencies shall seek to conserve endangered species and threatened species and shall utilize their authorities in furtherance of the purposes of this Act" [Section 2 (c)(1)]. "All...Federal agencies shall...utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species..."[Section 7(a)1)]. "The purposes of the Act are to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, (and) to provide a program for the conservation of such endangered species and threatened species..."[Section 2(b)]. "The terms 'conserve', 'conserving', and 'conservation' means to use all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary" [Section 3 (3)].

The BLM is therefore required to determine whether your proposed action will serve to conserve listed or proposed species and critical habitats, on or offsite of the project area. You must also determine whether lands within the proposed action area are important to the recovery of proposed or listed species. Recovery actions must be emphasized over extractive activities such as continued grazing.

The Evaluation gives some general background on various species on the allotment, but fails to give any details of their population trends, nor does it discuss the effects of grazing. In addition, we note that fewer that 2000 AUMs are allocated to wildlife. This seems insufficient to maintain healthy ungulate populations.

The analysis of pronghorn habitat (not actually in the EA) is insufficient. It states that utilization and production data will provide the necessary information to assess pronghorn habitat. However, even if this is the case, it fails to make the obvious conclusion that pronghorn habitat is in at least as poor shape as that of livestock and wild horses. Further, as livestock are primarily grazers and pronghorn are more apt to browsers, there is a significant difference between the requirements of pronghorn and that of cattle that must be taken into account.

The data presented also show that utilization by livestock and horses has affected what forage available of deer and reduced nesting habitat for sage grouse. We do not believe the proposed changes will have significant enough effects to protect these species and improve their habitat, and neither the Assessment nor the EA provide evidence that it will.

The evaluation also shows that cattle have significantly impacted aquatic habitat on the allotment, including that of various species of springsnails, including the large and small gland Carico springsnails. We do not believe the proposed changes will have significant enough effects to protect these species and improve their habitat.

All of these deficiencies should be evaluated in detail for each alternative analyzed in the EA, but the EA fails to do so in violation of the ESA, NEPA and FLPMA.

V. WILD HORSES

The Assessment and EA make it clear that the current management is not meeting the standards for maintaining healthy wild horse and burro populations. The EA and Decision, however, look at only on one possibly level for wild horse populations and do not make it clear how this level was determined. This arbitrary determination is in violation of the APA.

CONCLUSION

The BLM's proposed decision for the Carico Allotment would violate NEPA, FLPMA, BLM's own standards and guidelines, and agency policy and other laws. While BLM must undertake the properly environmental reviews required by ESA, NEPA and FLPMA, and its own regulations and policies, we urge BLM to act quickly to reduce actual livestock grazing use in the interim (as opposed to simply lowering permitted numbers to meet the actual use over the last decade). BLM regulations permit the agency to take immediate action to implement reductions in permitted use where "continued grazing use poses an imminent likelihood of significant resource damage" (43 C.F.R. § 4110.3-3(b). See also 43 C.F.R. § 4110.3-2(b) ("when monitoring or field observation show grazing use or patterns are ... causing an unacceptable level or pattern of utilization, or when use exceeds the livestock carrying capacity... the authorized officer ***shall*** reduce permitted grazing use or otherwise modify management practices.")) BLM must order such reductions immediately if completion of the required environmental evaluations and determinations will take place after the commencement of the next grazing season.

Thank you for this opportunity to protest.

Respectfully submitted.

Billy Stern

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Working to protect and restore Western Watersheds

September 15, 2005

Doug Furtado, AFM
Bureau of Land Management
Battle Mountain Field Office
50 Bastian Road
Battle Mountain, NV 89820

RE: Carico Lake Allotment EA and PMUD Protest

Dear Doug, Here is a Protest by WWP of the Carico Lake allotment Assessment, Determination, EA, Proposed Multiple Use Decision, Decisions for Cortez Joint Venture, C-Ranches, Doby George LLC, Ellison Ranching Co., Filippini Ranching company, Julian Tomera Ranches, and Silver creek Ranch, and all associated documents.

We Protest the disparity in allocation of AUMs between livestock, wildlife, and wild horses. This is not a balanced and fair allocation of public resources.

We Protest the failure to sufficiently reduce AUMs. BLM has not assured that many important values of public lands, ranging from special status species habitats to cultural sites, will be protected or enhanced under the action alternative.

We continue to be concerned about the basis for setting stocking rates, and the lack of concrete information that shows which areas of the allotment are suitable or capable of supporting domestic livestock use. For example, how many acres (and where are these lands located?) in each use area are capable of supporting sheep or cattle, and at what stocking rate in each of these suitable areas?

How can you continue to reward permittees who have so damaged these lands? You should make large-scale alterations in the permits - due to lack of sustainable perennial 'forage' and large-scale damage to all native vegetation communities - ranging from aspen to salt desert shrub communities. Instead, you are rewarding permittees for the damage to the lands, as documented in the Assessment – by authorizing continued overstocking. You have provided no evidence that things have improved at all since the previous AUM calculations for these lands, and the Key Area data shows how depleted these lands really are.

We believe it is invalid to use the Use Pattern mapping from more than decade ago as the basis for some abstruse "potential" carrying capacity. That Use Pattern mapping does not reflect the large-scale depletion following 4-5 years of drought, shrub die-off, etc. on these allotment lands.

Plus, when you make the AUM calculations, it appears that you calculate that virtually every acre in any particular soil type is usable by livestock, with no topgraphioc or other barriers to use, and also that the use is spread out uniformly across the landscape. That is not the case. Stocking at such high levels also perpetuates the extreme damage and degradation of the areas within ¼ mile or less of water, and many flatter areas, or lands in proximity to facilities across the allotment where livestock congregate.

The range in AUMs that you obtained here (in calculating "Desired Carrying Capacity", shows how flawed this approach is. AUMs range from 17,228 AUMs to 26,342 AUMs. RHA Appendices at Appendix 11, arriving finally at a level of 19,328 AUMs.

We are alarmed that instead of selecting even the conservative number obtained by this method which we believe greatly over-estimates sustainable use here, you arrived at yet a completely different number, 19,328 AUMs vs. 24,657, and carry this forward in your Proposed Decisions.

We Protest the failure to place the current proposed AUM reduction in context. Most other allotments in Nevada have had at least one grazing decision that reduced AUMs since the TGA, and Carico Lake has not. In these other allotments, BLM is now in the process of FURTHER reducing AUMs on many allotments that continue to be overstocked. Instead of acting to cut AUMs in Carico Lake to levels that experience in other allotments is showing is necessary, and that extreme degradation of the allotment lands and waters shows is necessary, BLM in Carico appears to be making only the first round of cuts, and not putting in place the much lower sustainable numbers.

We Protest the failure to conaider a reasonable range of alternatives that focus on:

- a series of restoration alternatives that focus on passive restoration of livestock-damaged lands and many other alternatives;
- a reasonable balancing of AUMs and use between wild horses, wildlife and livestock;
- a series of management actions (required diligent herding and reporting, grazing a controllable number of livestock, etc.) that do not rely on a large number of rangeland facilities (including many new facilities) to continue or extend livestock use here.

We Protest the failure to establish of a series of watershed-level reference areas that are closed to livestock use in order to gauge the effect of livestock on the lands of the allotment, as well as to provide areas that serve as refugia for native wildlife species whose habitats are degraded by livestock or are displaced by livestock, displaced by mining activity, etc. Such ungrazed reference areas are particularly critical, especially since areas of the allotment will be grazed by both sheep and cattle.

We Protest stocking lands on the basis, at least partially, of cheatgrass production. BLM states it will manage certain pastures to use grazing to control cheatgrass, so you are stocking with cheatgrass as a forage base at least to some extent. Production of

cheatgrass fluctuates wildly, and you have not shown that stocking at the levels proposed is sustainable.

We Protest the failure to set stocking rates at levels that will allow you to undertake rehab or restoration necessary actions to deal with the serious cheatgrass and invasive species problems across the allotment. The need for large-scale restoration actions in this landscape so damaged by livestock, mining, fires and other factors necessitates stocking lands at levels that will allow measures to restore native vegetation.

We Protest the methods used for determining carrying capacity in the allotment. PMUD at 15 states that permittees had not submitted actual use reports by use area or pasture.

We Protest the failure to assess the harmful, and increasingly invasive, nature of forage kochia. We are increasingly concerned about the use of forage kochia in post-fire seedings, and ask that you NOT consider forage kochia a basis for sustainable use, but instead act to restore kochia seedings to native vegetation as the next stage of post-fire recovery.

We Protest the failure to assess impacts of serious erosion and desertification on the allotment (gullying, rills, accelerated runoff, site desiccation, loss of microbiotic crusts, etc.) in the vast areas of lands away from the flat land Key Areas. Such assessment is critical to understand the health of ecological processes, watersheds, special status species habitats, etc. By relying on the flat Key Areas, you eliminate vast areas of slopes or sites closer to water, fences, etc. plus, now that greatly increased sheep trampling and grazing will be introduced to side hills and areas more distant from water, it is essential to understand the current condition of such sites.

We Protest the failure to regulate motorized use by permittees in unroaded areas of the allotment. Permittee activities (water hauling, salt placement, sheep camp parking) are often a primary cause of roading in Nevada wild lands.

We Protest the failure to adequately evaluate the current operative condition, whether repair to a functioning state is even feasible, and ecological impacts of all existing livestock facilities on this allotment.

We Protest BLM promising ranchers such as C Ranch new fences (that BLM is conveniently delaying to a later date) and thus segmenting NEPA analysis. The full impacts of all linked actions (fences associated with implementation of this Decision) must be assessed in an EIS.

We Protest the inclusion of a term that "all projects on public land must be in working order", without having adequately assessed the current ecological conditions - or the degradation that has been caused, or may be caused, by projects. For example, past development/de-watering of springs has significantly reduced flows at spring sources. Continued livestock degradation of watershed has accelerated desertification processes, and aquifer levels have declined. As BLM relies on old, and new projects, as part of the

claim that significant progress will be made towards attaining the FRH, essential baseline information on watersheds, flow rates, aquifer characteristics (including mining effects/drawdown) must be collected, and analysis be conducted, as part of this process.

We Protest the failure of BLM to assess the impacts of this Decision on springs and seeps – including the impacts on aquifers and watersheds.

We Protest Battle Mountain BLM limiting itself to the inadequate Northeastern Nevada RAC standards. These standards do not adequately reflect the full range of environmental values and conditions that the grazing regulations require be addressed in a FRH assessment.

We Protest the failure to correct serious flaws and deficiencies in the FRH Determinations. For example, given that the photos, water quality monitoring data, lentic and lotic assessments, etc. all show extreme degradation of riparian areas, and riparian areas and their surroundings are almost always important cultural sites in the arid Great Basin, BLM can not support a claim that cultural standards are being met.

We Protest continuing to claim that Wildlife Habitat Mgmt. or other Objectives are being partially met, simply because lands at higher elevations are relatively less degraded than lower elevations. We have observed extensive areas of bare soil interspaces, sparse understory grasses, and altered shrub structure in higher elevations. Plus, aspen across the allotment are severely degraded, clones have been extirpated, and others are on the verge of extirpation.

We Protest the very serious failure to assess the impacts of sheep grazing on top of cattle grazing on the lands of this allotment. You have not adequately assessed impacts of overlapping sheep and cattle use on the very same acreage of land, or within the same watershed or wildlife habitats.

We Protest the conclusion that BLM cure water quality problems, or make significant progress in most areas of the allotment, given that livestock numbers under the Decision will be similar to Actual Use levels of the past the SAME amount of livestock waste, trampling, soil erosion, vegetation removal through consumption and breakage, etc. will still be occurring on the allotment. Plus, runoff may be accelerated due to increased de-vegetation and de-stabilization of slopes by increased sheep use.

We Protest the failure to address the very significant impacts of increasing grazing use (sheep conversion) on the few remaining better condition areas of the allotment.

We Protest the failure to carefully examine the impacts of sheep and cattle grazing in infestation and spread of invasive species across the Carico Lake and other neighboring allotment lands. What weeds are present in other lands grazed by Carico livestock, and how will livestock serve as vectors of weed spread throughout Carico Lake, and what management actions can be taken to reduce infestations?

We Protest the failure to conduct necessary pre-decisional systematic baseline surveys for important special status plant and animal species on these lands. This is critical, as you plan to greatly extend and shift more livestock use onto steeper slopes and lands further from water sources through conversion of a large number of cattle AUMs to sheep AUMs. Unless you know current species occurrence, the condition of habitats, and the condition and viability of populations across this allotment and surrounding lands, it is impossible to assess impacts of greatly increased sheep trampling, browsing and grazing impacts to special status species, cultural sites, spread of invasive species, conflicts with recreational uses, etc.

We Protest the failure to assess how loss of microbiotic crusts, or wind and water soil erosion processes, will be accelerated under the proposed actions.

We Protest the failure to assess the current impacts to important wildlife and special status species of the cumulative impacts of mining and mining exploration in this allotment and surrounding lands. This includes accurate studies of combined impacts of aquifer drawdown and proposed spring developments that inevitably accompany riparian fencing projects.

We Protest the confusion surrounding wild horse issues, and the failure to take actions to deal with many conflicts (such as fences) that may be harming not only horses, but also native wildlife such as pronghorn and sage grouse (example – the Bob Town fence – which although it may be a division fence, should be removed if it is causing mortality or conflicts). Relying on an endless series of range projects to surround degraded springs and seeps, too, will only result in more serious conflicts with horses and native wildlife.

We Protest the lack of large livestock-free areas as reference sites for scientific study, and to serve as essential habitat for species that have been extirpated by livestock and linked fire impacts in portions of this allotment.

We Protest the lack of information and assessment of the human health threats to recreationalists from domestic sheep and cattle pathogens on these lands.

We Protest the lack of action and planning to restore sage grouse to the western slope of the Shoshone Range, where the Assessment states they have been extirpated. Plus, extirpation of sage grouse there elevates the need to provide necessary residual cover of 7-9" of native grass height as protective nesting cover to ensure greater nest success, the need to remove (and NOT build more) fences (as fences cause mortality, may be avoided by grouse, help intensify livestock use), the need to restore sagebrush and native grasses and forbs, and then need to maximize recovery of springs, seeps, wet meadows across the allotment and surrounding lands.

Many other concerns expressed in our comments remain.

Sincerely,

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

Filippini Ranching Company
HC-61, Box 70
Battle Mountain, Nevada, 89820

RECEIVED
2005 SEP 19 P 3:09
FIELD OFFICE

September 19, 2005

Douglas W. Furtado
Assistant Field Manager
Renewable Resources
Battle Mountain Field Office, USDI-BLM
50 Bastian Road
Battle Mountain, Nevada 89820 Delivered by Hand on 9/19/05

Dear Mr. Furtado:

The interests of Filippini Ranching Company, Henry and Marian Filippini, and Hank and Marian Filippini Family Trust (FRC), are adversely affected by the UNDATED Proposed Multiple Use Decision (PMUD) issued by your office, along with its associated "Finding of No Significant Impact and Decision Record", its associated "Rangeland Health Assessment Conformance Determination", and its associated "Environmental Assessment NV-062-EA05-61", as well as the underlying "Allotment Evaluation". All of these voluminous documents were received by FRC on or about September 2, 2005.

FRC hereby serves notice of PROTEST of the PMUD and its associated documents for the reasons set forth below. FRC also offers a specific management plan (grazing application) at the conclusion of this Protest (section III, herein) which will continue to meet or make significant progress toward meeting allotment-specific objectives set forth by the Land Use Plan (as specified by the RPS), and Standards for Rangeland Health.

I. POINTS OF PROTEST.

PROTEST POINT 1.

FRC does not protest the total active permitted use for FRC of 777 AUMs, except as expressed relative to BLM's errors in calculation of such permitted use. FRC reserves the right to make an application for increase in permitted use upon correction or set-aside of the errors in grazing capacity noted herein. See SOR 1-7. See also Statement Of Reason (SOR) 8.

PROTEST POINT 2.

FRC does not protest the establishment of the FRC Area of Use as depicted and described by the PMUD, but protests the use of such Area of Use by Ellison Ranching Company to the extent it is not consistent with that use agreed to between FRC and Ellison.

PROTEST POINT 3.

FRC does not protest the proposed kind of livestock or percent public land, Term and Condition #1, but protests the remainder of grazing management system and terms and conditions of the permit.

a. Regarding Season of Use, see SOR 8, 9, 10.
b. Regarding the number of livestock and the number of AUMs, see SOR 1 - 7.
c. Regarding Term and Condition #2, see SOR 11.
d. Regarding Term and Condition #3, see SOR 12.
e. Regarding Term and Condition #4, see SOR 13.
f. Regarding Term and Condition #5, see SOR 14.
g. Regarding Term and Condition #6, see SOR 15.
h. Regarding Term and Condition #7, see SOR 16.
i. Regarding Term and Condition #8, see SOR 17.
j. Regarding Term and Condition #9, see SOR 18.
k. Regarding Term and Condition #10, see SOR 19.
l. Regarding Term and Condition #11, see SOR 19.

PROTEST POINT 4.

FRC protests the rationale section for the FRC portion of the PMUD:

a. The PMUD rationale regarding "cheatgrass control" is not reasonable. See SOR 8, 9, 10.

b. The PMUD rationale regarding "increase vigor, productivity, and seedling establishment" is not supported by the data. See SOR 8.

c. The PMUD rationale regarding "critical growing season" is not supported by the data. See SOR 8.

PROTEST POINT 5.

FRC does not protest the issuance of a ten-year permit, except as consistent with this protest and statement of reasons.

PROTEST POINT 6.

To the extent BLM intends to modify and/or add allotment-specific "monitoring and management" objectives other than those prescribed by the Land Use Plan, as specified by the RPS, FRC protests such modifications and/or additions for all of the Statement of Reasons herein.

II. STATEMENT OF REASONS

1. FRC incorporates by reference as statements of reason the comment letters by Hank and Marian Filippini, Shawn and Angie Mariluch, and Intermountain Range Consultants (IRC).

In addition to the above-referenced statements of reason, we add the following:

2. BLM used incorrect mid-point utilization levels for its grazing capacity determinations. The Evaluation notes that BLM combined "zero" (0%), "slight" (1-20%) and "light" (21-40%) utilization classes into a single "light" (0-40%) utilization class. This in itself is unreasonable, but regardless of this fact, the mid-point of the modified utilization class is 20%, not 30%, as used by BLM in the Evaluation. The same is true for the combination by BLM of the "heavy" (61-80%) and "severe" (81-100%) utilization classes into a single "heavy" (61-100%) utilization class. We believe there was little or no "severe" utilization within the allotment. Nevertheless, the mid-point of the modified utilization class is 80%, not 70%, as used by BLM in the Evaluation.

These errors by BLM result in significant differences in the grazing capacity determination. The errors result in an erroneously low grazing capacity determination by BLM.

3. BLM failed to use its own 1996, 2003, and 2004 key area utilization and actual use data to determine grazing capacity, and to include such computations within the Evaluation and the resultant PMUD.

These errors by BLM result in significant differences in the grazing capacity determination. The errors result in an erroneously low grazing capacity determination by BLM.

4. BLM used an erroneous allowable utilization level in its calculations, not in conformance with the allotment-specific allowable utilization levels prescribed by the LUP, as specified in the RPS.

These errors by BLM result in significant differences in the grazing capacity determination. The errors result in an erroneously low grazing capacity determination by BLM.

5. As to utilization that purportedly occurred between 1981 and 1996, BLM has provided no evidence that such utilization levels resulted in any downward trends in frequency of occurrence

(which is not a LUP-prescribed objective), nor in ecological condition (which is a LUP-prescribed objective) between 1981 and 1996.

As to utilization that purportedly occurred between 1996 and 2004, there exists no nexus between such utilization and purported trends in frequency of occurrence or ecological condition.

BLM has failed to analyze any trends in condition, frequency, or utilization to underlying climatic conditions and/or other causes. However, regardless of what the trends may be, downward trends cannot reasonably be attributed to livestock stocking levels, seasons of use, or levels of utilization.

6. BLM does not have the authority to change LUP-prescribed utilization levels in a grazing decision.

7. Assuming BLM has the authority to change the LUP-prescribed utilization levels in a grazing decision, the data provide no rational basis for a change from the LUP-prescribed 60% allowable utilization to the proposed lower allowable utilization levels.

a. There exists no nexus between utilization below the LUP-prescribed utilization levels, but above the proposed utilization levels, and any purported downward trends. Therefore, there exists no reasonable basis to conclude that the LUP-prescribed utilization levels should be lowered (in a LUP amendment).

b. There exists no nexus between utilization at or below the proposed allowable utilization levels and improved range condition (or frequency of occurrence).

8. No rational basis exists to curtail FRC's season of use. Under the current (3/1 - 2/28) season of use, the rangeland condition within the proposed FRC Area of Use has been maintained or improved. Under the current season of use, LUP-authorized utilization levels, and related livestock management practices, Key Area CL-9 has achieved late-seral ecological condition; Key Area CL-10 has improved from mid-seral to PNC ecological condition, and; Key Area CL-12 has improved from mid-seral to late-seral ecological condition. Therefore, current livestock management practices, including season of use, are not failing to meet LUP objectives or Standards of Rangeland Health.

9. The PMUD rationale, to provide "cheatgrass control, which is present throughout the use area" is not equally applied to all of the permittees within the Carico Lake Allotment, where cheatgrass also exists, and the Decision inequitably requires FRC to curtail its season of use, but does not do so to all of the other permittees. As such, the decision is arbitrary and capricious. See also SOR 8.

10. "Cheatgrass control", i.e., the reduction of cheatgrass presence, cannot reasonably be expected to occur as a result of the proposed season of use. However, to the extent that forage provided by cheatgrass in the spring expands the forage base otherwise provided by the perennial

species, FRC does not oppose including March and April as part of the entire season of use, and within a livestock management system which rotates the livestock distribution within the Area of Use. See proposed management system.

11. Term and Condition #2 is unreasonable. The provision that FRC is "required to meet with the BLM" each year is unreasonable, and may place the permit at jeopardy through no fault of FRC. For example, if BLM schedules do not permit such timely meeting, this term and condition could be deemed to have not been met, placing the permit in jeopardy of cancellation. In addition, FRC's use within its Area of Use cannot "ensure appropriate use throughout the allotment", because FRC cannot control the actions and uses of other permittees in other Areas of Use. FRC agrees to abide by the management system proposed herein, which should provide all of the "assurance" of "appropriate use" in FRC's Area of Use.

12. Term and Condition #3 is unreasonable and is not otherwise in conformance with the Land Use Plan:

a. Utilization is, or should be, an objective, not a term and condition of the permit.

b. The restriction of utilization of "key upland forage species" to 40% is not in conformance with the Land Use Plan, constitutes an illegal modification of the Land Use Plan, and is not supported by the data or science.

13. Term and Condition #4 is not applicable to the FRC proposed area of Use. If BLM deems such T&C applicable, then the PMUD and its supporting documents have failed to properly identify the locations where such T&C may apply. If applicable to FRC's Area of Use, the Term and Condition is unreasonable and is not otherwise in conformance with the Land Use Plan:

a. Utilization is, or should be, an objective, not a term and condition of the permit.

b. The restriction of utilization of "key riparian-wetland herbaceous species to 4 inches by July 31st" is not in conformance with the Land Use Plan, and constitutes an illegal modification of the Land Use Plan, and is not supported by the data or science.

14. Term and Condition #5 is not applicable to the FRC proposed area of Use. If BLM deems such T&C applicable, then the PMUD and its supporting documents have failed to properly identify the locations where such T&C may apply. If applicable to FRC's Area of Use, the Term and Condition is unreasonable and is not otherwise in conformance with the Land Use Plan:

a. Utilization is, or should be, an objective, not a term and condition of the permit.

b. The restriction of utilization of "riparian woody species" to 30% is not in conformance with the Land Use Plan, constitutes an illegal modification of the Land Use Plan, and is not supported by the data or science.

15. Term and Condition #6 is not applicable to the FRC proposed area of Use. If BLM deems such T&C applicable, then the PMUD and its supporting documents have failed to properly identify the locations where such T&C may apply. If applicable to FRC's Area of Use, the Term and Condition is unreasonable and is not otherwise in conformance with the Land Use Plan:

a. Bank shearing is, or should be, an objective, not a term and condition of the permit.

b. The limitation of "bank shearing" to 10% is not in conformance with the Land Use Plan, and constitutes an illegal modification of the Land Use Plan, and is not supported by the data.

16. Term and Condition #7 is unreasonable and is not otherwise in conformance with the Land Use Plan:

a. Utilization is, or should be, an objective, not a term and condition of the permit.

b. The restriction of utilization of "key shrub browse species" to 25% and 40% is not in conformance with the Land Use Plan, constitutes an illegal modification of the Land Use Plan, and is not supported by the data or science.

17. Term and Condition #8 is unreasonable because the utilization restrictions are unreasonable and otherwise not in conformance with the Land Use Plan.

Term and Condition #8 is further unreasonable, because it may be logistically impossible for livestock to be removed from an area in 3-5 days, due to any number of factors, including inclement weather, baby calves, etc.

18. Term and Condition #9 is unreasonable, because the proposed season of use is unreasonable.

Term and Condition #9 is further unreasonable, because flexibility of only 5 days does not account for any number of factors beyond the control of the permittee, including inclement weather, wet soils, baby calves not able to travel, etc.

19. Term and Condition #10 and #11 are unreasonable and illegal to the extent that the T&C's preclude administrative remedy to any modification ordered by BLM. FRC will not forego its administrative remedies under 43 CFR 4160, or judicial remedies, on the basis of these T&C's.

III. FILLIPPINI RANCHING COMPANY GRAZING MANAGEMENT PROPOSAL for the Proposed FRC Area of Use.

Season of Use:	3/1 - 2/28	
Kind of Livestock:	Cattle and Cow/Calf	
Percent Public Land:	100%	
AUMs:	777 AUMs*	
Number of Livestock:	Variable, as outlined below:	
Year 1, 3, 5, 7, 9:	March and April:	200 cattle* will be turned out in the north end. Water sources will be made available in the north end. Water sources will not be turned on in the south end.
	May - February:	38 cattle* will remain within the FRC Area of Use. Waters in the north end will be turned off. Waters in the south end will be turned on.
Year 2, 4, 6, 8, 10:	March and April:	200 cattle* will be turned out in the south end. Water sources will be made available in the south end. Water sources will not be turned on in the north end.
	May - February:	38 cattle* will remain within the FRC Area of Use. Waters in the south end will be turned off. Waters in the north end will be turned on.

* Numbers and dates may vary, but the objective is to use approximately 1/2 of the available AUMs in March and April, and the remainder throughout the year. Cattle will be moved out of the March/April use areas the first of May. Waters in the May-February use area will be turned on, and should control the vast majority of the livestock.

* FRC reserves the right to make an application for increase in permitted use upon correction or set aside of the errors in grazing capacity noted herein.

If you wish to meet with us with any questions you may have regarding this protest and the proposed livestock management plan, please contact us to identify a mutually acceptable date to do so. Thank you.

Sincerely yours,

for
Filippini Ranching Company

Filippini Ranching Company
HC 61 Box 70
Battle Mountain, Nevada 89820

September 20, 2005

Douglas W. Furtado
Assistant Field Manager
Renewable Resources
Battle Mountain Field Office
50 Bastian Road
Battle Mountain, Nevada 89820

Dear Mr. Furtado;

This suppliments our protest dated September 19, 2005. We withdraw Protest Point # 2 at page 2.

Very truly yours,

Hank Filippini
for Filippini Ranching Company

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Lander County
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Form 1842-1
(February 1985)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

1. NOTICE OF APPEAL . . . . . Within 30 days file a *Notice of Appeal* in the office which issued this decision (see 43 CFR Secs. 4.411 and 4.413). You may state your reasons for appealing, if you desire.

2. WHERE TO FILE NOTICE OF APPEAL . . . U.S. Department of the Interior
Bureau of Land Management
Battle Mountain Field Office
50 Bastian Road
Battle Mountain, NV 89820

SOLICITOR - ALSO COPY TO . . U.S. Department of the Interior
Office of the Field Solicitor
6201 Federal Building
125 S. State Street
Salt Lake City, UT 84138-1180

3. STATEMENT OF REASON . . . . . Within 30 days after filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of the Secretary, Board of Land Appeals, 4015 Wilson Blvd., Arlington, Virginia 22203 (see 43 CFR 4.412 and 4.413). If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary.

SOLICITOR - ALSO COPY TO . . . U.S. Department of the Interior
Office of the Field Solicitor
6201 Federal Building
125 S. State Street
Salt Lake City, UT 84138-1180

4. ADVERSE PARTIES . . . . . Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents files (see 43 CFR Sec. 4.413). Service will be made upon the Associate Solicitor, Division of Energy and Resources, Washington, D.C. 20240, instead of the Field or Regional Solicitor when appeals are taken from decisions of the Director (WO-100).

5. PROOF OF SERVICE . . . . . Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (see 43 CFR Sec. 4.401 (c) (2)).

Unless these procedures are followed your appeal will be subject to dismissal (see 43 CFR Sec. 4.402). Be certain that all communications are identified by serial number of the case being appealed.

NOTE. *A document is not filed until it is actually received in the proper office (see 43 CFR Sec. 4.401 (a)).*

SUBPART 1821.2--OFFICE HOURS; TIME AND PLACE FOR FILING

Sec. 1821.2-1 *Office hours of State Offices.* (a) State Offices and the Washington Office of the Bureau of Land Management are open to the public for the filing of documents and inspection of records during the hours specified in this paragraph on Monday through Friday of each week, with the exception of those days where the office may be closed because of a national holiday or Presidential or other administrative order. The hours during which the State Office and the Washington Office are open to the public for the filing of documents and inspection of records are from 10 a.m. to 4 p.m., standard time or daylight savings time, whichever is in effect at the city in which each office is located.

Sec. 1821.2(d) Any documents required or permitted to be filed under the regulations of this chapter, which is received in the State Office or the Washington Office, either in the mail or by personal delivery when the office is not open to the public shall be deemed to be filed as of the day and hour the office next opens to the public.

(e) Any document required by law, regulations, or decision to be filed within a stated period, the last day of which falls on a day the State Office or the Washington Office is officially closed, shall be deemed to be timely filed if it is received in the appropriate office on the next day the office is open to the public.

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