



# 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>



**RECEIVED**

OCT 03 2005

DEPARTMENT OF ADMINISTRATION  
OFFICE OF THE DIRECTOR  
BUDGET AND PLANNING DIVISION

OCT 03 2005

In Reply Refer To:  
4160  
(NV062)

Dear Interested Public:

Enclosed please find the Simpson Park Complex Final Multiple Use Decision, which includes the Finding of No Significant Impact (FONSI) and Environmental Assessment NV-062-EA-05-069 as amended.

If you have any further questions, please contact Michele McDaniel, Rangeland Management Specialist, at (775) 635-4083 or myself at (775) 635-4056.

Sincerely,

Douglas W. Furtado  
Assistant Field Manager  
Renewable Resources

Enclosures:

1. Simpson Park Complex Final Multiple Use Decision
2. Environmental Assessment NV-062-EA-05-069.
3. Mailing List



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Nevada State Office  
P.O. Box 12000 (1340 Financial Blvd)  
Reno, Nevada 89520-0006  
<http://www.nv.blm.gov>



In Reply Refer To:  
4160  
(NV-062)

## FINAL MULTIPLE USE DECISION KINGSTON AND SIMPSON PARK ALLOTMENTS

SEP 30 2005

### Introduction:

In order to renew grazing permits associated with the Kingston and Simpson Park Allotments and set Appropriate Management Levels (AML) for the herd management areas within these allotments, the Battle Mountain Field Office (BMFO) initiated the allotment assessment process in 1991 for the Simpson Park Allotment and 1993 for the Kingston Allotment. The Simpson Park Complex Evaluation and Rangeland Health Assessment (SPC Evaluation) analyzed monitoring data collected within the Kingston and Simpson Park Allotments. Monitoring data was collected to determine whether current livestock management practices and grazing systems and existing wild burro populations within the Hickison Herd Management Area (HMA) and wild horse populations within the Callaghan HMA are meeting the Shoshone-Eureka Resource Management Plan (SERA RMP) objectives, Standards for Rangeland Health, and multiple use objectives within the Kingston and Simpson Park Allotments. Refer to Attachment 1 of the enclosed Simpson Park Environmental Assessment #NV062-EA05-069 for the Simpson Park Complex Allotment Specific Objectives. Proposed management actions for livestock, wild horses and burros, and wildlife habitat were identified as an outcome of the assessment and evaluation process. Permittees within the Simpson Park Complex include Dry Creek Ranch, Silver Creek Ranch, Truckee River Ranch, LLC, Howard & Barbara Wolf, Ken & Karen Woodland, and Young Brothers. Ken & Karen Woodland currently lease base property from Parson's Ranch Company and are permit holders based on the renewal of the base property lease. The actions that were developed under this final decision execute management actions that will 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.

### Background:

The Kingston and Simpson Park permittees and members of the interested public have been notified by the BLM regarding data collection and the evaluation process for the Kingston and Simpson Park Allotments. The collection of monitoring data for the evaluation of the Kingston and Simpson Park Allotments was initiated in 1993 and 1991 respectively. Discussions with permittees have focused on permittee livestock grazing operations and resource management issues within the Kingston and Simpson Park Allotments. In 2004, allotment evaluation meetings between permittees and the BMFO occurred to discuss the evaluation process. Meetings continued in 2005 as the BMFO worked to complete the draft evaluation to further discuss the findings of the data analysis, management proposals, and any management

alternatives that could be provided by the permittees. The proposed management plans and alternatives were discussed in a number of meetings in an effort to ensure the attainment of the Standards for Rangeland Health and conform to guidelines while also maintaining the viability of the permittee's livestock operation. During these meetings, various permittees stated that they were in verbal acceptance of the management actions that were going to be proposed by the BMFO.

In addition, consultation with the interest group Western Watersheds Project (WWP) occurred throughout the evaluation process. These meetings and discussions focused on the findings of the Simpson Park Complex Evaluation and Rangeland Health Assessment and possible proposed management actions regarding livestock, wild horses and burros, and wildlife that would result in the attainment of the Standards for Rangeland Health within the allotments.

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 for both allotments. 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 allotments. It was determined in the Conformance Determination that historic livestock management was the causal factors for non-attainment of the SERA RMP objectives, Standards for Rangeland Health (Standard 3), and multiple use objectives for the Kingston Allotment. As for the Simpson Park Allotment, it was determined in the Conformance Determination that historic and current livestock management was the causal factor for the non-attainment of SERA RMP objectives, Standards for Rangeland Health (Standard 2 & 3), and multiple use objectives. The distribution of livestock was an issue for both allotments and contributed to the non-attainment of the SERA RMP objectives, Standards for Rangeland Health, and multiple use objectives. Wild horse use was also found to be a causal factor for the non-attainment of Standard 2.

As a result of the evaluation of monitoring data, Proposed Management Actions were developed in consultation with the permittees and the interested public that will ensure the 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 Simpson Park Complex Rangeland Health Assessment process, the interdisciplinary team identified allotment specific objectives for the Kingston and Simpson Park Allotments that are consistent with the Standards for Rangeland Health and the SERA RMP. Refer to Attachment 1 of the Simpson Park Complex Rangeland Health Assessment Environmental Assessment NV-062-EA05-069.

On July 22, 2005, the SPC Evaluation was sent to permittees and interested publics for review. A thirty-day comment period was provided for the interested public to voice concerns regarding the Evaluation. During the comment period, meetings were held with permittees to further discussions regarding the proposed management actions. As a result of these meetings, modifications to various proposed management actions were requested.

Following the public comment period for the evaluation, the Battle Mountain Field Office carefully considered the comments received. These comments resulted in changes to the evaluation and proposed management actions. Upon incorporating these changes, the proposed

management actions to be implemented within the Kingston and Simpson Park Allotments were identified. The Conformance Determination was completed and addressed comments to the evaluation and identified the management actions selected for the Kingston and Simpson Park Allotments. The selected management actions were analyzed in the Simpson Park Complex Rangeland Health Assessment Environmental Assessment (NV-062-EA05-069) and Finding of No Significant Impact (FONSI).

On September 2, 2005, the Authorized Officer issued the Simpson Park Complex Environmental Assessment (NV062-EA05-069), unsigned FONSI, Conformance Determination, and Proposed Multiple Use Decision (PMUD) for the Simpson Park Complex regarding the renewal of grazing permits for permittees within the Kingston and Simpson Park Allotments and the establishment of AML for the Hickison and Callaghan Herd Management Areas. The interested public was provided an opportunity to review the EA prior to the signing of the FONSI and the issuance of the Final Multiple Use Decision.

**Protests:**

Timely protests to the Proposed Multiple Use Decision were received from Charles W. Parsons and Western Watersheds Project. I have carefully considered each protest statement of reasons as to why the proposed decision was in error and have responded to these reasons in Attachment 1 of this document. As a result of the Protests, the following modification to the Environmental Assessment and the Grazing Decision has been made:

- An additional alternative was fully analyzed in the amended Simpson Park Complex Environmental Assessment (NV062-EA05-069) based on submitted protest points from Western Watersheds Project. This alternative analyzed the further reduction in permitted active use with Terms and Conditions analyzed under the Proposed Action of the Environmental Assessment.
- Based on the protests received, minor clarifications were made to several of the Terms and Conditions of the Grazing Decision.
- Minor editorial modifications of the Proposed Multiple Use Decision were made and incorporated into the Final Multiple Use Decision.
- Based on the protests received, minor alterations to the Rye Patch-Long Spring Use Area to include adjacent water sources where Parson's Ranching Company holds water rights. The modification is closely tied to topographical features of the landscape.
- Issuance of a grazing permit to Ken & Karen Woodland was corrected. Issuance of a grazing permit to Ken & Karen Woodland will be based on the renewal of the base property lease from Parson's Ranching Company. The permit will be issued for the period of the base property lease. In the event that the base property lease is not renewed, a ten-year permit will be issued to Parson's Ranching Company.

- The grazing management system was clarified to distinguish the Fenced Federal Range that is present within the Lake Ranch Use Area for Silver Creek Ranch and the pending transfer to Jerry & Janet Lancaster as follows:

Use Area	Season of Use	Livestock Type	Percent Public Land	Number of Livestock	AUMs
Indian Ranch, Lake Ranch, Rye Patch	04/01 - 04/30	Cattle	100	249	246
Willow/Barton Pasture	05/01 - 06/30	Cattle	100	200	401
Rye Patch, Indian Ranch, Bates Mountain, Lake Ranch	05/01 - 07/15	Cattle	100	67	167
Lake Ranch (Including Fenced Federal Range)	07/16 - 08/15	Cattle	100	67	68
Willow/Barton Pasture	06/01 - 06/30	Sheep	100	2300	454

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 Simpson Park Complex Environmental Assessment (NV062-EA05-069) for the authorization of livestock grazing use on the Kingston (Allotment #10042) and Simpson Park (Allotment #10052) for the period of ten-years for five of the operators and for the period of the base property lease pending renewal for one operator. If the base property lease is not renewed, a ten-year permit would be issued to the base property owner. The management objectives, livestock management objectives, wild horse and burro Appropriate Management Levels and monitoring will be used to set the parameters for annual authorized grazing use. Refer to Attachment 1 of the Simpson Park Complex Environmental Assessment (NV062-EA05-069).

The management actions being implemented in this decision were analyzed in the Simpson Park Complex Environmental Assessment (NV062-EA05-069) and the 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 (plant and animal), Vegetation, Visual Resources, Wild Horses and Burros, and Wildlife. These documents are included for your review.

The Final Multiple Use Decision (FUMD) and Finding of No Significant Impact (FONSI) will serve as the Decision Record (DR) for Environmental Assessment #NV062-EA05-069.

The following is the FONSI for the Simpson Park Complex NV062-EA05-069:

**FINDING OF NO SIGNIFICANT IMPACT and DECISION RECORD  
FOR  
SIMPSON PARK COMPLEX EVALUTION AND RANGELAND HEALTH ASSESSMENT  
ENVIRONMENTAL ASSESSMENT  
#NV062-EA05-069**

Environmental Assessment (EA) NV-062-EA05-069, dated August 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 general area. No environmental 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 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 Kingston Allotment is 12 miles south-east of Austin, NV situated within the northern end of the Big Smoky Valley. The allotment is bordered by the Toiyabe Range to the west and the Toquima Range to the east, both of which are managed by the USFS. Pete's Summit Road is the established northern boundary between the Kingston and Simpson Park Allotments and the Hay Ranch Fence serves as the southern boundary between the Kingston and Wildcat Canyon Allotments. The fence runs along a portion of the Lander-Nye County border. Twenty-five percent of the allotment is within the Hickison Burro Territory. The allotment consists of approximately 79,620 acres of public land and approximately 2,352 acres of private land.

The Simpson Park Allotment is 12 miles east/northeast of Austin, NV. The allotment encompasses a portion of Grass Valley and Big Smoky Valley. The allotment is bordered by the northern-most portion of the Toiyabe Range to the west, the Grass Valley Allotment to the north, and the Dry Creek Allotment to the east. The southern portion of the allotment is located within the Big Smoky Valley and is bordered by the northern-most portion of the Toquima Range and the Kingston Allotment. Highway 50 bi-sects the southern portion of the Simpson Park Allotment. The Toiyabe and Toquima Ranges are USFS managed lands while the Grass Valley, Dry Creek, and Kingston Allotments are public lands managed by the Battle Mountain Field Office (BMFO). The allotment consists of 97,192 acres of public land and 518 acres of private land.

The Simpson Park Complex 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 burros, and wildlife use within the Kingston and Simpson Park Allotments are achieving Shoshone-Eureka Resource Area Land Use 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 Simpson Park Complex Evaluation and Rangeland Health Assessment (SPC Evaluation) (Refer to pages 3 - 6 of the Environmental Assessment and pages 222 - 254 of the SPC Evaluation and the SPC Conformance Determination). The elimination of livestock grazing during the critical growth season for the vegetative communities that exist within the Kingston Allotment, proper use levels, and the management of wild burros at appropriate management levels will be beneficial. For the Simpson Park Allotment, the elimination of hot season grazing throughout the majority of the allotment, the deferment of livestock grazing during the critical growth season for the majority of the allotment, proper use levels, and the management of wild horses and burros at appropriate management levels will also be beneficial by reducing direct impacts that are adverse to rangeland health associated with livestock and wild horse and burro use. Refer to pages 22-40 of the Simpson Park Complex Rangeland Health Assessment Environmental Assessment NV062-EA05-069.

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 Kingston and Simpson Park Allotments are both under the jurisdictional boundary of the Battle Mountain Field Office, Bureau of Land Management (BLM). The Kingston Allotment lies approximately 12 miles east of Austin, Nevada and is primarily located within Lander County. Approximately 222 acres of the allotment is within the boundary of Nye County. The allotment is surrounded by the Toiyabe Range to the west and the Toiyabe Range to the east. The Simpson Park Allotment is also approximately 12 miles east of Austin, Nevada and is located within Lander County in its entirety. In addition, portions of the Toiyabe Range and the Simpson Park Range occur within the allotment. There are no parks, prime farmlands, wetlands,

wild and scenic rivers, or ecologically critical areas within 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 issuance of a final decision. All comments received in a timely manner 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 will reduce permitted use for the Simpson Park Allotment, which may have a short term effect on ranching income. However, the expected improvements in rangeland health will provide for the long-term economic viability of the livestock operators and the health of wild horse and burro 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 Kingston and Simpson Park Allotments include livestock grazing, mining, hunting, wild horse and burro grazing, wild horse removal operations, wild burro reintroductions, invasive weed treatments, wildfire suppression activities, development of water sources, fence construction, 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 will not result in cumulatively significant impacts (EA Chapter V).



For any actions that may be propose in the future, further environmental analysis, including the assessment of cumulative impacts, will be required.

**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.***

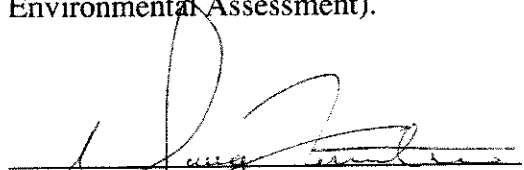
The action complies with the National Historic Preservation Act. Implementation of the proposed action will have no significant adverse effect on districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places because the large size of 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 BLM is required by the Endangered Species Act of 1973, as amended, to ensure that no action on the public lands jeopardizes a threatened, endangered, or proposed species. Only one federally listed, proposed, or candidate species, the bald eagle (threatened), occasionally migrates though the Kingston and Simpson Park Allotments. Special status species known to be associated with the habitat typical of the allotments are listed in the Simpson Park Complex Evaluation and Rangeland Health Assessment (pp. 21 - 29). The grazing management systems and the establishment of Appropriate Management Levels (AML) for wild horses and burros will lead to the protection of the riparian and upland resources. This will improve wildlife habitat throughout the allotment. 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 (Refer to Page 2 of the Environmental Assessment).

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

9/30/05

\_\_\_\_\_  
Date

In order to ensure progress towards and achieve the Standard for Rangeland Health, SERA RMP objectives and allotment specific objectives for Kingston and Simpson Park that were identified in the Simpson Park Complex Rangeland Health Evaluation, changes in current livestock and wild horse and burro management are required.

*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 horses and burros, and wildlife management in the Kingston and Simpson Park Allotments. 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 is made 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 objectives, and multiple use objectives and the Simpson Park Complex monitoring and management objectives. It is my final decision to implement the following livestock management actions for the Kingston and Simpson Park Allotments.

#### **I. KINGSTON ALLOTMENT**

**1. Establish the total permitted use for the Kingston Allotment at 2,720 AUMs. Eight (8) AUMs will be removed from the total permitted use as a result of 214.88 acres of land being devoted to other purposes other than grazing through the Kingston Airport Lease (NV063-CX03-75) and the Kingston townsite boundary drift fences (NV062-EA01-14).**

Permittee	Permitted Use
Young Bros.	1506
Truckee River Ranch, LLC	1214
<b>Total</b>	<b>2,720</b>

#### **Rationale:**

Use pattern mapping data collected in 1993 and 1994 in accordance with the Nevada Rangeland Monitoring Handbook. This data was used to analyze the carrying capacity of the allotment. The carrying capacity analysis was based on weighted average utilization. Refer to the SPC Evaluation Appendix 6. The carrying capacity was identified along with a grazing management plan to ensure that the season of use was appropriate for the vegetative communities that dominate the Kingston Allotment. The Kingston Allotment has been divided into east and west sections with the installation of the Highway 376 fence. The majority of the use within both sections of the allotment has been light and can be attributed to the vegetative conditions of the range and the limited occurrence of stock water resulting in poor distribution of livestock. The following table illustrates the average actual livestock use compared to the weighed average

utilization and the total acres that exceeded the Rangeland Program Summary utilization objective of 60% by the end of the grazing year for the Kingston Allotment.

	1993	1994
<b>61-80% Utilization</b>	345	658
<b>Average Actual Use (Livestock)</b>	38%	39%

It was determined in the Conformance Determination that key management areas K-1 through K-6 and K-10 through K14 were failing to meet Resource Advisory Council (RAC) Standard 3: Habitat. Historic livestock grazing was identified as the causal factor for the non-attainment of this RAC Standard since the analysis of monitoring data revealed that existing use is resulting mainly in slight to moderate use of key species. Current livestock grazing however is not in conformance with the RAC vegetative guidelines. Due to the current condition of the vegetative community, a change in the season of use and implementation of proper utilization levels are required in order to meet SERA RMP objectives, Standards for Rangeland Health, multiple-use objectives, and allotment specific objectives. For a detailed analysis of monitoring data regarding these findings, refer to the Simpson Park Complex Rangeland Health Assessment Pages 41-97, 187-194, Appendix 6 and 8, and the Simpson Park Complex Conformance Determination.

Through the evaluation of monitoring data and the carrying capacity analysis, a range of AUMs was provided to the permittee and was dependent upon commitment to management. Carrying capacity was calculated allotment-wide as the result of the permittees throughout the allotment not submitting actual use reports by use area. The range of livestock AUMs for the Kingston Allotment was 2,085 desired carrying capacity, 3,282 potential carrying capacity, and 2,728 AUMs for \*potential carrying capacity (Refer to Appendix 6 of the Simpson Park Complex Evaluation and Rangeland Health Assessment for the calculation and rationale of \*potential carrying capacity). On July 11<sup>th</sup>, 2005 BLM, Ralph Young of Young Brothers and Mark Hyde of Truckee River Ranch had a meeting to discuss the range of AUMs and the operator's commitment to improve livestock management. Portions of the eastern bench that received light use were included in the carrying capacity calculation for \*potential carrying capacity due to the presence of available watering facilities in this portion of the allotment, the potential to establish watering facilities on private land on the northeastern portion of the allotment, and the permittees' commitment to improve distribution of livestock and improve management with the change in season of use. In order to achieve the carrying capacity, terms and conditions will be identified that require permittees to provide water on private lands during the authorized use periods.

The RPS allocation of AUMs for livestock and wild burros is 99% to 1% respectively. However, the average actual use by wild burros was slightly over the allocation during the evaluation period with 1.5% of the AUMs utilized by wild burros. The current allocation for wild burros is of concern due to genetic viability of the herd. The reallocation of the AUMs will allot an additional 60 AUMs of forage to wild burros resulting in a revised allocation of 97% to livestock and 3% to wild burros for the Kingston Allotment and will aid in maintaining genetic viability in the future. Furthermore, wild burros are opportunistic feeders and are able to utilize more of the range on a year-long basis than cattle.

In 2003 a total of 214.88 acres within the Kingston Allotment were devoted as lands for an airport lease. The NEPA documentation (NV063-CX03-75) for the lease of these lands was signed on November 12, 2003. With the devotion of the lands for purposes other than grazing, AUMs associated with the acreage are to be removed from the affected permittee's permit. A total of 8 AUMs are associated with this acreage and are no longer available for use. Therefore, the total available AUMs for the Kingston Allotment will be modified to 2,710 AUMs. The removal of 8 AUMs will be proportionately split between the two permittees as indicated in the table above.

The slight modification of the permitted livestock AUMs and increasing the allocation of the AUMs to wild burros in addition to the implementation of 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 Terms and Conditions identified below are adhered to. Significant progress will be made when the annual monitoring standards for the Kingston Allotment are achieved. Monitoring data will continue to be collected to ensure that allotment specific objectives are being attained within the Kingston Allotment. Refer to Attachment 1 of the Simpson Park Complex Rangeland Health Assessment Environmental Assessment NV-062-EA05-069 for the Simpson Park Complex annual monitoring standards and long-term objectives.

This management action is in conformance with Guidelines 1.1, 1.3, 2.1, 2.3, 3.1, 3.2, 3.3, 3.6, 4.1, 5.2, and Vegetative Guidelines for Salt-Desert Shrub Communities 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 within the Kingston Allotment. Refer to Appendix 1 for the Use Area designation map.**

Use Areas
Birch Creek
Gilman Springs
North Kingston
South Kingston
North Smoky
South Smoky

**Rationale:**

Use areas will improve livestock actual use information on a yearly basis within the allotment. Submission of actual use by use area will provide for information regarding management of livestock and will aid in indicating future modifications in livestock management in relation to specific areas of the allotment. In addition, 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 Kingston Allotment will occur.

The establishment of use areas 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.

**3. Implement the following grazing management system and Terms and Conditions for the Kingston Allotment.**

Permittee	Season of Use	Kind of Livestock	Percent Public Land	Number of Livestock	AUMs
Young Brothers	09/01 - 03/15	Cattle	90%	191	1,108
	09/01 - 03/15	Cattle	100%	61	393
	09/01 - 09/30	Cattle	100%	5	5
Truckee River Ranch, LLC	09/01 - 03/15	Cattle	100%	188	1,211
	09/01 - 09/30	Cattle	100%	3	3
<b>Total AUMs</b>					<b>2,720</b>

**Terms and Conditions**

1. Permittees will be required to establish watering facilities on private land in order to promote better livestock dispersal throughout portions of the allotment prior to turn-out.
2. All enclosures, including riparian, within the Kingston Allotment will be closed to livestock grazing unless grazing use is applied for by the permittee and is authorized in writing by the authorized officer.
3. 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 area.
4. Utilization of “Key Upland Forage Species” will not exceed 50% by the end of the grazing year for the Kingston Allotment.
5. Utilization of key riparian-wetland herbaceous species will be limited to a minimum 4-inch stubble height by July 31<sup>st</sup> of each year. Utilization of key riparian-wetland herbaceous species will be limited to a 6-inch stubble height by the end of the growing season, if grazing starts or extends past July 31<sup>st</sup>.
6. Utilization of riparian woody or browse species will 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 will be limited to 10% (10 feet in 100 feet of bank).
8. Utilization of key shrub browse species will be no greater than 25% during the critical growth period and no more than 40% following the end of the growing season.

9. 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 (WAFWA) *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.
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 5 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 for the Kingston Allotment may be temporarily modified from the grazing management system at the discretion of the authorized officer on an annual basis if monitoring data indicates that changes are necessary to meet multiple use objectives and Standards for Rangeland Health. Any use in excess of the total permitted use for the Kingston Allotment will constitute temporary non-renewable use.
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:**

The analysis and interpretation of monitoring data has indicated that the Standards for Rangeland Health are not being met for the Kingston Allotment. It was determined in the Conformance Determination that key management areas K-1 through K-6 and K-10 through K14 were failing to meet Resource Advisory Council (RAC) Standard 3: Habitat. Less than desirable range conditions due to the lack of vegetative species diversity along with vegetative composition and production resulted in the non-attainment of the Northeaster Great Basin Area RAC Standard 3: Habitat. Historic livestock grazing and periods of past drought was identified as causal factors for the non-attainment of this RAC Standard since the analysis of monitoring data revealed that existing use is resulting mainly in slight to moderate use of key species. Current livestock grazing however is not in conformance with the RAC vegetative guidelines. Due to the current condition of the vegetative community, a change in the season of use and implementation of proper utilization levels are required in order to meet SERA RMP objectives, Standards for Rangeland Health, multiple-use objectives, and allotment specific objectives. For a detailed analysis of monitoring data regarding these findings, refer to the Simpson Park Complex Rangeland Health Assessment Pages 41-97, 187-194, Appendix 6 and 8, and the Simpson Park Complex Conformance Determination.

Through the evaluation process it was determined that there is no indication that significant progress towards the attainment of the standards for rangeland health have been made due to the current conditions of the majority of the vegetative communities in the Kingston Allotment. Although it was determined that historic livestock grazing is the causal factor for failing to meet this standard, livestock grazing is the causal factor for failing to meet this standard. Implementing a change in season of use will ensure long-term improvement in the condition of upland native plant communities.

Livestock dispersal will be improved throughout the allotment in the short-term with the change in season of use and the development of watering facilities on private lands. In order to implement the active AUM preference for the Kingston Allotment, the permittees will be required to provide water on private lands in the interim. The grazing stipulation associated with the grazing management plan will be implemented to promote improvements in livestock distribution within the Kingston Allotment. However, 8 AUMs will be removed from the permits associated with the Kingston Allotment based on 214.88 acres of land being designated for other purposes than grazing.

Future re-evaluation of the percent public land will need to be conducted to determine if the current percent public lands associated with Young Brother's permit is still in effect. If it is deemed that all private lands have been fenced from public lands, the percent public land will be modified.

The degree of functionality was determined by analyzing the three Rangeland Health attributes including soil site stability, hydrologic function, and the integrity of the biotic community. The current vegetative community throughout much of the Kingston Allotment was determined to be in a significant departure from the ecological site description and is failing to meet Standards and Guidelines for Rangeland Health. The grazing plan will ensure significant progress toward the attainment of the Standards for Rangeland Health by incorporating a change in the season of use and retaining the permitted AUMs as calculated in the carrying capacity analysis. The utilization levels used to determine the carrying capacity for the Kingston Allotment was based on the implementation of deferred grazing until the dormant season. Implementation of dormant season use that is appropriate for the salt-desert shrub communities that dominate the Kingston Allotment will enhance the conditions currently associated with the rangelands by allowing key perennial vegetative species to increase in vigor, productivity, and seedling establishment. Distribution of livestock will also enhance with grazing being limited to the cool season. Implementation of the utilization levels will further ensure that vegetative species do not encounter harmful effects from livestock grazing.

The management system will allow existing key perennial grass vegetation to increase vigor, productivity, cover and seedling establishment. A deferred livestock grazing system will limit use during the growing season, allowing perennial grasses and forbs to remain healthy and to provide seed to reproduce and reestablish the perennial grass composition in the long-term to provide adequate forage for livestock and habitat for wild burros and wildlife species, namely pronghorn antelope. 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 improvements in the vegetative community.

This will allow sites to adequately capture, store, and release water from rainfall and snowmelt events. Furthermore, improvement in the plant community will improve the integrity of the biotic community, which will allow for the allotment to resist loss of function and structure following disturbance, and therefore allowing for recovery. In addition to these changes in livestock management, attaining wild burro AML will also be required to ensure the attainment of the Standards for Rangeland Health.

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 Kingston Allotment will occur. Significant progress will be made when annual monitoring standards are achieved as indicated in Attachment 1 of the Simpson Park Complex Environmental Assessment (NV062-EA05-069). Management actions and objectives conform to 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 management plan is in conformance with the following RAC Guidelines: 1.1, 1.2, 1.3, 2.1, 2.3, 2.4, 3.1, 3.2, 3.3, 3.6, 4.1, Vegetative Guidelines, and BLM/WAWFA sage grouse guidelines.

#### **4. Permit grazing within the Kingston Wildland-Urban Interface (WUI) Project in accordance with EA and FONSI NV-064-EA02-63:**

Permitted use within the Kingston WUI will be in conformance with the grazing plan being implemented in this decision. The Decision Record and Finding of No Significant Impact dated August 6, 2003 for the Environmental Assessment number NV-064-EA02-63 prescribed high intensity/low frequency grazing livestock management to control fuel levels and therefore reducing and/or preventing the spread of wildfire. Grazing will be permitted to occur in this area from September 1 through March 15 in order to protect or enhance the viability of perennial grass species that occur within this area. Furthermore, utilization rates will not exceed 50% on key forage species within this area. Once annual monitoring standards are achieved, the permittee will be required to remove livestock from the Kingston WUI project. The season of use within the boundary of the Kingston WUI project may be temporarily modified on an annual basis in order to control cheatgrass as prescribed by the project and will be determined through annual monitoring standards. Any use that is in excess of the total permitted use for the Kingston Allotment will constitute temporary non-renewable use. The authorization of temporary non-renewable use will be subject to the requirements set forth in 43 CFR 4130.6-2.

#### **Rationale:**

Monitoring data indicated that the current condition of the rangeland is characterized by shrub-dominated landscapes with limited perennial herbaceous understory. Livestock grazing has



historically and currently occurs throughout the active growth period for salt-desert shrub communities and has not allowed for adequate rest during the growing season. This season of use has limited the growth and reproduction of the key perennial species needed to reach long-term land use plan objectives. The management action will provide for annual monitoring objectives that are appropriate to promote healthy range conditions and a season of use that will allow for adequate rest during the growing season and aid in increasing the vigor and reproductive success of the vegetative community associated with the Kingston WUI project area.

The season of use for the Kingston WUI project area is 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, and Vegetative Guidelines.

## **5. Management Action**

### **Issue the following ten-year permit to Young Brothers with the following Terms and Conditions:**

Grazing use will be in accordance with the Kingston Allotment portion of the Simpson Park Complex Final Multiple Use Decision dated \_\_\_\_\_.

The permittee will be required to meet with BLM prior to each grazing year in order to determine an annual grazing plan that will ensure appropriate use throughout the allotment.

Livestock grazing will not be permitted to occur within comparison area exclosures at any time.

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

The season of use in the Kingston Allotment may be temporarily modified from the grazing management system at the discretion of the authorized officer on an annual basis if monitoring data indicates that changes are necessary to meet multiple use objectives and Standards for Rangeland Health. Any use in excess of the total permitted use for the Kingston Allotment will constitute temporary non-renewable use. The authorization of temporary non-renewable use will be subject to the requirements set forth in 43 CFR 4130.6-2.

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

In accordance with 43 CFR 4130.3-2(D): Actual use information, for each use area, will be submitted to the authorized officer within 15 days of completing grazing use as specified on the grazing permit and/or grazing licenses.

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

In accordance with 43 CFR 4130.3-2(C): In order to improve livestock and rangeland management on the public lands, all salt and/or mineral supplements will not be placed within ¼ mile of any riparian area, wet meadow, or watering facility (either permanent or temporary) unless stipulated through a written agreement or decision.

In accordance with 41309.3-2(H): All grazing permittees shall provide reasonable access across private and/or leased lands to the Bureau of Land Management for the orderly management and protection of the public lands.

Pursuant to 43 CFR 10.4(G), the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony (as defined at 43 CFR 10.2). Further, pursuant to 43 CFR 10.4 (C) and (D), you must stop activities in the immediate vicinity of the discovery and protect it from your activities for 30 days or until notified by the authorized officer.

All permits and leases shall be made subject to cancellation, suspension, or modification for any violation of these regulations or of any Terms and Conditions 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 Simpson Park Complex Rangeland Health Assessment Environmental Assessment NV-062-EA05-069, 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 Simpson Park Complex Rangeland Health Environmental Assessment NV-062-EA05-069 for the Kingston Allotment specific objectives and objectives common for the Complex. The terms and conditions for grazing in the Kingston Allotment will result in the attainment of multiple use objectives and is consistent with the Northeastern Great Basin RAC standards and is in conformance with the guidelines. At the completion of the Environmental Assessment and Finding of No Significant Impact (FONSI), a 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.

## 6. Management Action

### **Issue a ten-year permit to Truckee River Ranch, LLC with the following Terms and Conditions:**

Grazing use will be in accordance with the Kingston Allotment portion of the Simpson Park Complex Final Multiple Use Decision dated \_\_\_\_\_.

Livestock grazing will not be permitted to occur within comparison area enclosures at any time.

The permittee will be required to meet with BLM prior to each grazing year in order to determine an annual grazing plan that will ensure appropriate use throughout the allotment.

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

The season of use in the Kingston Allotment may be temporarily modified from the grazing management system at the discretion of the authorized officer on an annual basis if monitoring data indicates that changes are necessary to meet multiple use objectives and Standards for Rangeland Health. Any use in excess of the total permitted use for the Kingston Allotment will constitute temporary non-renewable use. The authorization of temporary non-renewable use will be subject to the requirements set forth in 43 CFR 4130.6-2.

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

In accordance with 43 CFR 4130.3-2(D): Actual use information, for each use area, will be submitted to the authorized officer within 15 days of completing grazing use as specified on the grazing permit and/or grazing licenses.

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

In accordance with 43 CFR 4130.3-2(C): In order to improve livestock and rangeland management on the public lands, all salt and/or mineral supplements will not be placed within ¼ mile of any riparian area, wet meadow, or watering facility (either permanent or temporary) unless stipulated through a written agreement or decision.

In accordance with 41309.3-2(H): All grazing permittees shall provide reasonable access across private and/or leased lands to the Bureau of Land Management for the orderly management and protection of the public lands.

Pursuant to 43 CFR 10.4(G), the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony (as defined at 43 CFR 10.2). Further, pursuant to 43 CFR 10.4 (C) and (D), you must stop activities in the immediate vicinity of the discovery and protect it from your activities for 30 days or until notified by the authorized officer.

All permits and leases shall be made subject to cancellation, suspension, or modification for any violation of these regulations or of any Terms and Conditions 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 Simpson Park Complex Rangeland Health Assessment Environmental Assessment NV-062-EA05-069, 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 Simpson Park Complex Rangeland Health Assessment Environmental Assessment NV-062-EA05-069 for the Kingston allotment specific objectives and objectives common for the Complex. The terms and conditions for grazing in the Kingston Allotment will result in the attainment of multiple use objectives and is consistent with the Northeastern Great Basin RAC standards and is in conformance with the guidelines. At the completion of the Environmental Assessment and Finding of No Significant Impact (FONSI), a 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.

Through the allotment evaluation process, it was determined that the following management actions are appropriate to ensure significant progress towards the attainment of SERA RMP objectives, Standards for Rangeland Health, and multiple use objectives within the Simpson Park Allotment.

## II. SIMPSON PARK ALLOTMENT

### 1. Establish the total active permitted use from 6,042 AUMs to 3,446 AUMs for the Simpson Park Allotment.

#### Rationale:

Use pattern mapping data collected in accordance with the Nevada Rangeland Monitoring Handbook in 1991, 1993, and 1994. This data was used to analyze the carrying capacity. The carrying capacity was based on weighted average utilization and actual use. Refer to the SPC Evaluation Appendix 6 and the Simpson Park Complex Conformance Determination. The carrying capacity was identified along with a grazing management plan to ensure that uniform distribution will be possible 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 utilization objective of 60% by the end of the grazing year for the Simpson Park Allotment.

	1991	1993	1994
<b>61-80% Utilization</b>	7,028 Acres	16,919 Acres	11,585 Acres
<b>Average Actual Use (Livestock)</b>	42%	41%	39%

It was determined in the Conformance Determination that Key Management Areas SP1 through SP14 failed to meet Resource Advisory Council (RAC) Standard 3: Habitat. Key Management Areas SP-3, SP-5, SP-7, SP-12, and SP-13 indicated that significant progress towards the attainment of the standard had been made. The majority of the riparian areas throughout the allotment did not meet the minimum requirement of properly functioning condition classification. Due to the conditions of the riparian areas, Standard 2: Riparian and Wetland Sites was not met for the allotment. Livestock were identified as a causal factor for the non-attainment of RAC Standard 2 and 3. A reduction in permitted use is required due to this level of livestock use being identified as a causal factor for failure to meet the SERA RMP objectives, Standards for Rangeland Health, multiple use objectives, and allotment specific objectives. For a detailed analysis of monitoring data regarding these findings, refer to the Simpson Park Complex Rangeland Health Assessment Pages 102-195, Appendix 6 and 8, and the Simpson Park Complex Conformance Determination.

Through the evaluation of monitoring data and the carrying capacity analysis, a range of AUMs was provided to the permittees 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 livestock AUMs for the Simpson Park Allotment was 2,510 AUMs desired carrying capacity and 3,446 AUMs potential carrying capacity. The new active permitted use is distributed to each permittee based on the percent of active permitted use held by each permittee prior to this decision. Meetings occurred from July 5<sup>th</sup> throughout the comment period for the evaluation with each individual operator on the Simpson Park Allotment to discuss the range of AUMs and their commitment to improve livestock management. The outcome of most of these discussions was that the

operators could support the potential carrying capacity with their commitment to manage livestock.

A reduction in permitted active use is required since the actual use by livestock accompanied by season-long grazing throughout the entire allotment has resulted in the failure to meet the SERA RMP objectives, Standards for Rangeland Health, multiple use objectives, and allotment specific objectives. 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 the failure to meet Simpson Park 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 with will prevent excessive use. For detailed analysis of monitoring data regarding these findings refer to the Simpson Park Complex Rangeland Health Assessment pages 39-221 and Appendices 4, 6, 7, and 8.

The potential carrying capacity calculation was selected for this allotment due to changes in management of livestock operations to promote improved distribution of cattle within the allotment. The potential carrying capacity includes areas within the allotment that are suitable to grazing provided that livestock management practices are implemented that will improve distribution. The reduction in permitted use in addition to the implementation of the management actions will limit the use the allotment receives on a year-round basis, promote better distribution of livestock throughout the allotment, and allow for periods of deferment during the critical growing season within portions of the allotment. This 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 Terms and Conditions identified below are adhered to. Significant progress will be made when the Annual Monitoring Objectives for the Simpson Park Allotment are attained within the Simpson Park Allotment. Refer to Attachment 1 of the Simpson Park Complex Rangeland Health Assessment Environmental Assessment NV-062-EA05-069 for the Simpson Park Allotment annual monitoring standards and long-term objectives.

This management selection will implement Guidelines 1.1, 1.3, 2.1, 2.3, 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 each operator within the Simpson Park Allotment. Refer to Appendix 1 for the Use Area designation map.**

<b>Use Area</b>	<b>Operator</b>
Willow-Barton Pasture	Silver Creek Ranch, Woodland or Parsons
Lake Ranch	Silver Creek Ranch, Woodland or Parsons
Indian Ranch	Silver Creek Ranch, Woodland or Parsons
Bates Mountain	Dry Creek, Silver Creek Ranch, Woodland or Parsons
Rye Patch-Long Spring	Silver Creek Ranch, Wolf, Woodland or Parsons
Ackerman	Dry Creek, Wolf
Givens North	Wolf, Woodland or Parsons
Givens South	Wolf, Woodland or Parsons
Black Bird	Young Bros.
Common	Wolf, Young Bros.
Pete Summit	Dry Creek, Wolf

**Rationale:**

The establishment of use areas within the Simpson Park Allotment will promote better distribution throughout the allotment and shall provide jurisdictional boundaries for areas each permittee to operate in. By establishing the jurisdictional boundaries for the allotment, management of livestock between the number of permittees within the allotment will be enhanced. In addition, 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 Simpson Park Allotment will occur.

Use areas will also improve livestock actual use information on a yearly basis within the allotment. Submission of actual use by use area will provide information regarding management of livestock and will aid in indicating future modifications in livestock management in relation to specific areas of the allotment.

The establishment of use areas 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.

**A. Dry Creek Ranch**

**1. Establish the total permitted use for Dry Creek Ranch at 390 AUMs.**

**Rationale:**

Use pattern mapping data collected in accordance with the Nevada Rangeland Monitoring Handbook in 1991, 1993, and 1994. This data was utilized to analyze the carrying capacity. The carrying capacity was based on weighted average utilization and actual use (Refer to the SPC Evaluation page 101 and Appendix 6 and the SPC 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 Dry Creek Ranch was 284 AUMs desired carrying capacity and 390 AUMs potential carrying capacity. 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 calculation was selected due to the permittees commitment to implement changes in management of livestock operations to implement grazing systems that eliminated hot season grazing in the Bates Mountain Use Area and deferred grazing in the Ackerman and Pete Summit Use areas. For illustrations comparing riparian areas prior to and after the elimination of hot season use, refer to Attachment 2 of the Simpson Park Complex Environmental Assessment (NV062-EA05-069). On July 17<sup>th</sup>, 2005 BLM met with Dry Creek Ranch to discuss the management plan and were accepting to the management plan.

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 Terms and Conditions identified below are adhered to. Significant progress will be made when the Annual Monitoring Objectives for the Simpson Park Allotment are achieved. Monitoring data will continue to be collected to ensure that allotment specific objectives are being attained within the Simpson Park Allotment. Refer to Attachment 1 of the Simpson Park Complex Rangeland Health Assessment Environmental Assessment NV-062-EA05-069 for Simpson Park Allotment Annual monitoring standards and long-term objectives.

The management selection will implement Guidelines 1.1, 1.3, 2.1, 2.3, 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. Implement the following grazing management system with Terms and Conditions for the Dry Creek Ranch:**

Use Area	Season of Use	Livestock Type	Percent Public Land	Number of Livestock	AUMs
Bates Mountain	06/01 - 07/15	Cattle	100	69	102
Ackerman	08/01 - 09/30	Cattle	100	69	138
	08/01 - 09/30	Horses	100	6	12
Pete Summit	10/01 - 11/30	Cattle	100	69	138

**Terms and Conditions:**

1. The permittee will be required to maintain all range improvement projects for which maintenance responsibility is assigned in accordance with 43 CRR 4140.



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 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 will be limited to a minimum 4-inch stubble height by July 31<sup>st</sup> of each year. Utilization of key riparian-wetland herbaceous species will be limited to a 6-inch stubble height by the end of the growing season, if grazing starts or extends past July 31<sup>st</sup>.
5. Utilization of riparian woody or browse species will 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 will be limited to 10% (10 feet in 100 feet of bank).
7. Utilization of key shrub browse species will be no greater than 25% during the critical growth period and no more than 40% following the end of the growing season.
8. 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.
9. 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.
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 Simpson Park Allotment may be temporarily modified from the grazing management system at the discretion of the authorized officer on an annual basis if monitoring data indicates that changes are necessary to meet multiple use objectives and Standards for Rangeland Health. Any use in excess of the total permitted use for the Simpson Park Allotment will constitute temporary non-renewable use. The authorization of temporary non-renewable will be subject to the requirements set forth in 43 CFR 4130.6-2.
12. A total of 294 AUMs of permitted active use was reduced in the 2005 Simpson Park Complex Final Multiple Use Decision. 294 AUMs of historic AUMs existed on the ten-year permit prior to the completion of the 2005 Final Multiple Use Decision.

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:**

It was determined in the Conformance Determination that Key Management Areas SP1 through SP14 failed to meet Resource Advisory Council (RAC) Standard 3: Habitat. Key Management Areas SP-3, SP-5, SP-7, SP-12, and SP-13 indicated that significant progress towards the attainment of the standard had been made. Key management areas SP-4, SP-5, SP-6, SP-7, and SP-11 occur within or represent vegetative communities that are adjacent to Dry Creek Ranch's use area. The majority of the riparian areas throughout the allotment did not meet the minimum requirement of properly functioning condition classification. Due to the conditions of the riparian areas, Standard 2: Riparian and Wetland Sites was not met for the allotment. Livestock were identified as a causal factor for the non-attainment of RAC Standard 2 and 3. A reduction in permitted use is required due to this level of livestock use being identified as a causal factor for failure to meet the SERA RMP objectives, Standards for Rangeland Health, multiple use objectives, and allotment specific objectives. For a detailed analysis of monitoring data regarding these findings, refer to the Simpson Park Complex Rangeland Health Assessment Pages 102-195, Appendix 6 and 8, and the Simpson Park Complex Conformance Determination.

The grazing management system will establish a season of use that eliminates hot season grazing in the Bates Mountain Use Area and critical growth season grazing in the Ackerman and Pete Summit Use Area. For illustrations comparing riparian areas prior to and after the elimination of hot season use, refer to Attachment 2 of the Simpson Park Complex Environmental Assessment (NV062-EA05-069).

The grazing plan will ensure progress towards the attainment of the Standards for Rangeland Health by allowing a period of rest during the completion of the growth period for riparian and wetland herbaceous species in order to meet stubble requirements to retain bank stability, filter sediment loads, and dissipate flood energy. The elimination of hot season grazing in the Bates Mountain use area 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 within the use areas will improve water quality. These factors will ensure that significant progress is being made towards the attainment of Proper Functioning Condition (PFC) and enhancing habitats associated with riparian and wetland areas.

Aspen stands are also prevalent throughout the portion of Bates Mountain within the boundary of the Simpson Park Allotment. One remnant aspen stand also occurs within the Willow/Barton Pasture (Vigus Canyon). Eliminating hot season grazing in the areas where aspen occurs will allow for aspen saplings to continue growing throughout the remainder of the growth season therefore allowing the stand to consist of diverse age classes of aspen. Diverse age classes of

aspen will therefore allow the stand to proliferate and provide valuable habitat to wildlife species. Aspen stands will also be allowed to regenerate therefore providing diverse age classes within the stands Simpson Park Allotment portion of Bates Mountain.

Grazing by cattle will occur during a portion of the critical growth season for upland vegetative species within the Bates Mountain use area. Due to the upper elevations associated with this use area, the critical growth period occurs in a later timeframe than that associated with the lower elevations of the allotment. Therefore, grazing during the critical growth period will be limited. However, appropriate utilization standards will ensure that perennial vegetation is allowed to set seed, complete the critical growth cycle, and store carbohydrates. This leads to improvement in soil site stability, hydrologic function, and the integrity of the biotic community.

Use by cattle and domestic horses will occur within the Ackerman Use Area after the critical growth period for upland vegetation; however, the use does occur during the hot season for riparian areas. The permitted use will be reduced from the current permitted use within this area and under the terms and conditions watering facilities will be required to be put into working condition prior to the start of the grazing year. By maintaining working order of these facilities, impacts from grazing by livestock will be reduced. Although Terms and Conditions of the permit will ensure that significant progress is made towards the Standards for Rangeland Health, construction of riparian exclosures will be considered in the future to further reduce the impacts to riparian areas due to grazing during the hot season.

Use will occur within the Pete Summit Use Area during the dormant season in order to allow for deferment during the period of active growth. Deferring grazing until the dormant season 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 seed to repopulate the plant 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.

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 Simpson Park Allotment will occur. Significant progress will be made when annual monitoring standards are achieved as indicated in Attachment 1 of the Simpson Park Complex Environmental Assessment (NV062-EA05-069). Management actions and objectives conform to 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 (WAFWA) *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 plan 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, Vegetative Guidelines and BLM/WAFWA sage grouse guidelines.

**3. Issue a ten-year permit to Dry Creek Ranch with the following Terms and Conditions:**

Grazing use will be in accordance with the Simpson Park Allotment portion of the Simpson Park Complex Final Multiple Use Decision dated \_\_\_\_\_.

The permittee will be required to meet with BLM prior to each grazing year in order to determine an annual grazing plan that will ensure appropriate use throughout the allotment.

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

The season of use in the Simpson Park Allotment may be temporarily modified from the grazing management system at the discretion of the authorized officer on an annual basis if monitoring data indicates that changes are necessary to meet multiple use objectives and Standards for Rangeland Health. Any use in excess of the total permitted use for the Simpson Park Allotment will constitute temporary non-renewable use. The authorization of temporary non-renewable use will be subject to the requirements set forth in 43 CFR 4130.6-2.

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

In accordance with 43 CFR 4130.3-2(D): Actual use information, for each use area, will be submitted to the authorized officer within 15 days of completing grazing use as specified on the grazing permit and/or grazing licenses.

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

In accordance with 43 CFR 4130.3-2(C): In order to improve livestock and rangeland management on the public lands, all salt and/or mineral supplements will not be placed within ¼ mile of any riparian area, wet meadow, or watering facility (either permanent or temporary) unless stipulated through a written agreement or decision.

In accordance with 43 CFR 10.4(H): All grazing permittees shall provide reasonable access across private and/or leased lands to the Bureau of Land Management for the orderly management and protection of the public lands.

Pursuant to 43 CFR 10.4(G), the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony (as defined at 43 CFR 10.2). Further, pursuant to 43 CFR 10.4 (C) and (D), you must stop activities in the immediate vicinity of the discovery and protect it from your activities for 30 days or until notified by the authorized officer.

All permits and leases shall be made subject to cancellation, suspension, or modification for any violation of these regulations or of any Terms and Conditions 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 Simpson Park Complex Rangeland Health Assessment Environmental Assessment NV-062-EA05-069, 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 Simpson Park Complex Rangeland Health Assessment Environmental Assessment NV-062-EA05-069 for the Simpson Park Allotment specific objectives and objectives common for the Complex. The terms and conditions for grazing in the Simpson Park Allotment will result in the attainment of multiple use objectives and is consistent with the Northeastern Great Basin RAC standards and is in conformance with the guidelines. At the completion of the Environmental Assessment and Finding of No Significant Impact (FONSI), a 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.

## **B. Silver Creek Ranch, Inc.**

### **1. Establish the total permitted use for Silver Creek Ranch, Inc. at 1,336 AUMs. The transfer of cattle AUMs from Silver Creek Ranch, Inc. to Jerry & Janet Lancaster is pending.**

Use pattern mapping data was collected in accordance with the Nevada Rangeland Monitoring Handbook in 1991, 1993, and 1994. This data was used to analyze the carrying capacity. The carrying capacity was based on weighted average utilization and actual use. (Refer to the SPC Evaluation page 101 and Appendix 6 and the SPC 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 Silver Creek Ranch was 973 AUMs desired carrying capacity and 1,336 AUMs potential carrying capacity. The carrying capacity was identified along with a grazing management plan to ensure that uniform distribution will be possible in the short-term.

In preparing for evaluation meetings in June, the BMFO contacted Silver Creek Ranch to discuss the findings of the data analysis for the Simpson Park Allotment. During these discussions, the BMFO was notified that Silver Creek Ranch was in the process of selling a portion of their base property and AUMs to Jerry and Janet Lancaster. As a result, the BMFO discussed notifying the Lancasters' of the evaluation process and management actions with Silver Creek Ranch. Silver Creek Ranch has been notified of the management actions and carrying capacity and has requested that discussions regarding the management proposals be discussed with the Lancasters'. The carrying capacity was selected due to the permittees commitment to implement changes in management of livestock operations to implement grazing systems that eliminate critical growth season and hot season grazing within the Willow/Barton use area, eliminate hot season grazing in the Indian and Bates Mountain Use Areas, and limit the use that will occur throughout remaining use areas during the critical growth season. For illustrations comparing riparian areas prior to and after the elimination of hot season use, refer to Attachment 2 of the Simpson Park Complex Environmental Assessment (NV062-EA05-069).

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 Terms and Conditions identified below are adhered to. Significant progress will be made when Annual Monitoring Standards for the Simpson Park Allotment are achieved. Monitoring data will continue to be collected to ensure that allotment specific objectives are being attained within the Simpson Park Allotment. Refer to Attachment 1 of the Simpson Park Complex Rangeland Health Assessment Environmental Assessment NV-062-EA05-069 for Simpson Park Allotment Annual monitoring standards and long-term objectives.

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. Implement the following grazing management system with Terms and Conditions for the Silver Creek Ranch, Inc.:**

Use Area	Season of Use	Livestock Type	Percent Public Land	Number of Livestock	AUMs
Indian Ranch, Lake Ranch, Rye Patch	04/01 - 04/30	Cattle	100	249	246
Willow/Barton Pasture	05/01 - 06/30	Cattle	100	200	401
Rye Patch, Indian Ranch, Bates Mountain, Lake Ranch	05/01 - 07/15	Cattle	100	67	167
Lake Ranch (including Fenced Federal Range)	07/16 - 08/15	Cattle	100	67	68
Willow/Barton Pasture	06/01 - 06/30	Sheep	100	2300	454

**Terms and Conditions**

1. The permittee will be required to maintain all range improvement projects for which maintenance responsibility is assigned in accordance with 43 CRR 4140.
2. All exclosures, including riparian, within the Simpson Park Allotment will be closed to livestock grazing unless grazing use is applied for by the permittee and is authorized in writing by the authorized officer.
3. 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 use area.
4. Sheep camps will be moved every five days. No two (2) sheep camps will camp in the same area in a grazing season.
5. 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.
6. Utilization of "Key Upland Forage Species" will not exceed 40% by the end of the grazing year.
7. Utilization of key riparian-wetland herbaceous species will be limited to a minimum 4-inch stubble height by July 31<sup>st</sup> of each year. Utilization of key riparian-wetland herbaceous species will be limited to a 6-inch stubble height by the end of the growing season, if grazing starts or extends past July 31<sup>st</sup>.
8. Utilization of riparian woody or browse species will be limited to 30% of available stems by the end of the growing season (For example, aspen, elderberry, serviceberry).
9. Riparian bank shearing and trampling will be limited to 10% (10 feet in 100 feet of bank).

10. Utilization of key shrub browse species will be no greater than 25% during the critical growth period and no more than 40% following the end of the growing season.
11. 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 utilization objectives are being met in any area, the permittee will be required to move sheep immediately upon notification to other areas of the use area that have not been grazed.
12. 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.
13. The permittee will be allowed five days flexibility prior to and following the scheduled use dates to move livestock.
14. The season of use in the Simpson Park Allotment may be temporarily modified from the grazing management system at the discretion of the authorized officer on an annual basis if monitoring data indicates that changes are necessary to meet multiple use objectives and Standards for Rangeland Health. Any use in excess of the total permitted use for the Simpson Park Allotment will constitute temporary non-renewable use. The authorization of temporary non-renewable will be subject to the requirements set forth in 43 CFR 4130.6-2.
15. 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.
16. A total of 1,006 AUMs of permitted active use was reduced in the 2005 Simpson Park Complex Final Multiple Use Decision. 1,003 AUMs of historic AUMs existed on the ten-year permit prior to the completion of the 2005 Final Multiple Use Decision.
17. 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 SP1 through SP14 failed to meet Resource Advisory Council (RAC) Standard 3: Habitat. Key Management Areas SP-3, SP-5, SP-7, SP-12, and SP-13 indicated that significant progress towards the



attainment of the standard had been made. Key management areas SP-11, SP-12, SP-13, SP-9, SP-10, and Dry Lake occur within the use areas established for Silver Creek Ranch, Inc. The majority of the riparian areas throughout the allotment did not meet the minimum requirement of properly functioning condition classification. Due to the conditions of the riparian areas, Standard 2: Riparian and Wetland Sites was not met for the allotment. Livestock were identified as a causal factor for the non-attainment of RAC Standard 2 and 3. A reduction in permitted use is required due to this level of livestock use being identified as a causal factor for failure to meet the SERA RMP objectives, Standards for Rangeland Health, multiple use objectives, and allotment specific objectives. For a detailed analysis of monitoring data regarding these findings, refer to the Simpson Park Complex Rangeland Health Assessment Pages 102-195, Appendix 6 and 8, and the Simpson Park Complex Conformance Determination.

The grazing management system that will work toward the attainment of the Complex and allotment specific objectives as well as making progress towards the attainment of the Standards for Rangeland Health by modifying the season of use and implementing stocking rates appropriate for the allotment. The grazing management system and ten-year grazing permit for Silver Creek Ranch, Inc. will incorporate intensive grazing management by herding livestock throughout the northern portion of the Simpson Park Allotment and will limit the majority of the use to the early-growth season of the key perennial vegetative species for each use area. By eliminating or reducing livestock grazing during the critical growth season, perennial vegetative species will be allowed 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. Where grazing during the critical growth season continues to occur, appropriate utilization standards will ensure that standing forage is left throughout the year and that perennial vegetation is allowed to set seed, complete the critical growth cycle, and store carbohydrates. This leads to improvement in soil site stability, hydrologic function, and the integrity of the biotic community.

The season of use for the Willow/Barton Pasture will provide a period of growth and recovery of the riparian areas within these drainages. With the exception of a portion of Willow Creek that has been excluded from livestock grazing, all riparian areas within the Barton and Willow Creek drainages rated as Functional-At-Risk, Trend Not Apparent to Non-Functional. Again by eliminating hot season grazing within this pasture, livestock will be removed from the riparian areas before the growing season for riparian species was complete and therefore allowing for a period of growth and recovery. Livestock dispersal throughout this portion of the allotment will also be enhanced due to less dependence on the riparian areas during the months of May through June. During this time frame, weather conditions are cooler and upland vegetation is in a more desirable state, therefore promoting improved livestock distribution. Grazing will occur prior to the critical growth season for many of the key perennial species within this area. Key perennial grass species will be allowed to complete their reproductive cycle thereby enhancing the perennial grass composition in the future. Studies have indicated that the greatest impact to the vigor of bunchgrasses such as bluebunch wheatgrass, Thurber's needlegrass, and Idaho fescue have occurred when grazing occurred from the boot stage to the early flowering stage (Vallentine 2001).

Elimination of hot season grazing within the Bates Mountain and Indian Ranch Use Areas will ensure progress towards the attainment of the Standards for Rangeland Health by allowing a period of rest during the completion of the growth period for riparian and wetland herbaceous species in order to meet stubble requirements to retain bank stability, filter sediment loads, and dissipate flood energy. The elimination of hot season grazing will allow for adequate residual cover of riparian herbaceous species through re-growth, 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 within the use areas will improve water quality. These factors will ensure that significant progress is being made towards the attainment of Proper Functioning Condition (PFC) and enhancing habitats associated with riparian and wetland areas.

Aspen stands are also prevalent throughout the portion of Bates Mountain within the boundary of the Simpson Park Allotment. Eliminating hot season grazing in the areas where aspen occurs will allow for aspen saplings to continue growing throughout the remainder of the growth season therefore allowing the stand to consist of diverse age classes of aspen. Diverse age classes of aspen will therefore allow the stand to proliferate and provide valuable habitat to wildlife species. Aspen stands will also be allowed to regenerate therefore providing diverse age classes within the stands Simpson Park Allotment portion of Bates Mountain.

Grazing of domestic sheep will be limited to the Willow/Barton use area. Although an overlap of use between cattle and sheep will occur within this use area from 06/01 through 06/30, use will occur prior to the on-set of the critical growth season and hot season for sensitive riparian areas. Furthermore, sheep use will also be limited to one pass by the herd throughout any one area per year, including the use of natural water sources. If watering from natural springs or streams within this use area, sheep shall not remain on the site to graze meadows or other riparian vegetation. In addition to the modifications of stocking rates and season of use, Terms and Conditions will require livestock to be removed from the area once grazing stipulations are attained in order to make significant progress towards the attainment of SERA RMP objectives, Standards for Rangeland Health, multiple use objectives, and allotment specific objectives. Refer to Attachment 1 of the Simpson Park Complex Rangeland Health Assessment Environmental Assessment NV062-EA05-069.

Limited use will continue to occur through a portion of the critical growth season in the Lake Ranch, Indian Ranch, and Rye Patch use areas prior to livestock controlled by another operator (Ken & Karen Woodland or Parson's Ranching Company) entering these use areas. A portion of the Lake Ranch Use Area includes Fenced Federal Range. This area is a portion of private land that is fenced in with public land and is operated in conjunction with the terms and conditions of the ten-year permit. Animal unit months and the season of use for these use areas will be limited in regard to the current permitted numbers and season of use. Under the grazing management system, livestock controlled by Silver Creek Ranching, Inc. would be removed from the majority of the native range by July 15<sup>th</sup>, thereby allowing for completion of the critical growth period in these areas. Livestock would be herded into the Fenced Federal Range portion of the Lake Ranch Use Area by July 16<sup>th</sup>. Livestock would be permitted within the Lake Ranch Fenced Federal Range until August 15<sup>th</sup>. By establishing proper use levels, limiting the number of livestock in these use areas, and modifying the season of use that will occur under the action,

perennial vegetative species are given a better opportunity to complete their reproductive cycle and gain in vigor.

Livestock grazing (cattle) will also occur during a portion of the hot season with the Rye Patch Use Area. Terms and Conditions will require livestock to be removed from the area once grazing stipulations are attained in order to make significant progress towards the attainment of SERA RMP objectives, Standards for Rangeland Health, multiple use objectives, and allotment specific objectives. Although Terms and Conditions of the permit will ensure that significant progress is made towards the Standards for Rangeland Health, riparian enclosures within the Rye Patch Canyon area will be considered in the future in order to further protect riparian areas that are subject to hot-season grazing. The permittee will also be required to fix and/or maintain watering facilities within the use area to reduce the impacts to riparian areas.

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 Simpson Park Allotment will occur. Significant progress will be made when annual monitoring standards are achieved as indicated in Attachment 1 of the Simpson Park Complex Environmental Assessment (NV062-EA05-069). Management actions and objectives conform to 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 (WAFWA) *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 August 16<sup>th</sup> and 18<sup>th</sup>, 2005, BLM contacted Silver Creek Ranch to discuss the grazing management systems. Silver Creek Ranch was supportive of the grazing management system identified for the sheep portion of the operation. BLM was advised to continue negotiations with the Lancasters' regarding the cattle operation.

The grazing plan 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, Vegetative Guidelines and BLM/WAFWA sage grouse guidelines.

**3. Issue a ten-year permit to Silver Creek Ranch with the following Terms and Conditions. A transfer of the cattle AUMs to Jerry & Janet Lancaster is pending.**

Grazing use will be in accordance with the Simpson Park Allotment portion of the Simpson Park Complex Final Multiple Use Decision dated \_\_\_\_\_.

The permittee will be required to meet with BLM prior to each grazing year in order to determine an annual grazing plan that will ensure appropriate use throughout the allotment.

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

The season of use in the Simpson Park Allotment may be temporarily modified from the grazing management system at the discretion of the authorized officer on an annual basis if monitoring data indicates that changes are necessary to meet multiple use objectives and Standards for Rangeland Health. Any use in excess of the total permitted use for the Simpson Park Allotment will constitute temporary non-renewable use. The authorization of temporary non-renewable use will be subject to the requirements set forth in 43 CFR 4130.6-2.

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

In accordance with 43 CFR 4130.3-2(D): Actual use information, for each use area, will be submitted to the authorized officer within 15 days of completing grazing use as specified on the grazing permit and/or grazing licenses.

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

In accordance with 43 CFR 4130.3-2(C): In order to improve livestock and rangeland management on the public lands, all salt and/or mineral supplements will not be placed within ¼ mile of any riparian area, wet meadow, or watering facility (either permanent or temporary) unless stipulated through a written agreement or decision.

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

Pursuant to 43 CFR 10.4(G), the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony (as defined at 43 CFR 10.2). Further, pursuant to 43 CFR 10.4 (C) and (D), you must stop activities in the immediate vicinity of the discovery and protect it from your activities for 30 days or until notified by the authorized officer.

All permits and leases shall be made subject to cancellation, suspension, or modification for any violation of these regulations or of any Terms and Conditions 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 Simpson Park Complex Rangeland Health Assessment Environmental Assessment NV-062-EA05-069, 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 Simpson Park Complex Rangeland Health Assessment Environmental Assessment NV-062-EA05-069 for the Simpson Park Allotment specific objectives and objectives common for the Complex. The terms and conditions for grazing in the Simpson Park Allotment will result in the attainment of multiple use objectives and is consistent with the Northeastern Great Basin RAC standards and is in conformance with the guidelines. At the completion of the Environmental Assessment and Finding of No Significant Impact (FONSI), a 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. Howard & Barbara Wolf**

### **1. Establish the total permitted use for Howard & Barbara Wolf at 427 AUMs.**

#### **Rationale:**

Use pattern mapping data was collected in accordance with the Nevada Rangeland Monitoring Handbook in 1991, 1993, and 1994. This data was used to analyze the carrying capacity. The carrying capacity was based on weighted average utilization and actual use (Refer to the SPC Evaluation page 101 and Appendix 6 and the SPC Evaluation 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 Howard & Barbara Wolf was 311 AUMs desired carrying capacity and 427 AUMs potential carrying capacity. 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 calculation was selected due to the permittees commitment to implement changes in management of livestock operations to implement grazing systems that defers grazing until the dormant season for a portion of their use area and eliminates grazing during the critical growth season within other use areas.

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 Terms and Conditions identified below are adhered to. Significant progress will be made when the Annual Monitoring Objectives for the Simpson Park Allotment are achieved. Monitoring data will continue to be collected to ensure that allotment specific objectives are being attained within the Simpson Park Allotment. Refer to Attachment 1 of the Simpson Park Complex Rangeland Health Assessment Environmental Assessment NV-062-EA05-069 for Simpson Park Allotment Annual monitoring standards and long-term objectives.

The management selection will implement Guidelines 1.1, 1.3, 2.1, 2.3, 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. Implement the following grazing management system with Terms and Conditions for the Howard & Barbara Wolf:**

Use Area	Season of Use	Livestock Type	Percent Public Land	Number of Livestock	AUMs
Pete Summit/Common	11/15 - 03/31	Cattle	100	70	315
Pete Summit/Common	11/15 - 12/15	Cattle	100	8	8
Ackerman/Givens	04/01 - 04/30	Cattle	100	70	69
Rye Patch	05/01 -05/15	Cattle	100	70	35

**Terms and Conditions**

1. The permittee will be required to maintain all range improvement projects for which maintenance responsibility is assigned in accordance with 43 CRR 4140.
2. All exclosures, including riparian, within the Simpson Park Allotment will be closed to livestock grazing unless grazing use is applied for by the permittee and is authorized in writing by the authorized officer.
3. 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 use area.
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 will be limited to a minimum 4-inch stubble height by July 31<sup>st</sup> of each year. Utilization of key riparian-wetland herbaceous species will be limited to a 6-inch stubble height by the end of the growing season, if grazing starts or extends past July 31<sup>st</sup>.
6. Utilization of riparian woody or browse species will 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 will be limited to 10% (10 feet in 100 feet of bank).
8. Utilization of key shrub browse species will be no greater than 25% during the critical growth period and no more than 40% following the end of the growing season.
9. 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.
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 5 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 Simpson Park Allotment may be temporarily modified from the grazing management system at the discretion of the authorized officer on an annual basis if monitoring data indicates that changes are necessary to meet multiple use objectives and Standards for Rangeland Health. Any use in excess of the total permitted use for the Simpson Park Allotment will constitute temporary non-renewable use. The authorization of temporary non-renewable will be subject to the requirements set forth in 43 CFR 4130.6-2.
13. A total of 321 AUMs of permitted active use was reduced in the 2005 Simpson Park Complex Final Multiple Use Decision. 320 AUMs of historic suspended AUMs existed on the ten-year permit prior to the completion of 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 SP1 through SP14 failed to meet Resource Advisory Council (RAC) Standard 3: Habitat. Key Management Areas SP-3, SP-5, SP-7, SP-12, and SP-13 indicated that significant progress towards the attainment of the standard had been made. Key management areas SP-1, SP-3, SP-4, SP-5, SP-6, SP-7, SP-12, SP-13, and SP-14 occur within the use areas established for Howard & Barbara Wolf. The majority of the riparian areas throughout the allotment did not meet the minimum

requirement of properly functioning condition classification. Due to the conditions of the riparian areas, Standard 2: Riparian and Wetland Sites was not met for the allotment. Livestock were identified as a causal factor for the non-attainment of RAC Standard 2 and 3. A reduction in permitted use is required due to this level of livestock use being identified as a causal factor for failure to meet the SERA RMP objectives, Standards for Rangeland Health, multiple use objectives, and allotment specific objectives. For a detailed analysis of monitoring data regarding these findings, refer to the Simpson Park Complex Rangeland Health Assessment Pages 102-195, Appendix 6 and 8, and the Simpson Park Complex Conformance Determination.

The grazing management plan will ensure that progress towards the attainment of the Standards for Rangeland Health by modifying the season of use and stocking rates associated with the use areas. Grazing during the dormant season will occur within the Pete Summit and Common use areas, which are dominated by salt-desert shrub communities. Depending on the year, limited use may occur during the initial growth season for this area. However, Terms and Conditions will be implemented that will require livestock to be removed from an area or from the allotment once the stipulations are attained. Use will occur in the Ackerman, Givens North & South, and Rye Patch use areas in the early season to allow for re-growth prior to the critical growth season for upland vegetation and the hot season for riparian and wetland vegetation.

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 seed to repopulate the plant 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.

The Black Bird, Common, and Pete Summit use areas consists primarily of salt-desert shrub communities that are considered intolerant to grazing throughout their growing season. Key management areas within this section of the allotment did not meet the habitat standard and only two of the sites have indicated significant progress towards the attainment of the standard. By deferring grazing until the dormant season for this vegetative community, key perennial grasses are given an opportunity to gain in vigor, set seed, and reproduce.

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 Simpson Park Allotment will occur. Significant progress will be made when annual monitoring standards are achieved as indicated in Attachment 1 of the Simpson Park Complex Environmental Assessment (NV062-EA05-069). Management actions and objectives conform to 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 (WAFWA) *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 plan 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, Vegetative Guidelines and BLM/WAFWA sage grouse guidelines.

**3. Issue a ten-year permit to Howard and Barbara Wolf with the following Terms and Conditions:**

Grazing use will be in accordance with the Simpson Park Allotment portion of the Simpson Park Complex Final Multiple Use Decision dated \_\_\_\_\_.

The permittee will be required to meet with BLM prior to each grazing year in order to determine an annual grazing plan that will ensure appropriate use throughout the allotment.

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

The season of use in the Simpson Park Allotment may be temporarily modified from the grazing management system at the discretion of the authorized officer on an annual basis if monitoring data indicates that changes are necessary to meet multiple use objectives and Standards for Rangeland Health. Any use in excess of the total permitted use for the Simpson Park Allotment will constitute temporary non-renewable use. The authorization of temporary non-renewable use will be subject to the requirements set forth in 43 CFR 4130.6-2.

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

In accordance with 43 CFR 4130.3-2(D): Actual use information, for each use area, will be submitted to the authorized officer within 15 days of completing grazing use as specified on the grazing permit and/or grazing licenses.

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

In accordance with 43 CFR 4130.3-2(C): In order to improve livestock and rangeland management on the public lands, all salt and/or mineral supplements will not be placed within ¼

mile of any riparian area, wet meadow, or watering facility (either permanent or temporary) unless stipulated through a written agreement or decision.

In accordance with 41309.3-2(H): All grazing permittees shall provide reasonable access across private and/or leased lands to the Bureau of Land Management for the orderly management and protection of the public lands.

Pursuant to 43 CFR 10.4(G), the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony (as defined at 43 CFR 10.2). Further, pursuant to 43 CFR 10.4 (C) and (D), you must stop activities in the immediate vicinity of the discovery and protect it from your activities for 30 days or until notified by the authorized officer.

All permits and leases shall be made subject to cancellation, suspension, or modification for any violation of these regulations or of any Terms and Conditions 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 Simpson Park Complex Rangeland Health Assessment Environmental Assessment NV-062-EA05-069, 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 Simpson Park Complex Rangeland Health Assessment Environmental Assessment NV-062-EA-05-069 for the Simpson Park Allotment specific objectives and objectives common for the Complex. The terms and conditions for grazing in the Simpson Park Allotment will result in the attainment of multiple use objectives and is consistent with the Northeastern Great Basin RAC standards and is in conformance with the guidelines. At the completion of the Environmental Assessment and Finding of No Significant Impact (FONSI), a 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.

## **D. Ken & Karen Woodland or Parson's Ranching Company**

### **1. Establish the total permitted use for Ken & Karen Woodland or Parson's Ranching Co. at 1,104 AUMs.**

#### **Rationale:**

Use pattern mapping data was collected in accordance with the Nevada Rangeland Monitoring Handbook in 1991, 1993, and 1994. This data was used to analyze the carrying capacity. The carrying capacity was based on weighted average utilization and actual use (Refer to the SPC Evaluation page 101 and Appendix 6 and the SPC Evaluation 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 Ken & Karen Woodland or Parson's Ranching Company was 804 AUMs desired carrying capacity and 1,104 AUMs potential carrying capacity. 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 calculation was selected due to the permittees commitment to implement changes in management of livestock operations that eliminate hot season grazing and reduce use throughout the critical growth season. For illustrations comparing riparian areas prior to and after the elimination of hot season use, refer to Attachment 2 of the Simpson Park Complex Environmental Assessment (NV062-EA05-069).

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 Terms and Conditions identified below are adhered to. Significant progress will be made when the Annual Monitoring Objectives for the Simpson Park Allotment are achieved. Monitoring data will continue to be collected to ensure that allotment specific objectives are being attained within the Simpson Park Allotment. Refer to Attachment 1 of the Simpson Park Complex Rangeland Health Assessment Environmental Assessment NV-062-EA05-069 for Simpson Park Allotment annual monitoring standards and long-term objectives.

The management selection will implement Guidelines 1.1, 1.3, 2.1, 2.3, 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. Implement the following grazing management system with Terms and Conditions for Ken & Karen Woodland or Parsons Ranching Co.:**

Use Area	Season of Use	Livestock Type	Percent Public Land	Number of Livestock	AUMs
Parson's Pastures	04/01 - 04/30	Cattle	100	170	168
Willow/Barton Pasture	05/01 - 06/30	Cattle	100	170	341
Lake Ranch/Indian Ranch/Bates Mountain	07/01 - 07/15	Cattle	100	85	42
Lake Ranch/Rye Patch	07/01 - 07/15	Cattle	100	85	42
Rye Patch/Givens North	07/16 - 08/30	Cattle	100	169	261
Givens South	09/01 - 10/15	Cattle	100	169	250

**Terms and Conditions**

1. The permittee will be required to maintain all range improvement projects for which maintenance responsibility is assigned in accordance with 43 CRR 4140.
2. Pastures utilized in "Parson's Pastures" during the spring will not be utilized during the following fall use in the Given's Use Area. The permittee will stipulate the pasture utilized during the spring.
3. All exclosures, including riparian, within the Simpson Park Allotment will be closed to livestock grazing unless grazing use is applied for by the permittee and is authorized in writing by the authorized officer.
4. 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 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 will be limited to a minimum 4-inch stubble height by July 31<sup>st</sup> of each year. Utilization of key riparian-wetland herbaceous species will be limited to a 6-inch stubble height by the end of the growing season, if grazing starts or extends past July 31<sup>st</sup>.
7. Utilization of riparian woody or browse species will 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 will be limited to 10% (10 feet in 100 feet of bank).
9. Utilization of key shrub browse species will be no greater than 25% during the critical growth period and no more than 40% following the end of the growing season.

10. 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.
11. 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.
12. The permittee will be allowed five days flexibility prior to and following the scheduled use dates to move livestock.
13. The season of use in the Simpson Park Allotment may be temporarily modified from the grazing management system at the discretion of the authorized officer on an annual basis if monitoring data indicates that changes are necessary to meet multiple use objectives and Standards for Rangeland Health. Any use in excess of the total permitted use for the Simpson Park Allotment will constitute temporary non-renewable use. The authorization of temporary non-renewable will be subject to the requirements set forth in 43 CFR 4130.6-2.
14. A total of 832 AUMs of permitted active use was reduced in the 2005 Simpson Park Complex Final Multiple Use Decision. 830 AUMs of historic suspended AUMs existed on the ten-year permit prior to the completion of the 2005 Final Multiple Use Decision.
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:**

It was determined in the Conformance Determination that Key Management Areas SP1 through SP14 failed to meet Resource Advisory Council (RAC) Standard 3: Habitat. Key Management Areas SP-3, SP-5, SP-7, SP-12, and SP-13 indicated that significant progress towards the attainment of the standard had been made. Key management areas SP-3 and SP-8 through SP-14 occur within the use areas established for Ken & Karen Woodland OR Parson's Ranching Company. The majority of the riparian areas throughout the allotment did not meet the minimum requirement of properly functioning condition classification. Due to the conditions of the riparian areas, Standard 2: Riparian and Wetland Sites was not met for the allotment. Livestock were identified as a causal factor for the non-attainment of RAC Standard 2 and 3. A reduction in permitted use is required due to this level of livestock use being identified as a causal factor for failure to meet the SERA RMP objectives, Standards for Rangeland Health, multiple use objectives, and allotment specific objectives. For a detailed analysis of monitoring

data regarding these findings, refer to the Simpson Park Complex Rangeland Health Assessment Pages 102-195, Appendix 6 and 8, and the Simpson Park Complex Conformance Determination.

The action will work towards the attainment of the Standards for Rangeland health by eliminating hot season grazing in the Willow/Barton Pasture and in the Indian/Bates Mountain use areas. Furthermore, the majority of the use by livestock will occur prior to the critical growth season or during the dormant season. Parson's Pastures (within Givens Use Area) and the Willow/Barton pasture will be utilized prior to the critical growth season. Parson's Pastures consist of a two-pasture system that will be referred to as the East and West Pastures. Under the action, pastures that are utilized in the spring will not be utilized the following fall (09/01 - 10/15). The Given's Seeding and the majority of the Givens Use area will be utilized during the dormant season.

Use during the initial stages of the critical growth season will be authorized in the Lake Ranch and Indian Ranch use areas. Use will occur throughout the critical growth season for the Rye Patch use area. However, under the action, Terms and Conditions will be implemented that will require the permittee to remove his or her livestock from the area once grazing stipulations have been met to ensure that progress towards the attainment of the Standards for Rangeland Health. Although Terms and Conditions of the permit will ensure that significant progress is made towards the Standards for Rangeland Health, riparian exclosures within the Rye Patch Canyon area will be considered in the future in order to further protect riparian areas that are subject to hot-season grazing. The permittee will also be required to fix and/or maintain watering facilities within the use area to reduce the impacts to riparian areas.

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 Simpson Park Allotment will occur. Significant progress will be made when annual monitoring standards are achieved as indicated in Attachment 1 of the Simpson Park Complex Environmental Assessment (NV062-EA05-069). Management actions and objectives conform to 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 (WAFWA) *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 plan 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, Vegetative Guidelines and BLM/WAFWA sage grouse guidelines.

**3. Issue a ten-year permit to Parson's Ranching Company or pending the renewal of the base property lease, issue a permit for the period of the base property lease to Ken and Karen Woodland with the following Terms and Conditions:**

Grazing use will be in accordance with the Simpson Park Allotment portion of the Simpson Park Complex Final Multiple Use Decision dated \_\_\_\_\_.

The permittee will be required to meet with BLM prior to each grazing year in order to determine an annual grazing plan that will ensure appropriate use throughout the allotment.

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

The season of use in the Simpson Park Allotment may be temporarily modified from the grazing management system at the discretion of the authorized officer on an annual basis if monitoring data indicates that changes are necessary to meet multiple use objectives and Standards for Rangeland Health. Any use in excess of the total permitted use for the Simpson Park Allotment will constitute temporary non-renewable use. The authorization of temporary non-renewable use will be subject to the requirements set forth in 43 CFR 4130.6-2.

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

In accordance with 43 CFR 4130.3-2(D): Actual use information, for each use area, will be submitted to the authorized officer within 15 days of completing grazing use as specified on the grazing permit and/or grazing licenses.

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

In accordance with 43 CFR 4130.3-2(C): In order to improve livestock and rangeland management on the public lands, all salt and/or mineral supplements will not be placed within ¼ mile of any riparian area, wet meadow, or watering facility (either permanent or temporary) unless stipulated through a written agreement or decision.

In accordance with 41309.3-2(H): All grazing permittees shall provide reasonable access across private and/or leased lands to the Bureau of Land Management for the orderly management and protection of the public lands.

Pursuant to 43 CFR 10.4(G), the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains,

funerary objects, sacred objects, or objects of cultural patrimony (as defined at 43 CFR 10.2). Further, pursuant to 43 CFR 10.4 (C) and (D), you must stop activities in the immediate vicinity of the discovery and protect it from your activities for 30 days or until notified by the authorized officer.

All permits and leases shall be made subject to cancellation, suspension, or modification for any violation of these regulations or of any Terms and Conditions 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 Simpson Park Complex Rangeland Health Assessment Environmental Assessment NV-062-EA05-069, 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 Simpson Park Complex Rangeland Health Assessment Environmental Assessment NV-062-EA05-069 for the Simpson Park Allotment specific objectives and objectives common for the Complex. The terms and conditions for grazing in the Simpson Park Allotment will result in the attainment of multiple use objectives and is consistent with the Northeastern Great Basin RAC standards and is in conformance with the guidelines. At the completion of the Environmental Assessment and Finding of No Significant Impact (FONSI), a 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.

**E. Young Brothers**

**1. Establish the total permitted use for Young Brothers at 189 AUMs.**

**Rationale:**

Use pattern mapping data was collected in accordance with the Nevada Rangeland Monitoring Handbook in 1991, 1993, and 1994. This data was used to analyze the carrying capacity. The carrying capacity was based on weighted average utilization and actual use (Refer to the SPC Evaluation page 101 and Appendix 6 and the SPC Evaluation 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



Young Brothers was 138 AUMs desired carrying capacity and 189 AUMs potential carrying capacity. 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 calculation was selected due to the permittees commitment to implement changes in management of livestock operations that defer grazing until the dormant season.

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 Terms and Conditions identified below are adhered to. Significant progress will be made when the Annual Monitoring Objectives for the Simpson Park Allotment are achieved. Monitoring data will continue to be collected to ensure that allotment specific objectives are being attained within the Simpson Park Allotment. Refer to Attachment 1 of the Simpson Park Complex Rangeland Health Assessment Environmental Assessment NV-062-EA05-069 for Simpson Park Allotment Annual monitoring standards and long-term objectives.

The management selection will implement Guidelines 1.1, 1.3, 2.1, 2.3, 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. Implement the following grazing management system with Terms and Conditions for Young Brothers:**

Use Area	Season of Use	Livestock Type	Percent Public Land	Number of Livestock	AUMs
Black Bird/Common	09/01 - 03/31	Cattle	100	27	189

**Terms and Conditions**

1. The permittee will be required to maintain all range improvement projects for which maintenance responsibility is assigned in accordance with 43 CRR 4140.
2. All exclosures, including riparian, within the Simpson Park Allotment will be closed to livestock grazing unless grazing use is applied for by the permittee and is authorized in writing by the authorized officer.
3. 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 use area.
4. Utilization of “Key Upland Forage Species” will not exceed 40% by the end of the grazing year for the Simpson Park Allotment.
5. Utilization of key riparian-wetland herbaceous species will be limited to a minimum 4-inch stubble height by July 31<sup>st</sup> of each year. Utilization of key riparian-wetland

herbaceous species will be limited to a 6-inch stubble height by the end of the growing season, if grazing starts or extends past July 31<sup>st</sup>.

6. Utilization of riparian woody or browse species will 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 will be limited to 10% (10 feet in 100 feet of bank).
8. Utilization of key shrub browse species will be no greater than 25% during the critical growth period and no more than 40% following the end of the growing season.
9. 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.
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 5 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 Simpson Park Allotment may be temporarily modified from the grazing management system at the discretion of the authorized officer on an annual basis if monitoring data indicates that changes are necessary to meet multiple use objectives and Standards for Rangeland Health. Any use in excess of the total permitted use for the Simpson Park Allotment will constitute temporary non-renewable use. The authorization of temporary non-renewable will be subject to the requirements set forth in 43 CFR 4130.6-2.
13. A total of 143 AUMs of permitted active use was reduced in the 2005 Simpson Park Complex Final Multiple Use Decision. 142 AUMs of historic suspended AUMs existed on the ten-year permit prior to the completion of 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 SP1 through SP14 failed to meet Resource Advisory Council (RAC) Standard 3: Habitat. Key Management Areas SP-3, SP-5, SP-7, SP-12, and SP-13 indicated that significant progress towards the attainment of the standard had been made. Key management areas SP-1 and SP-2 are within the use areas established for Young Brothers. The majority of the riparian areas throughout the allotment did not meet the minimum requirement of properly functioning condition classification. Due to the conditions of the riparian areas, Standard 2: Riparian and Wetland Sites was not met for the allotment. Livestock were identified as a causal factor for the non-attainment of RAC Standard 2 and 3. A reduction in permitted use is required due to this level of livestock use being identified as a causal factor for failure to meet the SERA RMP objectives, Standards for Rangeland Health, multiple use objectives, and allotment specific objectives. For a detailed analysis of monitoring data regarding these findings, refer to the Simpson Park Complex Rangeland Health Assessment Pages 102-195, Appendix 6 and 8, and the Simpson Park Complex Conformance Determination.

The grazing management plan will ensure that progress towards the attainment of the Standards for Rangeland Health by modifying the season of use and stocking rates associated with the use areas. Grazing during the dormant season will occur within the Black Bird and Common use areas and are dominated by salt-desert shrub communities. Depending on the type of year (e.g. wet and warm winters), limited use may occur during the initial growth season for this area.

The Black Bird, Common, and Pete Summit use areas consists primarily of salt-desert shrub communities that are considered intolerant to grazing throughout their growing season. Key management areas within this section of the allotment did not meet the habitat standard and only two of the sites have indicated significant progress towards the attainment of the standard. By deferring grazing until the dormant season for this vegetative community, key perennial grasses are given an opportunity to gain in vigor, set seed, and reproduce. This will allow for improvement in the plant communities by enhancing key perennial species productivity, which will in turn provide seed to repopulate the plant 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.

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 Simpson Park Allotment will occur. Significant progress will be made when annual monitoring standards are achieved as indicated in Attachment 1 of the Simpson Park Complex Environmental Assessment (NV062-EA05-069). Management actions and objectives conform to 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 (WAFWA) *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 plan 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, Vegetative Guidelines and BLM/WAFWA sage grouse guidelines.

**3. Issue a ten-year permit to Young Brothers with the following Terms and Conditions:**

Grazing use will be in accordance with the Simpson Park Allotment portion of the Simpson Park Complex Final Multiple Use Decision dated \_\_\_\_\_.

The permittee will be required to meet with BLM prior to each grazing year in order to determine an annual grazing plan that will ensure appropriate use throughout the allotment.

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

The season of use in the Simpson Park Allotment may be temporarily modified from the grazing management system at the discretion of the authorized officer on an annual basis if monitoring data indicates that changes are necessary to meet multiple use objectives and Standards for Rangeland Health. Any use in excess of the total permitted use for the Simpson Park Allotment will constitute temporary non-renewable use. The authorization of temporary non-renewable use will be subject to the requirements set forth in 43 CFR 4130.6-2.

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

In accordance with 43 CFR 4130.3-2(D): Actual use information, for each use area, will be submitted to the authorized officer within 15 days of completing grazing use as specified on the grazing permit and/or grazing licenses.

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

In accordance with 43 CFR 4130.3-2(C): In order to improve livestock and rangeland management on the public lands, all salt and/or mineral supplements will not be placed within ¼ mile of any riparian area, wet meadow, or watering facility (either permanent or temporary) unless stipulated through a written agreement or decision.

In accordance with 41309.3-2(H): All grazing permittees shall provide reasonable access across private and/or leased lands to the Bureau of Land Management for the orderly management and protection of the public lands.

Pursuant to 43 CFR 10.4(G), the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony (as defined at 43 CFR 10.2). Further, pursuant to 43 CFR 10.4 (C) and (D), you must stop activities in the immediate vicinity of the discovery and protect it from your activities for 30 days or until notified by the authorized officer.

All permits and leases shall be made subject to cancellation, suspension, or modification for any violation of these regulations or of any Terms and Conditions 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 Simpson Park Complex Rangeland Health Assessment Environmental Assessment NV-062-EA05-069, 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 Simpson Park Complex Rangeland Health Assessment Environmental Assessment NV-062-EA05-069 for the Simpson Park Allotment specific objectives and objectives common for the Complex. The terms and conditions for grazing in the Simpson Park Allotment will result in the attainment of multiple use objectives and is consistent with the Northeastern Great Basin RAC standards and is in conformance with the guidelines. At the completion of the Environmental Assessment and Finding of No Significant Impact (FONSI), a 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;

#### **§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 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 as 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]

#### **§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]

#### **§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 PROVISIONS FOR GRAZING 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, 50 Bastian Road, Battle Mountain, NV 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 its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.422(c)(2)).

## **WILD HORSE AND BURRO MANAGEMENT DECISION**

**1. Establish an Appropriate Management Level range for wild burros within the Kingston Allotment portion of the Hickison HMA. The AML range for the Kingston Allotment will be 11 to 30 wild burros (55-150 AUMs) for 5 months.**

### **Rationale:**

The RPS allocation of AUMs for livestock and wild burros is 99% to 1% respectively. However, the average actual use by wild burros was slightly over the allocation during the evaluation period with 1.5% of the AUMs utilized by wild burros. The current allocation for wild burros is of concern due to genetic viability of the herd. The reallocation of the AUMs will allot an additional 60 AUMs of forage to wild burros resulting in a revised allocation of 97% to livestock and 3% to wild burros for the Kingston Allotment and will aid in maintaining genetic viability in the future. Furthermore, wild burros are opportunistic feeders and are able to utilize more of the range on a year-long basis than cattle. Therefore, areas that are less suitable for cattle remain available for wild burros.

An initial stocking level for wild burros within the Hickison HMA was established through the Rangeland Program Summary at 5 wild burros (30 AUMs) for 6 months for the Kingston Allotment. However, analysis of census flight information indicates that wild burros spend approximately 40% or 5 months of the time on the Hickison HMA. The evaluation of monitoring data collected throughout the evaluation period indicates that the mid-range of 18 wild burros (90 AUMs) for Kingston Allotment for 5 months is the appropriate management level to maintain a thriving natural ecological balance within the means of the habitat. The AML range reflects the average use taking into account that wild burro populations fluctuate based on environmental conditions and movement patterns. The Kingston Allotment represents 25% of the HMA and adjacent U.S. Forest Service administered lands within the Hickison HMA/WHT are utilized to meet habitat requirements. The AML range will meet the habitat requirement for wild burros within the Hickison HMA.

Through this evaluation a determination has been made that RAC Standard 3 is not being met and that RAC Standard 5 for the Hickison HMA is being partially met. Until further data collection and analysis has occurred, the AML for this HMA will remain at the level established in this evaluation. In the future, existing studies within the Hickison HMA, Simpson Park and Kingston Allotments will continue to be conducted to evaluate rangeland health and trend. Adjustments to AML will be based on habitat condition, genetic health, and distribution of wild burros.

The Appropriate Management Level for the Hickison HMA (Kingston and Simpson Park Allotments) has been established as a range of 16 to 45 wild burros, which will allow for minimal management which is in conformance with the Wild Free-Roaming Horse and Burro Act. Wild burros in the Hickison HMA increase at an annual rate of 17.5%. It is not cost effective to remove the annual increase in population each year, annual gathers will result in increased impacts to herd stability and band integrity, and frequent gathers render the animals

more difficult to capture and increases the chance for injury or death. Appropriate NEPA compliance for all management actions that will impact wild burros within the Hickison HMA will be completed prior to the implementation of the action.

## **2. Callaghan HMA**

**a. Establish an Appropriate Management Level range for wild horses within the Simpson Park Allotment portion of the Callaghan Herd Management Area of 14 to 39 wild horses (166-468 AUMs). The establishment of AML for the Simpson Park Allotment will set the Callaghan HMA AML as a range of 147 to 237 wild horses (1764-2844 AUMs).**

### **Rationale:**

The Rangeland Program Summary established an initial stocking level for wild horses at 41 wild horses (492 AUMs) year long. As indicated by the carrying capacity analysis, an AML of 23 wild horses (276 AUMs) year long is appropriate for the Simpson Park Allotment portion of Callaghan HMA. The carrying capacity analysis resulted in a reduction of 18 wild horses (213 AUMs) year long from the initial stocking levels established in the RPS. Wild horse use within this range is expected to result in the attainment of the allotment specific objectives for the Simpson Park Allotment. In addition, the level of use by wild horses will maintain the Land Use Plan objectives and Standards for Rangeland Health.

The evaluation of monitoring data collected throughout the evaluation period indicates that the mid-range 23 wild horses year-long is the appropriate management level to maintain a thriving natural ecological balance and a healthy wild horse population. The AML range reflects the average year-long use taking into account that wild horse populations fluctuate based on environmental conditions and movement patterns. The Simpson Park Allotment represents 7% of the Callaghan HMA which requires wild horses to utilize adjacent allotments within the HMA to meet habitat requirements. The AML range will meet the year-round habitat requirement for wild horses within the Callaghan HMA.

Through this evaluation a determination has been made that RAC Standard 5 for the Callaghan HMA have been met for the Simpson Park Allotment. However, RAC Standard 2 and Standard 3 are not being met for the allotment. Until further data collection and analysis has occurred, the AML for this allotment will remain at the level established in this evaluation. In the future, existing studies within the Callaghan HMA and Simpson Park Allotment will continue to be conducted to evaluate rangeland health and trend. Adjustments to AML will be based on this information.

The Appropriate Management Level has been established as a range of 14 to 38 wild horses, which will allow for minimal management which is in conformance with the Wild Free-Roaming Horse and Burro Act. Wild horses in the Callaghan HMA increase at an annual rate of 17.5%. It is not cost effective to remove the annual increase in population each year, annual gathers will result in increased impacts to herd stability and band integrity, and frequent gathers render the animals more difficult to capture and increases the chance for injury or death. Appropriate

NEPA compliance for all management actions that will impact wild horses within the Callaghan HMA will be completed prior to the implementation of the action.

### **3. Hickison HMA**

**a. Establish an Appropriate Management Level range for wild burros within the Simpson Park and Kingston Allotment portions of the Hickison HMA. The AML range for the Simpson Park Allotment will be 5 to 15 wild burros (25-75 AUMs) for 5 months.**

#### **Rationale:**

An initial stocking level for wild burros within the Hickison HMA was established through the Rangeland Program Summary at 13 wild burros for a 6-month period (78 AUMs) for the Simpson Park Allotment. However, analysis of census flight information indicates that wild burros spend approximately 40% or 5 months of the time on the Hickison HMA. As indicated by the carrying capacity analysis, an AML of 9 wild burros (45 AUMs) is appropriate for the Simpson Park Allotment portion of the Hickison HMA. This resulted in a reduction of 4 wild burros (20 AUMs) for the Simpson Park Allotment from the initial stocking levels established in the RPS. Wild burro use within this range is expected to result in the attainment of the allotment specific objectives for the Simpson Park Allotment. In addition, the level of use by wild burros will maintain the Land Use Plan objectives and Standards for Rangeland Health.

The evaluation of monitoring data collected throughout the evaluation period indicates that the mid-range 9 wild burros (45 AUMs) for Simpson Park Allotment for 5 months is the appropriate management level to maintain a thriving natural ecological balance within the means of the habitat. The AML range reflects the average use taking into account that wild burro populations fluctuate based on environmental conditions and movement patterns. The Simpson Park Allotment represents 75% of the Hickison HMA and Kingston Allotment represents 25% of the HMA. Adjacent U.S. Forest Service administered lands within the Hickison HMA/WHT are utilized to meet habitat requirements. The AML range will meet the habitat requirement for wild burros within the Hickison HMA.

Through this evaluation a determination has been made that RAC Standard 2 and 3 are not being met for the Simpson Park Allotment. RAC Standard 5 for the Hickison HMA is being partially met. Until further data collection and analysis has occurred, the AML for this HMA will remain at the level established in this evaluation. In the future, existing studies within the Hickison HMA, Simpson Park and Kingston Allotments will continue to be conducted to evaluate rangeland health and trend. Adjustments to AML will be based on habitat condition, genetic health, and distribution of wild burros.

The Appropriate Management Level for the Hickison HMA has been established as a range of 16 to 45 wild burros, which will allow for minimal management which is in conformance with the Wild Free-Roaming Horse and Burro Act. Wild burros in the Hickison HMA increase at an annual rate of 17.5%. It is not cost effective to remove the annual increase in population each year, annual gathers will result in increased impacts to herd stability and band integrity, and frequent gathers render the animals more difficult to capture and increases the chance for injury

or death. Appropriate NEPA compliance for all management actions that will impact wild burros within the Hickison HMA will be completed prior to the implementation of the action.

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

#### **§4700.0-6 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 the short-term allocation of 490 AUMs for big game species in the Kingston Allotment.**

#### **Rationale:**

Monitoring data indicates that Standard 3 of the Standards for Rangeland Health are not being attained at the majority of the key management areas within the Kingston Allotment; therefore, it short-term allocation will be retained until Standards for Rangeland Health are met throughout the allotment. 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 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 490 AUMs to 700 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.

### **2. Retain the short-term allocation of 354 AUMs for big game species in the Simpson Park Allotment.**

#### **Rationale:**

Monitoring data indicates that Standard 2: Riparian and Wetland Sites and Standard 3: Habitat of the Standards for Rangeland Health are not met at a majority of the key management areas and riparian/wetland zones; therefore, it has been determined that short-term allocation will be retained until Standards for Rangeland Health are met throughout the allotment. 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 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 354 AUMs to 1,046 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 PROVISIONS FOR WILD HORSE & BURRO AND WILDLIFE DECISIONS

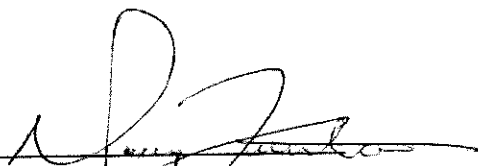
Within 30 days of receipt of this wild horse and wildlife decision, you have the right to appeal to the Board of Land Appeals, Office of the Secretary, in accordance with regulations at 43 CFR 4.4 and 43 CFR 4770.3. If an appeal is taken, you must follow the procedures outlined in the enclosed "Information 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, Kingston and Simpson Park Allotment specific objectives, Simpson Park Complex 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

cc: Kingston and Simpson Park Allotments Interested Parties List

# **Attachment 1**



Tel: (208) 499-1679  
 Fax: (208) 348-8986  
 Email: Kabe@WesternWatersheds.org  
 web site: www.WesternWatersheds.org

Working to protect and restore Western Watersheds

September 16, 2005

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

Dear Doug,

Here is a Protest by WWP of the Proposed Simpson Park Complex Rangeland Health Evaluation, Conformance Determination, EA and Proposed Multiple Use Decision/Decisions for the Kingston (Young Bros., Truckee River Ranch, LLC) and Simpson Park allotments (Silver Creek Ranch, Dry Creek Ranch, Howard and Barbara Wolf, Ken and Karen Woodland).

We are very disappointed in provisions that seek to extend livestock use by establishing new water sites on either BLM or private lands (example, EA p. 9, and even appears as a term and condition on p. 11, Kingston). You have failed to assess the many harmful impacts of such facilities, as described in our previous comments, which we incorporate by reference into this Protest. We Protest this reliance on new water haul sites (whose environmental impacts are not addressed) or other new livestock facilities, as a basis for setting a stocking rate or for livestock management in these allotments. You are setting the stage to destroy the significantly alter remaining less impacted areas of the allotment, including microbiotic crusts, and native herbaceous and shrub vegetation. We specifically requested that you evaluate large, livestock-free reference areas (such as the "eastern bench") where now you plan to introduce large numbers of livestock lured by water, with resultant serious and unassessed impacts to wildlife, cultural sites, recreational, and other uses of the public lands. Where is the Term and Condition that establishes a 20,000 acre livestock-free reference area in any allotment? Given the extreme loss of herbaceous species that has occurred on these allotments in areas that have been within 1-2 miles or so of water, by providing this additional water, and at the same time continuing high stocking on the already severely lands, BLM appears to be "mining" public lands. Livestock have destroyed sustainable and reliable forage production in many areas (as shown by the paucity of "forage" at key Areas of these very arid lands. It will take long periods centuries to even begin to recover anything reasonable on these lands, and will likely be impossible under continued stocking with livestock—especially at the high levels you are retaining.

Now, by requiring new water sites, you will be allowing the "mining" of new areas by livestock. And we very definitely mean "mining" in the sense of hard rock mining

We Protest ALL of the above-referenced management actions and analyses, and the extreme sacrifice, once again, of important values of public lands, to the livestock industry that has already so greatly harmed the Kingston and Simpson Park allotments. You have failed to balance the many competing uses on these lands, and are sacrificing native vegetation communities, and wildlife habitats and populations, as well as all other values of the public lands, to continue unsustainable levels of use, and artificially prop up grazing permit values.

We Protest BLM allowing stocking rates (as shown in the limited Actual Use info) that exceeded carrying capacity.

The abstruse "potential" carrying capacity calculation bears no relation to the level of sustainable livestock use here, and despite rampant degradation, continues grazing ABOVE the levels of actual use that have caused past degradation. See EA at 20 (Kingston: 394 AUMs greater than average actual use), and Simpson Park (535 AUMs above the average actual use for the evaluation period). We Protest this.

We Protest the failure to cut "suspended use" and "historic suspended use" AUMs.

We Protest the failure to cancel the sheep permit, or convert it to a much-reduced number of cattle. These lands are suitable bighorn sheep habitat, yet BLM refuses to act to remove domestic sheep disease vectors from them.

We Protest the failure to establish burro numbers that would result in a viable population of wild burros. While you have allocated 60 more AUMs for burros, this still has not been demonstrated to be sufficient to maintain a genetically viable herd.

We Protest the 50% upland utilization standard that you are applying. This is not being done on the basis of current science, as you know very well that level of use is too high, and will lead to continued ecological problems across the allotments. As you have continued harmful growing season, including critical growing season use on these allotments, this will NOT allow attainment of the FRH. Plus, this very high level of use will not provide sufficient residual cover required by sage grouse for nesting. This high level of use is contradicted by the level that you apply in the Carico Lake allotment.

We Protest the failure to fully assess the impacts of overlapping sheep and cattle use, and the very harmful impacts of continuing growing season use here.

We Protest BLM's continued avoidance of addressing the very serious concerns that we have raised about the role of livestock in fostering infestation and spread of invasive species. Your response to comments ducked the issue. Instead, you focus again on "roads". Well, first, which "roads" exist, or were developed, primarily to accommodate livestock permittees? Please identify these, and take steps to close them as part of this Decision process. Next, please provide evidence of having conducted a systematic survey for invasive species in areas away from roads across these allotments. This information has not been presented. BLM's continued fixation on "roads" as the cause of invasive

permanent alteration - in this case, of the vegetation community and soils on the sites to where use will be newly extended. We really had hoped for much better here.

This pattern of counting on ranchers promising the world, and stocking lands at much too high and harmful levels is shown again in the EA at 19, where the Simpson Park allotment is stocked based on the mythical "potential carrying capacity" and "changes". These are the same permittees that never acted to stop the atrocious damage to springs, seeps and wet meadows, and near-complete loss of desirable native herbaceous species from key after key area in the allotment. In addition, under the proposed decision, you further increase livestock use during the growing period, as well as during the hot season, as shown in BLM's responses to comments.

For Dry Creek, the RHA Appendix 6 calculated 311 AUMs "desired carrying capacity". Now, you are allowing 390 AUMs - and continued gross overstocking of these lands.

For Silver Creek, you calculated 1065 AUMs dec, and now claim you can stock 1336 AUMs.

For Howard Wolf, you calculated 340 AUMs dec, now you claim you can stock 427 AUMs.

For Woodland, you calculated 880 AUMs dec, now you claim 1104 AUMs.

For Young Bros., you calculated 151 AUMs, now you claim 189 AUMs.

How can you continue to reward permittees who have so damaged these lands? livestock? You should significantly reduce the permits - due to extreme lack of "forage" and large-scale damage to everything from aspen to salt desert shrub communities. Instead, you are rewarding permittees for the damage to the lands, as documented in the Assessment - by continued gross 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.

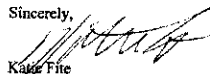
We believe it is invalid to use the ancient Use Pattern mapping from more than decade ago as the basis for some abstruse "potential" carrying capacity. That Use Pattern mapping does not reflect the large-scale depletion following 4-5 years of drought, shrub die-off, etc. on these allotment lands. Additionally, the Use pattern data may be biased towards years of exceptional precip. (1994?)

Plus, when you make your calculations, you calculate that virtually every acre is usable by livestock, and 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 1/4 mile or less of water, and many flatter areas, or lands in proximity to facilities across the allotments where livestock congregate.

species across vast areas of public lands is misleading, and dodges the serious weed problems. Plus, if you are so concerned about the effects of roads, you will not finalize a Decision based on an endless array of livestock projects and water hauling, as this decision makes reference to, but fails to sufficiently analyze the environmental effects of these projects/facilities/developments.

These, and many other concerns expressed in our Comments, remain.

Sincerely,

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

CHARLES W. PARSONS  
HC 31 BOX 9  
AUSTIN, NV 89310

September 8, 2005

BUREAU OF LAND MANAGEMENT  
BATTLE MOUNTAIN FIELD OFFICE  
50 BASTIAN ROAD  
BATTLE MOUNTAIN, NV 89820

DOUGLAS FURTADO  
ASSISTANT FIELD MANAGER  
RENEWABLE RESOURCES

NOTICE OF PROTEST TO PROPOSED MULTIPLE USE DECISION  
SIMPSON PARK ALLOTMENTS  
REFERENCE FILE # 4160.1

In response to your letter dated September 2, 2005 and documents accompanying  
this letter.

The decision establishing grazing use on the Simpson Park Allotment is in violation of  
my water and forage rights on the allotment and cannot be implemented as written.  
These water rights are available for your inspection at Nevada Department of Water  
Resources. This notice of protest is supported by these vested and appropriated water  
rights.

Any interference, interruption or allocation of these right by any other entity without my  
agreement is a violation of my property rights and must be considered as an illegal taking  
of these rights.

If you have any questions contact me at 775-964-2548. Thank You.

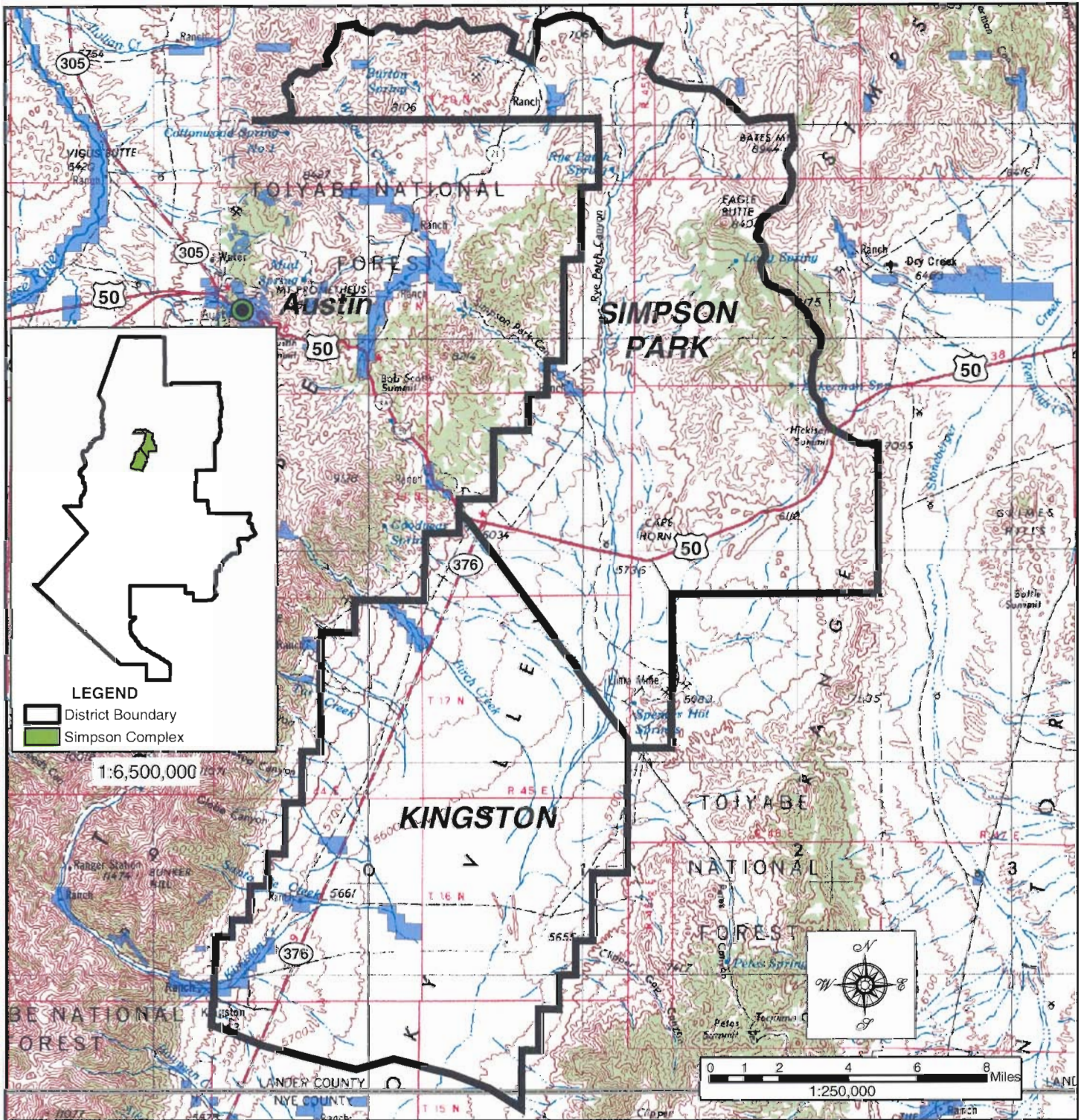
Sincerely,

  
Charles W. Parsons

# Appendix 1



**BATTLE MOUNTAIN FIELD OFFICE  
 SIMPSON PARK and KINGSTON ALLOTMENTS**



**LEGEND**

-  Allotment Boundary
-  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."

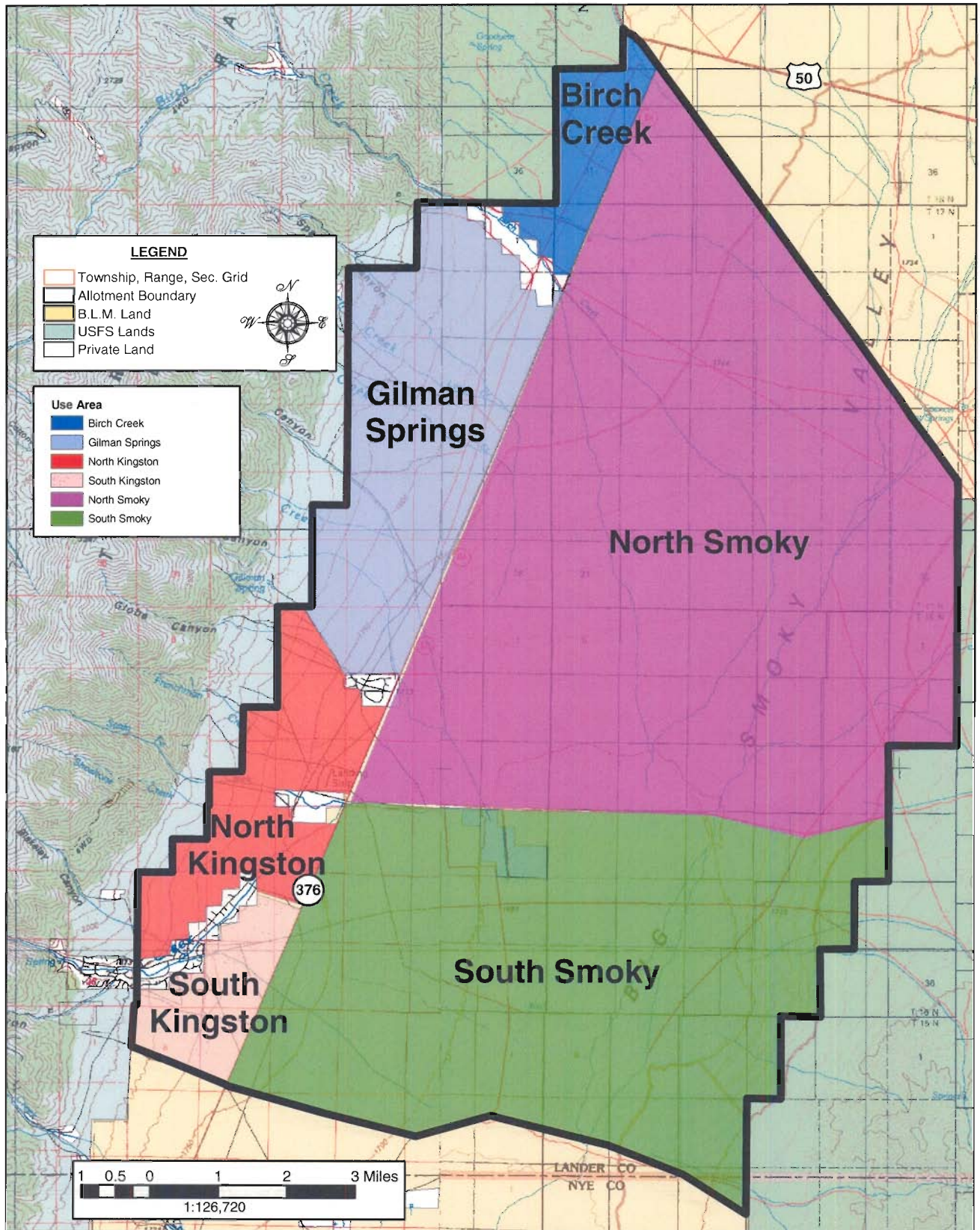
Data is published in the North American Datum 1983 (NAD 83), UTM, Zone 11, meters, May 2005, BMFO BLM





# KINGSTON ALLOTMENT PROPOSED USE AREAS

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
Bureau of Land Management  
Battle Mountain Field Office

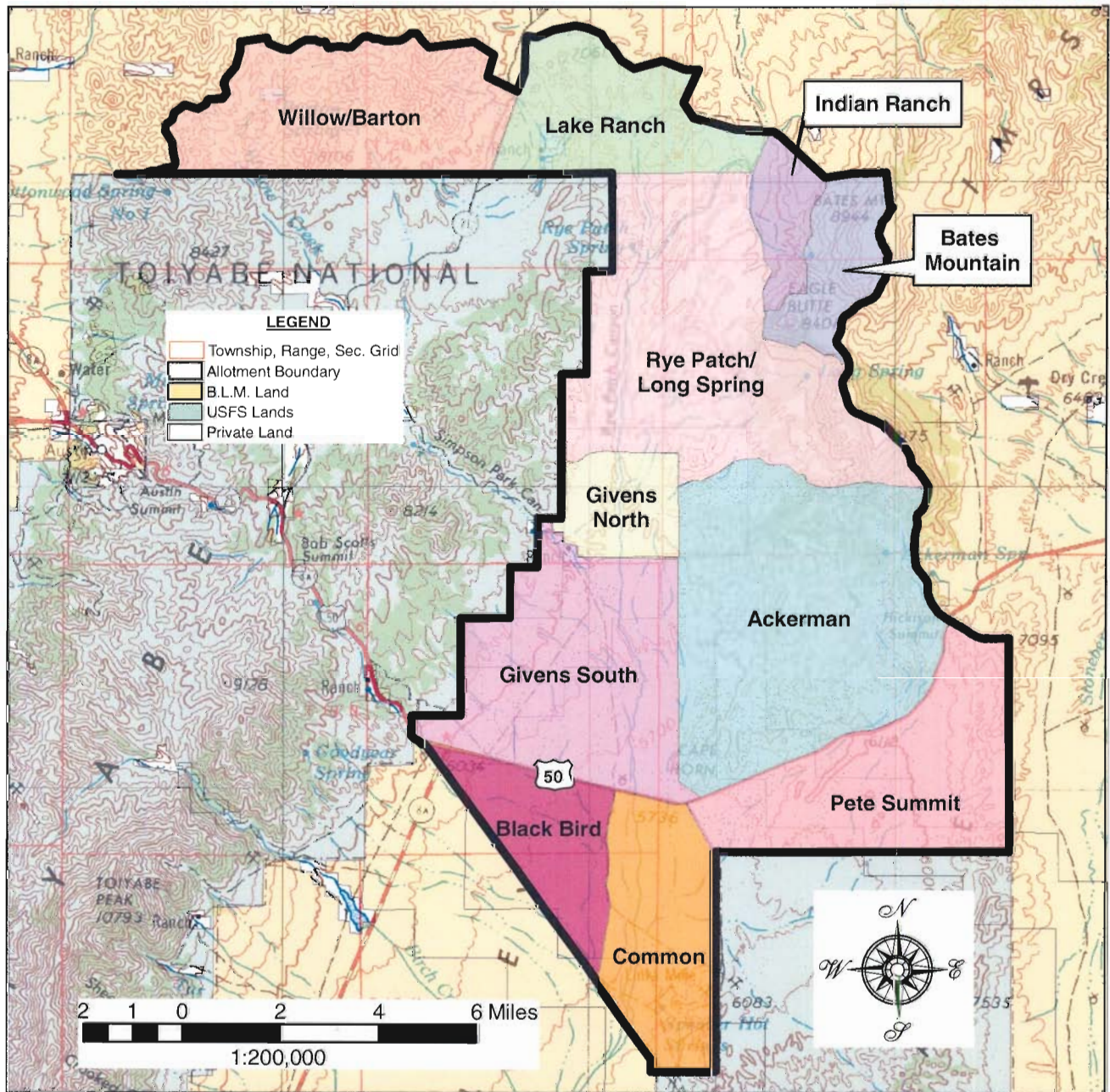


**"No Warranty is made by the Bureau of Land Management as to the Accuracy, Reliability, or Completeness of these data for individual use or aggregate use with other Data."**










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



## SIMPSON PARK ALLOTMENT PROPOSED USE AREAS



### LEGEND

- |   |                        |
|---|------------------------|
|  | Simpson Park Allotment |
| <b>Use Areas</b>  |                        |
|  | Ackerman               |
|  | Bates Mountain         |
|  | Black Bird Use Area    |
|  | Common Use Area        |
|  | Givens North           |
|  | Givens South           |
|  | Indian Ranch           |
|  | Lake Ranch             |
|  | Pete Summit Use Area   |
|  | Rye Patch/Long Spring  |
|  | Willow/Barton          |

**"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 September, 2005 BMFO BLM

**Protest Points from Charles W. Parsons received September 12, 2005**

**Protest Point 1: The decision establishing grazing use on the Simpson Park Allotment is in violation of my water and forage rights on the allotment and cannot be implemented as written.**

**Response 1:** The management actions for the Simpson Park Allotment specified in the proposed multiple use decision (PMUD) issued on September 2, 2005, are being implemented in accordance with the federal grazing regulations, the Taylor Grazing Act of 1934, the Federal Land Policy and Management Act of 1976 and the National Environmental Policy Act of 1969. It appears that your protest of the decision is based on the belief that since you possess state water rights, you also possess forage rights on public land. The courts have determined that a state water right does not confer an attendant right to graze cattle on federal land. The Ninth Circuit has long held that the ownership of a water right on the public lands does not confer any right to use those public lands for any other purpose, particularly grazing. Hunter v. U.S., 388 F.2d 148, 151 (9<sup>th</sup> Cir. 1967). The Tenth Circuit has also observed that "virtually every attempt to expand the reach of the (1866) Mining Act to include federal recognition of private property rights in federal land has been soundly rejected." Diamond Bar Cattle Co. v. United States, 168 F.3d 1209, 1215 (10<sup>th</sup> Cir. 1999), relying on Hunter and Gardner v. Stager, 892 F.Supp 1301, 1302 (D.Nev. 1955), *aff'd* 103 F.3d 866 (9<sup>th</sup> Cir. 1996). These decisions show that the courts have made it clear that Federal law does not allow anyone to claim any federal grazing right based on ownership of state water rights.

As this pertains to your claim that you possess forage rights in the Simpson Park Allotment and your assertion that the PMUD violates these rights, the Supreme Court in Light v. United States, explained as it rejected a claim to grazing rights:

And so, without passing a statute, or taking any affirmative action on the subject, the United States suffered its public domain to be used for such [grazing] purposes. There thus grew up a sort of implied license that these lands, thus left open, might be used so long as the Government did not cancel its tacit consent. Buford v. Houtz, 133 U.S. 326 220 U.S. 523, 535 (1911).

As the Supreme Court anticipated, the Government cancelled such tacit consent when Congress passed the Taylor Grazing Act in 1934. Under the Taylor Grazing Act you have a preference for a grazing permit, which is based on your ownership of base property. While BLM may regulate your grazing use on the public lands, we do not impinge on your private water rights. The Taylor Grazing Act and the Federal Land Policy and Management Act make it clear that permits do not provide the permittee with any property interest in the public land.

More specifically in regards to your protest which stated that the proposed decision violates your water rights, the BLM cannot nor do we intend to deny you access to your

water rights. The proposed management actions establish use areas within the allotment to among other things, provide for the orderly administration of the range and to ensure the attainment of the Northeastern Resource Advisory Counsel Standards and Guidelines. This is required given the fact that numerous operators including yourself are permitted to graze within the allotment. If the grazing system in conjunction with the establishment of the specified use areas for each permittee results in you not being authorized to use one or more areas within the allotment, several options are available to you. First, you can pursue engaging BLM in a cooperative range improvement agreement or right of way to construct a pipeline from a water source where you have an appropriated or vested water right and divert it to an area within the allotment where you will be authorized to graze. Secondly, you can apply to the state water engineer to change your beneficial use if one exists. You may also elect to sell your water to another operator that is also permitted to graze within the allotment. In Hage v. United States, The Court ruled that “government cannot deny...access to...vested water rights without providing a way...to divert that water to another beneficial use if one exists.”

**Protest Point 2: Any interference, interruption or allocation of these rights by any other entity without my agreement is a violation of my property rights and must be considered as an illegal taking of these rights.**

**Response 2:** See Response #1 in regards to your perceived right to graze public land. In Alves v. United States, 133 F.3d 1454, 1457 (Fed. Cir. 1998), the court clearly held that grazing permits and grazing preference are not compensable property rights. In response to your protest which eludes to a potential takings, I encourage you to become familiar with the outcome of several recent takings cases before the U.S. Court of Federal Claims. Most recently, Judge Wiese ruled to dismiss a takings claim filed by Colvin Cattle Co. in August 2003. The basis for Colvin’s takings claim was similar to the allegations you provided in your comments/protest. In Colvin, the plaintiff sued for the alleged taking of its vested water rights and ranching operations as a result of the government’s denial of an application to graze cattle of federal land.

Colvin argued that the “taking and use of the water constituted an appropriation vesting in his predecessors a water right, together with an appurtenant right of way to graze cattle, which rights the general government was bound to honor under the provisions of the Mining Act of 1866.” The Colvin Court referred to the Ninth and Tenth Circuits, which have expressly rejected the assertion that a right to graze on federal lands is attendant to a state water right. In addition to the alleged taking of its water rights, Colvin also alleged the taking of its ranch under the theory that cattle ranching is the only economically viable use for the property—a use made untenable by the loss of its watering and grazing rights. The Colvin Court concluded “We do not believe, however, that any decrease in the value of the plaintiff’s ranch due to a change in plaintiff’s use of the Montezuma Allotment results in a compensable taking....This is particularly true where, as here, plaintiff is found to have no compensable grazing right and has made no showing that it has been deprived of any water right.”

In 2002, Judge Loren Smith rendered an order in the Hage vs. United States takings litigation. Judge Smith concluded that pursuant to the Taylor Grazing Act, grazing permits (which include terms and conditions for such use) are licenses to use the land rather than an irrevocable right of the permit holder. The Court stated further that, while a license has value, it is not a compensable property right. In the 2002 order, the Court further denied the Hage's claims to a surface estate for grazing on the public land. In Colvin, Judge Wiese did not determine that the plaintiff had any forage rights associated with their vested water rights or any areas claimed to be ditches under the 1866 Act.

### **Protest Points from Western Watersheds Project received September 19, 2005**

**Protest Point 1:** We are very disappointed in provisions that seek to extend livestock use by establishing new water sites on either BLM or private lands (example, EA p.9, and even appears as a term and condition on p. 11, Kingston). You have failed to assess the many harmful impacts of such facilities, as described in our previous comments, which we incorporate by reference into this Protest.

**Response 1:** Page 9 of the EA that was issued to the public on September 2, 2005 discussed the Terms and Conditions associated with the proposed action for the Simpson Park Allotment and page 11 discussed the "No Grazing Alternative" and "Increase in Livestock Grazing Alternative", which were considered but Eliminated from Detailed Analysis. However, the establishment of new water sites on public lands was not authorized under the Proposed Multiple Use Decision (PMUD). We also addressed this comment in the Conformance Determination (Comment 141, page 40). Although water hauling has occurred within the Simpson Park Allotment, it has been limited to one site for cattle use in an area where water is limited to ephemeral events. Rangeland conditions were monitored at a key management area approximately 1 mile from the water haul site (Refer to pages 113-116 of the Simpson Park Complex Evaluation and Rangeland Health Assessment).

**Protest Point 2:** We Protest this reliance on new water haul sites (whose environmental impacts are not addressed) or other new livestock facilities, as a basis for setting a stocking rate or for livestock management in these allotments.

**Response 2:** Under the proposed management actions of the Simpson Park Complex Evaluation and Rangeland Health Assessment (SPC Evaluation), a proposed management action was to consider the establishment of water developments such as pipelines or wells in the Kingston and Simpson Park Allotments (pages 230 and 248). The development of pipelines or wells or the establishment of water haul facilities was not proposed under the decision, as stated in Response 1. Although the development of such facilities would be considered in the future, these projects would be subject to site specific NEPA Analysis and authorized Cooperative Agreement or Range Improvement Permit.

Water haul sites were not relied upon for setting stocking rates for the Kingston and Simpson Park Allotments. As stated in the rationale for the carrying capacity determined

for the Kingston Allotment, areas of light utilization along the “western bench” was considered to be suitable for livestock grazing and the availability of watering facilities on private land. It was further determined to utilize suitable acres of light use on the western bench due to the permittees commitment to increase distribution of livestock throughout the allotment by developing watering facilities on private land in the north-eastern portion of the allotment. Acreage around these new facilities was not utilized in the carrying capacity calculation. However, in order to further ensure that livestock distribution would be enhanced, the establishment of these watering facilities on private land was proposed to be a part of the Terms and Conditions of each permittee’s 10-year permit. As for the Simpson Park Allotment, the potential weighted average carrying capacity takes into account the permittees commitment to improved livestock management. As part of this commitment, the Battle Mountain Field Office has identified season of use for use areas and pastures, elimination of hot season grazing throughout the majority of the riparian areas throughout the allotment, and reduced use during the critical growing season of upland vegetative species.

**Protest Point 3:** We Protest ALL of the above-referenced management actions and analyses, and the extreme sacrifice, once again, of important values of public lands, to the livestock industry that has already so greatly harmed the Kingston and Simpson Park Allotments. You have failed to balance the many competing uses on these lands, and are sacrificing native vegetation communities, and wildlife habitat and populations, as well as all other values of the public lands, to continue unsustainable levels of use, and artificially prop up grazing values.

**Response 3:** The Battle Mountain Field Office disagrees (Refer to Response 4, 5, 8 and 9). Again, the BMFO has provided a range of AUMs to each permittee. The carrying capacity takes into account the permittees’ commitment to improved livestock management. Issues with distribution of livestock throughout these allotments contributed to the non-attainment of the Standards for Rangeland Health. The proposed action for the Simpson Park Allotment involves intensive grazing management and stringent Terms and Conditions that would address the distribution issues. Refer to Simpson Park Complex Environmental Assessment (NV062-EA05-069), Proposed Multiple Use Decision, and Finding of No Significant Impact (FONSI). Under the proposed decision and responses to comments in the Simpson Park Conformance Determination, the BMFO discussed the reduction or complete elimination of grazing during the critical growth period for key upland vegetative species and the elimination of hot season grazing throughout the majority of the riparian areas within the Simpson Park Allotment. Under the proposed action, grazing would be deferred until after the critical growth season for the Kingston Allotment in its entirety and will primarily occur during the dormant period for key perennial vegetative species. Terms and Conditions also include utilization standards that are appropriate for use during the periods of active growth that allow key vegetative species to complete the critical growth period, set seed, and store carbohydrates that lead to improvements in soil site stability, hydrologic function, and the integrity of the biotic community. It has been determined in the Conformance Determination that the proposed management actions will ensure significant progress towards the attainment of the Standards for Rangeland Health.

An additional alternative was analyzed in the Simpson Park Complex Environmental Assessment (NV062-EA05-069), which analyzed the adoption of the "Desired Carrying Capacity" as the stocking rate for the Kingston and Simpson Park Allotments in conjunction with the Terms and Conditions described under the Proposed Action. It was determined that both the Proposed Action and the Alternative would result in the attainment of the Standards for Rangeland Health. Therefore, the Proposed Action was incorporated into the Final Multiple Use Decision.

Non-grazed reference areas are proposed to be built within the Kingston and Simpson Park Allotments. However, it is not expected that the construction of these sites will be at a size of 20,000 acres or greater and would require site-specific NEPA analysis. The BLM considered the establishment of the Bates Mountain Use Area as you requested in your comments to the Simpson Park Evaluation and Rangeland Health Assessment but eliminated it from further analysis (Refer to the Simpson Park Environmental Assessment #NV062-EA05-069). In addition, refer to Response 1 & 2.

Current production, line intercept, frequency, and riparian data indicate the effects of a prolonged period of drought. Use Pattern Maps were not biased towards year of exceptional precipitation. Data collected for this evaluation was collected in years where precipitation rates would be considered normal for the area. Use Pattern Mapping was collected in 1991, 1993, and 1994 for the Simpson Park Allotment. Available precipitation data for the Smoky Valley weather station indicates that 1991 and 1994 were normal years. Available precipitation data for the Austin Weather Station indicates that 1991 and 1994 were also normal years for the area. The Beowawe U of N weather station indicated that the precipitation rates for the years 1991, 1993, and 1994 were above normal for the 15-year period. For the periods of March through May, precipitation rates were below normal in 1993 for the Smoky Valley and in 1991 and 1993 for the Austin weather stations. Refer to pages 39-40 and 99-100 of the SPC Evaluation.

**Protest Point 4:** We Protest BLM allowing stocking rates (as shown in the limited Actual Use info) that exceeded carrying capacity.

**Response 4:** The Battle Mountain Field Office has provided a range of AUMs to each permittee. The carrying capacities proposed took into account each permittees' commitment to improve livestock management. Refer to the Simpson Park Complex Environmental Assessment (NV-062-EA05-069) and the Finding of No Significant Impact (FONSI). It is expected that significant progress towards that attainment of the Standards for Rangeland Health would occur the maintenance of the current permitted AUMs for the Kingston Allotment, deferment of grazing on the allotment until after the critical growth season, and the reallocation of burro AUMs for the Kingston Allotment. With the reduction of livestock and wild horse and burro AUMs and the implementation of intensive grazing management, which includes limited use or complete elimination of grazing during the critical growth season for portions of the allotment, the elimination of hot season grazing throughout the majority of the riparian areas throughout the allotment,

and proper use levels to allow perennial vegetative species to set seed, complete the critical growth period, and store carbohydrates as indicated by the most recent science. Furthermore, all permits that are issued to the permittees on these allotments will consist of stringent Terms and Conditions. In addition, refer to Response 3.

**Protest Point 5:** The abstruse “potential” carrying capacity calculation bears no relation to the level of sustainable livestock use here, and despite rampant degradation, continues grazing ABOVE the levels of actual use that have caused past degradation. See EA at 20 (Kingston: 394 AUMs greater than average actual use), and Simpson Park (535 AUMs above the average actual use for the evaluation period). We Protest this.

**Response 5:** Refer to Response 4. Furthermore, proper seasons of use for many of the vegetative communities that occur within these allotments, grazing management plans and, use areas had not been established prior to the Proposed Management Actions of the SPC Evaluation and PMUD. Grazing has occurred throughout the period of active growth for salt-desert shrub communities throughout the Kingston Allotment (Refer to page 14 of the SPC Evaluation). Grazing was permitted to occur throughout the critical growth season for upland vegetative communities and throughout the hot season for sensitive riparian areas throughout the entire Simpson Park Allotment. With the implementation of the proposed carrying capacity coupled with very intensive grazing management that includes the requirement for permittees to remove livestock once annual monitoring standards are met, it is again expected that significant progress towards the attainment of the Standards for Rangeland Health, SERA RMP objectives, and allotment specific objectives will be made.

**Protest Point 6:** We Protest the Failure to cut “suspended use” and “historic suspended” AUMs.

**Response 6:** The Terms and Conditions of the 10-year permits will be amended under the Simpson Park Complex Environmental Assessment (NV062-EA05-069) and Final Multiple Use Decision.

**Protest Point 7:** We Protest the failure to cancel the sheep permit, or convert it to much-reduced number of cattle. These lands are suitable bighorn habitat, yet BLM refuses to act to remove domestic sheep disease vectors from them. Furthermore, the SERA LUP did not identify these areas as candidates for big horn sheep re-introduction.

**Response 7:** The permitted sheep AUMs have been reduced and the season of use has been limited under the PMUD. Sheep are actively trailed through the Willow/Barton use area as indicated in the Simpson Park Complex Environmental Assessment (NV062-EA05-069). Furthermore, BLM considered and eliminated the reintroduction of big horn sheep in the Simpson Park and Toiyabe Ranges due to the lack of spatial separation from adjacent allotments that permit domestic sheep.



**Protest Point 8:** We Protest the failure to establish burro numbers that would result in a viable population of wild burros. While you have allocated 60 more AUMs for burros, this still have not been demonstrated to be sufficient to maintain a genetically viable herd.

**Response 8:** The proposed AML range for both allotments, which totals 16-45 wild burros (5-15 wild burros for Simpson Park and 11-30 wild burros for Kingston) allows for natural population increases and would provide more opportunity to address genetic viability concerns. Appropriate Management Levels are set based on the most limiting habitat factor (e.g. available water, suitable forage, living space and cover) in the context of multiple use. The BLM considered the size of the HMA and limiting factors such as available water on the BLM managed portion of the HMA in the establishment of AML. The AML range set in this evaluation does not include the portion administered by the U.S. Forest Service. BLM also recognizes that genetic concerns exist and has quantified that a genetic baseline study would be conducted prior to any population management actions. AML ranges may be modified in the future through continued monitoring and genetic baseline studies as determined appropriate (Refer to the Wild Horse and Burro section of the Simpson Park Complex Environmental Assessment NV062-EA05-069).

**Protest Point 9:** We Protest the 50% upland utilization standard that you are applying. This is not being done on the basis of current science, as you know very well that level of use is too high, and will lead to continued ecological problems across the allotments. As you have continued harmful growing season, including critical growing season use on these allotments, this will NOT allow attainment of the FRH. Plus, this very high level of use will not provide sufficient residual cover required by sage grouse for nesting. This high level of use is contradicted by the level that you apply in the Carico Lake Allotment.

**Response 9:** The carrying capacity for Kingston Allotment incorporated the 50% upland utilization standard for the allotment as a whole due to changing the authorized period to defer use for the entire allotment until after the critical growth season. The majority of the use would occur during the dormant season for many of the key perennial vegetative species that occur on the allotment. Therefore, key perennial vegetative species would be allowed to set seed, complete the critical growth period, and store carbohydrates which would lead to improved soil site stability, hydrologic function, and the integrity of the biologic community (Refer to pages 225-226 of the SPC Evaluation and the Simpson Park Complex EA #NV062-EA05-069).

The upland utilization standard for the Simpson Park Allotment is 40% and was utilized as the desired utilization in the carrying capacity calculation (Refer to page 7 of the SPC Environmental Assessment #NV062-EA05-069, 22-44 of the PMUD, and Attachment 1 of the SPC Conformance Determination).

**Protest Point 10:** We Protest the failure to fully assess the impacts of overlapping sheep and cattle use, and the very harmful impacts of continuing growing season use here.

**Response 10:** The carrying capacity analysis (Appendix 6 of the SPC Evaluation and Attachment 1 of the Simpson Park Complex Conformance Determination) incorporated

all livestock use (cattle, sheep, and domestic horses) and wild horse and burro use. 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 use of sheep and cattle. The grazing management system identified season of use, use areas, proper utilization levels, etc., in these areas where cattle and sheep overlap. We reexamined our analysis of overlapping use by cattle in the EA based on comments/protests in order to ensure that BLM takes a hard look at the affects of the proposed action and alternatives. Refer to the Simpson Park Complex Environmental Assessment (NV-062-EA05-069).

**Protest Point 11:** We Protest BLM's continued avoidance of addressing the very serious concerns that we have raised about the role of livestock in fostering infestation and spread of invasive species. Your response to comments ducked the issue. Instead, you focus again on "roads". Well, first, which "roads" exist, or were developed, primarily to accommodate livestock permittees? Please identify these, and take steps to close them as part of this Decision process. Next please provide evidence of having conducted a systematic survey for invasive species in areas away from roads across these allotments. This information has not been presented. BLM's continued fixation on "roads" as the cause of invasive species across vast areas of public lands is misleading, and dodges the serious weed problems. Plus, if you are so concerned about the effects of roads, you will not finalize a Decision based on an endless array of livestock projects and water hauling, as this decision makes reference to, but fails to sufficiently analyze the environmental effects of these projects/facilities/developments.

**Response 11:** Refer to the Simpson Park Complex EA (NV-062-EA05-69). BLM has not avoided addressing serious concerns about the role of livestock in fostering infestation and spread of invasive species. We reexamined our analysis of invasive species in the EA based on comments/protests in order to ensure that BLM takes a hard look at the affects of the proposed action and alternatives.

In response to your comments regarding the role of livestock in fostering infestation and spread of invasive species, we addressed that through the proposed management actions, improve upland and riparian conditions are expected to occur. By improving conditions in these areas, niches for weeds to establish and proliferate in are then reduced. Furthermore, we stated that monitoring data will continue to be collected to determine changes regarding the presence of exotic or invasive species over time. Inventory of noxious weeds on allotment wide basis will continue to occur. The Simpson Park Complex EA #NV062-EA05-069 has recognized that livestock have contributed to the spread of invasive, non-native species; however, it was also recognized that other factors such as maintenance of county roads has harbored the spread of these species. At this time, these are undesignated lands and are open for vehicles. Any future closer of roads would be addressed in the RMP.

The SPC Evaluation discussed invasive and/or noxious weeds that have been inventoried and/or treated within the Kingston and Simpson Park Allotments. Furthermore, key management area data describes all species, including invasive and noxious species that

occurred at or near the sites (i.e. tamarisk, perennial pepperweed, and hoary cress in near vicinity of K7, page 79-82 of the SPC Evaluation). Weed inventories were conducted at watering facilities for livestock and along riparian areas throughout the Complex. To provide a systematic approach to weed inventory, the Battle Mountain Field Office weed inventory protocol consists of a three-tier protocol. In tier one of the protocol, all roads, two-tracks, by-ways, utility corridors, improvements, land status boundaries, areas of mining or exploration activity, stabilization and rehabilitation projects, wildland fire locations, recreational sites, all known seeps, springs, ephemeral and perennial streams, riparian areas, irrigation systems, stock ponds and wells, and wetlands, and any manmade or naturally disturbed areas.

Marie Jeanne Ansolabehere  
HC 61 Box 61235  
Austin, NV 89310

Jim Baumann  
Simpson Creek Ranch Inc  
P.O. Box 308  
Eureka, NV 89316

Kenneth Buckingham  
Box 10  
Paradise Valley, NV 89426

Randy Buffington  
P.O. Box 209  
Eureka, NV 89316

Steven Carter  
Carter Cattle Co.  
P.O. Box 27  
Lund, NV 89317

Ken & Russell Conley  
University Nevada Reno  
HC 66 Box 76  
Beowawe, NV 89821

Ken Conley  
P.O. Box 111  
Eureka, NV 89316

Tom and Volina Connolly  
McClusky Creek, HC 66-60  
Crescent Valley, NV 89821

Peter J. Damele  
Dry Creek Ranch  
P.O. Box 104  
Eureka, NV 89316

District Ranger  
USFS Austin Ranger Dist.  
P.O. Box 130  
Austin, NV 89310

Jim Etcheverry  
Eureka Livestock Co.  
16249 Winfield Ave.  
Bakersfield, CA 93312

Jim Etcheverry  
Eureka Livestock Co  
HC 62 Box 62540  
Eureka, NV 89316

Eureka Co. Natural Res. Dept.  
P.O. Box 682  
Eureka, NV 89316

Eureka County Commissioners  
Eureka County  
P.O. Box 677  
Eureka, NV 89316

Henry Filippini Jr.  
Filippini Ranching Co.  
HC-61, Box 70  
Battle Mountain, NV 89820

Katie Fite, WWP Biodiversity Director  
Western Watersheds Project  
P.O. Box 2863  
Boise, ID 83701

Steve Foree, Supervising Habitat Biologist  
Nevada Division of Wildlife  
60 Youth Center Road  
Elko, NV 89801

Art Gale  
HC 62 Box 176  
Eureka, NV 89316

Jim & Ida Gallagher  
P.O. Box 246  
Austin, NV 89310

William J. Gandolfo  
HC 61 Box 6165, Reese River  
Austin, NV 89310

Bill Hall  
Ellision Ranching Co.  
HC 32 Box 240  
Tuscarora, NV 89834

Paul Inchauspe  
Silver Creek Ranch Inc.  
HC 61 Box 61230  
Austin, NV 89310

Lander County Commisioners  
Lander County  
315 South Humboldt St  
Battle Mountain, NV 89820

Gary McCuin, Agriculturist II, Range Specialist  
Nevada Department of Agriculture  
251 Jeanell Drive, Suite 3  
Carson City, NV 89703

Jeff and Leslie Perkins  
2468 West 600 South  
Logan, UT 84321

Charles N. Saulisberry  
Certified Consultant  
207 Doolittle Ct.  
Dayton, NV 89403-8812

Carl Slagowski  
HC 65, Box 30  
Carlin, NV 89822

David Stine  
P O Box 783  
Eureka, NV 89316

U.S. Fish and Wildlife Service  
Reno Fish and Wildlife Office  
1340 Financial Blvd., Ste. 234  
Reno, NV 89502-7147

Wild Horse Commission  
885 E. Lake Boulevard  
Carson City, NV 89704

Mark Hyde  
Truckee River Ranch, LLC  
2258 Reno Hwy, Suite B  
Fallon, NV 89046

Jerry Lancaster  
P.O. Box 288  
Austin, NV 89310

Laurel Marshall  
HC 62, Box 62114  
Eureka, NV 89316

Charles W. Parsons  
Parsons Ranch Co.  
HC 31, Box 9  
Austin, NV 89310

Mike Podborny  
NV Div. of Wildlife, Eureka Field Office  
P.O. Box 592  
Eureka, NV 89316-0592

Ryan Shane  
Resource Concepts Inc.  
340 N. Minnesota St.  
Carson City, NV 89703

Michael Stafford  
Budget and Planning Div., Nevada State Clearinghouse  
209 East Musser St., Room 200  
Carson City, NV 89701-4298

Jerry Todd  
P.O. Box 73  
Eureka, NV 89316

Barbara Warner  
1955 Tatum Lane  
Lebanon, KY 40033

Howard Wolf  
5595 Tarzyn Road  
Fallon, NV 89406

Ken and Karen Woodland  
HC 61, Box 175  
Battle Mountain, NV 89820

Ralph Young  
Young Brothers  
HC 65 Box A  
Austin, NV 89310-9107

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.

\* \* \* \* \*