



United States Department of the Interior

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In Reply Refer To:

DEPARTMENT OF ADMINISTRATIVE SERVICES
OFFICE OF THE DIRECTOR
BUDGET AND PLANNING DIVISION
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SEP 27 2005

**FINAL MULTIPLE USE DECISION
FISH LAKE VALLEY COMPLEX
(Silver Peak, White Wolf, Ice House, Fish Lake Valley, Red Spring Allotments)**

INTRODUCTION:

This is the Final decision based on the findings of the Fish Lake Valley Rangeland Health Assessment and accompanying Environmental Assessment (NV065-2005-037) which analyzed monitoring data collected within the Fish Lake Valley Complex of Allotments. Monitoring data was collected to determine: current livestock management practices; grazing systems; existing wild horse and burro populations; in the Silver Peak and Fish Lake Valley Herd Management Areas (HMA) are meeting the Land Use Plan (LUP) Objectives, and Standards and Guidelines for Mojave-Southern Great Basin Resource Advisory Council (RAC). A thirty-day comment period was provided for the interested public to voice concerns regarding the evaluation. In addition, a fifteen-day protest period was allowed for review and protest of the Proposed Decision issued on September 1, 2005.

A protest of the PMUD was received on September 12, 2005 from Katie Fite of the Western Watersheds Project. The protest included approximately 42 protest points that were carefully considered prior to the preparation of the Final Multiple Use Decision (See Attachment 1).

After careful consideration of the protest to the Fish Lake Valley Proposed Multiple Use Decision, no changes will be made to the Final Multiple Use Decision. Also enclosed is the Finding of No Significant Impact (FONSI) (Attachment 2) for Environmental Assessment number NV065-2005-037.

Therefore, it is my decision to implement the management actions identified below for livestock, wild horse and wildlife management in the Fish Lake Valley Complex. This FMUD is also the decision record for EA number NV065-2005-037.

FINAL LIVESTOCK GRAZING MANAGEMENT DECISION

Selected Management Actions for Livestock Grazing Management within the Silver Peak, White Wolf, Ice House, Fish Lake Valley and Red Spring Allotments and Emigrant Peak and Columbus Salt Marsh closed areas.

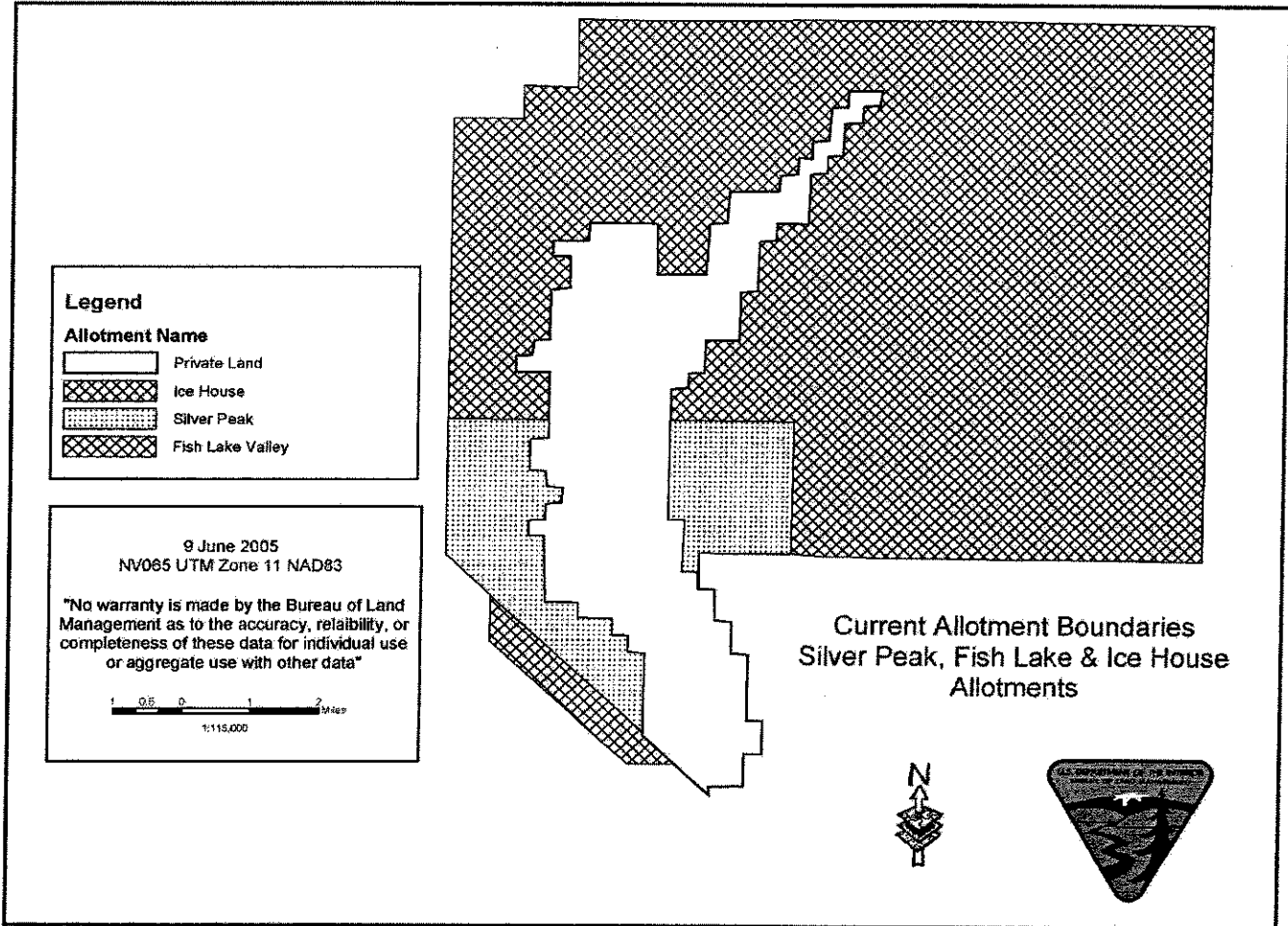
Through the allotment evaluation process it was determined that the following management actions are appropriate to ensure significant progress towards the attainment of multiple use objectives and Standards for Rangeland Health approved by the Mojave-Southern Great Basin Resource Advisory Council. These management actions will become effective at the conclusion of the appeal period for this decision.

A. Establish new allotment boundaries for the Ice House, Silver Peak and Fish Lake Valley Allotments. (See Conformance Determination, Selected Management Action 2.)

New Allotment boundaries for the Ice House, Silver Peak and Fish Lake Valley Allotments will be established in order to simplify administration. A small portion of the Silver Peak Allotment is isolated from the main portion of the allotment. Ice House is split by private land.

Ice House Allotment and a small isolated portion of the Silver Peak Allotment are adjacent to each other. Both of these allotments are divided by private land. See Map 2 below. This action will combine the portions of both allotments west of the highway into the Fish Lake Valley Allotment and combine the portions east of the highway and east of private land into the Ice House Allotment. See Map 3 below. The chart in Table 1 shows the changes in acreage that will result from this proposal to each allotment.

Map 2 Current Allotment Boundaries in the Tonopah RMP.



Map 3 Proposed Allotment Boundary Adjustments.

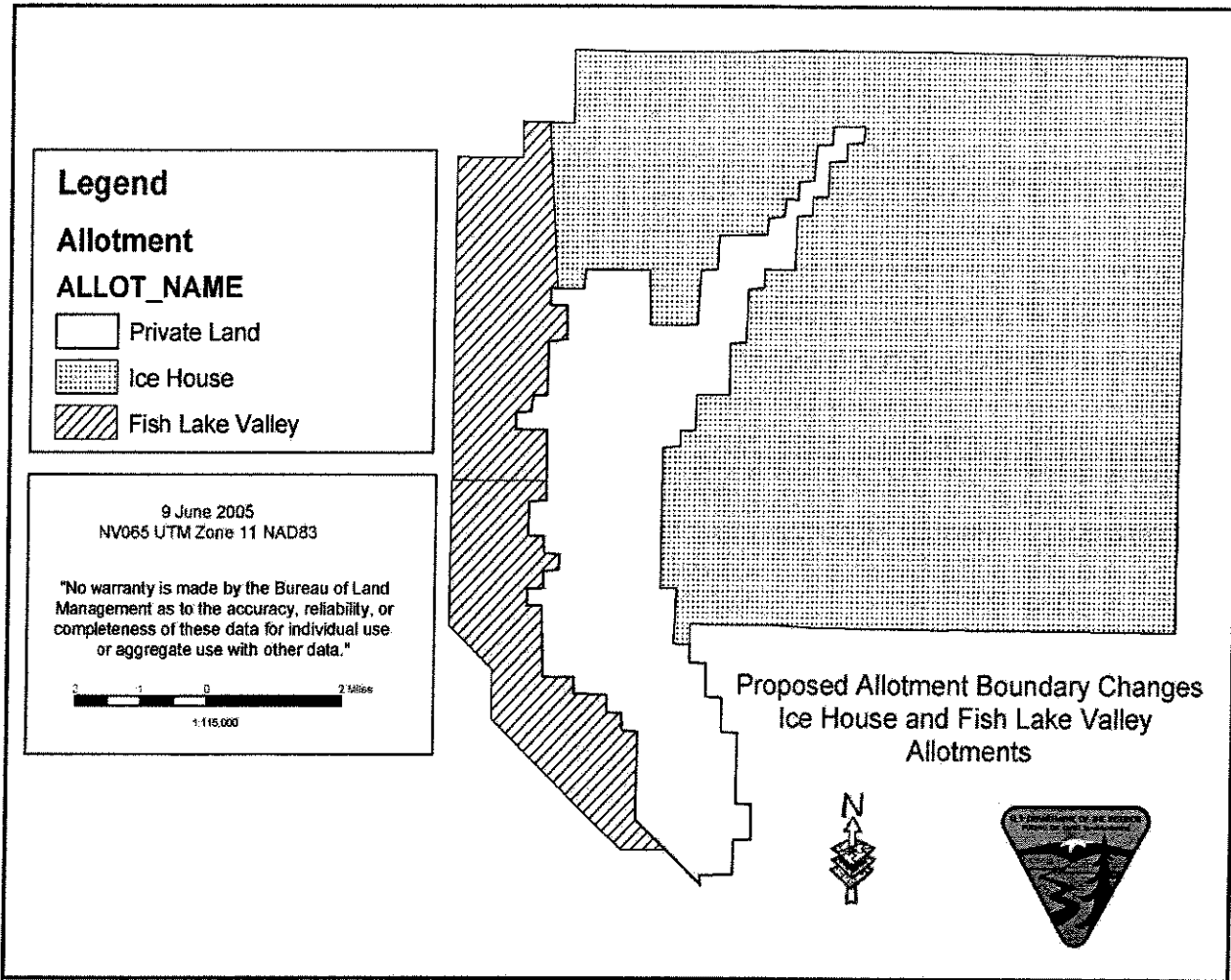


Table 1 Acreages for Ice House and Fish Lake Valley Allotments, Current and Proposed

Allotment	Current Acreage	Proposed Acreage
Ice House	43,143	41,265
Silver Peak isolated portion	6,771	0
Fish Lake Valley	1,482	10,131

See 5 below for changes in the AUMs for Ice House, Silver Peak and Fish Lake Valley Allotments.

Rationale:

These allotment boundary changes are an administrative change. There is no change in total acres for these three allotments combined.

B. Allocation of AUMs and New Livestock Preferences for Silver Peak, White Wolf, Ice House, Fish Lake Valley, Red Spring Allotments. (See Conformance Determination, Selected Management Action 3.)

No adjustments in AUMs will be made on the Red Spring Allotment. The following adjustments will be made on Silver Peak, Ice House, Fish Lake Valley and White Wolf Allotments according to each general vegetation type. These allotments are all leased by White Mountain Ranch. The AUMs not allocated for in this proposal will be converted to suspended use. See Appendix C, Conformance Determination Standard 2a.

Table 2 New Allocations for White Mountain Ranch

Allotment	Vegetation Type	Season of Use Start	Season of Use End	Active AUMs
Silver Peak	Sagebrush	Yearlong		851
	SDS Valley*	Yearlong		2066
	Sandy Soils	Yearlong		244
Ice House	Sagebrush	Yearlong		78
	Saline & Sodic	July 1	September 15	37
Fish Lake Valley	SDS Valley*	Yearlong		142
White Wolf	All	September 15	February 28	600

* Salt Desert Shrub Valley

GIS software was used to overlay the soil survey ecological sites onto the individual allotments. Acreages for each area were then calculated in GIS. A field check was conducted by BLM staff in March, 2005 to verify these maps (see Appendix D pp.37-44).

White Wolf Allotment

An evaluation and subsequent decision in 1995 reduced preference on White Wolf from 1088 AUMs to 697 AUMs. Subsequent livestock management has not negatively impacted the vegetation or any other resources. A small reduction in AUMs is necessary because the water table has dropped since the 1995 evaluation. Forage, once present on saline meadows and sodic soils, is now gone (see Appendix A, p.65). This reduction was figured based on the 85 acre/AUM stocking rate in the White Wolf Allotment. There are 8303 acres of saline meadow and sodic soil, allocated at 85 acres/AUM which equals a 97 AUM reduction (see Appendix D p.38). The new stocking rate for White Wolf Allotment will be 600 AUMs. There will be no change in season of use. It will remain from September 15 to February 28.

Silver Peak Allotment

There are three vegetation types in this allotment that can support livestock use; they are Sagebrush, Salt Desert Shrub Valleys and Sandy soils. Refer to Appendix D (*of the evaluation*) for maps of vegetation types.

The acreage on the combined vegetation area called "Sagebrush and Salt Desert Shrub Hills" was divided. Half of the acres were included in the sagebrush acres below. Allocations of AUMs in Sagebrush areas in the Silver Peak Range will be by the following slope classes.

Table 3 Sagebrush AUMs Available in Silver Peak Allotment

Percent Slope	Percent Reduction in Grazing Capacity	Allocation for Silver Peak Allotment	Acres of Sagebrush by slope class	AUMs Allocated by slope class
0-30	None	50 acres/AUM	34,259	685
31-60	60	80 acres/AUM	13,322	166
Over 60	100 (ungrazable)	No allocation	1459	0

Adapted from Holochek et al., 2004

There will be 851 AUMs available for livestock use in the Silver Peak Range on sagebrush vegetation. The season of use will remain yearlong. It is likely, however, that the sagebrush communities will be covered in snow through much of the winter. Cattle will not be able to graze these areas when deep snow is present.

There are 12,226 acres of Sandy soils in south Clayton Valley. This will be allocated at 50 acres per AUM for a total of 244 AUMs. The season of use will be yearlong. During severe drought grass dies off and is not available for use in this area. No use will be allowed for two growing seasons after grass begins to return. Grass is returning in the summer of 2005. Grass should be established and available for use starting in the winter of 2006/2007. These AUMs will not be allocated when drought has severely impacted the perennial grasses on this site. A field check will be required before livestock can be turned out in Clayton Valley.

Salt Desert Shrub Valley vegetation covers 103,324 acres. It is proposed that this area be allocated at 50 acres per AUM equaling 2066 AUMs. The season of use will remain yearlong.

Silver Peak (Isolated Portion), Ice House and Fish Lake Valley Allotments

AUMs will be allocated to the Silver Peak, Ice House and Fish Lake Valley allotments as follows.

Table 4 Preference for Ice House and Fish Lake Valley, Current and Proposed

Allotment	Current Preference	Proposed Preference
Ice House	228 AUMs	115 AUMs
Silver Peak (isolated portion)	135 AUMs	0
Fish Lake Valley	52 AUMs	202 - 60* = 142 AUMs
Total allocations	415 AUMs	317 - 60* = 257 AUMs

*The 60 AUMs are allocated to wild horses in the Fish Lake Valley HMA out of the Fish Lake Valley Allotment.

This proposal is a 38% reduction from the current preference.

Ice House

The area east of Highway 264 in both Ice House and Silver Peak Allotments has very little forage available. The Ice House Allotment was originally allocated at 188 acres/AUM. The proposed Ice House allotment will be allocated at 50 acres/AUM. The new allocation excluded the following soils because they have no forage available for livestock; Salt Desert Shrub Valley, Salt Desert Shrub Hills and Pinyon-juniper.

There were 1876 acres of saline meadow and sodic soils allocated at 50 acres/AUM equaling 37 AUMs available north of private land and east of the highway in the proposed new Ice House Allotment. These saline meadows and sodic soils are adjacent to the Red Spring Allotment. This boundary is unfenced. These AUMs will be run following the White Mountain Ranch's Red Spring Allotment season of use which is July 1 to September 15.

The following table shows the proposed acres and allocations on sagebrush ecological sites in the Ice House Allotment.

Table 5 Sagebrush Vegetation Type AUMs Available in Ice House Allotment

Percent Slope	Percent Reduction in Grazing Capacity	Allocation for Silver Peak Allotment	Acres of Sagebrush by slope class	AUMs Allocated by slope class
0-30	None	50 acres/AUM	2719	54
31-60	60	80 acres/AUM	1915	24
Over 60	100 (ungrazable)	No allocation	516	0

Adapted from Holochek et al., 2004

There are 8,276 acres of Sagebrush in the Silver Peak Range that will be allocated at 78 Acres/AUM.

Fish Lake Valley

The most productive vegetation is on the west side of the highway in the new Fish Lake Valley Allotment. There are 10,131 acres of sandy soils and Salt Desert Shrub Valley soils. These will be allocated at 50 acres/AUM, totaling 202 AUMs of winter range for both livestock and wild horses. The new season of use will be yearlong.

This proposed area includes the Fish Lake Valley HMA. The new AML will be 5 horses or 60 AUMs. This will leave 142 AUMs for livestock in the Fish Lake Valley Allotment. Proposed Action 5 below illustrates the proposed AML for each allotment.

Rationale:

Previous stocking rates allocated AUMs through out the allotments without regarding suitability for grazing. These new stocking rates reduce the number of available AUMs based on available forage. Areas too steep to graze or areas without forage have not been allocated a stocking rate. This will avoid potential overstocking on suitable range in the future.

To determine the new stocking rate for each allotment that required an adjustment, the total acres of the allotment (public land) was divided by the total AUMs allocated to both cattle and wild equids. This is the current stocking rate for the allotment. Stocking rates between 40 and 80 acres per AUM are consistent with production on these soils. See Conformance Determination, page 12 Standard 2a. "Ecosystem Components." Areas too steep or lacking forage were not allocated AUMs based on the acre per AUM rate. New allocations on all areas with combined wild equid and cattle use were allocated not to exceed the determined

acre per AUM rate. Example, in the new Fish Lake Valley Allotment, the total of livestock and horse AUMs will not exceed 50 acres per AUM. Previous to this, areas within the HMA were allocated to both livestock and wild equids at rates of 24, 28 to 48 acres per AUM. Twenty four and 28 acres per AUM stocking rates are too heavy for this desert range.

Red Spring and White Wolf Allotments were evaluated in 1994-5, adjustments were made at that time. These evaluations predated the development of RAC standards and guidelines. Both allotments were re-evaluated at this time for two reasons. First, to re-evaluate the horse AML on the Silver Peak HMA. Problems with horses in the HMA warranted a re-evaluation of the AML. Second, to determine if Mojave/Southern Great Basin RAC Standards and Guidelines and Tonopah RMP multiple use objectives have been met. Livestock grazing met standards and guidelines and multiple use objectives on both allotments with the exception of range improvement maintenance. See management action 4 below for range improvement information. The White Wolf Allotment lost forage due to a drop in the water table caused by agriculture. The White Wolf Allotment will lose 97 AUMs in the new allocation to cover the loss of forage.

The Silver Peak Allotment has not been previously evaluated. The majority of the allotment is also within the Silver Peak HMA. The combined stocking rate for livestock and wild equids is 28 acres per AUM. This rate is almost twice the proper stocking rate for rangeland in this area. See Conformance Determination, page 12 Standard 2a. "Ecosystem Components." Areas too steep and areas lacking forage were not allocated AUMs. Allocations were made for livestock outside of burro forage areas at 50 acres per AUM.

Ice House and Fish Lake Valley Allotments have not been previously evaluated. The original Fish Lake Valley Allotment was allocated to livestock at 28 acres per AUM. This stocking rate is too heavy for this desert range. Ice House Allotment was stocked at 188 acres per AUM (48 acres per AUM with horses). The new re-aligned allotments for Ice House and Fish Lake Valley have been stocked for both horses and livestock at 50 acres per AUM. Areas too steep and areas lacking forage were not allocated AUMs.

Emigrant Peak and Columbus Salt Marsh will remain closed to livestock grazing.

These new stocking rates will be in conformance with the Mojave/Southern Great Basin RAC Guidelines 1.1, 2.3, 3.3, 3.4 and 3.5. This also will meet Land Use Objectives for Wildlife Habitat Management, Special Status Species, Riparian Habitat and Livestock Grazing Management.

C. Temporarily Suspend AUMs at the following rates until Range Improvements are repaired. Do not permit new Water Haul Sites until all Range Improvements are repaired. (See Conformance Determination, Selected Management Action 4.)

Arlemont Ranch, lessee on Red Spring Allotment, has one range improvement to repair. Tim Brown, of Arlemont Ranch, told us he is working on repairs to the final range improvement in Red Spring Allotment. There is no change in the status of White Mountain Ranch's range improvements.

Until range improvements providing water on the following allotments are repaired or abandoned, AUMs will be suspended in the following amounts:

AUMs Temporarily Suspended until Range Improvements are Repaired

Allotments	Number of Waters	Waters not Functioning	Class of Animal	AUMs Allocated	AUMs per Water	AUMs Available	AUMs Temporality Suspended
Silver Peak	29	25	Cattle	3161	109	436	2725
Ice House	1	1	Cattle	115	115	0	115
FLV*	0	0	Cattle	142			
White Wolf	7	6	Cattle	600	86	86	514
Red Spring	6	1**	Cattle	727	440	604	123

* Fish Lake Valley

** Modified from Fish Lake Valley EA.

There will be a temporary reduction of the above AUMs by allotment. Upon sufficient repair of water improvements, the above AUMs allocated per water will be restored to the lease. For example: Silver Peak Allotment loses 2725 AUMs temporarily, leaving 436 AUMs. Repairing one water improvement will add 109 AUMs to the 436 AUMs available.

All repaired range improvements will be inspected by the BLM before AUMs are returned to the lease. A list of all failed range improvements is contained in Appendix A Fish Lake Valley Rangeland Health Assessment, lists are by allotment.

Fences and cattleguards are in need of repair also. If fences and cattleguards are not functioning, livestock use in the vicinity of these improvements will not be permitted.

Water haul sites will be established as needed in Silver Peak, Ice House, Fish Lake Valley, Red Spring and White Wolf Allotments to open up areas not available for grazing due to lack of water. New water haul sites will be permitted only after all range improvements are functioning. Approval for all proposed water haul sites must be cleared through the BLM before they are established. Separate Environmental Assessments will be written for all new projects, such as water hauls, at a later date when the project is initiated.

Rationale:

Failure to maintain range improvements is a violation of 43 CFR 4140.1. Under 43 CFR 4170.1-1 the lease can be suspended on whole or part.

Waters are important to sustain a properly distributed livestock herd. Failing to maintain and keep water available for livestock limits the areas available for livestock use. This leads to overuse on range surrounding the few available waters. It also creates physical stress for the livestock due to lack of water and forage. To avoid physical stress on livestock and overuse at the few available waters, a temporary reduction in AUMs for livestock will be implemented. Repairing range improvements will open up portions of these allotments to livestock grazing.

Temporary water hauls will be permitted as needed only after permanent waters are repaired or cancelled.

To determine the number of AUMs suspended for failure to maintain waters the AUMs in each allotment were divided by the total number of water developments. This AUM rate per water was then multiplied by the number of failed waters. This number of AUMs will be suspended until these waters are repaired.

This will meet the Mojave/Southern Great Basin RAC Standard 2a, sustaining appropriate uses. It also will meet Livestock Grazing Management objectives in the Tonopah RMP. Livestock grazing is an appropriate use of these public lands.

D. New Leases for White Mountain Ranch and Arlemont Ranch.

White Mountain Ranch Lease

Issue new 10 year lease to the White Mountain Ranch with the following terms and conditions for grazing use in the Silver Peak, Ice House, Fish Lake Valley, White Wolf and Red Spring Allotments.

New Allocations by Allotment for White Mountain Ranch

Allotment	Vegetation Type	Season of Use Start	Season of Use End	Active AUMs	Suspended AUMs**
Silver Peak	Sagebrush	Yearlong		851	2536
	SDS Valley*	Yearlong		2066	
	Sandy Soils	Yearlong		244	
Ice House	Sagebrush	Yearlong		78	113
	Saline & Sodic	July 1	September 15	37	
Fish Lake Valley	SDS Valley*	Yearlong		142	0
White Wolf	All	September 15	February 28	600	97
Red Spring	All	July 1	September 15	727	0

*Salt Desert Shrub

**Under the new regulations all AUMs lost due to a reduction will now be suspended. See Proposed Action 3.

AUMs Temporarily Suspended until Range Improvements are Repaired

Allotments	Number of Waters	Waters not Functioning	Class of Animal	AUMs Allocated	AUMs per Water	AUMs Available	AUMs Temporality Suspended
Silver Peak	29	25	Cattle	3161	109	436	2725
Ice House	1	1	Cattle	115	115	0	115
FLV*	0	0	Cattle	142			
White Wolf	7	6	Cattle	600	86	86	514
Red Spring	6	1**	Cattle	727	440	604	123

* Fish Lake Valley

** Modified from Fish Lake Valley EA.

Terms and Conditions:

1. In accordance with 43 CFR 4170.1-1, the following AUMs have been temporarily suspended:

Silver Peak	2725 AUMs
Ice House	115 AUMs
White Wolf	514 AUMs
Red Spring	123 AUMs

As each range improvement is repaired or cancelled, suspended AUMs will be returned to the lease in the following increments:

Silver Peak	109 AUMs for each water repaired
Ice House	115 AUMs for each water repaired
White Wolf	86 AUMs for each water repaired
Red Spring	123 AUMs for the last water repaired

2. Additional water hauls may be granted upon the repair or cancellation of all other permitted range improvements. No water hauls will be approved on BLM land within 2 ½ miles of Sagehen Spring. These proposed water hauls will be culturally cleared prior to establishment. Requests for water haul sites will be made to the authorizing officer at least three months prior to the onset of grazing.
3. Water hauls and permanent water developments will be used to distribute livestock on these allotments. Use at waters will be rotated within a pasture or allotment to avoid resource damage.
4. When allowable use levels are reached in an area (see Nevada Rangeland Monitoring Handbook for allowable use levels), livestock will be moved within the pasture or allotment, or removed from the pasture or allotment.
5. Livestock will not be allowed to concentrate at any water. Livestock will be dispersed and several waters will be used at the same time.
6. A minimum of 4-inch remaining stubble will be left at the end of the growing season on riparian areas.
7. From March 1 to June 30, livestock numbers shall not exceed 250 cattle in Silver Peak Allotment.
8. Tonopah BLM requires two days prior notice before livestock are to be turned out.
9. In accordance with 43 CFR 4130.3-3: The authorized officer may modify terms and conditions of the 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.

10. The terms and conditions of this permit or lease must be consistent with the Standards and Guidelines approved February 12, 1997 for the Mojave-Southern Great Basin Resource Advisory Council.
11. 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.
12. The BLM will work with the livestock operators on a year-to-year basis to implement a season of use restriction in the sagebrush habitat on the BLM land, within the Red Spring Allotment on the foothills of the White Mountains, so that domestic livestock do not utilize the habitat from April 1st to August 1st. If it is determined that the use of the habitat is necessary for that season in any given year then the perennial grasses and forbs within the habitat should not be used in excess of 35% as measured by the methods outlined in the Nevada Rangeland Monitoring handbook.
13. The permittee is required to maintain all range improvement projects for which maintenance responsibility is assigned in accordance with 43 CFR 4140. A list of assigned range improvements follows:

1.Cave Spr. Cattle Guards	17.Argentite Corral	33.White Wolf Drift Fence	49.Cord Range Well
2.Trespass Well	18.Argentite Well	34.North Allot. C/G Fence	50.Emigrant Pass Excl.
3.Macaroni Spr.	19.Minnesota Well	35.Fred Spr. #1	51.Minnesota Spr. Excl.
4.Blind Spring	20.Minnesota Well Corral	36.Fred Spr. #3	52.Cave Spr. Pipeline
5.North Spr.	21.Sand Dune Well	37.Cooper Spr.	53.Nivloc Mine Excl.
6.Cecilia Spr.	22.Salt Well Corral	38.Emigrant Spr.	54.Big Spring Excl.
7.Mud Spr.	23.Salt Well	39.L. McAfee Spr.	55.Clayton Valley Excl.
8.Cave Spring Corral	24.Emigrant Well	40.U.McAfee Spr.	56.White Wolf Drift Fence
9.Coyote Spr.	25.Nivloc Corral	41.Cave Spr. Cabin	57.Alfalfa Field P/L
10.Cave Canyon Well	26.Big Spr. Corral	42.Argentite Well Cabin	58.Lookout P/L Trough
11.Minnesota Spr.	27.Big Spr.	43.Bluff Spr.	59.Lookout Fence
12.Cave Canyon Corral	28.Fred Spr. #2	44.Cave Spr. Exclosure	60.McAfee P/L Trough
13.Black Canyon Spr. P/L	29.Cave Spr.	45.Rhyolite Drift Fence	61.Pinto Hill Spr.
14.Cave Spr. Pipeline	30.Rhyorid Spr.	46.Cone Spr.	62.Red Spr.
15.Emigrant Well Corral	31.Piper Peak C/Gs	47.Silver Peak H2O Haul	
16.Itchie Well	32.Bruinsma Well	48.White Wolf Corral	

14. The holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of Native American funerary objects, sacred objects, or objects of cultural patrimony (as defined in 43 CFR 10.4). Further pursuant to 43 CFR 10.4 (c) and (d), the holder must stop activities in the vicinity of the discovery and protect it for 30 days, or until notified to proceed by the authorized officer. The holder is responsible for the cost of consultation, evaluation and mitigation. Any decision on treatment and/or mitigation will be made by the authorized officer after consulting with the holder.
15. 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 Secs. 4150.1 and 4160.1-2.
16. There will be a fee for the reissue of a grazing bill after the bill has been sent out to the lessee (43 CFR 4130.8-3).
17. Actual use reports will be turned in within 15 days after the end of the grazing schedule.
18. Bird ladders are required on all water improvements.
19. Livestock will not be allowed to graze the Piper Peak area in order to protect important mule deer summer range. Livestock in this area must be removed immediately upon discovery.

Rationale:

The proposed management actions will prevent overuse by reducing the preference to match the available forage. The temporary suspension of AUMs until range improvements are repaired will prevent overuse on vegetation surrounding the few working waters. Rotation of livestock use by waters will prevent overuse on vegetation surrounding waters. Notice prior to turnout of livestock will enable the BLM to track use and rotation schedules, preventing overuse.

Arlemont Ranch Lease

Issue new 10 year lease to the Arlemont Ranch with the following terms and conditions for grazing use in the Red Spring Allotment.

Table 7. Lease Specifications

Permittee	Season of Use	Class of Animal	Total Preference	Temporary Suspension	Active Preference
Arlemont Ranch	05/15 to 06/30; 10/01 to 02/28	Cattle	1916 AUMs	317 AUMs	1599 AUMs

Terms and Conditions:

1. In accordance with 43 CFR 4170.1-1, 317 AUMs have been temporarily suspended on the Red Spring Allotment. As the range improvement is repaired or cancelled, 317 suspended AUMs will be returned to the lease.
2. Additional water hauls may be granted upon the repair or cancellation of the permitted range improvement. No water hauls will be approved on BLM land within 2 ½ miles of Sagehen Spring. These requested water hauls will be culturally cleared prior to establishment. Requests for water haul sites must be made to the authorizing officer at least three months prior to the onset of grazing.
3. Water hauls and permanent waters will be used to distribute livestock on this allotment. Use at waters will be rotated within a pasture or area to avoid resource damage.
4. When allowable use levels are reached in an area (see Nevada Rangeland Monitoring Handbook for allowable use levels), livestock will be moved or removed from the area or allotment.
5. Livestock will not be allowed to concentrate at any water. Livestock will be dispersed and several waters will be used at the same time.
6. A minimum of 4-inch remaining stubble will be left at the end of the growing season on riparian areas.
7. Tonopah BLM requires two days prior notice before livestock are to be turned out.
8. In accordance with 43 CFR 4130.3-3: The authorized officer may modify terms and conditions of the 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.

9. The terms and conditions of this permit or lease must be consistent with the Standards and Guidelines approved February 12, 1997 for the Mojave-Southern Great Basin Resource Advisory Council.
10. 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.
11. The BLM will work with the livestock operators on a year-to-year basis to implement a season of use restriction in the sagebrush habitat on the BLM land, within the Red Spring Allotment on the foothills of the White Mountains, so that domestic livestock do not utilize the habitat from April 1st to August 1st. If it is determined that the use of the habitat is necessary for that season in any given year then the perennial grasses and forbs within the habitat should not be used in excess of 35% as measured by the methods outlined in the Nevada Rangeland Monitoring Handbook.
12. The permittee is required to maintain all range improvement projects for which maintenance responsibility is assigned in accordance with 43 CFR 4140. The lessee(s) shall maintain the following range improvements:
 - a. Sagehen Spring
 - b. Sand Spring Pipeline
 - c. Red Spring
 - d. South Windmill Well
13. The holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of Native American funerary objects, sacred objects, or objects of cultural patrimony (as defined in 43 CFR 10.4). Further pursuant to 43 CFR 10.4 (c) and (d), the holder must stop activities in the vicinity of the discovery and protect it for 30 days, or until notified to proceed by the authorized officer. The holder is responsible for the cost of consultation, evaluation and mitigation. Any decision on treatment and/or mitigation will be made by the authorized officer after consulting with the holder.
14. 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 Secs. 4150.1 and 4160.1-2.
15. There will be a fee for the reissue of a grazing bill after the bill has been sent out to the lessee (43 CFR 4130.8-3).
16. Actual use reports will be turned in within 15 days after the end of the grazing schedule.
17. Bird ladders are required on all water improvements.

Rationale:

Rotation of livestock use by waters will prevent overuse on vegetation surrounding waters. Notice prior to turnout of livestock will enable the BLM to track use and rotation schedules, preventing overuse.

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]

§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]

§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 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]

§4140.1 Acts prohibited on public lands.

(a) "Grazing permittees or lessees performing the following prohibited acts may be subject to civil penalties under 4170.1:" (5) "Refusing to install, maintain, modify, or remove range improvements when so directed by the authorized officer."

§4160.3 Final decisions.

(a) In the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice unless otherwise provided in the proposed decision.

(b) Upon the timely filing of a protest, the authorized officer shall reconsider her/his proposed decision in light of the protestant's statement of reasons for protest and in light of other information pertinent to the case. At the conclusion to her/his review of the protest, the authorized officer shall serve her/his final decision on the protestant or her/his agent, or both, and the interested public.

(c) A period of 30 days following receipt of the final decision, or 30 days after the date the proposed decision becomes final as provided in paragraph (a) of this section, is provided for filing an appeal and petition for stay of the decision pending final determination on appeal. A decision will not be effective during the 30-day appeal period, except as provided in paragraph (f) of this section. See §§4.21 and 4.470 of this title for general provisions of the appeal and stay processes.

(d) When the Office of Hearings and Appeals stays a final decision of the authorized officer regarding an application for grazing authorization, an applicant who was granted grazing use in the preceding year may continue at that level of authorized grazing use during the time the decision is stayed, except where grazing use in the preceding year was authorized on a temporary basis under §4110.3-1(a). Where an applicant had no authorized grazing use during the previous year, or the application is for designated ephemeral or annual rangeland grazing use, the authorized grazing use shall be consistent with the final decision pending the Office of Hearings and Appeals final determination on the appeal.

(e) When the Office of Hearings and Appeals stays a final decision of the authorized officer to change the authorized grazing use, the grazing use authorized to the permittee or lessee during the time that the decision is stayed shall not exceed the permittee's or lessee's authorized use in the last year during which any use was authorized.

(f) Notwithstanding the provisions of §4.21(a) of this title pertaining to the period during which a final decision will not be in effect, the authorized officer may provide that the final decision shall be effective upon issuance or on a date established in the decision and shall remain in effect pending the decision on appeal unless a stay is granted by the Office of Hearings and Appeals

when the authorized officer has made a determination in accordance with §4110.3-3(b) or §4150.2(d). Nothing in this section shall affect the authority of the Director of the Office of Hearings and Appeals or the Interior Board of Land Appeals to place decisions in full force and effect as provided in §4.21(a)(1) of this title.

[43 FR 29067, July 5, 1978, as amended at 46 FR 5791, Jan. 19, 1981; 47 FR 41713, Sept. 21, 1982; 47 FR 46702, Oct. 20, 1982; 49 FR 6455, Feb. 21, 1984; 49 FR 12705, Mar. 30, 1984; 60 FR 9969, Feb. 22, 1995; 61 FR 4227, Feb. 5, 1996]

§4160.4 Appeals.

Any person whose interest is adversely affected by the final decision of the authorized officer may appeal the decision for the purpose of a hearing before an administrative law judge by following the requirements set out in §4.470 of this title. As stated in that part, the appeal must be filed within 30 days after receipt of the final decision or within 30 days after the date the proposed decision becomes final as provided in §4160.3(a). Appeals and petitions for stay of the decision shall be filed at the office of the authorized officer. The authorized officer shall promptly transmit the appeal and petition for stay and the accompanying administrative record to ensure their timely arrival at the Office of Hearings and Appeals.

[60 FR 9969, Feb. 22, 1995, as amended at 61 FR 4227, Feb. 5, 1996]

§4170.1-1 Penalty for violations.

(a) "The authorized officer may withhold issuance of a grazing permit or lease, or suspend the grazing use authorized under a grazing permit or lease, in whole or in part, or cancel a grazing permit or lease and grazing preference...under subpart 4160 of this title..."

§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

Livestock Grazing Decision

In accordance with 43 CFR 4160.4, any person whose interest is adversely affected by a final decision of the authorize officer may appeal the decision for the purpose of a hearing before an administrative law judge. The appeal must be filed within 30 days after receipt of the final decision. Appeals and petitions for a stay of the decision shall be filed at the office of the authorized officer (William S. Fisher, 1553 S. Main St., P.O. Box 911, Tonopah, NV 89049). Additionally the person appealing must serve a copy on any person named in the decision as listed at the end of this decision and the Office of the Solicitor, Pacific Southwest Region, U.S. Department of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, CA 95825-1890 within 15 days of filing the appeal and petition for stay. If an appeal is taken, you must follow the procedures outlined in the enclosed, "Information on Taking Appeals to the Board of Land Appeals".

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

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

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

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

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

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

WILD HORSE MANAGEMENT DECISION

Selected Management Actions for Wild Horse Management within the Silver Peak, White Wolf, Ice House, Fish Lake Valley and Red Spring Allotments and Emigrant Peak and Columbus Salt Marsh closed areas.

Through the allotment evaluation process it was determined that the following management actions are appropriate to ensure significant progress towards the attainment of multiple use objectives and Standards for Rangeland Health approved by the Mojave-Southern Great Basin Resource Advisory Council. These management actions will become effective at the conclusion of the appeal period for this decision.

A. Implement Adjustment in Horse Numbers on Fish Lake Valley HMA if further NEPA determines that Highway 264 and US 6 will be fenced. (See Conformance Determination, Selected Management Action 1.)

This fence will not be built until a separate environmental assessment is written. At that time the decision to fence the highway will be made. This decision determines the adjustment to horse numbers if the fence is built.

If this fence is built along Highway 264 from the California line in White Wolf through Fish Lake Valley, Silver Peak and Red Spring Allotments. This fencing would include approximately two miles of Highway 6, and 22 miles of Highway 264. Both lessees are willing to contribute their county range improvement funds to assist in building this fence. Horses from the Fish Lake Valley HMA frequently cross the highway and are hit by vehicles. Horses also cross the highway to graze on private land outside the HMA. Cattle are also lost to vehicle collisions in the area near the junction of Highway 264 and US 6. The final decision to fence the highway is the responsibility of the Nevada Department of Transportation.

The highway dissects the Fish Lake Valley HMA in the Red Spring Allotment, leaving 7608 acres of the HMA isolated on the east side of the highway. If the fence is built, these acres that would no longer be accessible to horses from the Fish Lake Valley HMA would have to be taken out of the total allocation for the Fish Lake Valley HMA. AUMs for the HMA are currently allocated at 83 acres/AUM. The proposed reduction would be 92 AUMs or 7 2/3 horses. This is rounded to 96 AUMs or 8 horses. This reduction in horses would not occur until the fence is approved and completed. Since livestock are permitted to graze on both sides of the highway, no changes would be made to livestock stocking rates as a result of fencing Highway 264 and US 6. Refer to Map 4.

A separate Environmental Assessment will be written for this project at a later date when the project is initiated.

Rationale:

This new AML will prevent overuse by horses on the Fish Lake Valley HMA if a highway fence is constructed.

B. New AMLs for Fish Lake Valley HMA and Silver Peak HMA

Table 7 Wild Horse IHS and Proposed AML for the HMAs by Allotment

Herd Management Area	Allotment	IHS AML	Proposed AML
Fish Lake Valley	Fish Lake Valley	0	5
	Ice House	4	0
	Red Spring	57	49*
	Silver Peak	3	0
Silver Peak	Emigrant Peak	3	0**
	Ice House	34	0**
	Red Spring	28	0**
	Silver Peak	193	33 Burros
	White Wolf	30-50	0**

* AML will be reduced after highway is fenced.

** Horse numbers in the Silver Peak HMA will be set at zero.

Fish Lake Valley HMA

The proposed new Fish Lake Valley Allotment includes the Silver Peak and Ice House portions of the Fish Lake Valley HMA. The interim herd size is four horses in Ice House Allotment and three in the Silver Peak Allotment. This totals 7 horses equaling 84 AUMs. With a 38% reduction this equals 2 ½ horses or a 32 AUMs reduction. This is rounded to 2 horses and 24 AUMs. The new allocation for wild horses on the Fish Lake Valley Allotment will be 5 horses or 60 AUMs.

The AML for Red Spring Allotment was set in 1994 at 57 horses. A small portion of the Fish Lake Valley HMA will be excluded when Highway 264 is fenced. This will be a loss of 96 AUMs or 8 horses when it is built. The new AML will be 49 horses. See Number 1 above.

Silver Peak HMA

The Silver Peak HMA is in Silver Peak, White Wolf, Ice House, Red Spring and Emigrant Peak Allotments.

The HMA lacks good winter range for horses. Much of the area is dominated by shrubs with little or no grass under-story. The highly variable precipitation results in frequent droughts. Horses often must leave the HMA to find adequate forage and water. There have been two emergency gathers in the last 9 years to remove starving and dying horses. This HMA is unsuitable habitat for wild horses and will be managed for zero horses.

Currently horse numbers are down, and wet weather this year has provided adequate forage for horses. Horses will be gathered with the Paymaster HMA gather which is the next scheduled gather in the Tonopah Planning Area.

Emigrant Peak Allotment was closed and remains closed to grazing in the RMP. This allotment has little to no forage for livestock or wild horses. There will be zero AUMs allocated to livestock and wild equids on this allotment.

The southeastern hills just west of Clayton Valley are suitable burro range. Allocate AUMs in Salt Desert Shrub Hills just west of Clayton Valley by the following slope classes. Half of the acres from the mixed site Sagebrush and Salt desert shrub Hills sites are included with Salt Desert Shrub Hills below.

Table 8 Salt Desert Shrub Hills AUMs Available in Silver Peak HMA

Percent Slope	Percent Reduction in Grazing Capacity	Allocation for Silver Peak Allotment	Acres of Salt Desert Shrub Hills by slope class	AUMs Allocated by slope class
0-30	None	50 acres/AUM	17,247	345
31-60	60	80 acres/AUM	3960	49
Over 60	100 (ungrazable)	No allocation	474	0

Adapted from Holocheck et al. 2004

These hills provide 394 AUMs suitable for burro use. This will be just over 32 burros yearlong. This is rounded to 396 AUMs for 33 burros. Approximately 10-15 burros currently inhabit the HMA. This number will increase as burros from neighboring HMAs move in and as the resident population increases. No burros will be transplanted to this HMA from other HMAs on BLM or Forest Service lands. Refer to Map 5 below for proposed suitable burro habitat.

Rationale:

The previous Initial Herd Size (IHS) and Appropriate Management Levels (AML) for horses on the Silver Peak HMA greatly exceeded the amount of forage available for horse or burro use. Horses are grazers and burros are browsers, the majority of the forage in the Silver Peak HMA is browse. The habitat in Silver Peak HMA is better suited to wild burro use. The current IHS and AML numbers were allocated without regard for suitability for grazing or available forage. This new AML reduces the number of available AUMs based on available forage. Areas too steep to graze or areas without forage have not been allocated AUMs for wild burros.

AML was set in Red Spring Allotment in 1994-5 for the Fish Lake Valley HMA in the previous evaluation. The Fish Lake Valley HMA in the Red Springs Allotment did not fail to meet RAC standards. No adjustment was made in AML for the Red Spring portion of the HMA.

AML had not been set for the small portion of the Fish Lake Valley HMA in the isolated portion of the Silver Peak and Ice House Allotments. The isolated portion of Silver Peak Allotment with the small portion of the Fish Lake Valley HMA is now part of Fish Lake Valley Allotment. See management action 1 above on page 25-26. The Fish Lake Valley HMA is now in Red Springs Allotment and the new Fish Lake Valley Allotment.

The new AML in Fish Lake Valley Allotment is lower than the Initial Herd Size number from the Tonopah RMP. It was 7 horses in the Ice House and Silver Peak Allotments and now is 5 horses in the Fish Lake Valley Allotment. Both livestock and wild horses were reduced for both livestock and horses at the same percent in the new Fish Lake Valley Allotment. The current IHS numbers in Silver Peak and Ice House Allotments were allocated without regard for suitability for grazing or available forage. This new AML reduces the number of available AUMs based on available forage. The total stocking rate for both livestock and wild horses on the Fish Lake Valley Allotment will be 50 acres per AUM.

The new AML numbers are in conformance with the Mojave/Southern Great Basin RAC Guidelines 1.1, 1.2, 2.1, 2.2, 2.3, 3.3, 3.4 and 3.5. This also will meet Land Use Objectives for Wildlife Habitat Management, Special Status Species, Riparian Habitat and Wild Horse and Burros.

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.*

WILDLIFE MANAGEMENT DECISION

Selected Management Actions for Wildlife Management within the Silver Peak, White Wolf, Ice House, Fish Lake Valley and Red Spring Allotments and Emigrant Peak and Columbus Salt Marsh closed areas.

Through the allotment evaluation process it was determined that the following management actions are appropriate to ensure significant progress towards the attainment of multiple use objectives and Standards for Rangeland Health approved by the Mojave-Southern Great Basin Resource Advisory Council. These management actions will become effective at the conclusion of the appeal period for this decision.

A. Establish the following Season of Use Restriction for Sage Grouse Habitat in Red Spring Allotment. (See Conformance Determination, Selected Management Action 7.)

This proposal is for sage grouse nesting and brood rearing concerns: work with the livestock operators on a year-to-year basis to implement a season of use restriction in the sagebrush habitat on the BLM land, within the Red Spring Allotment on the foothills of the White Mountains, so that domestic livestock do not utilize the habitat from April 1st to August 1st. If it is determined that the use of the habitat is necessary for that season in any given year then the perennial grasses and forbs within the habitat should not be used in excess of 35% as measured by the methods outlined in the Nevada Rangeland Monitoring handbook. Also, do not approve any water haul sites on BLM land within 2 ½ miles of Sagehen spring.

Sage grouse use the western most portion of the Red Spring Allotment along the Forest Service boundary. Sage brush vegetation extends approximately 2 to 2 ½ miles east of the Forest Service boundary.

Rationale:

The sage grouse habitat in the Red Spring allotment is the only occupied habitat within the Fish Lake Valley assessment area. The area on the foothills of the White Mountains between Chiatovich Creek and Trail Canyon is known sage grouse nesting and brood rearing habitat. This area is included within the White Mountain Population Management Unit of the Bi-State Sage Grouse Conservation Planning Area. The plan has an identified conservation objective to "Manage sagebrush ecosystems for maximum site potentials in accordance with Western Association of Fish and Wildlife Agencies guidelines or locally approved standards." There are related conservation actions which outline the steps to take to protect critical sagebrush ecosystems. They include identifying the breeding and nesting habitat then working with livestock operators to change the grazing practices if necessary. In this case it was determined necessary because of the limited occupied habitat, the critical nature of the habitat, and the low associated grouse populations.

This season of use restriction will prevent future competition for forage and other resources between cattle and sage grouse. At this time no competition is occurring. This will be in conformance with the Mojave/Southern Great Basin RAC Guidelines 1.2, 2.1 and 3.5. This restriction will also meet Land Use Objectives for Wildlife Habitat Management and Special Status Species.

Wild Horse and Wildlife Decision

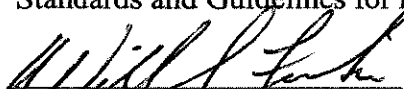
Within 30 days of receipt of this wild horse or wildlife decision, you have the right to appeal to the Board of Land Appeals, Office of the Secretary, in accordance with regulations at 43 CFR 4.4. If an appeal is taken, you must follow the procedures outlined in the enclosed, "Information on Taking Appeals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

In addition, within 30 days or receipt of this decision 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 Tonopah RMP Land Use Plan objectives and Mojave/Southern Great Basin RAC Standards are not being achieved, further adjustments will be made accordingly. Likewise, if future monitoring indicates that RAC Standards, and RMP objectives are being met, and that an increase in the number of AUMs are warranted, this decision will be evaluated and amended as appropriate.

These decisions are consistent with 43 CFR 4180 and the Mojave/Southern Great Basin RAC Standards and Guidelines for rangeland health.



William S. Fisher
Assistant Field Manager
Tonopah Field Station

09-27-03
Date

Enclosures:

Attachment 1, Western Watershed Protest

Attachment 2, FONSI/Decision Record for EA number NV06-2005-037

Attachment 3, List of Interested Parties

Attachment 4, Form 1842-1 – Information on Taking appeals to the Board of Land Appeals

Attachment 1

Western Watershed Project Protest

1. *We Protest the yearlong season of use. There is no scientific basis for this, and allows extended and extensive damage to native vegetation during critical growing periods. Even worse, it allows livestock to be present and trampling and removing vegetation during critical periods for nesting birds, birthing mammals, etc. Terms and Condition of permits allow extreme levels of use to occur on both shrubs and grasses in uplands-based on the long-out-dated NY Rangeland Handbook, where levels exceeding 50 % or more of use are enshrined.*

The BLM set a conservative stocking rate for livestock (~50-80 acres/AUM) to avoid overuse. The Terms and Conditions of both leases state “When allowable use levels are reached in an area . . . livestock will be moved within the pasture or allotment, or removed from the pasture or allotment.” This prevents yearlong use. Allowable use levels do not exceed 50%.

2. *We Protest BLM failing to attach modern-day standards of livestock use on ALL sage grouse habitats in these allotments. The standards of use in the medieval Rangeland Handbook do not provide necessary nesting cover, do not provide for forbs essential for insect production for chicks, and otherwise allow continued loss and degradation of sage grouse and other wildlife habitats. See Connelly et al. 2000, Connelly et al, 2001.*

It is not necessary to protect sagebrush habitat for sage grouse concerns when the habitat is not utilized by sage grouse. The occupied sage grouse habitat has been identified in the Rangeland Health Assessment and the language in the EA, proposed multiple use decision, and Terms and Conditions of the leases sufficiently account for sage grouse concerns. There was no need to further restrict utilization levels based on the current conditions of the evaluation area. See the sage grouse portions of the Rangeland Health Assessment for further information.

3. *We Protest the extremely high levels of livestock browse use (as in the Handbook) that you are allowing to occur throughout the active growing season and during ALL periods of year on shrubs in these allotments. Such high levels of use known to be harmful to shrub health and vigor, remove essential food and cover for native wildlife species, and are not based on current science. Use levels of 10% browse use (especially in this area prone to shrub-die-off loss with frequent drought), are reasonable. Upland herbaceous use should be limited to 20-25% to provide adequate nesting cover for sage grouse, adequate herbaceous vegetation for small mammal prey of raptor species, etc.*

There has not been high levels of livestock use on browse or grass in these allotments nor will there be. See Appendix D, pages 3 – 23. Use is light in the assessment area. The BLM set a very conservative stocking rate for livestock and wild equids in the assessment area. This stocking rate will not promote high levels of use on browse or grass.

The known nesting habitat within the assessment area has been sufficiently protected by the language in the EA, proposed multiple use decision, and the Terms and Conditions of the leases. There is no basis for restricting upland herbaceous use to 20-25%. It is more critical to restrict use at critical times of the year such as during nesting and brood rearing season, which was accomplished in the language of the EA, proposed multiple use decision, and the Terms and Conditions of these leases.

4. We Protest the failure to take action to reduce AUMs in the Red Spring allotment.

Monitoring data shows use on the Red Spring Allotment has not been excessive. This is stated in the Rangeland Health Assessment for Red Spring Allotment. No reduction in stocking rate was warranted. See the Rangeland Health Assessment, page 122. Also see Appendix D, use pattern maps.

5. We Protest the failure to fully take into account mortality of shadscale and other shrubs in setting stocking rates here. As "SDS V alley" comprises the bulk of the AUMs here, and shrubs are largely the only thing for livestock to eat, mortality or loss of shadscale would have serious harmful impacts -and livestock use would be further shifted as a result.

Shadscale mortality is not due to grazing. Please refer to the Rangeland Health Assessment individual allotment monitoring data for details on the shadscale die-off and past utilization levels on that shrub. Livestock use has been light throughout the assessment area including on salt desert shrub dominated sites. In summary, average actual utilization on shadscale has been under 8%. Livestock grazing is not a contributing factor in the decline of shadscale.

6. We Protest stocking lands with livestock where forage production is less than 200 lbs/acre. Please calculate how much weight animals lose in seeking forage here.

The forage production standard mentioned is not a BLM standard. Livestock weights are kept by the lessee not the BLM. Rangelands with little forage production, if properly stocked, support healthy livestock herds.

7. We Protest the failure to adequately assess the conflicts between livestock grazing and bighorn sheep habitat and populations on these allotments. How is livestock fostering weed invasions, depleting forage, causing sheep to move into sub-optimal habitats? How will bighorns be affected by yearlong grazing, and other components of the PMUD? You have failed to address critical issues of displacement of many other species of native wildlife by domestic livestock across the allotments, too. This includes mule deer, loggerhead shrike, Brewer's sparrow, sage sparrow, sage grouse, pygmy rabbit.

The majority of big horn sheep habitat is outside of the areas used by livestock. These concerns have been adequately addressed in the Rangeland Health Assessment, please refer to the appropriate sections of the Rangeland Health Assessment for specifics.

8. *We Protest the failure to collect data that separates wild horse and burro use from domestic livestock use. We do not believe has presented information that clearly differentiates WHICH animals -livestock or wild horses/burros -are responsible for ecological problems in the allotments.*

We Protest the FRH conclusion related to the Silver Peak allotment (CD at 8). You have provided no evidence that you have been able to separate the impacts of horses from livestock here.

When no livestock are grazing an allotment or area in any given year, utilization by wild horses can easily be distinguished for that year.

9. *We Protest the failure to assess the impacts of mining, forest health, or other projects on these allotments and surrounding lands--for example, how might the Columbus Salt Marsh project affect special status or other important species habitats or populations that might be shared with these allotments? What Forest Health projects are contemplated, or likely, on this or neighboring lands?*

This is a range related evaluation only. All mining projects are addressed under the specific NEPA documents for the proposed mining actions. All fire projects are also evaluated under separate NEPA. However, there are no fire projects planned in or near these allotments.

10. *We Protest the failure to assess the impacts of soil disturbance, invasive species, pollinator loss or disruption, and other harms fostered by livestock use on Tiehm buck wheat and Tecopa birdsbeak.*

There were no problems identified with Tiehm buckwheat or Tecopa birdsbeak. Please see the EA, pages 40 & 41. Negligible use in the habitat of Tecopa birdsbeak is not detrimental to its habitat. It was mentioned in the EA that IF severe grazing occurred in its habitat, then it could be negatively impacted. However, severe grazing is not occurring in the assessment area. Respecting Tiehm buckwheat, "Tiehm buckwheat is a resident of open, highly erosive slopes near Red Mountain in the Silver Peak Range. This area is essentially inaccessible to livestock and horses." Quoted from the Fish Lake Valley EA, *Environmental Consequences*, page 40.

11. *We Protest the failure to collect necessary data and assess impacts of year-round livestock use on microbiotic crusts, that are essential to protect soils from erosion, stabilize watersheds, prevent weed invasion, provide nutrients to sites, etc.*

The Terms and Conditions of both leases state "When allowable use levels are reached in an area . . . livestock will be moved within the pasture or allotment, or removed from the pasture or allotment." This term prevents yearlong use. See answer to protest point 1 above.

12. *We Protest the failure to adequately assess the impacts of various alternatives on weed invasion and spread. Where are annual bromes or other invasives present? Where will they increase under various alternatives? How will year-round grazing affect weed invasion and spread?*

These questions are answered in the EA on page 20. The EA states: “Cheatgrass is found in the higher elevations of the assessment area. It is rarely abundant enough to increase the potential for fire in the Silver Peak Range.” Other noxious weeds mainly occur on private land in Fish Lake Valley and have been spread mainly by vehicles along roads. The Tonopah Field Station has an ongoing treatment program for noxious weeds.

13. *We Protest the gross inadequacy of the Standards and Guides assessment and FRH Determination. BLM ignored overwhelming evidence of large-scale desertification, exhausting and depletion of “sustainable forage” across these allotments. Lands where the stocking rate is nearly a hundred acres per AUM, due in large part to chronic livestock-caused depletion, can not be considered year-round range for ANY livestock, and can NOT be considered to meeting FRH standards for ecological processes, watersheds, special status species habitats, etc.*

These statements are baseless. These lands stocked at “nearly a hundred acres per AUM” are not depleted or becoming a desert due to livestock. The nearby White Mountains in California cast a rain shadow on Fish Lake Valley. Fish Lake Valley’s average yearly rainfall is between 3 to 5 inches. The evaluation makes it clear that the lack of vegetation is due to climate not livestock grazing. Use by livestock has been very light. See Appendix D and the Rangeland Health Assessment for livestock use details.

14. *We Protest the failure of the EA to analyze a suitable range of alternatives. A series of alternatives based on grazing only lands where forage production exceeds 200 lbs/acre, and with seasonal use restrictions as well as stubble height and modern-day utilization standards as triggers of livestock use should have been developed. Likewise, removal of livestock from areas where the conflict with bighorn sheep and sage grouse (this is a very important population with low numbers at the very margin of these species range) should have been assessed.*

Complete removal of livestock is not supported by the 1997 Tonopah Planning Area RMP. Livestock grazing is a legitimate use of the Public Lands administered under the Multiple Use mandate.

Livestock does not conflict with sage grouse and bighorn sheep. Sage grouse and bighorn sheep have been thoroughly evaluated within the EA and accompanying Appendices. Use and stubble height standards are included in the terms and conditions of the leases. The forage production standard mentioned above is not a BLM standard.

15. *We Protest the failure to provide a population risk assessment for sage grouse. How susceptible is this population to extirpation under all alternatives? What OTHER actions (that should form the basis of revised alternatives) would best sustain this population of sage grouse and its habitats.*

The Rangeland Health Assessment is not the format for expressing a population risk assessment. A population risk assessment has been completed for the area covered by the Rangeland Health Assessment and was referred to during the writing of, and prudently incorporated into, the Rangeland Health Assessment.

16. We Protest the failure to conduct adequate systematic baseline studies for special status species across the allotments. This is critical, as you are using this process to assess the overall need for a host of future actions -from trying to resurrect long-defunct and harmful wells, to construction of miles of new fence in association with degraded riparian areas. You will never have a complete picture of the impacts of all the redevelopment/development. We are very alarmed at the proposal to fence off springs - as this undoubtedly means that you plan to develop them -and development is known to often destroy spring flows, de-water and permanently alter sites.

NDOW has responsibility for population and distribution studies not the BLM. The Rangeland Health Assessment determined impacts to all BLM special status species. Total fencing around riparian areas should not exceed a total of one mile. These four springs have already been developed.

17. We Protest your failure to prepare an EIS to address the many complicated actions and important habitat values involved in these public lands -values

An EIS has not been determined to be necessary.

18. We Protest the failure to calculate the large-scale impacts on soils of continuing livestock grazing in lands where livestock have to roam over vast acreages in order to eke out a scrawny existence. Continuing stocking lands must be studied in relation to the significant loss of microbiotic crusts, weed invasions, wind erosion due the vast acreages livestock must cover just in the course of one day to sustain themselves. Please provide data and analysis on how much annual soil loss occurs here.

The statement “a significant loss of microbiotic crusts” is unfounded.

Impacts by weeds have been answered in the EA on page 20 and above in the answer to protest point 12. Wind erosion and soil loss is considered in the Standard 1 of the Mojave-Southern Great Basin Resource Advisory Council’s Standards and Guidelines (see Conformance Determination). The standard pertaining to uplands (including erosion) has been met under current management, and will continue to be met with much-reduced stocking rates for livestock and wild horses.

19. We Protest the failure to adequately describe the circumstances of "grass die-off" in Clayton Valley. Is grass dying because it is stressed, weakened or killed due to year-round livestock use at extremely high levels? What "grass" died? Do you mean annual weedy grasses don't grow when it is dry, or are these native perennial grasses that you referring to? What species?

This die-off in Clayton Valley has been covered in the EA. The die-off in Clayton Valley occurred despite the fact that there has been no livestock or wild horse use in Clayton Valley for the last decade.

Indian ricegrass dominates the sandy area in Clayton Valley. Cheatgrass is rare in Clayton Valley where the die-off occurred.

- 20. We Protest setting an AML for wild horses at so absurdly low a level. Why can't you at least provide some semblance of fairness and balance in this? Instead, you continue livestock grazing on lands that are so woefully deficient on forage that the acres/AUM are unbelievable. Cut the year-round cows, and maintain a viable population of horses.*
- 21. We Protest the way you did the allocations for horses vs. livestock in this decision process. You have not ensured that a thriving ecological balance will be maintained.*
- 22. We Protest claiming there are "problems" with horses, when you are allowing yearlong use (as in Fish Lake Valley) by livestock, and otherwise interfering with wintering horses, causing conflicts with wildlife, etc. Plus, how much forage is currently being produced here?*

Public lands in Silver Peak HMA cannot sustain a viable population of horses. There have been frequent wild horse gathers in the Silver Peak HMA to remove starving horses. This has occurred in years with little to no livestock grazing in the HMA. Horses are grazers and little grass grows in the HMA. However, cattle and burros do browse. Cutting cattle numbers will not change the available forage from shrub to grass. The lack of grass is due to climate and soil characteristics not livestock use. See answer to protest point 13 above.

The statement that AML for horses is at "so absurdly low a level" is also incorrect. Please refer to the EA pages 35-38. The Rangeland Health Assessment and EA make it clear that the Silver Peak HMA is not suitable habitat for horses. Therefore, burros will be allowed to occupy the HMA and horses will be removed.

For yearlong use issue see the answer to protest point 1 above. For wildlife conflict analysis see the Rangeland Health Assessment; and for production amounts refer to the individual allotment data summaries in the Rangeland Health Assessment beginning on page 11.

- 23. We Protest issuing a permit for ANY forage in the Ice House allotment: You have not balanced the public interest.*

The statement "You have not balanced the public interest." is not clear.

- 24. We Protest the failure to provide a map that clearly shows the areas that you consider "too steep to graze", or "areas without forage"; It is critical to understand the location of these areas across the landscape in order to understand if it is even possible for livestock to move between areas where there may be an occasional blade of grass.*

These maps are included Appendix D of the EA on pages 36 - 43 and page 48.

25. *We Protest the failure to relate the degraded conditions to areas grazable by livestock. While you claim that standards have been met on 36 springs, how many of these are located in areas considered grazable by livestock -less steep, less forested, etc.?*

There is no mention of “degraded conditions” in the Rangeland Health Assessment or EA. Please compare the slope maps in Appendix D with the general vegetation maps found in Appendix D of the EA. See answer to protest point 24 above. Compare these with the Riparian maps found in Appendix B. Many of these waters are accessible to livestock.

26. *We Protest allowing continued grazing when you acknowledge that the area has already lost forage due to a drop in water table caused by agriculture. Please describe this drop in great detail.*

This protest point is invalid. The BLM is not allocating AUMs for livestock use in areas that lost forage from the water table drop. Please refer to the White Wolf and Ice House Allotments in the Rangeland Health Assessment for details about the extent of the water table decline. The reduction is explained on page 9 of the EA. The drop in the water table is due to agricultural water use on private land. Both water rights and private land are beyond the scope of this evaluation.

27. *We Protest the excessive stocking rates for the Ice House and Fish Valley allotments, as described on page 9. It is extremely difficult to tell how you are allocating forage here, and there is no data presented to show that sufficient forage is available.*

Stocking rates for the Ice House and Fish Lake Valley are not excessive. The data for the forage allocations is found in the Conformance Determination on pages 34 & 35.

28. *We Protest you rewarding permittees who have failed to maintain projects in the past by allowing continued grazing at such high levels in these allotments. Please provide information, in current dollar terms, of the investment the public has in the dilapidated or failed projects.*

As stated in the Rangeland Health Assessment, EA and Conformance Determination, grazing by livestock and wild horses is not at “high levels” or “excessive.”

29. *We Protest the failure to study the feasibility of resurrecting many of the projects. If the water table has dropped, trying to squeeze water from abandoned wells may not be feasible. If past spring developments have significantly altered flows, any redevelopment may not be feasible.*

30. *We Protest the failure to conduct necessary studies to determine if the waters/developments NOT functioning are feasibly able to be restored to functioning again.*

Repairing and maintaining range improvements is at the cost and responsibility of the lessee (and holder of the water rights). If a range improvement cannot feasibly be repaired, it can be canceled and removed.

These waters are not affected by the water table decline.

- 31. We Protest the failure to provide information on the depletion of vegetation, loss of soil, weed invasion, and degraded wildlife habitat that has been caused by operation of all range facilities in the allotment. It is necessary to first provide an assessment of that before you can allow ANY repair of harmful facilities here.*

Vegetation, soil and other resources have not been depleted by the “operation of all range facilities.” These range improvements have been permitted. NEPA is not necessary before repairing permitted range improvements. The BLM is not revoking range improvement permits until it can be determined that the improvement is no longer needed for the livestock operation.

- 32. Conformance Determination at 7 states that bighorn sheep have not met a guideline. We Protest the failure to fully assess the role of livestock in this ---including livestock displacement of sheep from many habitats, and habitat alteration.*

Desert bighorn sheep displacement by livestock is a rare occurrence due to little overlap of preferred habitats. It is not a documented or perceived problem within the analysis area. Cattle were not a causal factor in the bighorn sheep contributing to the failure to meet a guideline. This was due to a large runoff event which scoured a spring, followed by exploitation of the area by the sheep for mineral intake.

- 33. We Protest bogus Determinations. Example - even though developments are built for livestock - you do not attribute development failure to livestock in the White Wolf allotment - (see CD at 7).*

Livestock did not cause these improvements to fail. The lack of use by livestock in the area was the reason the lessee failed to make necessary repairs. Other factors are present in the failure of the improvements. An example is that road maintenance in several places uncovered and destroyed several pipelines.

- 34. We Protest the FRH conclusions related to springs in the Red Spring allotment. Please provide data and concrete information that shows that "drought" and not livestock are responsible for 9 springs being in FAR condition.*

There was no livestock use of the riparian areas which were rated functioning at risk in the Red Spring Allotment. See Appendix B for this information.

- 35. We Protest your failure to provide information necessary to understand the importance of the sage grouse population here (Sagehen Spring), the conditions of sage grouse habitat, and clearly identify conflicts with nesting, brood rearing, wintering, and lekking sage grouse.*

The importance of this particular sage grouse population was not stressed because they are no more important than any other population of sage grouse. Please refer to the sage

grouse sections of the Rangeland Health Assessment for more information. For in depth information on the sage grouse within this area please refer to the Bi-State Sage Grouse Conservation Plan which can be found on the internet by performing a “Google” search for the document.

36. We Protest the failure address watershed-level impacts of livestock grazing in making the FRH Determinations.

37. We Protest the failure to adequately address the role of livestock in loss and degradation of ecosystem composition, function and structure in the allotments.

As stated above, livestock use in the assessment area is light and has not caused harmful impacts.

38. We Protest allowing additional water hauls. You have not yet provided adequate environmental analysis of the impacts of existing water hauls here.

Adequate analysis is included in the EA and Rangeland Health Assessment. BLM stated in the Terms and Conditions in the EA and again in the proposed multiple use decision, “Temporarily Suspend AUMs at the following rates until Range Improvements are repaired. Do not permit new Water Haul Sites until all Range Improvements are repaired.” The NEPA for any additional water hauls will be completed when a new water haul is proposed. This is also stated in the EA.

39. We Protest the failure to incorporate the limited trend and production data into the FRH Determinations. These show significant loss and degradation, as well as desertification processes (Sheridan CEQ 1981).

These statements are baseless. Trend and production data do not show “desertification processes.” As explained in the EA, precipitation is highly variable in this desert. These fluctuations in rainfall cause periodic die offs of perennial vegetation. The last dry year was 2002. The evaluation makes it clear that the loss of vegetation is due to drought not livestock grazing. Use by livestock has been very light. Trend and production data analysis was used to determine if Standards and Guidelines were met.

40. We Protest BLM's apparently overwhelming reliance on a Tour conducted in spring of a greatly exceptional moisture year as the basis for claims of forage abundance in some areas of these allotments.

41. We Protest the failure to conduct a current ESI on these lands. Mapping based on soil survey tells you nothing about what is actually out there at present -after all the droughts you lament elsewhere in the assessment process.

ESI is based on soil survey mapping as was our tour. Ecological site information, also used in ESI, was used in the tour to identify ecological sites and their potential to produce forage for cattle, wild horses, burros and wildlife. The goal of the tour was to identify what was “actually out there at present.” BLM is confused by this claim that we rely too heavily on

additional field data, especially when we are criticized for not having enough data in this protest letter. BLM staff is able to identify the difference between young and old plants growing in the “spring of a greatly exceptional moisture year.”

42. We Protest the open-ended reliance on fencing as a panacea for livestock damage. As the track record of profound neglect of facilities in this allotment shows, you have no reason to expect that ANY fences -especially around water sources -will be maintained, or effective. Protective stubble height, trampling, and riparian browse standards of use should serve as triggers for livestock removal from these allotments.

Livestock damage does not exist at these springs. The terms and conditions of these leases include stubble height and “triggers” to move livestock. The fences proposed to surround four riparian areas will total less than one mile of fence.

Attachment 2

**FINDING OF NO SIGNIFICANT IMPACT
FOR
THE FISH LAKE VALLEY COMPLEX
(Silver Peak, White Wolf, Ice House, Fish Lake Valley, and Red Spring
Allotments)
Project Number: NV065-2005-037**

**FINDING OF NO SIGNIFICANT IMPACT
FOR
THE FISH LAKE VALLEY COMPLEX
(Silver Peak, White Wolf, Ice House, Fish Lake Valley, and Red Spring Allotments)
Project Number: NV065-2005-037**

I have reviewed Environmental Assessment (EA) NV065-2005-037, dated 15 July, 2005. After consideration of the environmental effects of the Bureau of Land Management's (BLM's) preferred alternative (Proposed Action) described in the EA and supporting documentation, I have determined that the Proposed Action with the project design specifications 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 is not required as per section 102 (2) © of the National Environmental Policy Act.

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

Context:

The assessment area covers over 600,000 acres varying from playa receiving less than four inches of annual precipitation, to low sagebrush communities on Piper Peak at 9,449 feet in elevation receiving roughly 16 inches of precipitation. Within the Fish Lake Complex there are five grazing allotments (Silver Peak, White Wolf, Ice House, Fish Lake Valley, and Red Spring) and two areas closed to livestock grazing. There are two Herd Management Areas (HMA) involved in the assessment area.

A Rangeland Health Assessment Evaluation was done (EA - NV065-2005-037) which determined whether the Resource Advisory Council (RAC) Standards and Guidelines were met as well as the Tonopah Resource Management Plan Objectives. The allotment/evaluation process determined that Standards for Rangeland Health (SRH) were not being achieved under existing wild horse and livestock management.

Intensity:

1) Impacts that may be both beneficial and adverse.

The EA considered both beneficial and adverse impacts of the proposed management actions.

Beneficial impacts of the proposed action include: reduced livestock and wild horse numbers, improved control of wild horses and cattle, reduced disturbance by horses and cattle; increased burro numbers; decreased potential for adverse impacts to migratory

birds; possible improvements to BLM Sensitive plant (Tecopa birdsbeak) habitat; improved vegetation cover for BLM Sensitive Wildlife species; improved water quality at several springs; improved functional condition for riparian areas in the Silver Peak HMA; increasing available water for wildlife and livestock. These actions will be beneficial through the elimination of direct impacts associated with livestock, wild horse and burros, and wildlife use.

None of the environmental impacts disclosed above and discussed in detail in the Environmental Consequences section of the EA and associated appendices are considered significant.

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

The Proposed Action would result in improved public safety by reducing the likelihood of wild horse or livestock collision on parts of US Highway 6 and Highway 264 in Fish Lake Valley. There would be no adverse impacts to public health or safety as a result of the Proposed Action.

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 assessment area covers over 600,000 acres of public lands. It is located in west-central Nevada in the rain shadow of the California Sierra and the White Mountains and is within the jurisdictional boundary of the Tonopah Field Station of the Bureau of Land Management. Much of the area is in the 3-5" precipitation regime, which is extremely arid. There is one Wilderness Study Area within the assessment area. There are no prime farmlands, park lands, wild and scenic rivers, or ecologically critical areas in the area of analysis. The EA did not identify any significant impacts to unique species or their habitats that occur on the allotment or historical or cultural resources.

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

Public input was requested during review of the EA and prior to issuance of a final decision. All comments received were addressed and incorporated as pertinent. The effects of wild horse and livestock grazing management practices are well known and documented, are not highly controversial, and are implemented to meet resource objectives.

The Proposed Action is not expected to be controversial. The BLM has coordinated with permittees, interested publics, and the Nevada Department of Wildlife (NDOW).

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 that 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.

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 would not establish a precedent for future actions with significant effects or represent a decision about 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.

The reasonably foreseeable future actions have been considered in the cumulative impacts analysis within the EA. No significant cumulative impacts have been identified in the EA. Past, present, and reasonably foreseeable future actions on-going in the cumulative impact assessment area would not result in cumulatively significant impacts.

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.

A fully qualified archaeologist would monitor the installation process to mitigate potential disturbance to buried cultural deposits that may exist within the location of the riparian enclosures and/or fences. Implementation will have no significant adverse effect on districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places because the large size of the project area relative to the limited number of permitted livestock will ensure that grazing is dispersed. The action complies with the National Historic Preservation Act. The action will also not cause loss or destruction of significant cultural, or historical resources.

The BLM has committed to no adverse effects on National Register eligible cultural resources as a result of the Proposed Action.

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 Endangered Species Act (ESA), as amended, of 1973.

Special Status Species occurring or potentially occurring within the Project Area were identified through the following sources: 1) NNHP database search; 2) a list of species potentially occurring in the Project Area prepared by the U. S. Fish and Wildlife Service

(USFWS) Nevada Fish and Wildlife Office; 3) a list of BLM Sensitive Species prepared by the BLM; and 4) personal communications with BLM, NDOW, and USFWS personnel. Bald eagles, a federally listed threatened species, are known to inhabit the Project Area during the winter. The action complies with the Endangered Species Act, in that potential effects of this decision on listed species have been analyzed and documented. 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 would not violate or threaten to violate any federal, state, or local law or requirement imposed for the protection of the environment. Applicable laws and regulations were considered in the EA.



William S. Fisher
Assistant Field Manager
Tonopah Field Station

Date

09-27-05

Attachment 3
List of Interested Parties

CHAIRMAN
ELY BAND OF THE WESTERN SHOSHONE
16 SHOSHONE CIRCLE
ELY, NV 89301

NEVADA CATTLEMENS ASSOCIATION
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MR AND MRS BRENT ESPIL
PO BOX 150
GERLACH, NV 89412

ESMERALDA COUNTY COMMISSIONERS
PO BOX 517
GOLDFIELD, NV 89013

NEVADA FARM BUREAU FEDERATION
2165 GREEN VISTA DRIVE SUITE 205
SPARKS, NV 89431

MS JOAN DANCE
MARYDEAN ASSOCIATES
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NYE COUNTY PLANNING DEPARTMENT
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MR AND MRS JOE B FALLINI JR
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ESMERALDA COUNTY SHERIFF DEPT
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MS JONEILLE ANDERSON
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WESTERN WATERSHEDS PROJECT
KATIE FITE
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NYE COUNTY COMMISSIONERS
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TONOPAHA, NV 89049

MS CATHERINE BARCOMB
COMM FOR PRESERVATION OF WILD HORSES
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CARL HAAS
HAAS AND ASSOCIATES
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DIR OF ENVIRONMENT ASSESMENT
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SUSAN HAAS
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TIM BROWN
ARLEMONT RANCH
HC 72 BOX 18900
FISH LAKE VALLEY, NV 89010-9803

D BRADFORD HARDENBROOK
NEVADA DEPARTMENT OF WILDLIFE
SOUTHERN REGION
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Attachment 4

**Form 1842-1 – Information on Taking appeals to the Board
of Land Appeals**

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
Tonopah Field Station
P.O. Box 911
Tonopah, NV 89049

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.

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.

* * * * *