

4/5/01



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Carson City Field Office
5665 Morgan Mill Road
Carson City, Nevada 89701
775-885-6000
<http://www.nv.blm.gov>

In Reply Refer To:
4160/4770
(NV-032)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dear Interested Public:

The Churchill Canyon Allotment's cattle grazing operation and the Spring Gulch Allotment's sheep grazing operation have been affected by an escaped prescribed fire that occurred during October 2000. The Como Fire (X-603) burned 1,767 public acres. A map of the burn and the grazing allotments is attached. The Carson City Field Office aerially seeded the entire burn area and one pass chained 695 acres to cover the seed in February 2001. The Bureau of Land Management will be constructing a temporary fence (Antelope Type B) along the northeast perimeter of the burn to discourage cattle and wild horses from grazing within the burn area. The Como Fire was located outside of the Northern Pine Nut Herd Management Area (HMA), however, wild horses are present. Copies of decisions which authorized the actions described above and the associated Environmental Analysis are available at the Carson City Field Office, 5665 Morgan Mill Road, Carson City, Nevada 89701.

GRAZING DECISION CHURCHILL CANYON & SPRING GULCH ALLOTMENTS

In order to allow seeded areas to establish and the surviving native vegetation time to attain growth and vigor, my decision relating to livestock grazing within the Churchill Canyon and Spring Gulch Allotments is as follows:

- A. In accordance with 43 CFR §4110.3-3(b), the following areas are closed to grazing for the next two growing seasons or until rehabilitation objectives have been met. Upon determination that the rehabilitation objectives have been met, authorized grazing use may resume.

The legal descriptions of the burned areas closed include the following sections or portions thereof:

<u>Grazing Allotment</u>	<u>Township</u>	<u>Range</u>	<u>Sections</u>
Churchill Canyon	13 North	23 East	6
	14 North	22 East	25 & 36
	14 North	23 East	29, 30, 31, & 32
Spring Gulch	13 North	23 East	5

The above legal descriptions includes less than 4 percent (1,727 acres) of the Churchill Canyon Allotment and less than 1 percent (40 acres) of the Spring Gulch Allotment.

- B. In accordance with §4130.3-2, water hauling sites will be established that will assist in the control of livestock movement within the affected allotments. Intensified herding will be necessary to more fully control livestock.
- C. In accordance with §4130.3-2(c), authorization is granted to use salt. Per the terms and condition of the grazing permit, salt will be placed at least one-quarter mile from live waters (springs/streams) and outside associated riparian areas, permanent livestock watering facilities, wet or dry meadows, and aspen stands. Also salt will not be placed in known historic properties.
- D. In accordance with §4130.3-2, the treatments and schedules will be monitored to determine the effectiveness of management applications. Any action(s) and/or modifications may be taken that are deemed appropriate to limit the spread and establishment of exotic and/or noxious plant species.
- E. In accordance with §4130.3-2, in the event that livestock drift into the areas closed to grazing and are a recurring problem, it will be necessary to close larger portions of these allotments.

RATIONALE

Adequate time is needed for the burned and rehabilitated areas to reestablish a vigorous native perennial vegetative community. This will move toward meeting the standards for rangeland health identified in the Standards and Guidelines as established by the Sierra Front – Northwestern Great Basin Resource Advisory Council.

Establishing temporary and/or permanent water haul sites and the use of salt are effective means to control livestock distribution. Additionally, a more intense herding program can further limit the potential of animals entering the burned areas.

Flexibility is an integral part of any management activity. It is crucial that adaptive management techniques are available to managers to confront the potential problem of exotic plant species, particularly cheatgrass from becoming the dominant vegetation.

It is not anticipated that drift onto the burned areas will be a persistent problem. It is, however, expected that some drift may occur. If it does, the permittees will take immediate action to remove the livestock. If a recurrent problem develops, it may be necessary to expand the area of closure.

AUTHORITY

§4110.3-2(a) states that "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."

§4110.3-3(b) states that "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 permittee 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."

§4120.3-1(a) states that "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."

§4130.3 states that "Livestock grazing permits and leases shall contain terms and conditions determined by the authorized officer to be appropriate to achieve management and resource condition objectives for the public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with the provisions of **subpart 4180** of this part."

§4130.3-2 states that "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 public rangelands. These may include but are not limited to: (c) Authorization to use, and directions for placement of supplemental feed, including salt, for improved livestock and rangeland management on the public lands; and (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;”

§4140.1(b)(1)(i and iii) states that “Persons performing the following prohibited acts related to rangelands shall be subject to civil and criminal penalties set forth at §§4170.1 and 4170.2:

(i)Allowing livestock or other privately owned or controlled animals to graze on or be driven across these lands (iii) In an area or at a time different from that authorized.”

§4160.3(f) states that “Notwithstanding the provisions of Sec. §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 Sec. §4110.3-3(b) or Sec. §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 Sec. §4.21(a)(1) of this title.

GUIDANCE

Guidance is found within the Standards and Guidelines, approved by the Secretary of the Interior on February 12, 1997, for the Sierra Front – Northwestern Great Basin Resource Advisory Council, as follows:

Guideline #4 states that “After a range fire or other natural catastrophic event, vegetation should be returned to the native species as rapidly as possible, to afford forage and habitat for native animals. If a nurse crop is needed to protect the land from erosion, all native nurse crops should be used first.”

Guideline #5 states in part that “Treated areas will be rested from livestock grazing for two growing seasons or until seedlings are established or the vegetative response has achieved objective levels.”

Guideline #12 states that “Departure from traditional grazing management practices may be authorized by BLM to achieve Standards on a case by case experimental basis for rangeland restoration and rehabilitation.”

Guideline #18 says to, “Implement aggressive action to reduce the invasion of exotic plant species into native plant communities. Control the spread of noxious weeds through various methods such as, grazing management, fire management and other vegetative management practices.”

Guideline #21 says to “Implement grazing management practices that sustain biological diversity

across the landscape.”

ADDITIONAL GUIDANCE

Emergency Fire Rehabilitation Plan – Como Fire, approved on 11/29/00
Como Fire Rehabilitation One Pass Chaining & Exclosure Fence (EA-NV-030-01-007) 01/03/01

It is my decision that the closure be placed in full force and effect as provided under 43 CFR §4160.3(f). Any applicant, permittee, lessee, or other person whose interest is adversely affected by the Final Decision may file an appeal and petition for stay of the Decision pending final determination of the appeal pursuant to 43 CFR §4160.4 and §4.470. Appeals and petitions for a stay of the Decision shall be filed within 30 days after receipt of the Final Decision in person or in writing to the Assistant Manager, Renewable Resources, Bureau of Land Management, Carson City Field Office, 5665 Morgan Mill Road, Carson City, Nevada 89701.

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

Should you wish to file a motion for stay, the appellant shall show sufficient justification based on the following standards under 43 CFR §4.21:

- (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.
- (4) Whether the public interest favors granting the stay.

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

WILD HORSE DECISION
CHURCHILL CANYON & SPRING GULCH ALLOTMENTS

Due to conflicts resulting from wild horse use of private lands in the Southern Pine Nut HMA, this area was closed to wild horse use by decision #23 of the Management Framework Plan Major Land Use Decision Summary & Environmental Impact Statement Record of Decision (Reno Planning Area) in 1982. The Como Burn is located in an area that has been designated horse free. Wild Horse drift onto the area containing the Como Burn has occurred in the past. Although a fence is being constructed along the northeast perimeter of the burn to discourage cattle and wild horses from grazing within the burn area, it is still possible for animals to access the burn from the west side. It is not anticipated that drift onto the burned areas will be a persistent problem. It is, however, expected that some drift may occur. If it does, the BLM will be take immediate action to remove the wild horses.

- A. In accordance with §§4720.1 and 4770.3(c), if during the period of closure to livestock

for the Como Burn, within the Churchill Canyon and Spring Gulch Grazing Allotments, wild horses establish themselves within the rehabilitated area, which is managed as a horse free area, these wild horses will be removed.

RATIONALE

Adequate time is needed for the burned and rehabilitated areas to establish a native perennial vegetative community. This will move toward meeting the standards for rangeland health identified in the Standards and Guidelines as established by the Sierra Front – Northwestern Great Basin Resource Advisory Council. In order to achieve and maintain a thriving ecological balance and multiple-use relationship in this burned area, it is necessary to remove wild horses and livestock. If grazing by large animals occurs in the burned area, recovery will be delayed and the carrying capacity may be decreased.

Some drift into the burn area may occur. The area will be closely monitored. If a problem develops with wild horses taking up residency in the burn, the horses will be removed.

GUIDANCE

Guidance is found within the Standards and Guidelines, approved by the Secretary of the Interior on February 12, 1997, for the Sierra Front – Northwestern Great Basin Resource Advisory Council, as follows:

Guideline #4 states that “After a range fire or other natural catastrophic event, vegetation should be returned to the native species as rapidly as possible, to afford forage and habitat for native animals. If a nurse crop is needed to protect the land from erosion, all native nurse crops should be used first.”

Guideline #5 states that “Treated areas will be rested from livestock grazing for two growing seasons or until seedlings are established or the vegetative response has achieved objective levels.

ADDITIONAL GUIDANCE

Walker Resource Management Plan (Incorporated the Reno Management Plan) - 1986
Emergency Fire Rehabilitation Plan – Como Fire, approved on 11/29/00
Como Fire Rehabilitation One Pass Chaining & Exclosure Fence (EA-NV-030-01-007) 01/03/01

AUTHORITY

§4710.4 states that “Management of wild horses and burros shall be undertaken with the objective of limiting the animal’s 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.”

§4770.3(c) states that "Notwithstanding the provisions of paragraph (a) of Sec. §4.21 of this title, the authorized officer may provide that decisions to remove wild horses and burros from public or private lands in situations where removal is required by applicable law or is necessary to preserve or maintain a thriving ecological balance and multiple use relationship shall be effective upon issuance or on a date established in the decision.

It is my decision that the area closed to use by wild horses, which is outside of the Northern Pine Nut HMA, be placed in full force and effect as provided under 43 CFR §4770.3(c). Any person who is adversely affected by the Final Decision of the authorized officer in the administration of these regulations may file an appeal and petition for stay of the Decision pending final determination of the appeal pursuant to 43 CFR, Part 4. Appeals and petitions for a stay of the Decision shall be filed within 30 days after receipt of the Final Decision in person or in writing to the Assistant Manager, Renewable Resources, Bureau of Land Management, Carson City Field Office, 5665 Morgan Mill Road, Carson City, Nevada 89701.

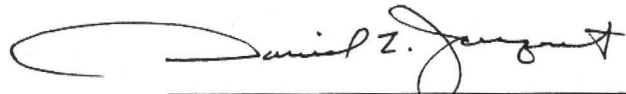
The appeal shall state the reasons, clearly and concisely, why the appellant thinks the final decision is in error. The appeal must be filed in accordance with the procedures outlined in the enclosed Form 1842-1, Information on Taking Appeals to the Board of Land Appeals.

Should you wish to file a motion for stay, the appellant shall show sufficient justification based on the following standards under 43 CFR §4.21:

- (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.
- (4) Whether the public interest favors granting the stay.

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

4/5/01
Date



Daniel Jacquet
Assistant Manager, Renewable Resources
Carson City Field Office

Como Fire Grazing Decisions for Churchill Canyon & Spring Gulch

