

2: Bennett sp. per 5-14-96



United States Department of the Interior
Bureau of Land Management
Caliente Field Station
P.O. Box 237
Caliente, Nevada 89008

In Reply Refer To:
4130
H. Wendell Jones
Grazing Case File
(NV-055.09)

CERTIFIED RECEIPT #P310374618
RETURN RECEIPT REQUESTED

MAY 14 1996

NOTICE OF FINAL DECISION

H. Wendell Jones
230 Dewey Avenue
Cedar City, Utah 84720

Dear Mr. Jones:

On January 23, 1996, I issued a Proposed Decision offering you a Federal ten-year grazing permit. I have received your signed Grazing Permit dated May 7, 1996 which was revised as a result of comments received to the proposed decision.

On February 7, 1996, I received a letter of protest from the Commission for the Preservation of Wild Horses. I have reconsidered the proposed decision in response to the protest. Based on this review and discussion with the Commission for the Preservation of Wild Horses regarding the reasons for protest, my final decision is to issue you a ten-year grazing permit for renewal as follows:

ALLOTMENT NAME	KIND OF LIVESTOCK	SEASON OF USE	PERMITTED USE (Animal Unit Months AUMs)			
			SUSPENDED		ACTIVE	
			HISTORICAL	OTHER	LIVESTOCK GRAZING	CONSERVATION
BLACK CANYON	Sheep	10/16-4/30	88	0	335	0
BENNETT SPRING	Sheep	10/16-4/30	759	0	996	0

Terms and Conditions:

1. The payment of grazing fees are due on the due date specified on the grazing fee bill. Failure to pay the grazing fee bill 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.

2. Applications for changes in grazing use must be in written form and received by the Bureau of Land Management Office no later than 15 days prior to the desired date of change. Applications for changes in grazing use which require the issuance of a replacement or supplemental billing notice shall be subject to a ten (10) dollar service charge.
3. Grazing applications will be issued on a yearly basis, if you do not sign and return your grazing application by the date specified on the application you will receive a bill for all of your active livestock grazing permitted use. If you wish to place all or a portion of your active livestock grazing use into non-use for the grazing year, you must indicate this in writing on your grazing application, along with your reasons.
4. Signed Actual Use Statements are due annually to the Caliente Resource Area Office within 15 days after completing annual grazing use. In the case of year round grazing, Actual Use Statements must be received in our office by March 15.
5. The Federal ten year grazing permit is subject to cancellation, suspension, or modification for any violation of the Code of Federal Regulations or specified terms or conditions of this permit.
6. When standards and guidelines are developed in accordance with 43 CFR 4180.2 dated August 21, 1995, these standards and guidelines are to be considered part of the terms and conditions of this permit.

Black Canyon Allotment Specific Terms and Conditions:

Grazing authorizations on the Black Canyon Allotment shall be made in accordance with the established utilization objectives for key species at the key area issued by proposed/final decision dated November 28, 1983 as follows:

KEY AREA LOCATION	KEY SPECIES	UTILIZATION OBJECTIVES (%)			
		SPRING	SUMMER	FALL	WINTER
T.2S., R.66E., SE 1/4 SEC.6	INDIAN RICEGRASS	50	50	60	60
	SQUIRRELTAIL	50	50	60	60
	BLACK SAGEBRUSH	30	50	50	50

Bennett Spring Allotment Specific Terms and Conditions:

Grazing authorizations on the Bennett Spring Allotment shall be made in accordance with the established utilization objectives for key species at the key area issued by proposed/final decision dated November 28, 1983 as follows:

KEY AREA LOCATION	KEY SPECIES	UTILIZATION OBJECTIVES (%)			
		SPRING	SUMMER	FALL	WINTER
T.2S., R.67E., NW1/4 SEC.19	SQUIRRELTAIL	50	50	60	60
	BLACK SAGEBRUSH	30	50	50	50
T.3S., R.66E., SW1/4 SEC.5	SQUIRRELTAIL	50	50	60	60
	BLACK SAGEBRUSH	30	50	50	50
T.2S., R.66E., NE1/4 SEC.9	SQUIRRELTAIL	50	50	60	60
	BLACK SAGEBRUSH	30	50	50	50

The authority for this decision is contained in Title 43 of the Code of Federal Regulations, which states in pertinent part:

Sec. 4130.2 Grazing permits or leases. (a) "Grazing permits or leases shall be issued to qualified applicants to authorize use on the public lands and other lands under the administration of the Bureau of Land Management that are designated as available for livestock grazing through land use plans. Permits or leases shall specify the types and levels of use authorized, including livestock grazing, suspended use, and conservation use. These grazing permits or leases shall also specify terms and conditions pursuant to 4130.3, 4130.3-1, and 4130.3-2."

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 on appeal. The appeal and petition for stay must be filed in the office of the authorized officer (Field Station Manager) within 30 days following receipt of the final decision. The appeal shall state the reasons clearly and concisely, why the appellant thinks the final decision is in error. If within 30 days following receipt of the final decision by all parties, no appeals are filed, I will approve the Grazing Permit. If the final decision is appealed, you will either be granted a license reflecting your previous year's authorized use or one which reflects the enclosed permit. The option taken will depend upon whether a stay of the decision is requested and granted.

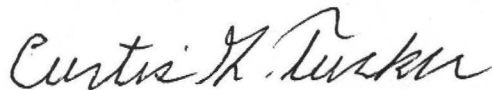
Should you wish to file a motion for stay in accordance with 43 CFR Sec. 4.21 (b)(1), the appellant shall show sufficient justification based on the following standards:

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

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

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

Sincerely,



Curtis G. Tucker
Field Station Manager

cc:

NV-043

Nevada Division of Wildlife

Resource Concepts, Inc., John McClain

N-5 Board, Merlin Flake

Natural Resources Defense Council, Johanna H. Wald

Wilderness Society Regional Associate, Barbara Spolter

Lincoln County Public Lands Commission

Lincoln County Commission

Commission for the Preservation of Wild Horses, Cathy Barcomb

Wild Horse Organized Assistance, Dawn Lappin

Animal Protection Institute, Nancy Whitaker

National Wild Horse Association

International Society for the Protection of Mustangs and Burros

Nevada State Clearinghouse

Sierra Club, Conservation Chair, Randy Harness (DO NOT SEND CERTIFIED)

CERTIFIED RECEIPT #

P310374619

P310374620

P310374621

P310374622

P310374623

P310374624

P310374625

P310374626

P310374627

P310374628

P310374629

P310374630

P310374631



COMMISSION FOR THE
PRESERVATION OF WILD HORSES

255 W. Moana Lane
Suite 207A

Reno, Nevada 89509
(702) 688-2626

May 31, 1996

Mr. Curtis G. Tucker
Caliente Resource Area
Bureau of Land Management
P.O. Box 237
Caliente, Nevada 89008

Subject: Bennett Springs 10 Year Permit - Highland Herd

Dear Mr. Tucker:

Thank you for consulting Commission for the Preservation of Wild Horses concerning the Black Canyon and Bennett Spring Allotment long term grazing licenses. These allotments are within the Highland Wild Horse Herd Management Area. Domestic sheep are not often direct competitors to wild horses.

These allotments were to have seasonal adjustments to limit spring use to March 31 each year. We realize that this is a non-AMP allotment; however, we are confused that the season of use adjustments of the land use plan were never implemented.

We appreciate the utilization limits provided in the terms and conditions for these permits.

We appreciate your consideration of our concerns.

Sincerely,

A handwritten signature in cursive script that reads "Catherine Barcomb".

CATHERINE BARCOMB
Executive Director