



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
George Andrus
Grazing Case File
(NV-055.09)

CERTIFIED MAIL #P310374632
RETURN RECEIPT REQUESTED

MAY 14 1996

NOTICE OF FINAL DECISION

George Andrus
59 South 500 East
St. George, UT 84770

Dear Mr. Andrus:

On January 25, 1996, I issued a Proposed Decision offering you a Federal ten-year grazing permit. You applied for the transfer of grazing preference for the Oak Wells Allotment on July 26, 1995. The grazing application and request for transfer involves the transfer of permitted use from Joy Peterson of J Bar P Cattle Company to you.

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 this protest. Based on this review and discussion with the Commission regarding the reasons for protest, my final decision is to issue you a ten-year grazing permit with amended terms and conditions as follows:

FROM:

ALLOTMENT NAME	KIND OF LIVESTOCK	SEASON OF USE	PERMITTED USE (Animal Unit Months AUMs)			
			SUSPENDED		ACTIVE	
			HISTORICAL	OTHER	LIVESTOCK GRAZING	CONSERVATION
Oak Wells	Cattle	3-1 to 2-28	2862	0	511	0

TO:

ALLOTMENT NAME	KIND OF LIVESTOCK	SEASON OF USE	PERMITTED USE (Animal Unit Months AUM's)			
			SUSPENDED		ACTIVE	
			HISTORICAL	OTHER	LIVESTOCK GRAZING	CONSERVATION
Oak Wells	Cattle	3-1 to 2-28	2862	0	511	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.

Oak Wells Allotment Specific Terms and Conditions:

Grazing authorizations on the Oak Wells Allotment shall be made in accordance with utilization levels presented in the Nevada Rangeland Monitoring Handbook at the following key area:

KEY AREA LOCATION	KEY SPECIES	UTILIZATION OBJECTIVES % CURRENT YEAR'S GROWTH			
		SPRING	SUMMER	FALL	WINTER
KEY AREA 1 AT T.4S., R.70E., SEC 9 SWNE	NEEDLEANDTHREAD WESTERN WHEAT	50	50	60	60
		50	50	60	60

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."

Sec. 4110.2-3 Transfer of grazing preference. (a) (1) "The transferee shall meet all qualifications and requirements of 4110.1, 4110.2-1, and 4110.2-2 of this part. The transferee shall meet all qualifications of this part."

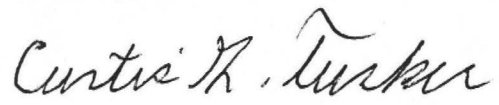
Any applicant, permittee, lessee or other person whose interest is adversely affected by the final decision may file an appeal and petition for stay of the decision pending final determination on appeal. The appeal and petition for stay must be filed in the office of the Authorized Officer (Field Station 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 Field Station Manager.

Sincerely,



Curtis G. Tucker
Field Station Manager

CERTIFIED MAIL #

cc:

- NV-043
- Nevada Division of Wildlife P310374619
- Resource Concepts, Inc., John McClain P310374620
- N-5 Board, Merlin Flake P310374621
- Natural Resources Defense Council, Johanna H. Wald P310374622
- Wilderness Society Regional Associate, Barbara Spolter P310374623
- Lincoln County Public Lands Commission P310374624
- Lincoln County Commission P310374625
- Commission for the Preservation of Wild Horses, C. Barcomb P310374626
- Wild Horse Organized Assistance, Dawn Lappin P310374627
- Animal Protection Institute, Nancy Whitaker P310374628
- National Wild Horse Association P310374629
- International Society for the Protection of Mustangs and Burros P310374630
- Nevada State Clearinghouse P310374631
- Conservation Chair, Sierra Club, Randy Harness DO NOT SEND CERTIFIED

BOB MILLER
Governor

STATE OF NEVADA

CATHERINE BARCOMB
Executive Director



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: Oak Wells 10 Year Permit - Miller Flat Herd

Dear Mr. Tucker:

Thank you for consulting Commission for the Preservation of Wild Horses concerning the Oak Well Allotment long term grazing license. This allotment is within the Miller Flat Wild Horse Herd Management Area.

This allotment was to have a seasonal adjustment to eliminate spring use by allowing turnout at June 1 each year. We are unaware of any new AMP. 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