

11-28-95

a: Tomplain, per



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Ely District Office
HC 33 Box 33500
Ely, Nevada 89301-9408

IN REPLY REFER TO:

4130 (NV-047)

IN REPLY REFER TO:

NOV 28 1995

CERTIFIED MAIL NO. P 313 269 792
RETURN RECEIPT REQUESTED

AREA MANAGER'S PROPOSED DECISION

White River Ranch, LC
c/o Charles M. Brown
801 Colton
North Las Vegas, NV 89030

Dear Mr. Brown:

On October 31, 1995, the Ely District Office received your grazing application for a transfer of grazing preference within the **Tom Plain Allotment** (a "C" category allotment). This grazing application and request for transfer involves the transfer of 6,039 AUMs of permitted use from George Gardner to White River Ranch, LC.

This transfer also involves the purchase of base property to which the grazing preference is currently attached. The grazing preference will therefore remain with the existing base property. That base property includes one parcel, 160 acres in size located within the Tom Plain Allotment.

It is my proposed decision to approve the application to transfer 6,039 AUM's permitted use within the Tom Plain Allotment from George Gardner to White River Ranch, LC and the associated ten-year permit described as follows:

<u>Allotment</u>	<u>Livestock</u> <u>Number Kind</u>	<u>Grazing Period</u> <u>Begin End</u>	<u>%PL</u>	<u>Type</u> <u>Use</u>	<u>Aums</u>
Tom Plain	503 Cattle	03/01 02/28	100	Permitted	6,039

Terms and Conditions:

Signed Actual Use Statements are due annually within 15 days after completing annual grazing use to the Ely District Office.

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.

The authority for this decision in pertinent part is contained in Title 43 of the Code of Federal Regulations at the following sections:

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 affected interest may protest the proposed decision under Sec. 43 CFR 4160.1, in person or in writing to (Name, title and office address of authorized officer) within 15 days after receipt of such decision. The protest, if filed, should clearly and concisely state the reason(s) as to why the proposed decision is in error.

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.

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 as noted above, within 30 days following receipt of the final decision, or 30 days after the date the proposed decision becomes final.

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:

- (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.

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

Sincerely,



Gene L. Drais, Manager
Egan Resource Area

cc: Nevada Department of Wildlife, Reg. II
N-4 Grazing Board
Resource Concepts, Inc.
Commission for the Preservation of
Wild Horses
Animal Protection Institute
Wild Horse Organized Assistance
Sierra Club, Toiyabe Chapter

CERTIFIED MAIL #

(P 313 269 793)

(P 313 269 794)

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(P 026 274 949)



**COMMISSION FOR THE
PRESERVATION OF WILD HORSES**

255 W. Moana Lane

Suite 207A

Reno, Nevada 89509

(702) 688-2626

December 13, 1995

Mr. Gene Drais
Egan Resource Area
Bureau of Land Management
HC 33 Box 33500
Ely, Nevada 89301-9408

Subject: Tom Plain Allotment Permit Transfer

Dear Mr. Drais:

Thank you for consulting the Nevada Commission for the Preservation of Wild Horses concerning the issuance of grazing permits. Information provided in the notification does not provide for proper review by affected interests. We assume that all allotments have had some degree of rangeland monitoring since the original Resource Management Plan.

It would appear that any new information would allow for an environmental assessment to support the proposed decision. In absence of any meaningful information to assess impacts to wild horses, the Commission requests any additional information pertinent to wild horses or their habitat within the Tom Plain Allotment.

We appreciate your attention on this matter.

Sincerely,

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

CATHERINE BARCOMB
Executive Director