



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Ely District Office
HC 33 Box 33500
Ely, NV 89301-9408

In Reply Refer To:
4130 (NV-043)

OCT 31 1996

CERTIFIED MAIL NO. P 313 268 092
RETURN RECEIPT REQUESTED

Notice of Proposed Decision

Peter & Julian Goicoechea
P.O. Box 97
Eureka, Nevada 89316

Dear Mr. Goicoechea:

The Bureau of Land Management, Ely District has recently determined that the grazing permit and grazing authorizations that you have been issued for the Railroad Pass Allotment (Operator No. 274536) have been issued in error. Records and events indicate that you no longer own or control the base property to which the grazing preference (511 AUMs) for grazing use in the Railroad Pass Allotment was attached. Our files show that in 1978, Otto C. Kaintz transferred 511 AUMs in the Railroad Pass Allotment to Peter and Julian Goicoechea. The 511 AUMs were attached through the transfer to the base property known as the Diamond Valley Property. Subsequently the Diamond Valley Property was sold in 1979 to Emco livestock. The 511 AUMs were never transferred to another base property before it was sold and a transfer application was not filed.

Based on a review of your Grazing Case File and an evaluation of the facts and circumstances associated with the status of your grazing permit for the Railroad Pass Allotment, my proposed decision is to permanently cancel your grazing permit.

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

4110.2-1 (d): "If a permittee or lessee loses ownership or control of all or part of his/her base property, the permit or lease, to the extent it was based upon such lost property, shall terminate immediately without further notice from the authorized officer..." "...When a permit or lease terminates because of a loss of ownership or control of a base property, the grazing preference shall remain with the base property and be available through application and transfer procedures at 43 CFR 4110.2-3, to the new owner or person in control of that base property."

4110.1 (a): "Except as provided under 4110.1-1, 4130.5, and 4130.6-3, to qualify for grazing use on the public lands an applicant must own or control land or water base property ..."

4110.2-3 (c): "If a grazing preference is being transferred from one base property to another base property, the transferor shall own or control the base property from which the grazing preference is

being transferred and file with the authorized officer a properly completed transfer application for approval..."

4110.2-3 (g): " Failure of either the transferee or the transferor to comply with the regulations of this section may result in rejection of the transfer application or cancellation of grazing preference."

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 Hal Bybee, Assistant District Manager Renewable Resources, Ely District Office, HC 33 Box 33500 Ely, Nv. 89301-9498 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 other wise 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.

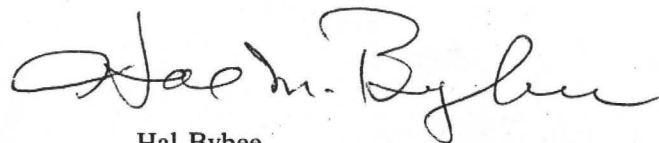
The appeal shall state the reasons, clearly and concisely, why the appellant thinks the final decision is in error.

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,



Hal Bybee
Assistant District Manager, Renewable
Resources.

cc: Pete Paris Jr.
Harold Rother Farms
Commission for the Preservation of Wild horses
Toiyabe Chapter of the Sierra Club
Nevada Dept. of Wildlife

CMayer:cm