



United States Department of the Interior

Bureau of Land Management

Caliente Resource Area

P.O. Box 237

Caliente, Nevada 89008

In Reply Refer To:
4130 (NV-055.18)
George Andrus
Grazing Case File

CERTIFIED MAIL #Z060510479
RETURN RECEIPT REQUESTED

JAN 25 1996

AREA MANAGERS PROPOSED DECISION

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

Dear Mr. Andrus:

On July 26, 1995, the Caliente Resource Area Office received your grazing application for a transfer of grazing preference within the Oak Wells Allotment (a "I" category allotment), which is within the Miller Flat Wild Horse Herd Management Area. The grazing application and request for transfer involves the transfer of permitted use from Joy Peterson of J Bar P Cattle Co. to you.

You have provided proof that you purchased and control the base property to which the grazing preference is currently attached. The grazing preference will remain with the existing base property. That base property includes one parcel, 40 acres in size located within the Oak Wells Allotment. On 1-24-96 you came into the Caliente Resource Area Office and signed an Acceptance of Terms and Conditions for the Oak Wells allotment.

I have determined that you have met all the mandatory qualifications as an applicant for a livestock grazing permit.

It is my proposed decision to offer you a ten-year permit described as follows:

FROM:

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

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.

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 affected interest may protest the proposed decision under Sec. 43 CFR 4160.2, in person or in writing to Curtis Tucker, Area Manager, Caliente Resource Area Office, P.O. Box 237, Caliente, NV 89008 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 an absence of a protest, the proposed decision shall constitute my final decision without further notice unless otherwise provided in the proposed decision, in accordance with 43 CFR Sec. 4160.3 (a).

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 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 yours,



Curtis G. Tucker
Area Manager

cc: NV-043

NV-053

Nevada Department of Wildlife

Resource Concepts, Inc., c/o John McClain

N-5 Board, c/o Kenneth D. Lee

Natural Resources Defense Council,

c/o Johanna H. Wald

Conservation Chair, Sierra Club

Wilderness Society Regional Associate, Barbara Spolter

Karen Budd-Falen, Budd-Falen Law Offices

Lincoln County Public Lands Commission

Lincoln County Commission

Commission for the Preservation of Wild Horses,

c/o Cathy Barcomb

Wild Horse Organized Assistance, Dawn Lappin

Animal Protection Institute, Nancy Whitaker

Nevada Wild Horse Association

International Society for the Protection of Mustangs

and Burros

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COMMISSION FOR THE
PRESERVATION OF WILD HORSES

255 W. Moana Lane
Suite 207A

Reno, Nevada 89509
(702) 688-2626

February 2, 1996

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

Subject: Protest - Oak Wells Permit Transfer

Dear Mr. Tucker:

The Commission for the Preservation of Wild Horses has received the proposed decision to transfer the Oak Wells Allotment. This "I" category allotment was to receive planning and funding priority of the Caliente land use plan. We have no record of consultation pertaining any resource activity plan that would have established resource objectives or management actions to achieve multiple use goals of the land use plan.

According to new federal regulations, any new permit must contain terms and conditions necessary to meet resource objectives. In absence of an allotment management plan, allotment evaluation or multiple use decision, we recommend an environmental assessment be prepared to support any decision establishing terms and conditions that may affect wild horse habitat.

Since range monitoring data had to be collected since the land use plan, an environmental assessment is required by the National Environmental Policy Act. Issuance of status quo grazing authorizations could not be programmatic under the 1979 environmental impact statement.

We would appreciate your attention on this matter.

Sincerely,

CATHERINE BARCOMB
Executive Director