



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Ely Field Office
HC 33 Box 33500 (702 No. Industrial Way)
Ely, Nevada 89301-9408
<http://www.nv.blm.gov/Ely>



In Reply Refer To:
4130 (NV-042)

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FEB 26 2004

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DEPARTMENT OF ADMINISTRATION
OFFICE OF THE DIRECTOR
BUDGET AND PLANNING DIVISION

7J Ranch
Attn: Hank Brackenbury
HC 64 Box 25
Caliente, Nevada 89008

Dear Mr. Brackenbury:

Your grazing term permit will expire on February 29, 2004. Your new grazing permit is issued under the authority of Section 328 of Public Law 108-7 in accordance with Section 101 (6) of Public Law 108-84, enacted on September 30, 2003, and subsequent continued appropriations. The terms and conditions contained in the expiring permit shall continue in effect under the new permit until such time as the permit is completely processed in compliance with all applicable laws and regulations, at which time the permit/lease may be canceled, suspended or modified, in whole or in part, to meet the requirements of such applicable laws and regulations.

Two copies of your new grazing permit are included with this letter. Please sign and return both copies to the Caliente BLM Field Office, P.O. Box 237, Caliente, Nevada 89008, Attn: Domenic Bolognani.

The issuance of your new grazing permit will be for a period of ten years beginning *March 1, 2004, and ending February 28, 2014*. The signed "Acceptance of Terms and Conditions" form for your permit was received on February 13, 2004. The active permitted use for the permit authorizes that which is reflected in the "Acceptance of Terms and Conditions" form.

The Ely Field Office is initiating a comprehensive Resource Management Plan (RMP) and subsequent watershed assessments on a district-wide basis. Term permits expiring prior to completion of the RMP will be issued under the authority of the Grazing Rider portion of BLM's annual appropriation bill until completion of the RMP and watershed assessments. These term permits will be issued for a period not to exceed ten years. The terms and conditions contained in the expiring term permit shall continue in effect until a new term permit is reissued following completion of the RMP and the watershed assessments.

Upon completion of the RMP and watershed assessments, term permits previously issued under the Grazing Rider will be reissued and will be processed in compliance with all applicable laws and regulations.

The new grazing regulations require the authorized officer to consult, cooperate, and coordinate (CCC) with affected permittees, the State agencies responsible for managing resources within the

area, and the interested public prior to the issuance of grazing permits (43 CFR 4130.2(b)). Therefore, a copy of this letter and a copy of the acceptance form will be sent to individuals, groups or organizations that have expressed an interest in the management of livestock grazing on the allotments listed in the "Acceptance of Terms and Conditions" form.


You meet all of the qualifications for a grazing permittee outlined in 43 CFR 4110.1, and this offering and issuance of a permit complies with the regulations governing issuance of permits outlined in 43 CFR 4110.2-1 and 4110.2-2.

The terms and conditions outlined in the enclosed acceptance form are those that have historically appeared on previous annual licenses and permits authorizing grazing use on the allotments listed in the "Acceptance of Terms and Conditions" form. The terms and conditions outlined for these allotments were developed through consultation, cooperation, and coordination with the interested public during the allotment evaluation process. The terms and conditions outlined are also consistent with the Caliente Resource Area Management Framework Plan (MFP) and the Caliente Grazing Environmental Statement (ES).

The Rainbow and Lower Riggs Allotments are located within the Delamar Wild Horse Herd Management Area (HMA) while a small portion of Boulder Springs Allotment is located in the Meadow Valley HMA. Boulder Springs and Lower Riggs are located within the Meadow Valley Mountains Wilderness Study Area (WSA). Boulder Springs and Lower Riggs Allotments are also located within the desert tortoise habitat planning area.

If you have any questions please contact Domenic A. Bolognani, Rangeland Management Specialist, at (775) 726-8124. If you would prefer to discuss this matter in person, please call to set up an appointment with us so that we may respond to any questions you may have.

Sincerely,


Richard A. Orr
Assistant Field Manager

2 Enclosures

1. Acceptance of Terms and Conditions form (already signed)

**ACCEPTANCE OF TERMS AND CONDITIONS AND
REQUEST FOR GRAZING PERMIT**



I, Henry and Joi Brackenbury agree to accept the Terms and Conditions listed below and request that I be offered a Grazing Permit to graze the following allotment(s) in which I have a grazing preference as listed below:

ALLOTMENT		LIVESTOCK		GRAZING PERIOD		% Public Land	AUMs		
Name	Number	Number	Kind	Begin	End		Permitted Use	Hist. Susp. Use	Total Use
Ash Flat	21002	7	C	5/01	3/24	100	74	29	103
Meadow Valley	01041	4	C	11/01	4/30	100	56	65	121
		4	H	3/01	2/28	100	---	---	---
Pennsylvania	01056	97	C	5/01	10/31	100	588	262	850
Rainbow	11028	28	C	3/01	2/28	100	332	0	332
Lower Riggs	01087	29	C	5/01	3/24	100	309	0	309
Highway	01036	10	C	3/01	2/28	100	118	20	138
Peck	01055	34	C	3/01	2/28	100	397	346	743
Boulder Spring	21009	70	C	10/01	3/31	100	416	0	416

In accordance with 43 CFR 4130.3-2, the following terms and conditions will be included in the grazing permit for the aforementioned Allotments:

1. Livestock numbers identified in the term grazing permit are a function of seasons of use and permitted use for each allotment. Deviations from those livestock numbers and seasons of use may be authorized on an annual basis where such deviations would not prevent attainment of the Multiple-Use Objectives for the allotment.
2. Deviations from specified grazing use dates will be allowed when consistent with Multiple-Use Objectives. Such deviations will require an application and written authorization from the authorized officer prior to grazing use.
3. Pursuant to 43 CFR 10.4 (G) the holder of this authorization must notify the authorized officer by telephone, with written confirmation, immediately upon discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony (as defined at 43 CFR 10.2). Further, pursuant to 43 CFR 10.4 (C) and (D), you must stop activities in the immediate vicinity of the discovery and protect it from your activities for 30 days or until notified to proceed by the authorized officer.
4. The authorized officer is requiring that an actual use report (Form 4130-5) be submitted within 15 days after completing your annual grazing use.
5. The payment of your grazing fees is due on or before the date specified in the grazing bill. This date is generally the opening date of your allotment. If payment is not received within 15 days of the due date, you will be charged a late fee assessment of \$25 or 10 percent of the grazing bill, whichever is greater, not to exceed \$250. Payment with Visa, MasterCard or

American Express is accepted. Failure to make payment within 30 days of the due date may result in trespass action.

6. Grazing use will be in accordance with the Mojave-Southern Great Basin Standards and Guidelines for grazing administration as developed by the Mojave-Southern Great Basin Resource Advisory Council and approved by the Secretary of the Interior on February 12, 1997. Grazing use will also be in accordance with 43 CFR Sub-part 4180 - Fundamentals of Rangeland Health and Standards and Guidelines for Grazing Administration.

Additional Terms and Conditions:

Livestock grazing will not be authorized within the riparian area associated with the Meadow Valley Wash portions of the Ash Flat, Meadow Valley, Rainbow and Pennsylvania Allotments during the period May 1 to August 31, to allowing nesting of the Southwest Willow Flycatcher, a threatened species under the Endangered Species Act.

In accordance with 43 CFR 4130.3-2, and the Caliente Management Framework Plan Amendment and Record of Decision for the Management of Desert Tortoise Habitat (September 2000), the following terms and conditions will be included in the grazing permit for the Lower Riggs and Boulder Springs Allotments:

Lower Riggs and Boulder Springs Allotments

7. From March 15 to October 15, livestock use may occur as long as forage utilization management levels do not exceed 40% on key perennial grasses, shrubs and perennial forbs: livestock use may occur between October 15 and March 15, provided forage utilization management levels do not exceed 50% on key perennial grasses and 45% on key shrubs and perennial forbs. When the use levels are reached, livestock will be moved to another location within the allotment or taken entirely off the allotment.
8. All vehicle use in desert tortoise habitat associated with livestock grazing, with the exception of range improvements, shall be restricted to existing roads, trails, and large sandy washes. Permittees and associated workers shall comply with posted speed limits on access roads. No new access roads shall be created. Range improvement projects associated with grazing allotments administered by the Bureau's Ely Office shall comply with terms and conditions 5-8 of this biological opinion.
9. Tortoises discovered by the permittee to be in imminent danger during routine cattle movement or maintenance activities, may be moved out of harms way by the permittee providing the permittee has received the required training.
10. Use of hay or grains as a feeding supplement shall be prohibited within grazing allotments to avoid the introduction of non-native plant species. Mineral and salt blocks are authorized subject to 43 CFR section 4130.6-2(c) and should be placed in previously disturbed areas wherever possible, to minimize impacts to desert tortoise and its habitat. In

some cases, blocks may be placed in areas that have a net benefit to tortoise by distribution livestock more evenly throughout the allotment, and minimizing concentrations of livestock that result in habitat damage.

11. Livestock levels will be adjusted to reflect significant, unusual climatic conditions which result in a dramatic change in range conditions (e.g., drought and fire), which negatively impact the ability of the allotment to support tortoises and cattle to a degree considered by the Bureau and Service beyond the scope of this consultation.
12. The permittee is required to take action to remove any livestock that move into areas closed to grazing. If straying of livestock onto such areas becomes problematic, the Bureau of Land Management (BLM), in consultation with the U. S. Fish and Wildlife Service (USFWS), shall take measures to ensure straying is prevented.

Signed:

Joi Brackenbury

Date:

2-13-04