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4-30-96



# 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  
Lewis Wendell Mathews  
Grazing Case File  
(NV-055.09)

CERTIFIED MAIL #P310374589  
RETURN RECEIPT REQUESTED

APR 30 1996

## NOTICE OF FINAL DECISION

Lewis Wendell Mathews  
P.O. Box 82  
Panaca, NV 89042

Dear Mr. Mathews:

On January 23, 1996, I issued a Proposed Decision offering you a Federal ten-year grazing permit. I have received your signed Grazing Permit dated February 5, 1996 which was revised as a result of comments received to the proposed decision.

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 the protest. Based on this review and discussion with the Commission for the Preservation of Wild Horses regarding the reasons for protest, my final decision is to issue you a ten-year grazing permit for renewal as follows:

ALLOTMENT NAME	KIND OF LIVESTOCK	SEASON OF USE	PERMITTED USE (Animal Unit Months AUMs)			
			SUSPENDED		ACTIVE	
			HISTORICAL	OTHER	LIVESTOCK GRAZING	CONSERVATION
Panaca Cattle	Cattle	3/1-2/28	163	0	85	0
Buckboard	Cattle	3/1-2/28	263	0	88	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.

Panaca Cattle Allotment Specific Terms and Conditions:

Grazing authorizations on the Panaca Cattle Allotment shall be made in accordance with the established utilization objectives for key species at the key area issued by proposed/final decision dated November 28, 1983 as follows:

KEY AREA LOCATION	KEY SPECIES	UTILIZATION OBJECTIVES (%)			
		SPRING	SUMMER	FALL	WINTER
WHITE WASH AT T.2S., R.68E., SEC.23 SWNW	INDIAN RICEGRASS	50	50	60	60
	SQUIRRELTAIL	50	50	60	60
	FOURWING SALTBUSH	30	50	50	50
	WINTERFAT	30	50	50	50

Buckboard Allotment Specific Terms and Conditions:

Grazing authorizations on the Buckboard 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 (%)			
		SPRING	SUMMER	FALL	WINTER
MILLER WASH AT T.3S., R.68E., SEC.12 SESE	INDIAN RICEGRASS	50	50	60	60
	SQUIRRELTAIL	50	50	60	60
	GALLETA	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."

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 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 authorized officer.

Sincerely,



Curtis G. Tucker  
Field Station Manager

Enclosure: Grazing Permit

cc:

CERTIFIED MAIL #

NV-043

Nevada Division of Wildlife

P310374590

Resource Concepts, Inc., John McClain

P310374591

N-5 Board, Merlin Flake

P310374592

Natural Resources Defense Council, Johanna H. Wald

P310374593

Wilderness Society Regional Associate, Barbara Spolter

P310374594

Lincoln County Public Lands Commission

P310374595

Lincoln County Commission

P310374596

Commission for the Preservation of Wild Horses, Cathy Barcomb

P310374597

Wild Horse Organized Assistance, Dawn Lappin

P310374598

Animal Protection Institute, Nancy Whitaker

P310374599

National Wild Horse Association

P310374600

International Society for the Protection of Mustangs and Burros

P310374601

Nevada State Clearinghouse

P310374602

Sierra Club, Conservation Chair, 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 9, 1996

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

Subject: 10 Year Panaca/Buckboard Allotments

Dear Mr. Tucker:

Thank you for considering the concerns of the Commission regarding the issuance of a 10 year grazing permit for the Panaca and Buckboard Allotments. Implementation of your land use plan is your obligation and duty to protect natural resources.

The additional terms and conditions better reflect the grazing limitations of these allotments. We support the use of key species, key management areas and allowable use levels for the determination of carrying capacities and the allocation of forage.

We look forward to working with the Caliente Field Office in the near future.

Sincerely,

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

CATHERINE BARCOMB  
Executive Director