Jackson MAn Allot

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United States Department of the Interior

BUREAU OF LAND MANAGEMENT Winnemucca Field Office 5100 East Winnemucca Boulevard Winnemucca, Nevada 89445 Jackbon MA 702-623-1500 JACKbon MA 09-21-98P12:48 RCVD

In Reply Refer To: 4160 (NV-22.13)

September 18, 1998

Dear Interested Public:

The hearing on the DeLong Ranches, Inc. appeal from the Final Multiple Use Decision for Jackson Mountain Allotment began on August 25, 1998. That Final Multiple Use Decision was issued May 27, 1994. Prior to completion of the hearing the appeal was resolved by agreements between DeLong Ranches, Inc. and the Bureau of Land Management. Copies of the agreements are enclosed.

The agreements change the Livestock Decision portion of the Final Multiple Use Decision. In addition, the allotment specific objectives are refined by the agreements, but not changed in substance. The Standards for Rangeland Health have been added.

The most notable portions of the agreements are:

- Permitted use as listed on the grazing permit will be 8857 AUMs, which is the level of permitted use prior to issuance of the Final Multiple Use Decision. Of those 8857
 AUMs, 1250 AUMs will be in voluntary non-use during the 1999 and 2000 grazing years.
- Livestock grazing will be limited to 1291 AUMs in the Rattlesnake South Use Area during the 1999 and 2000 grazing years. The objective for upland utilization has been exceeded in this use area. The objective is expected to be met with the anticipated wild horse use and limited livestock use.
- Following October of 2000, the allotment will be re-evaluated to assess if the management objectives and standards are being met, or if progress towards obtainment of the objectives and standards is being made.
 - The Wild Horse Decision is unchanged by the agreements. Consistent with that decision, subsequent to the allotment re-evaluation following October of 2000, it is my intention that the available forage will be apportioned in the same proportions as the Final Multiple Use Decision, that is, 18% of the available forage to wild horses and 82% to livestock.

If you have any questions or comments, please feel free to contact Lynnda Jackson of my staff at 702-623-1500.

cc:

Sincerely,

Colin P. Christensen Assistant Field Manager Renewable Resources

John L. McLain, Resource Concepts, Inc. Craig C. Downer William R. Brigham, Desert Bighorn Council Mr. John Horning, National Wildlife Federation Nevada Cattlemen's Association, Elko Ms. Johanna H. Wald, Natural Resources Defense Council N. Reidy. The Wilderness Society Mr. Charles Watson, Nevada Outdoor Recreation Association Ms. Rose Strickland, Sierra Club-Toiyabe Chapter Ms. Karen Sussman, International Society for the Protection of Mustangs and Burros Animal Protection Institute Ms. Dawn Lappin, Wild Horse Organized Assistance Ms. Paula Jewell, Humane Society of the US American Horse Protection Association Mr. Richard Heap, Nevada Division of Wildlife, Fallon Nevada Division of Wildlife, Winnemucca Ms. Cathy Barcomb, Commission for the Preservation of Wild Horses Mr. Robert Williams, US Fish & Wildlife Service Mr. Doug Busselman, Nevada Farm Bureau Federation Humboldt County Commissioners Mr. Chuck Crisman, Trout Unlimited, Sagebrush Chapter **Claudia Richards** John Marvel Tom Lamb, Natural Resources Conservation John Falen, National Cattlemen's Assn. Humboldt County Extension Stephen Moan Susan Alden Desert Bighorn Council * · · A



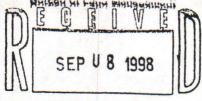
United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS

Hearings Division

 139 East South Tenude, Snich
 Salt Lake City, Utsh 84111, Phone: 801-524-5344

September 3, 1998



DISTRICT OFFICE WINNEMUCCA, NEVADA

DELONG RANCHES, INC.,

N2-94-19.

Appellant

Appeal from the Area Manager's Final Multiple Use Decision dated May 27, 1994, Paradise-Denio Resource Area, Winnemucca District, Nevada

BUREAU OF LAND MANAGEMENT,

Respondent

DELONG RANCHES, INC.,

Appellant

v.

V

BUREAU OF LAND MANAGEMENT,

Respondent

DELONG RANCHES, INC.,

Appellant

v.

BUREAU OF LAND MANAGEMENT,

Respondent

IBLA 94-666 (N2-94-20)

Appeal from the Area Manager's Final Multiple Use Decision dated May 27, 1994, Paradise-Denio Resource Area, Winnemucca District, Nevada

IBLA 94-667 (N2-94-21)

Appeal from the Area Manager's Final Multiple Use Decision dated May 27, 1994, Paradise-Denio Resource Area, Winnemucca District, Nevada

N2-94-19, IBLA 94-666, IBLA 94-667

ORDER OF DISMISSAL

On August 26,.1998, during a hearing on the above-captioned matters, the parties entered into two stipulations (see attachment A and B) and the Appellants withdrew their appeals on the record (see attachment C). Pursuant to these stipulations these matters are dismissed.

1. T. Lugmack

Nicholas T. Kuzmack Administrative Law Judge

Distribution By Certified Mail:

W. Alan Schroeder P.O. Box 267 Boise, Idaho 83701

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Rose M. Vallie, Esq. Office of the Field Solicitor U.S. Department of the Interior 6201 Federal Building 125 South State Street Salt Lake City, Utah 84138-1180

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UNITED STATES DEPARTMENT OF INTERIOR

OFFICE OF HEARINGS AND APPEALS

HEARINGS DIVISION

Delong	Rar	nches,	Inc.)			
			Appellant,			4-19; 94-666 94-667	
		v.)	ter and the		
Bureau	of	Land	Management,	j			
			Responden	t.)			

Stipulation regarding Certain Issues.

The appellant and respondent stipulate to resolve certain issues within respondent's Final Multiple Use Decision dated May 27, 1994 (FMUD).

I. Allotment Objectives. The FMUD established allotment objectives for the Jackson Mountain Allotment at pages 2 and 3. The appellant and respondent agree to resolve this issue by modifying the language of these objectives. Therefore, the objectives listed on pages 2 and 3 of the FMUD are totally replaced with the following, and this substitution pertains to the future evaluation of the Jackson Mountain Allotment and does not effect appellant's challenge of the existing FMUD and the management objectives upon which the FMUD depends:

Short Term Objectives

- The objective for utilization of key species (POA, JUNCUS, CAREX, POPUL, SALIX) on streambank riparian habitat on Trout Creek, Jackson Creek and Mary Sloan Creek is 30% at the end of the growing season (approximately September 30).
- The objective for utilization of key species (POA, JUNCUS, CAREX, DISTI, SALIX) on wetland riparian habitat is 50% utilization at the end of the growing season (approximately September 30).

3. The objective for utilization of key species (SYMPH, AMELA, CEANO, PURSH, FEID, SIHY, POSE, STTH2, AGSP, ORHY EULAS EPHED, ATCO) on upland habitat is 50% at the end of the grazing season.

Long Term Objectives

- Manage, maintain and improve public rangeland 1. conditions to provide forage on a sustained yield basis for big game, with reasonable numbers of 378 AUMs for mule deer, 60 AUMs for pronghorn and 275 AUMs for bighorn sheep.
 - a. Improve to and maintain 102,930 acres in good or excellent mule deer habitat condition within the ecological potential of the range.
 - Improve to and maintain 186,523 acres in fair to b. good pronghorn habitat condition within the ecological potential of the range.
 - Improve to and maintain 48,429 acres in good to C . excellent bighorn sheep habitat condition within the ecological potential of the range.
- 2. Manage, maintain and improve public rangeland conditions to provide forage on a sustained yield basis for livestock (8,857/ALMS).

IMPROVE RANGE CONDITION FROM WHAT BUM PRESENTLY DEEME TO BE POOR Range Condition. Ecological Site Inventory has not TO FAIR been conducted on Jackson Mountain Allotment. This SO objective will be defined/quantified utilizing desired 341.357 plant communities as information becomes available. ACRES . (Final Jackson Mountain Allotment Evaluation, April 11, 1994, pg. 38).

Maintain and improve free roaming behavior of wild horses by protecting and enhancing their area of use on December 15, 1971.

ON A SUSTAINED YIELD BASIS

4.

Manage, maintain and improve public rangeland conditions to provide forage for wild horses as will permit a natural thriving ecological balance.

6. Improve or maintain 967 acres of riparian and meadow habitat types in good condition by allowing sufficient species diversity, reproduction and recruitment for maintenance and improvement of herbaceous and woody riparian species.

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- 7. Improve or maintain 65 acres of aspen stands in good condition by allowing reproduction and recruitment within the stand and provide understory diversity appropriate to the site and stand.
- Improve or maintain 447 acres of mahogany stands in good condition by allowing successful reproduction and recruitment in the stand.
- 9. Improve or maintain 1 acre of ceanothus in good condition by allowing for successful reproduction and recruitment in the stand.
- 10. Improve or maintain bitterbrush, snowberry and serviceberry in good condition by allowing sufficient reproduction in the community.
- 11. Improve to and maintain in good condition suitable sage grouse strutting, nesting, brood caring, and /or wintering habitat within the ecological potential of the rangeland habitat.
- 12. Improve to or maintain the following stream habitat conditions from 67% on Mary Sloan Creek, 58% on Trout Creek and 58% on Jackson Creek to an overall optimum of 60% or above.
 - a. Streambank cover to 60% or above.
 - b. Streambank stability 60% or above.
- 13. Improve to and maintain the water quality of Jackson, Trout and Mary Sloan Creeks to the state criteria set for the following beneficial uses: stockwater, cold water aquatic life, water contact recreation and wildlife propagation.

Standards for Rangeland Health FOR JACKSON MOUNTAIN ALLOTMENT:

- Soil processes will be appropriate to soil types, climate and land form.
- Riparian/wetland systems are in properly functioning condition.

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3. Water quality criteria in Nevada or California State Law shall be achieved or maintained.

4. Populations and communities of native plant species and habitats for native animal species are healthy, productive and diverse.

5. Habitat conditions meet the life cycle requirements of special species.

II. Terms and Conditions. The FMUD modified the terms & conditions of appellant's Grazing Permit for the Jackson Mountaim Allotment in Section 2.B.3. at pages 10 and 11. The appellant and respondent agree to resolve this issue by modifying the language of these terms and conditions. Therefore, the terms and conditions listed on pages 10 and 11 of the FMUD are totally replaced with the following:

The Jackson-Mary Sloan Use Area includes the areas above the lower drift fence on Jackson Creek and above Sweeney Field on Trout Creek, then north to the allotment boundary. Movement from another part of the allotment into the Jackson-Mary Sloan Use Area may be deferred until later than 05/01 with the removal date remaining 07/15. Upon completion of the drift fence on middle Jackson Creek, livestock will not be authorized in the area between the lower drift fence and the drift fence on middle Jackson Creek after 06/15. Livestock may be actively trailed through that area after that date.

The windmill at T35N, R29E Section 2 will remain off from May 1 through July 15 of each year. It is intended that by reducing the time periods when water is available some grazing will be shifted away from areas serviced by these waters allowing utilization objectives to be met; while not causing or increasing unacceptable utilization levels on other parts of the allotment. Modifications in the time period when the well is turned off and turning off Trail Spring Pipeline for part of the year may be implemented if the authorized officer determines it is needed to meet multiple use objectives.

Upon completion of fencing of private land in the upper Big Cedar Creek area livestock will not be authorized from the area west of that private land and east of King Lear Peak after 07/15.

Exchange of use is accounted for on each line entry as percent public land. Your exchange of use agreement expires [enter date]. Exchange of use is dependent upon continued control of leased property.

Your grazing use includes 23 AUMs fenced federal range which may be grazed concurrently with private land as long as grazing use in not detrimental to federal range. Salt and/or mineral blocks shall not be placed within one quarter (1/4) mile of springs, meadows, streams, riparian habitat or aspen stands.

Due to the close proximity of springs, meadows streams, riparian habitats or aspen stands in the Jackson-Mary sloan. Use Area, salt may be placed closer than 1/4 mile where coordinated with and approved by the authorized officer prior to salt placement.

You are required to perform normal maintenance on the range improvements which you have maintenance responsibility as per your signed cooperative agreements/section 4 permits.

Your certified actual use report, by pasture, is due 15 days after the end of your authorized grazing period.

Pursuant to 43 CFR 10.4(g) the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the 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.

Deviations in grazing use may be authorized on an annual basis where such deviation will allow attainment of multiple use objectives for the allotment.

III. Structural Projects. The appellant and respondent agree to resolve this issue by adopting and accepting the language within Section 2.C. at page 11 of the FMUD.

IV. Riparian Objectives. The FMUD decided that the riparian objectives were not achieved under the present livestock grazing management. As a product of this conclusion, the FMUD implemented the following management actions to achieve or make significant progress in the riparian objectives: The construction of certain range improvements adopted and accepted in Section III herein, and the modification of the terms & conditions of appellant's Grazing Permit stated in Section II herein. Appellant does not contest these management actions. Therefore, the purported achievement or non-achievement of the riparian objectives are not and will not be an issue. V. Litigated Management Actions. Appellant and respondent reserve the right to litigate the management actions within the FMUD, i.e. decrease in Active Use, modification of the season of use and related grazing system, the Wild Horse Management Decision, and the Wildlife Management Decision, with the exception of Section IV herein.

.25 Dated August_24, 1998. W. Alan Schroeder, Esq.

a lawyer fox appellant.

Bruce Hill, Esq. a lawyer for respondent.

UNITED STATES DEPARTMENT OF THE INTERIOR

OFFICE OF HEARINGS AND APPEALS

HEARINGS DIVISION

Delong Ranches, Inc.

VS.

Appellant,

N2-94-19; IBLA 94-666; N2-94-20 IBLA 94-667; N2-94-21

CT-

Bureau of Land Management Respondent.

The appellant and respondent stipulate to the following:

1. In consideration of the attached Grazing Permit, the Livestock Management Decision Portion of the Final Multiple Use Decision dated May 27, 1994 is withdrawn, and the administrative appeal filed by appellant is withdrawn, except as otherwise agreed to in the Stipulation Regarding Certain Issues between the parties dated August 25, 1998.

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The Livestock Portion of the FMUD dated 5/27/98, is replaced with the following:

Number	Kind	Period Begin	Period End	%PL	Type Use	AUMs
100	cattle	03/01	03/15	98	A	48
363	cattle	03/16	,03/31	98	A .	187
750	cattle	04/01	04/30	98	A	725
1750	cattle	05/01	08/15	98	A	6033
702	cattle	08/16	09/30	98	A	1040
202	cattle	10/01	10/31	98	A	202
155	cattle	11/01	02/28	98 *	A	599
23	cattle	11/01	11/30	78.100	A	23



Terms and Conditions:

Jackson-Mary Sloan Use Area, shown on the attached map, will be used as follows: Use of the Jackson-Mary Sloan Use Area will be in accordance with the stipulated agreement signed August 25, 1998. Use within this area will not exceed 250 cattle from 5/1 to 7/15.

Rattlesnake South Use Area, shown on the attached map, will be used as follows: Use of this area will be in accordance with the stipulated agreement signed August 25, 1998. Use within this area will not exceed 1,291 AUMs in livestock for the 1999 and 2000 grazing years. It is recognized that the boundaries of this area are unfenced. However, the permittee will make reasonable effort not to exceed the 1,291 AUMs of use by livestock within said years. Permittee agrees that diligent efforts will be made to remove livestock FROM form this use area, and to keep livestock out of this use area, when 1,291 AUMs of use has occurred.

See stipulated agreement signed August 25, 1998 for the allotment objectives, for other terms and conditions, and for the approved structural projects.

During the 1999 and 2000 grazing years, permittee will be on actual use billing and his actual use will not exceed 7,607 AUMs, and the difference between 8,857 AUMs and 7,607 AUMs will be voluntary non-use. All changes will be coordinated with BLM personnel and approved prior to implementation and recorded in your actual use booklet accurately for billing purposes.

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Line 8 is for 23 AUMs of fenced federal range with can be grazed concurrently with private land provided grazing use is not detrimental to federal range.

Salt and/or mineral blocks shall not be place within one quarter (1/4) mile of springs, streams, meadows, riparian habitats, or aspen stands.

The permittee is required to perform normal maintenance on the range improvements as per their signed cooperative agreements/section 4 permits prior to turning out in a pasture or use area scheduled for livestock use.

The permittee will provide a certified actual use report for the Mary Sloan use area and will provide certified actual use reports for the remainder of the allotment as required by regulation.

2. The Wild Horse Management Decision of the Final Multiple Use Decision dated May 27, 1994 shall be effective, and the administrative appeal filed by appellant is withdrawn without prejudice to appellant's right to contest what is the 1971 wild horse use area and/or wild horse herd management area (HMA) within the Jackson Mountain Allotment, as well as what may be the natural thriving ecological balance of the wild horses. Stipulation number 2 shall not preclude the BLM from raising any legal arguments that it may have related to the appellant's contentions that it may contest matters raised in this

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paragraph. The BLM waives any claim of time bar as follows: BLM will not argue in any litigation that the issues in this paragraph were litigated or should have been litigated in this appeal.

The Wildlife Management Decision of the Final Multiple Use Decision 3. dated May 27, 1998 shall be effective, and the administrative appeal filed by appellant is withdrawn."

4. Following October of 2000 the allotment will be re-evaluated to assess if the management objectives and the standards are being met, or if progress toward obtainment of the objective and standards are being made.

5. The permittee agrees to accept the above terms and conditions of the grazing permit for DeLong Ranches, Inc.

6. Neither party shall appeal the stipulations entered in this agreement.

Date

8-25-98

Bruce Hill Counsel for BLM

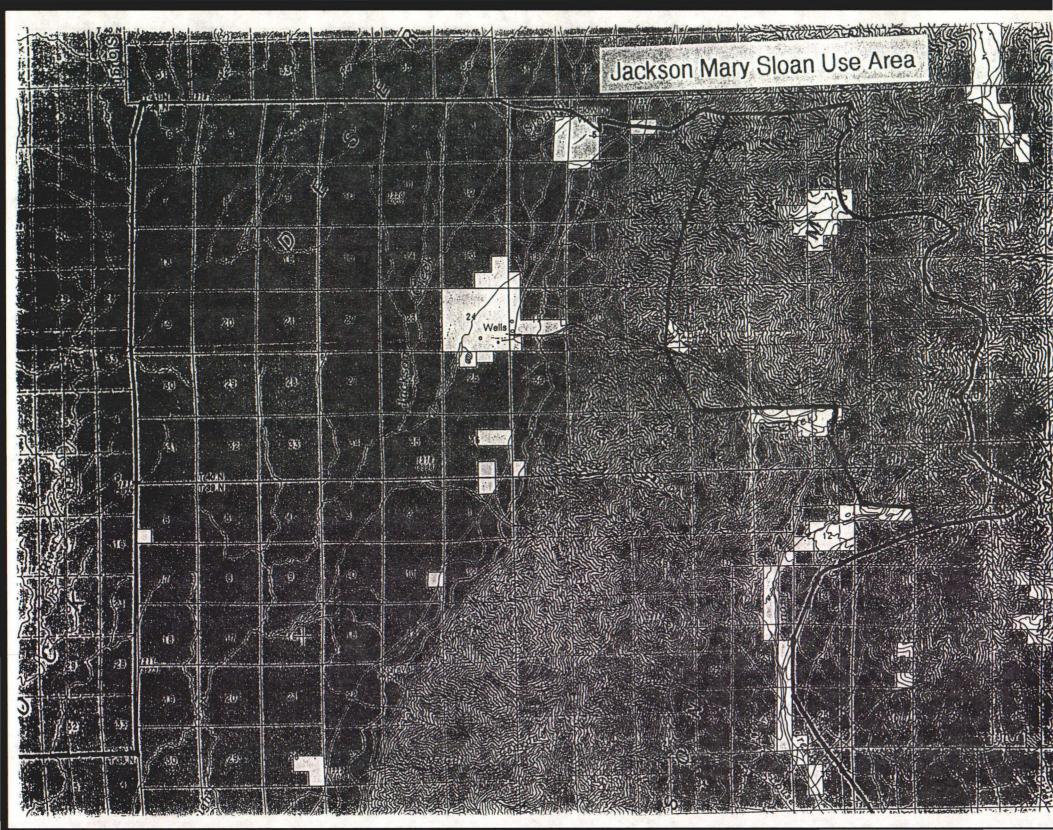
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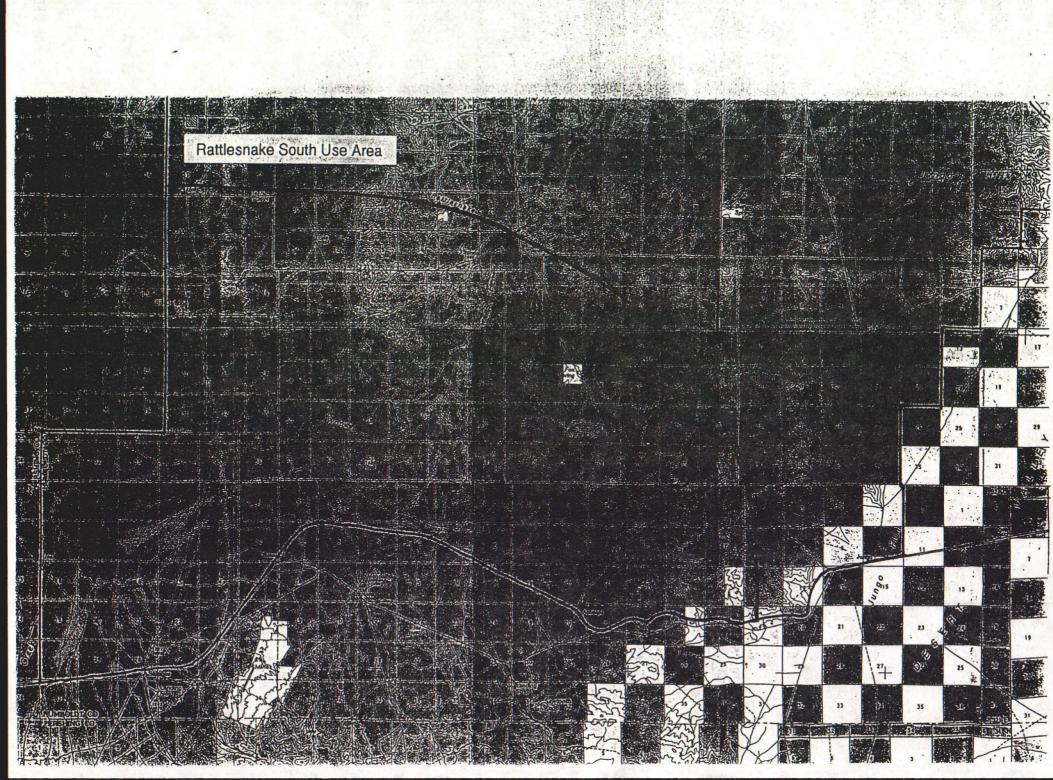
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W. Alan Schroeder Counsel for FeLong Ranches, Inc.

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JACKSON-MARY SLOAN USE AREA, SHOWN ON THE ATTACHED MAP, WILL BE USED AS FOLLOWS: USE OF THE JACKSON-MARY SLOAN USE AREA WILL BE IN ACCORDANCE WITH THE STIPULATED AGREEMENI SIGNED AUGUST 23, 1998. USE WITHIN THIS AREA WILL NOT EXCEED 250 CATTLE FROM 5/1 TO 7/15.

RATTLESNAKE SOUTH USE AREA, SHOWN ON THE ATTACHED MAP, WILL BE USED AS FOLLOWS: USE OF THIS AREA WILL BE IN ACCORDANCE WITH THE STIPULAILD AGREEMENT SIGNED AUGUST 25, 1998. USE WITHIN THIS AREA WILL NOT EXCEED 1,291 AUMS IN LIVESTOCK FOR THE 1999 AND 2000 GRAZING YEARS. IT 'IS RECOGNIZED THAT THE BOUNDARIES OF THIS AREA ARE UNFENCED. HOWEVER, PERMITTEE WILL MAKE REASONABLE EFFORT NOT TO EXCEED THE 1,291 AUMS OF USE BY LIVESTOCK WITHIN SAID YEARS .. PERMITTEE AGREES THAT DILIGENT EFFORTS WILL BE MADE TO REMOVE LIVESTOCK FROM THIS USE AREA, AND TO KEEP LIVESTOCK OUT OF THIS USE AREA, WHEN 1,291 AUMS E

OPERATOR NUMBER: 272115

HAS OCCURRED.

SEE STIPULATED AGREEMENT SIGNED AUGUST 25, 1998 FOR THE ALLOTMENT OBJECTIVES, FOR OTHERS TERMS & CONDITIONS, AND FOR THE APPROVED STRUCTURAL PROJECTS.

DURING THE 1999 AND 2000 GRAZING YEARS, PERMITTEE WILL BE ON ACTUAL USE BILLING AND HIS ACTUAL USE WILL NOT EXCEED 7,407 AUMS, AND THE DIFFERENCE BETWEEN 8,857 AUMS AND 7,607 AUMS WILL BE VOLUNTARY NON-USE. ALL CHANGES WILL BE COORDINATED WITH DLM PERSONNEL AND APPROVED PRIOR TO IMPLEMENTATION AND RECORDED IN YOUR ACTUAL USE BOOKLET ACCURATELY FOR BILLING PURPOSES.

LINE 8 IS FOR 23 AUMS OF FENCED FEDERAL RANGE WHICH CAN BE GRAZED CONCURRENTLY WITH PRIVATE LAND PROVIDED GRAZING USE IS NOT DETRIMENTAL TO FEDERAL RANGE.

SALT AND/OR MINERAL BLOCKS SHALL NOT BE PLACED WITHIN ONE QUARTER (1/4) MILE OF SPRINGS, STREAMS, MEADOWS, RIPARIAN HABITATS, OR ASPEN STANDS.

THE PERMITTEE IS REQUIRED TO PERFORM NORMAL MAINTENANCE ON THE RANGE IMPROVEMENTS AS PER THEIR SIGNED COOPERATIVE AGREEMENTS/SECTION 4 PERMITS PRIOR TO TURNING OUT IN A PASTURE OR USE AREA SCHEDULED FOR LIVESTOCK USE.

THE PERMITTEE'S CORTIFIED ACTUAL USE REPORT, BY PASTURE/USE AREA, IS DUE 15 DAYS AFTER THE END OF THE AUTHORIZED GRAZING PERIOD.

IF PAYMENT IS NOT RECEIVED WITHIN 15 DAYS OF THE DUE DATE, YOU WILL BE CHARGED A LATE FEE ASSESSMENT OF \$25.00 OR 10% OF THE BRAZING BILL WHICHEVER IS GREATER, NOT TO EXCEED \$250.00. FAILURE TO MAKE PAYMENT WITHIN 30 DAYS OF THE DUE DATE MAY RESULT IN TRESPASS ACTION.

FOR MORE INFORMATION, CALL US AT 702 423-1500.

THE PERMITTEE WILL PROVIDE A CERTIFIED ACTUAL USE REPORT FOR THE MARY SLOAN USE AREA AND WILL PROVIDE CERTIFIED ACTUAL USE REPORTS FOR THE REMAINDER OR THE ALLOTMENT AS REQUIRED. BY REGULATION. Form 4130-2a (September 1987)

OPERATOR NUMBER: 272115

ALLOTMENT SUMMARY (AUM'S)

· · · · ·	PREF	ERE	NCE	
ALLOT	ACTIVE	SUSP	TOTAL	
00058 JACKSON MOUNTAIN	8857	3023	11880	

THIS PERMIT ; 1. CONVEYS NO RIGHT, TITLE OR INTEREST HELD BY THE UNITED STATES IN ANY LANDS DR RESOURCES AND 2. IS SUBJECT TO (A) MODIFICATION, SUSPENSION OR CANCELLATION AS REQUIRED BY LAND PLANS AND APPLICABLE LAW; (B) ANNUAL REVIEW AND TO MODIFICATION OF TERMS AND CONDITIONS AS APPROPRIATE; AND (C) THE TAYLOR GRAZING ACT, AS AMENDED, THE FEDERAL LAND, POLICY AND MANAGEMENT ACT, AS AMENDED, THE PUBLIC RANGELANDS IMPROVEMENT ACT, AND THE RULES AND REGULATIONS NOW OR HEREAFTER PROMULGATED THEREUNDER BY THE SECRETARY OF THE INTERIOR.

ACCEPTED: SIGNATURE OF	PERMITTEE.		DATE	C.S. San
			4-1 100	
AREA MANACER		 	DATE	