

m 10-14-98



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Winnemucca Field Office
5100 East Winnemucca Boulevard
Winnemucca, Nevada 89445
702-623-1500

In Reply Refer To:
(NV-22.11)
4160.1-1

October 14, 1998

10-19-98P01:17 RCVD

Dear Interested Public:

Please find enclosed the Final Multiple Use Decision for the Deer Creek Allotment.

If you have any questions, feel free to contact Richard Barry at (702) 623-1500.

Sincerely yours,

Colin Christensen
AFM, Renewable Resources

Enclosure

no
change to
H/O

certified cc:

Robert and Delia Nuffer	Z 551 571 510
U.S. Fish and Wildlife Service	Z 551 571 511
Resource Concepts Incorporated	Z 551 571 512
Mrs. Dawn Lappin	Z 551 571 513
Commission for the Preservation of Wild Horses	Z 551 571 514
Natural Resources Defense Council	Z 551 571 515
Sierra Club-Toiyabe Chapter	Z 551 571 516
The Wilderness Society	Z 551 571 517
Desert Bighorn Council	Z 551 571 518
Department of Wildlife, Fallon	Z 551 571 519
Mr. John Marvel	Z 551 571 520
Nevada Cattlemen's Association	Z 551 571 521
Nevada Farm Bureau Federation	Z 551 571 522
Nevada Department of Wildlife, Winnemucca	Z 551 571 523
Humboldt County Commissioners	Z 551 571 524
State Clearinghouse	Z 551 571 525



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702-623-1500

In Reply Refer To:
(NV-22.11)
4160.1-1

CERTIFIED MAIL NO. Z551 571 510
RETURN RECEIPT REQUESTED

Robert and Delia Nuffer
Star Route Box 395
Winnemucca, NV 89445

FINAL MULTIPLE USE DECISION DEER CREEK ALLOTMENT

October 14, 1998

Dear Mr. and Mrs. Nuffer:

On September 21, 1998, the Proposed Multiple Use Decision for the Deer Creek allotment was issued to you and interested publics. No protests were received.

The following are the multiple use management objectives under which grazing on the Deer Creek Allotment will be monitored and evaluated.

Short Term Objectives:

1. The objective for utilization of key upland plant species (SIHY, ELCI, STTH2, AGSP) is 50%.
2. The objective for utilization of key wetland/streambank riparian plant species (CAREX, JUNCUS, PONE3, SALIX, ROSE, Dogwood) is 50%.

Long Term Objectives:

1. Maintain and improve public rangeland conditions to provide forage on a sustained yield basis for big game, with a forage demand of 112 AUMs for mule deer and 58 AUMs for bighorn sheep.
 - a. Improve to and maintain 10,043 acres in good to excellent mule deer habitat condition.

- b. Improve to and maintain 3,812 acres in good to excellent bighorn sheep habitat condition.
2. Manage, maintain, and improve public rangeland conditions to provide forage on a sustained yield basis for livestock, with an initial stocking level of 754 AUMs.
3. Improve range condition from poor to fair on 3,039 acres.
4. Manage, maintain and improve public rangeland conditions to provide forage for a viable population of horses.
5. Improve to and maintain the state water quality criteria for Deer Creek.

The following are the Standards of Rangeland Health as developed in consultation with the Sierra Front-Northwest Great Basin Resource Advisory Council, other interested publics, and approved by the Secretary of the Interior on February 12, 1997. The terms and conditions of this livestock grazing permit must be in conformance with these approved Standards and Guidelines.

1. Soil processes will be appropriate to soil type, climate, and land form.
2. Riparian/wetland systems are in properly functioning condition.
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 status species.

The following will be removed as a multiple use objective for the Deer Creek Allotment:

Protect sage grouse strutting grounds and brooding areas. Maintain a minimum of 30% canopy cover of sagebrush for nesting and winter use.

Rationale:

No sage grouse habitat has been identified within the Deer Creek Allotment in the Winnemucca District Unit Resource Analysis. No sage grouse strutting grounds, brooding areas or winter use area are known to exist within the allotment. Other allotments within the Jackson Mountains provide sage grouse habitat support populations of the birds. Because of vegetation potential, topography and elevations, sage grouse habitats are not suitable or marginal at best in the Deer Creek Allotment.

WILDLIFE MANAGEMENT

Analysis of existing management of wildlife habitat does not indicate that current wildlife populations are significantly contributing to the failure in meeting multiple use objectives. Therefore, no change in wildlife use will be implemented at this time.

WILD HORSE MANAGEMENT

Based upon the evaluation of the monitoring data for the Deer Creek Allotment, consultation with the permittee and affected interests and recommendations of my staff, there is no indication the existing AML is significantly contributing to the failure to meet multiple use objectives and it is helping to maintain a "thriving ecological balance". Therefore, no change in wild horse use will be implemented at this time.

LIVESTOCK DECISION

Based upon the evaluation of monitoring data for the Deer Creek Allotment, consultation with the permittee and other interested publics and recommendations from my staff, it is my decision for livestock to change the management:

FROM: (DESCRIPTION OF EXISTING USE)

- | | | |
|----|---|-----------------------------------|
| 1. | The total number of animal unit months of specified livestock grazing | 754 AUMs |
| 2. | Historical Suspended | 1,089 AUMs |
| 3. | Season of Use: | 03/01 to 04/30,
10/01 to 11/30 |

Kind and Class of Livestock:	Cattle (cow/calf)
Percent Federal Land:	100%

Grazing System:

200 C 03/01 to 04/30	401 AUMs
176 C 10/01 to 11/30	<u>353 AUMs</u>
Total	754 AUMs

The winter range will be used from 10/01 to 11/30 and 03/01 to 03/31. The spring/summer range will be used from 04/01 to 04/30.

Grazing Permit Terms and Conditions:

Salt and/or mineral blocks shall not be placed within 1/4 mile of springs, meadows, streams, riparian habitat or aspen stands.

A certified actual use report is due 15 days after end of the authorized grazing period.

TO: GRAZING SYSTEM TO BE IMPLEMENTEDLivestock Management

Grazing Preference

- | | | |
|----|---|-----------------------------------|
| 1. | The total number of animal
unit months of specified
livestock grazing | 754 AUMs |
| 2. | Historical Suspended | 1,089 AUMs |
| 3. | Season of Use | 03/01 to 07/31*
10/01 to 01/02 |

* The permittee may request to extend livestock use in the summer use area past 07/31 (see term and condition below).

Kind and Class of Livestock:	Cattle (Cow/Calf)
Percent Federal Land:	100%

Grazing System:

94 C	03/01 to 03/31	93 AUMs
94 C	04/01 to 07/31	377 AUMs
94 C	10/01 to 12/31	<u>284 AUMs</u>
	Total	754 AUMs

A fence which parallels the Jackson Mountain Road divides the winter/early spring grounds from the late spring/summer use area. The use area west of the fence is the fall/winter/early spring grounds. This area will be grazed from 10/01 to 12/31 and 03/01 to 03/31 each year. In addition, the permittee may request to keep livestock in the winter use area from 03/01 to 04/30. The use area east of the fence leading into the Jackson Mountains is the late spring/summer use area. This area will be grazed from 04/01 to 07/31 each year, or beyond if an extension is authorized. In years which livestock are in the winter use area until 04/30, the summer use area will be available from 05/01 to 07/31, or beyond if extensions are authorized.

1
Terms and Conditions:

Salt and/or mineral blocks shall not be placed within 1/4 mile of springs, meadows, streams, riparian habitat or aspen stands.

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

A certified actual use report is due 15 days after the end of the authorized grazing period.

The terms and conditions of this grazing permit must be in conformance with the Standards and Guidelines for the Sierra Front-Northwest Great Basin Resource Advisory Council Area, approved by the Secretary of the Interior on February 12, 1997.

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.

The livestock operator may request an extension(s) of livestock use in the summer use area after 07/31 as long as utilization levels on Deer Creek and Pass Creek are below 40%. If utilization levels are above 40%, an extension shall not be authorized. Based on the operators request for an extension, the BLM, livestock operator, and interested publics shall inspect Deer Creek and Pass Creek on or before 07/31 to determine utilization levels, if an extension can be authorized based on utilization levels, and the length of the extension, if any. An extension may not exceed two weeks.

Rationale:

Monitoring data indicates that short term utilization objectives for upland and riparian habitats in the fall/winter/early spring grounds will be met with this grazing system. This area will be used from 03/01 to 04/30 and 10/01 to 12/31 each year.

Monitoring data indicates that short term utilization objectives and standard and guidelines will be met with this alternative in the spring/summer use area. Utilization data gathered in 1996 and 1997 indicates that livestock use up to 07/31 will not cause unacceptable utilization levels in riparian habitats and associated uplands in the Deer Creek and Pass Creek drainages. In 1996 and 1997, livestock use was extended to 08/23 and 09/15, respectively, and in both years short term utilization objectives for riparian areas and uplands were met. However, extended use will require riding and herding by the permittee throughout the spring/summer use period. This alternative will allow for regrowth of herbaceous riparian species following livestock removal and reduce hot season grazing impacts to woody riparian species in both drainages. The term and condition stated above allows the permittee flexibility in extending livestock use in the spring/summer use area past 07/31 as long as utilization levels in the Deer Creek and Pass Creek drainages are below 50%.

AUTHORITY:

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

4100.0-8 "The authorized officer shall manage livestock grazing on public lands under the principles of multiple use and sustained yield, and in accordance with applicable land use plans. Land use plans shall establish allowable resources uses (either singly or in combination), related levels of production or use to be maintained, areas of use, and resource condition goals and objectives to be obtained. The plans also set forth program constraints and general management practices needed to achieve management objectives. Livestock grazing activities and management actions approved by the authorized officer shall be in conformance with the land use plan as defined at 43 CFR 1601.0-5(b)."

4110.3 "The authorized officer shall periodically review the permitted use specified in a grazing permit or grazing lease and shall make changes in the permitted use as needed to manage, maintain or improve rangeland productivity, to assist in restoring ecosystems to properly functioning condition, to conform with land use plans or activity plans, or to comply with the provisions of subpart 4180 of this part. These changes must be supported by monitoring, field observations, ecological site inventory or other data acceptable to the authorized officer."

4130.3-1(a) "The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotments(s) to be used, and the amount of use, in animal unit months, for every grazing permit or lease. The authorized livestock grazing use shall not exceed the livestock carrying capacity of the allotment."

4130.3-3 "Following consultation, cooperation, and coordination with the affected lessees or permittees, the State having lands or responsible for managing resources within the area, and the interested public, the authorized officer may modify terms and conditions of the permit or lease when the active grazing use or related management practices are not meeting the land use plan, allotment management plan or other activity plan, or management objectives, or is not in conformance with the provisions of subpart 4180 of this part. To the extent practical, the authorized officer shall provide to affected permittees or lessees, States having lands or responsibility for managing resources within the affected area, and the interested public an opportunity to review, comment and give input during the preparation of reports that evaluate monitoring and other data that are used as a basis for making decisions to increase or decrease grazing use, or to change the terms and conditions of a permit or lease."

Appeal:

Any applicant, permittee, lessee or other person whose interest is adversely affected by the final livestock decision may file an appeal, and may petition for stay of the decision pending final determination on appeal under 43 CFR 4160.4, 4.21 and 4.470. The appeal and petition for stay must be filed at the following address:

Colin P. Christensen
AFM Renewable Resources
Bureau of Land Management
Winnemucca Field Office
5100 E. Winnemucca Blvd.
Winnemucca, NV 89445

The appeal and petition for stay must be filed within thirty (30) days following receipt of this final decision.

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

October 14, 1998

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.

FUTURE MONITORING AND GRAZING ADJUSTMENTS

The Winnemucca District will continue to monitor the Deer Creek Allotment. The monitoring data will continue to be collected in the future to provide the necessary information for subsequent evaluations. These evaluations are necessary to determine if the allotment specific objectives are being met under the new grazing management strategy. In addition, these subsequent evaluations will determine if adjustments are required to meet the established allotment specific objectives.

The Deer Creek Allotment is scheduled to be re-evaluated in FY 2008 unless monitoring data indicates another re-evaluation is required sooner.

Sincerely yours,



Colin P. Christensen
Assistant Field Manager
Division of Renewable Resources
Winnemucca District

certified cc:

U.S. Fish and Wildlife Service	Z 551 571 352
Mr. Chuck Crisman	Z 551 571 353
Mrs. Dawn Lappin	Z 551 571 354
Animal Protection Institute of America	Z 551 571 355
International Society for the Protection of Mustangs and Burros	Z 551 571 356
U.S. Humane Society	Z 551 571 357
American Horse Protection Assn.	Z 551 571 358
Natural Resources Defense Council	Z 551 571 359
Sierra Club-Toiyabe Chapter	Z 551 571 360
Mr. Craig Downer	Z 551 571 361
The Wilderness Society	Z 551 571 362
Desert Bighorn Council	Z 551 571 363
Department of Wildlife, Fallon	Z 551 571 364
Mr. John Marvel	Z 551 571 365
Nevada Cattlemen's Association	Z 551 571 366
Nevada Farm Bureau Federation	Z 551 571 367
Nevada Department of Wildlife, Winnemucca	Z 551 571 368
Humboldt County Commissioners	Z 551 571 369
State Clearinghouse	Z 551 571 370
	Z 551 571 371