



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Winnemucca District Office  
705 East 4th Street  
Winnemucca, Nevada 89445

February 28, 1996

CERTIFIED MAIL NO P383113289  
RETURN RECEIPT REQUESTED

In Reply Refer To:  
4160.3  
NV-241

### FINAL DECISION HAPPY CREEK GRAZING PERMIT

Roy Shurtz  
Happy Creek Land and Cattle Ltd.  
P.O. Box 1434  
Elko, NV 89803

*3724 AUMS*

Dear Mr. Shurtz:

On January 26, 1996, a Proposed Decision was issued which offering you a Grazing Permit. I have received a protest to this Proposed Decision from the Commission for the Preservation of Wild Horses.

I have considered the points of protest to the Proposed Decision. Based on consultation with you, other interested publics, and my staff, I have determined the following to be important in making my final decision:

1. The Happy Creek Allotment has been designated as being available for grazing through the Paradise-Denio Resource Area MFP.
2. You are a qualified applicant as specified under 43 CFR 4110.1.
3. You have agreed to accept the Terms & Conditions of the grazing permit.
4. The Terms & Conditions contained in the offered grazing permit are, based on the best information currently available, appropriate to achieve the management and resource condition objectives for the public lands and to ensure conformance with the provisions of 43 CFR 4180.
5. An Allotment Evaluation is scheduled to be completed for the Happy Creek Allotment during 1996.



Therefore, it is my final decision to:

**Offer you the attached 5 Year Grazing Permit**

**RATIONALE:**

I have determined that the scheduled evaluation for the Happy Creek Allotment may result in changes that may require changes in the proposed Grazing Permit so it is warranted to reduce the length of the permit. I have also considered that, due to anticipated reductions in budget and staffing, we may not be able to complete the evaluation as scheduled. These factors led me to conclude that shortening the length of the Grazing Permit is in the best interest of sound land management. Because of the uncertainty of the completion date of the evaluation, the term of the Grazing permit will be 5 years.

**AUTHORITY:**

The authority for 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 resource 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 actions approved by the authorized officer shall be in conformance with the land use plan as defined at 43 CFR 1601.0-5(b).

4130.2(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 and 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."

4130.2(b) " The authorized officer shall consult, cooperate and coordinate with affected permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested publics prior to the issuance or renewal of grazing permits and leases."

4130.2(d) "The term of grazing permits or leases authorizing livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management shall be 10 years unless...(4)the authorized officer determines that a permit or lease for less than 10 years is in the best interest of sound land management."

4130.3 "Livestock grazing permits and leases shall contain terms and conditions determined by the authorized officer to be appropriate to achieve the management and resource objectives for the public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with the provisions of subpart 4180 of this part."



4130.3-1(a) "The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(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."

4130.3-2 "The authorized officer may specify in grazing permits or leases other terms and conditions which will assist in achieving management objectives, provide for proper range management or assist in the orderly administration of the public rangelands..."

4130.3-3 "Following consultation, cooperation, and coordination with the affected lessors 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. To the extent practical, the authorized officer shall provide to affected permittees or lessors, 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."

4160.3(b) "Upon the timely filing of a protest, the authorized officer shall reconsider his/her proposed decision in light of the protestant's statement of reasons for protest and in light of other information pertinent to the case. At the conclusion to his review of the protest, the authorized officer shall serve his/her final decision on the protestant or his/her agent, or both, and the interested public.

4160.3(c) "A period of 30 days following receipt of the final decision...is provided for filing an appeal and petition for stay of the decision pending final determination on appeal. A decision will not be effective during the 30-day appeal period, except as provided in paragraph (f) of this section."

#### APPEALS:

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 under 43 CFR 4160.4, 4.21 and 4.470. The appeal and petition for stay must be filed in writing to Pete Christenson, Paradise-Denio Area Manager, 705 E. Fourth Street, Winnemucca, Nevada, 89445, 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.

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.

Sincerely,

ALING



Area Manager

Paradise-Denio Resource Area

Certified Copies:

Wild Horse Organized Assistance P383113294  
Natural Resources Defense Council P383113262  
Sierra Club-Toiyabe Chapter P383113263  
Craig Downer P383113264  
Nevada Outdoor Recreation Association P383113280  
Desert Bighorn Council P383113281  
NDOW-Fallon P383113265  
John Marvel P383113260  
Nevada Cattleman's Association P383113253  
Resource Concepts, Inc. P383113254  
Nevada Farm Bureau Federation P383113255  
USFWS P383113256  
International Society for the Protection  
of Mustangs and Burros P383113282  
American Horse Protection Assn P383113283  
U.S. Humane Society P383113284  
Ms. Anna Charlton - Rutgers Law School P383113285  
Edie Wilson P383113286  
Humboldt County Commissioners P383113257  
John Falen P383113287  
Commission For the Preservation of Wild Horses P383113260  
The Wilderness Society P383113302  
Sagebrush Chapter, Trout Unlimited  
Animal Protection Institute of America P383113301  
Nevada Bighorns Unlimited P383113314



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

STATE NV  
OFFICE 024  
OPERATOR NUMBER 272141  
PREFERENCE CODE 03  
DATE PRINTED 02/28/96  
TERM 03/01/1996 TO 02/28/2001

GRAZING PERMIT

HAPPY CREEK LAND AND  
CATTLE LTD PARTNER  
ROY SHURTZ  
P.O. BOX 1434  
ELKO, NV 89803

BUREAU OF LAND MANAGEMENT  
PARADISE-DENIO R.A.  
705 EAST 4TH STREET  
WINNEMUCCA, NV 89445

THIS GRAZING PERMIT IS OFFERED TO YOU BASED ON YOUR RECOGNIZED GRAZING PREFERENCE ON THE PUBLIC LANDS AND/OR OTHER LANDS ADMINISTERED BY THE BLM. YOU ARE AUTHORIZED TO MAKE GRAZING USE TO THE EXTENT OF YOUR ACTIVE GRAZING PREFERENCE AS SHOWN BELOW UPON YOUR ACCEPTANCE OF THE TERMS AND CONDITIONS INCORPORATED HEREIN AND YOUR PAYMENT OF GRAZING FEES.

ALLOT ----- PASTURE -----	LIVESTOCK		GRAZING PERIOD		TYPE		AUM'S -----
	NUMBER	KIND	BEGIN	END	%PL	USE	
00056 HAPPY CREEK	500	CATTLE	04/01	08/30	100	ACTIVE	2499
	272	CATTLE	10/15	02/28	100	ACTIVE	1225

TERMS AND CONDITIONS:

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 CERTIFIED ACTUAL 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 GRAZING 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.

THIS AUTHORIZATION IS ISSUED PENDING COMPLETION OF THE GRAZING PERMIT PROCESS. THIS AUTHORIZATION MAY BE SUBJECT TO CHANGE DEPENDING UPON



OPERATOR NUMBER: 272141

WHETHER OR NOT THE DECISION IS APPEALED.

ALLOTMENT SUMMARY (AUM'S)

ALLOT	P R E F E R E N C E		
	ACTIVE	SUSP	TOTAL
00056 HAPPY CREEK	3724	974	4698

THIS PERMIT ; 1. CONVEYS NO RIGHT, TITLE OR INTEREST HELD BY THE UNITED STATES IN ANY LANDS OR 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 BRAZING 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 \_\_\_\_\_

AREA MANAGER: \_\_\_\_\_ DATE \_\_\_\_\_