



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
SURPRISE RESOURCE AREA
P.O. BOX 460
CEDARVILLE, CALIFORNIA 96104-0460



IN REPLY REFER TO:

4120 (CA-028)
AMP File

August 30, 1990

CERTIFIED MAIL #P 365 098 655
RETURN RECEIPT REQUESTED

Dawn Lappin
WHOA
15640 Sylvester Road
Reno, NV 89511

Dear Dawn:

The District Manager of the Susanville District is in the process of issuing a grazing decision for the Massacre Mountain Allotment. This Allotment is located within the Massacre Planning Unit of the Surprise Resource Area.

Enclosed is a copy of this decision for your review. This information is being provided to you because you have been identified as an affected interest. This determination was based on your request to be considered or through your participation on the Massacre Mountain/High Rock Technical Review Team. As an affected interest, you may have protest and appeal rights as specified under the protest procedures section of this decision.

If you should have any questions concerning this decision or the decision process, please contact me at the Surprise Resource Area Office. All protests should be directed to Rick Hanks, District Manager at the Susanville District Office.

Sincerely,

J. Anthony Danna
Surprise Resource Area Manager

Enclosure



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
SURPRISE RESOURCE AREA
P.O. BOX 460
CEDARVILLE, CALIFORNIA 96104-0460



IN REPLY REFER TO:

4160 (CA-028)
GR#042668/AMP FILE

PROPOSED DECISION
(43 CFR 4160.1)

August 10, 1990

PROPOSED DECISIONS ISSUED TO:

Bob Bunyard
Dan Russell
White Pine Ranch, c/o Sam Jaksick

Dear :

INTRODUCTION

On December 7, 1988, The Bureau of Land Management (BLM) District Manager's Final Grazing Decision of April 14, 1983, was vacated by Judge Edward C. Reed, Federal District Court of Nevada (case #CV-N-87-618-ECR Bunyard vs. Donald Hodel). The Judge found that the Bureau's Final Decision was clearly based on a misinterpretation of 43 CFR 4110.4-2(a) rather than on a reasoned analysis of what constitutes an "equitable" apportionment. The Judge made this conclusion based in part on the testimony of the Susanville District Manager in which he stated "I had no choice under interpretations of the regulations but to distribute the reduction on a proportionate basis". However, the court expressed no opinion as to whether proportionate share reduction in grazing privileges would be a valid solution in this matter under a proper interpretation of 43 CFR 4110.4-2(a).

The issue of "equitable" apportionment of the grazing reduction was presented to the Modoc/Washoe Experimental Stewardship Steering Committee for its assistance in complying with the court's ruling. A subcommittee was appointed to identify and analyze alternatives to readjudicate the grazing privileges, and to recommend a grazing decision that would be equitable to all permittees involved.

This Proposed Decision is the results of our consultation with the Modoc/Washoe Experimental Stewardship Program and its subcommittee, Susanville District Grazing Advisory Board and the permittees.

The Taylor Grazing Act of 1934 and the Federal Land Policy and Management Act of 1976 provide for livestock grazing use of the public lands. The grazing regulations for public lands give the District Manager the authority to classify the public lands for the kinds of livestock, periods of use and grazing capacity.

In accordance with the Federal Regulations, the authorized livestock grazing use shall not exceed the livestock grazing capacity and shall be limited or excluded to the extent necessary to achieve resource management objectives established for the allotment.

PRESENT SITUATION

Current status of grazing permits for the Massacre Mountain Allotment

	Total	Preference Susp.	Active
White Pine Ranch	<u>7,769</u>	<u>1,486</u>	<u>6,283</u>
B.G. Bunyard (Sheep)	2,420	485	1,935
(Cattle)	398	79	319
	<u>2,818</u>	<u>564</u>	<u>2,254</u>
Dan Russell	569	114	455
TOTALS:	<u>11,156</u>	<u>2,164</u>	<u>8,992</u>

Current status of grazing permit for the Little High Rock Allotment as adjusted to carrying capacity by the July 1, 1987 Final Decision

	Total	Preference Susp.	Active
Dan Russell	<u>2,622</u>	<u>1,622</u>	<u>1,000</u>

PROPOSED DECISION

To bring livestock use into balance with the forage allocated to livestock grazing and to provide for the orderly and proper management of the Federal range, my Proposed Decision, to be effective September 30, 1990, is set forth in the following three sections (I, II, III):

- I. To provide that livestock use be in balance with forage allocated and in accordance with 43 CFR 4110.2-2(a), 4110.4-2(a), active preference and authorized grazing use of the Massacre Mountain Allotment is adjusted from 8,992 AUMs to 7,000 AUMs. The difference, 1,992 AUMs, shall be held in suspended preference. The allocation of this reduction active use will be as follows:
 - A. Suspend White Pine Ranch cattle permit by 340 AUMs prior to any other permittees suspension because of the exclusive 340 AUMs increase from the White Pine Land Exchange.

Status of White Pine Ranch grazing permit in the Massacre Mountain Allotment after 340 AUMs suspension which resulted from the Land Exchange (6,283 Active AUMs - 340 AUMs = 5,943 active AUMs)

	Total	Preference Susp.	Active
White Pine Ranch	<u>7,769</u>	<u>1,826</u>	<u>5,943</u>

B. Suspend 1,652 AUMs proportionately among the cattle permits.

1,992 AUMs - 340 AUMs = 1,652 AUMs
 1,652 AUMs divided by 6,717 active cattle AUMs = 24.59% suspension
 to each cattle permit.

C. B.G. Bunyard sheep permit will not be affected by this proposed decision.

Status of grazing permits at 24.59% proportionate share suspension to 1,652 active cattle AUMs and no suspension to sheep AUMs in the Massacre Mountain Allotment

	Total	Preference Susp.	Active
White Pine Ranch	<u>7,769</u>	<u>3,287</u>	<u>4,482</u>
B.G. Bunyard (Sheep)	2,420	485	1,935
(Cattle)	<u>398</u>	<u>158</u>	<u>240</u>
	<u>2,818</u>	<u>643</u>	<u>2,175</u>
Dan Russell	569	226	343
TOTALS:	<u>11,156</u>	<u>4,156</u>	<u>7,000</u>

II. To provide for the orderly management of the Federal range and in accordance with 43 CFR 4110.2-4, the areas currently designated as the Massacre Mountain Allotment and the Little High Rock Allotment will be combined by excluding the boundary line common to both allotments. This area will be managed as a single administrative unit for the purpose of authorizing and managing livestock grazing use. This newly designated allotment will be called the Massacre Mountain Allotment and will include the grazing preference of the former Massacre Mountain Allotment, as specified in this decision, plus the preference from the Little High Rock Allotment as specified in the July 1, 1987 final decision.

Status of grazing permits after the Massacre Mountain Allotment and the Little High Rock Allotment have been combined and with the suspension of 1,992 AUMs imposed.

	Total	Preference Susp.	Active
White Pine Ranch	<u>7,769</u>	<u>3,287</u>	<u>4,482</u>
B.G. Bunyard (Sheep)	2,420	485	1,935
	<u>398</u>	<u>158</u>	<u>240</u>
	<u>2,818</u>	<u>643</u>	<u>2,175</u>
Dan Russell	3,191	1,848	1,343
TOTALS:	<u>13,788</u>	<u>5,778</u>	<u>8,000</u>

III. To provide for the proper management of the Federal range and in accordance with 43 CFR 4130.6-1(a), the season of use, as recommended in the Massacre Mt./High Rock Technical Review Team Report (May 23, 1982), and as specified in the Cowhead/Massacre MFP III, will be as follows:

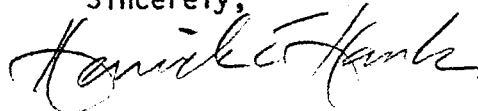
Sheep use will be from 04/01 to 06/30 and 10/08 to 12/07
Cattle use will be from 04/01 to 09/30

PROTEST PROCEDURES

If you wish to protest this proposed decision, in whole or in part, in accordance with 43 CFR 4160.2, you are allowed 15 days from receipt of this notice within which to file such a protest with the District Manager, Susanville District, Bureau of Land Management, 705 Hall Street, Susanville, California 96130. A protest may be made in person or in writing to the District Manager and shall specify the reasons why you think the proposed decision is in error. If a protest is filed within the time allowed, the protest statement of reasons and other pertinent information will be considered and a final decision will be issued with a right of appeal (43 CFR 4160.3(b) and 4160.4).

In the absence of a protest within the time allowed, the above proposed decision shall constitute my final decision. Should this notice become the final decision and if you wish to appeal the decision for the purpose of a hearing before an Administrative Law Judge, in accordance with 43 CFR 4160.4, you are allowed 30 days from receipt of this notice within which to file such appeal with the District Manager, at the above address. The appeal shall state clearly and concisely why you think the decision is in error.

Sincerely,



Herrick E. Hanks
District Manager

AMUCHIDA:ce:7/30/90