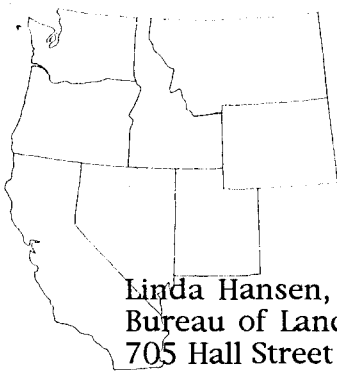


2-7-95



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February 7, 1995

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Linda Hansen, Area Manager
Bureau of Land Management
705 Hall Street
Susanville, CA 96130

Dear Ms. Hansen:

This is in response to a February 1, 1995 "NOTICE CONCERNING TWIN PEAKS ALLOTMENT", to your February 3, 1995 "Comparison Table" relative to the "stipulation" signed with CDF&G and NDOW, and to your February 3, 1995 invitation for the Core Group to meet.

"NOTICE CONCERNING TWIN PEAKS ALLOTMENT" dated February 1, 1995:

We concur with your statement in the NOTICE that the Core Group must focus on collaborative efforts to manage the public land. We support the continued cooperation demonstrated by the Core Group on January 13, 1995. However, in your NOTICE, you express a few misleading and incorrect statements. I am confident that such statements were a product of brevity and not intentional, but I am compelled to respond to make sure the record is clear and complete.

(1) Paragraph 2 and paragraph 4 (second half) are misleading. BLM and the Espil family agreed to include in the Espil Grazing Permit dated May 15, 1990 some special terms and conditions for 1995. However, BLM and Espil did not agree that such special terms and conditions permanently modified the Grazing Permit. The special terms and conditions are only effective for the 1995 grazing season.

(2) Paragraph 4 (first part) is incorrect. BLM and the Espil family did not agree that BLM "will replace" the 1994 Grazing Decision. This implies that the 1994 Grazing Decision still exists, which is wrong. BLM and the Espil family agreed that the "Agreement" itself "replaces and supersedes" the 1994 Grazing Decision. Such Decision is gone.

(3) Paragraph 6 is misleading. BLM ratified the Espil Grazing Permit dated May 15, 1990 as modified in the Agreement in March 1992 and February 10, 1994. In addition, BLM and the Espil family agreed to special terms and conditions for the 1995 grazing season. The 1995 grazing authorization is therefore complete and the Espil family expects no further modifications in the Permit. Nevertheless, the Espil family does intend to coordinate with BLM and any interested persons an annual plan of operation so that anyone interested can understand how the operation will be run. It is anticipated that through this collaborative effort, BLM and any interested persons will actually assist the Espil family in providing constructive ideas and actions to the Plan instead of uninformed criticism. Remember, BLM and Espil agreed that the special terms and conditions were not to be construed as superseding the requirements of 43 CFR Part 4100. This means that the intended annual plan of operation is not intended as a "free for all" to change, modify, or repudiate the

grazing authorization as it presently exists, and more importantly, as was ratified by BLM on January 19, 1995.

CORE GROUP INVITATION dated February 3, 1995:

We welcome the opportunity to attend the Core Group meeting on February 21 and the field tour on February 22. However, your invitation again expresses a misleading statement regarding the annual plan of operation. As with the NOTICE, I am confident that such statement was a product of brevity and not intentional, but I am compelled to respond to make sure the record is clear and complete.

(1) The references to an "annual operating plan" and its potential effect are misleading. See the statements already made above regarding paragraph 6 of the NOTICE

STIPULATION COMPARISON TABLE dated January 1995.

I object to your letter dated February 3, 1995, which attached a "Stipulation Comparison Table". I am outraged that you solicit "questions" or "agree(ment)" to the Comparison Table.

The Espil family's position regarding this so-called stipulation is a matter of record, so there is no reason to revisit the point except to again state: The so-called stipulation was made without any consultation, cooperation, or coordination with the Espil family, any other permittee, or any other affected interest; it was and is a secret and illegal writing between two state game agencies and BLM. It is a nullity.

A more appropriate Comparison Table should be made of the 1989 Agreements which all parties signed. I am confident that such a comparison of those LEGAL agreements would find the game agencies' action in the last few years to be intolerable.

Nevertheless, in a few areas, your "Comparison Table" does communicate progress in the management of the resources, as compared to communicating progress to an illegal stipulation. I have no objection to the reporting of progress in the management of the resources. Espils and BLM should be congratulated for the attainment of objectives and the progress of management, and BLM has the right to be proud of such accomplishments.

In addition, the following comments pertain to errors contained in the "Stipulation Comparison Table":

Page 1:

1. The March 6, 1992 Decision was NOT modified by the Agreement for 1995. The 1992 Decision stands on its own.

2. The 1994 Decision was indeed subject to an injunction in 1994. The Agreement entered into by the Bureau on January 19, 1995, rather than terminating the 10-year Grazing Permit, ratified it. It expires in the year 2000.

3. An "annual operating plan" will NOT be the basis for annual livestock authorization. That authorization lies in the Grazing Permit.

Page 2:

4. Watering of sheep during lambing is a nearly continuous exposure, not a "periodic" one. The nature of range lambing requires that the sheep not be herded (away from water or anywhere else) for a period of several weeks after lambing, because the lambs may be abandoned and lost. The sheep are typically dispersed across the landscape, with continuous exposure to live water.

Page 3:

5. The characterization that the shortened period of use (4/4-4/30/94) resulted in less than objective 40% utilization is a misrepresentation of fact. In fact, with full season use (March 1-April 30) in 1992 and 1993, this objective was met. The attainment of the objective had nothing to do with a shortened period of use.

Page 5:

6. The Bureau acknowledges that the injunction was in place in 1994, yet reports that the permittee was "directed" to keep livestock away from areas in which other animals had supposedly "exceeded" utilization levels. The exclusion of livestock from a portion or from the allotment on account of excesses by other animals is an asinine management action. The fact that the permittees attempted to work with the BLM in such circumstances speaks volumes for their cooperation, but such a requirement is ludicrous at best. Are we to believe that the BLM accepts the theory that the proper corrective action for "over-utilization" by wild horses, for example, is the elimination of livestock grazing? The idea was insane then and it's insane now.

7. There is no "annual operating plan". There may be an "annual plan of operation", which may or may not provide for internal adjustment of livestock movements within the allotment and within the terms of the Grazing Permit.

Page 6:

8. Carrying Capacity determination on an annual basis is not only unrealistic due to the analysis required, but is not provided for in the Code of Federal Regulations which governs the BLM's management of the range. In addition to being contrary to the regulations and logistically unrealistic, it is biologically unrealistic, because the amount of forage production on a given area varies from one year to the next, and any attempt to predict what will be

the forage production in, for instance, 1995, based upon the forage production in 1994, is an nonsensical exercise in futility.

9. The BLM has no authority to determine that wild horse removals will not occur until a "multiple use decision" is made. If the Bureau chooses to never issue such a decision, then it is informing the public that it will nevermore remove horses from the allotment. This is in direct contradiction to legal mandate which governs the actions of the BLM. If the numbers of horses exceed the thriving ecological balance in consideration of other uses of the resource, the BLM MUST remove horses, and must do so immediately. The BLM has no discretion in such removals, and any attempt by the BLM to ignore its statutory and regulatory obligations should be stridently opposed.

Page 7:

10. An "annual operating plan" does not exist for this allotment, and no such authority exists for one to exist which would supersede the provisions of the Grazing Permit. The Grazing Permit and AMP dictate the terms of grazing management on the Twin Peaks Allotment. Any adjustments of areas of use within the respective pastures and allotment, provided or not provided in the Grazing Permit, may (or may not) be agreed upon between the permittees and BLM pursuant to 43 CFR 4100.

Page 8:

11. The Grazing Permit, not an "annual operating plan", dictates the terms of livestock movements within the allotment. The remarks at this location imply that a "need" exists to provide more consistent information on movements of livestock. No such "need" exists.

12. No deletion of "10% of cattle numbers over early turn-out line", nor deletion of "AUM flexibility" will occur. Monitoring data show that the vast majority of this allotment is grazed to slight utilization levels. If anything, the BLM should be contemplating the authorization of increased livestock stocking. No "annual operating plan" exists or will exist. The Grazing Permit is the annual authorization to graze, and contains the terms and conditions of such authorization.

13. The term "water sacrifice areas" is understood by working professionals, and although it may be a politically incorrect phrase, the fact of the matter is that where animals, including horses, cattle, sheep, deer, and pronghorn, use available water supplies, they are also likely to use the vegetation of the immediate area to higher utilization levels than they do more outlying areas. Where this area is comprised of grazing-tolerant plant species such as rushes, sedges, and other riparian species, such elevated degrees of utilization have not been demonstrated to have caused a decline in resource productivity. Where such areas are small areas of upland vegetation, such patterns of use are not unusual or unexpected, and must be considered in the larger context of the pasture or allotment as a whole. The fact is, these are "sacrifice" areas in the context that every working professional with any common sense knows that the elevated utilization is likely to occur, and it is

one of the many considerations which are made in grazing by all of these animal species. Furthermore, the Bureau of Land Management, the permittee, and the game agencies themselves have for decades engaged in the process of developing water facilities in the form of pipelines and troughs, spring developments, reservoirs, wells, and guzzlers, for the express purpose of watering livestock, wild horses, and wildlife. To expect that such concentration of use at a point source of water will not result in elevated use of the area by animals is beyond the limits of credibility.

14. Until the Bureau demonstrates through rangeland monitoring over time that the management actions called for in the AMP are not consistent with the attainment of land use plan objectives and in improving and maintaining the productivity of the resource, we will be opposed to ANY "re-write" of the AMP. Management under the AMP has resulted in stable to upward ecological condition trends on the allotment, and stable to improving trends on the vast majority of riparian areas.

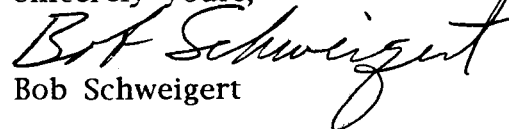
Where feasible range management adjustments or range improvement structures may be necessary to improve or maintain a particular portion of the range or riparian areas which exhibit, through monitoring, the need for such adjustments, I am 100% in favor of such logical improvement structures and/or feasible management adjustments, as are the Espils. These determinations cannot be made without monitoring over time, and cannot be made by the Bureau acting in a vacuum.

Page 9:

15. Annual grazing authorizations are not provided for. The Grazing Permit provides the grazing authorization.

Thank you for the opportunity to comment on these documents. I hope that the inconsistencies and inaccuracies, especially of the "Table", will be corrected for the official record.

Sincerely yours,


Bob Schweigert

cc: Espil, Susanville
Espil, Gerlach
Core Group