

July 193 745-93

Twin Peaks Allot

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UNITED STATES DEPARTMENT OF THE INTERIOR
 OFFICE OF HEARINGS AND APPEALS

CALIFORNIA, DEPARTMENT OF FISH AND GAME,)	Case Nos. CA-02-92-02 and CA-02-92-04
)	
Appellant,)	
)	
v.)	STIPULATION AMONG PARTIES FOR CHANGE IN DECISION AND DISMISSAL OF APPEAL
)	
BUREAU OF LAND MANAGEMENT,)	
)	
Respondent.)	
)	
JOHN ESPIL SHEEP COMPANY, INC., and LAVER RANCHES,)	
)	
Intervenors.)	
)	
AND CONSOLIDATED CASES)	
)	

RECITALS

21 The parties to this agreement are the CALIFORNIA
 22 DEPARTMENT OF FISH AND GAME (CDFG), the NEVADA DEPARTMENT OF
 23 WILDLIFE (NDOW), and the UNITED STATES BUREAU OF LAND MANAGEMENT
 24 (BLM). CDFG is the appellant in United States Department of
 25 Interior Case No. CA-02-92-02, which is an appeal from the
 26 District Manager's Final Decision, dated March 6, 1992, Eagle
 27 Lake Resource Area, Susanville District, California. NDOW is the
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1 appellant in United States Department of Interior Case No. CA-
2 02-92-04, which has been consolidated with Case No. CA-02-92-02
3 and other appeals from the District Manager's Final Decision,
4 dated March 6, 1992. BLM is a respondent in each of the appeals.

5 The parties have reached the following compromise,
6 settlement and dismissal agreement in order to avoid further
7 litigation and to carry out the resource management objectives
8 that are set forth in the Decision Record for Livestock Grazing
9 in the Twin Peaks Allotment, dated March 6, 1992 (Decision
10 Record).

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AGREEMENT

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1. Termination of Decisions. By February 1, 1994,
14 BLM shall terminate the Grazing Decision, dated March 6, 1992,
15 for the Twin Peaks Allotment; and shall also terminate the
16 existing ten-year grazing permit for the Twin Peaks Allotment.

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2. Annual Grazing Authorization. Prior to the 1994
18 turn out in the Twin Peaks Allotment, BLM shall issue an annual
19 grazing authorization for the allotment. BLM shall continue to
20 issue annual grazing authorizations until an integrated activity
21 plan, based on adequate environmental documentation, has been
22 adopted. The adopted integrated management plan shall supersede
23 the allotment management plan. The 1994 grazing authorization
24 and each subsequent grazing authorization shall use the carrying
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25 capacity calculation method described in subparagraph 3(f) of
26 this agreement and shall include the terms and conditions set
27 forth in paragraph 3 of this agreement.

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1 3. **Terms and Conditions for Annual Grazing.**

2 Beginning in 1994, the following terms and conditions shall be
3 included in any annual grazing authorizations:

4 a. Utilization of key stream bank riparian plant
5 species shall not exceed 40% on riparian public lands on Parsnip
6 Creek, Smoke Creek and Buffalo Creek drainages. Except for
7 periodic watering in Buffalo Creek during lambing, sheep use of
8 these creeks will be limited to approximately 10 days (total)
9 trailing during the spring and fall seasons.

10 b. There shall be no livestock grazing in Lower
11 Smoke Creek in 1994. After May 1, cattle use on Smoke Creek
12 riparian area shall be restricted to trailing on the Smoke Creek
13 Ranch Road.

14 c. Utilization of key plant species in wetland
15 riparian habitats shall not exceed 40%.

16 d. Utilization of key mountain browse and grass
17 species in upland habitats shall not exceed 60%.

18 e. When ongoing rangeland monitoring,
19 observations or other data indicate that riparian or upland
20 utilization limits are being approached, BLM will immediately
21 notify the permittees that livestock must be removed from the
22 subunit or portions of the subunit to areas where key vegetation
23 species have available forage for livestock. Such removal shall
24 be in a manner that precludes livestock from returning to the
25 affected area. When utilization limits in an area are exceeded
26 or will be exceeded by wild horses and burros, that area shall
27 not be used by livestock. Livestock removal shall occur within 7
28 days of BLM notification.

- 1 f. If the short term allotment management
2 objectives set forth in the Decision Record are exceeded, then
3 actual livestock use shall be adjusted for the next year to meet
4 all short term objectives for the allotment. As part of this
5 adjustment, the livestock carrying capacities for pastures or
6 subunits shall be established annually with use pattern mapping
7 and other data. Carrying capacities shall be calculated as set
8 forth in BLM Handbook TR 4400-7, consistent with page 7 of the
9 Decision Record. Weighted averaging will not be used where
10 forage production and utilization are not uniform. In
11 establishing carrying capacities for pastures or subunits, BLM
12 shall give priority to key management areas. The same approach
13 shall apply to wild horse and burro numbers, except that
14 adjustments in actual numbers shall be made at least every three
15 years.
- 16 g. Livestock shall be herded away from aspen
17 stands.
- 18 h. No sheep camps and bedding shall occur on
19 known active sage grouse strutting grounds.
- 20 i. Except for sheep trailing, there shall be no
21 livestock use on Rowland Mountain after July 15 or when
22 utilization of key perennial grasses and shrubs reaches 60
23 percent, whichever occurs first. Livestock use of Rowland
24 Mountain shall alternate between the east side and west side of
25 the mountain as set forth in the Decision Record.
- 26 j. Cattle use in the South Pasture shall not
27 occur in two consecutive years before July 15. Livestock use of
28 the Skedaddle Mountains CMA shall be limited as described in page

1 5 of the Decision Record.

2 k. The March 1 turn-out and use in Dry Valley
3 Winter Range in the late winter/early spring shall be eliminated.
4 Livestock shall be turned out in staggered fashion, as described
5 in the Decision Record, into the Dry Valley Rim on or after April
6 1.

7 l. Require the permittees to coordinate bi-
8 weekly with BLM regarding sheep camp movements and sheep movement
9 plans.

10 m. Livestock turn-out shall be based on BLM's
11 assessment of range conditions and use pattern mapping data; and
12 cattle turn-out shall in any event not occur before April 15. In
13 making this assessment, BLM shall consider livestock carrying
14 capacity and wild horse and burro appropriate management levels
15 based on monitoring data. BLM shall also consider phenology of
16 key species per subunit, precipitation and soil moisture as
17 factors to allow restoration of plant vigor, plant reproduction
18 and prevention of soil compaction or erosion. Based on this
19 assessment, livestock use may be temporarily delayed,
20 discontinued, or modified.

21 n. Prior to the start of grazing, permittees
22 shall file a plan for the movement of livestock to show how the
23 terms and conditions of the grazing permit will be met. That
24 plan shall cover each band of sheep and each cattle herd of
25 greater than 10 head. BLM shall require the permittees to notify
26 BLM at least five days in advance of any proposed change in the
27 movement plan.

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1 4. **Changes in Allotment Management Plan.** BLM shall
 2 modify the Allotment Management Plan for the Twin Peaks Allotment
 3 as follows:

4 a. Delete the provision in the AMP that allows
 5 for up to 10% of the cattle number to be past the "early turn out
 6 line" before April 1, and for up to 10% of the cattle to be in
 7 the deferred pasture before July 1 without BLM approval.

8 b. Delete the provision in the AMP that allows
 9 the operator's "AUM flexibility" to exceed their grazing
 10 preference by up to 15% without BLM approval.

11 c. Delete the portion of page 7 of the AMP which
 12 state: "Forage Utilization - Utilization of key forage species
 13 shall not exceed moderate use level of 40%-60% exclusive of water
 14 sacrifice areas."

15 5. **Timing of Decisions.** Other than the annual
 16 grazing authorizations, each BLM decision provided for in this
 17 agreement shall be adopted by February 1, 1994, and placed in
 18 full force and effect to the extent permitted by law. Annual
 19 grazing authorizations shall be issued by no later than February
 20 1 of each year and placed in full force and effect.

21 6. **Technical Support.** CDFG and NDOW shall provide
 22 technical support to BLM so that BLM can implement the provisions
 23 of this agreement.

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1 7. Dismissal of Appeals. Upon execution of this
2 agreement, CDFG shall dismiss, without prejudice, its appeal in
3 United States Department of Interior Case No. CA-02-92-02; and
4 NDOW shall dismiss, without prejudice, its appeal in United
5 States Department of Interior Case No. CA-02-92-04.

6 Date: July 15, 1993

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9 Mark J. Urban
10 Deputy Attorney General
11 State of California
12 Attorney for the California Department of Fish and Game

13 Date: 20 JULY 1993

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15 C. Wayne Howle
16 Deputy Attorney General
17 State of Nevada
18 Attorney for the Nevada Department of Wildlife

19 Date:

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21 Burton J. Stanley,
22 Assistant Regional Solicitor
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