

WF 4/17/01

United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Elko Field Office
3900 East Idaho Street
Elko, Nevada 89801-4611
<http://www.nv.blm.gov>

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Maverick - Medicine HMA

In Reply Refer To:

4130 (NV-012)

APR 17 2001

CERTIFIED NO. 7000 0520 0020 5844
RETURN RECEIPT REQUESTED

Kay and Mary Lear
HC 33 Box 33865
Ely, NV 89301

DECISION

:
:

NOTICE OF CLOSURE FOR THE BALD MOUNTAIN AND ODGERS ALLOTMENTS

In August 2000, a lightning caused wildfire started what became the Rabbit Fire. The fire burned 3,075 acres in the Bald Mountain Allotment and 2,762 acres in the Odgers Allotment (refer to the attached map). Kay Lear is the sole authorized permittee on the Bald Mountain Allotment. There is no authorized permittee in the Odgers Allotment.

In March 1999, Elko-BLM issued a final decision canceling the Te-Moak Livestock Association's grazing preference and grazing permit attached to the Odgers Ranch located in the Odgers and Bald Mountain Allotments. The final decision was issued due to a long-standing history of noncompliance with the grazing regulations. The Te-Moak Livestock Association (TLA) and Odgers Ranch have continued to graze these allotments without authorization.

Based on vegetation data available prior to the burn and field observations soon after the fire had been controlled, it has been determined that the plant communities within the lower and upper portions lacked sufficient numbers of perennial plants to let the area recover without the invasion and competition of cheatgrass.

Fire rehabilitation projects associated with the Rabbit Fire include aerially seeding selected areas within the upper portion of the Rabbit burn in the Bald Mountain Allotment. Approximately 1,400 acres on the upper portion of the burn were aerially seeded to minimize the spread of cheatgrass in the Rabbit burn by establishing sufficient ground cover of perennial species. The upper portion of the burn was seeded with the following mixes and rates:

Drainage Mix #1	
Species	pls lbs/ac
Sherman big bluegrass	0.5
Total lbs/ac	0.5
Drainage Mix #2	
	pls lbs/ac
Basin big sagebrush	0.5
Magnar great basin wildrye	5.0
Western wheatgrass	5.0
Western yarrow	0.25
Total pls lbs/ac	10.75
Drainage Mix #3	
	pls lbs/ac
Basin big sagebrush	0.50
Thickspike wheatgrass	2.5
Secar snake river wheatgrass	5.0
Bottlebrush squirreltail	3.0
Canby bluegrass	2.0
Western yarrow	0.1
Blue flax	1.0
Total pls lbs/ac	14.60
Lower Wildlife Aerial Seeding Mix	
	lbs/ac
Basin big sagebrush	2.1
Thickspike wheatgrass	1.9
Secar snake river wheatgrass	1.9
Western yarrow	0.1
Small burnett	2.5
Total lbs/ac	8.5

Upper Wildlife Aerial Seeding Mix	lbs/ac
Mountain big sagebrush	2.0
Basin big sagebrush	1.25
Thickspike wheatgrass	1.9
Secar snake river wheatgrass	1.9
Western yarrow	0.15
Lewis flax	0.3
Small burnett	2.35
Total lbs/ac	9.8

Approximately 1,000 acres in the Odgers Allotment were drill seeded and aerially over seeded with the following mixes and rates:

Odgers Drill Mix	
Species	lbs/ac
Canby bluegrass	2.0
Indian ricegrass	4.0
Thickspike wheatgrass	3.0
Total lbs/ac	9.0
Drill Over Seeding Mix	lbs/ac
Wyoming sagebrush	2.3
Forage kochia	1.5
Western yarrow	0.1
Total lbs/ac	3.9

Interim grazing management changes for the Bald Mountain Allotment will be necessary to protect the burned area and to ensure the attainment of multiple use objectives on the unburned areas within the allotment.

THEREFORE, MY DECISION IS TO IMPLEMENT THE FOLLOWING ACTION:

Bald Mountain Allotment - The Bald Mountain Allotment will be closed until an assessment determines that rehabilitation objectives have been achieved or are otherwise determined to be unattainable.

Odgers Allotment-

That portion of the Rabbit Fire in the Odgers Allotment will be closed until an assessment determines that rehabilitation objectives have been achieved or are otherwise determined to be unattainable.

Monitoring and Resumption of Grazing

Following the 2001 and 2002 growing seasons, the burned, and seeded areas within the Bald Mountain and Odgers Allotments will be monitored to determine if additional growing season rest is needed to ensure successful establishment of seeded perennial vegetation.

Burned and Aerially or Drill Seeded Areas:

The establishment criterion for the burned and aerially seeded areas is: A minimum of three perennial herbaceous grasses per square meter rooted firmly in the soil measured at more than one site in the seeded area with consideration to site selection factors such as soils, topography, and potential for seedling establishment .

The establishment criterion for the drill seeded areas is: A minimum of three perennial herbaceous grasses per square meter rooted firmly in the soil measured at more than one site in the seeded area with consideration to site selection factors such as soils, topography, and potential for seedling establishment .

If the seeding establishment criterion is not met by the end of the second growing season (August 15, 2002) of the closure, the burned and seeded area will be evaluated for its potential to meet the establishment criterion above. Some of the factors to be considered in this evaluation will be: amount of total precipitation for the year, amount of growing season precipitation (approximately 3/1 to 8/15), how close to meeting the establishment criterion the seeding is at the end of the first and second growing seasons, and what benefits, if any, an additional growing season of rest might provide. Other factors to be considered in the evaluation of the establishment of the aerial seeding in addition to those listed above will include: inherent variability of aerial seed application, seed loss/dispersal due to wind and water erosion, seed loss due to birds and rodents, and patchiness of aerial seeding establishment due to poor soils on ridge tops and steep side slopes.

When the establishment criterion for the Seeding has been met, late summer/fall use (after August 15) may be authorized for livestock grazing.

Burned Native (unseeded) Area:

Following the 2001 and 2002 (if necessary) growing seasons, the burned native (unseeded) areas will be monitored to evaluate the progress towards reestablishment of existing native perennial herbaceous vegetation.

The vegetation reestablishment criterion for the burned unseeded area is: Native perennial herbaceous grass production within the burned area equals or exceeds native perennial herbaceous grass production outside of the burned area on comparable, adjacent range sites measured at more than one site with consideration to site selection factors such as soils, topography, and possible plant mortality due to the fire.

The period of time for the above criteria to be met for both seeded and unseeded burned areas is usually from one (1) to three (3) years and primarily depends on seasonal precipitation amounts. The period of closure is not based on a preestablished time frame, rather a vegetative response that serves to meet the reestablishment criteria above.

Kay and Mary Lear will be notified when the closure on the Bald Mountain Allotment and/or burned area will be lifted and reopened to livestock grazing.

All the above criteria will need to be met in order for the Bald Mountain and Odgers Allotments and/or burned areas to be reopened following the closure for fire rehabilitation purposes.

The closure provisions outlined for the Bald Mountain and Odgers Allotments above will be binding on any successor interest or future transferees with such modifications as approved or required by the authorized officer.

Enclosed is a copy of the Notice of Closure and a map displaying the Rabbit fire boundary, water sources, and the aerial and drill seeding areas within the Bald Mountain and Odgers Allotments. This closure will be effective immediately and continue in effect until conditions outlined above are met. This closure is issued as a final decision, in full force and effect pursuant to Title 43, Code of Federal Regulations (CFR) Subparts 4110.3-2(a), 4110.3-3(b) and 4160.3(f).

Any applicant, permittee or other person whose interest is adversely affected by this decision may file an appeal and petition for stay of the decision pending final determination on appeal under 43 CFR 4160.3 and 4160.4. The appeal and petition for stay must be filed in writing in the office of the authorized officer Clinton R. Oke, Assistant Field Manager, Renewable Resources, 3900 E. Idaho Street, Elko, Nevada, 89801 within 30 days after receipt of the 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,



CLINTON R. OKE
Assistant Field Manager
Renewable Resources

Enclosure: As stated

cc: Nevada Division of Wildlife
Nevada Cattlemen's Association
U.S. Fish and Wildlife Service
Resource Concepts Inc.
Elko Board of County Commissioners
Nevada Division of Environmental Protection
Wild Horse Organized Assistance
Commission-Preservation of Wild Horses
HTT Resource Advisors
Paula Brady
TeMoak Livestock Association
South Fork Band Council
Traditional Western Shoshone Cattlemen
TeMoak Tribe of Western Shoshone
Harvey Healy
Gordon Healy
Westwide Watersheds Project

NOTICE OF CLOSURE TO LIVESTOCK GRAZING USE

For protection of the soil and reestablishment of perennial vegetation on the public lands in the Bald Mountain and Odgers Allotments, I hereby exclude the grazing of any kind of livestock within the portions of the Bald Mountain and Odgers Allotments which burned in the Rabbit Fire. This closure is effective immediately through at least September 1, 2002. This area is located in Elko County, within the Bureau of Land Management's Elko Field Office area of administration.

This closure is effective immediately and will remain in effect until at least September 1, 2002. This area will be monitored to determine if additional growing season rest or deferment is needed to ensure successful reestablishment of the seeded vegetation.

This closure is issued as a final decision, in full force and effect pursuant to Title 43, Code of Federal Regulations (CFR) Subparts 4110.3-3(b) and 4160.3(f). Kay and Mary Lear will be notified of the date that the closed portion of the Bald Mountain Allotment will be open for grazing.

All owners of livestock affected by this closure will refrain from **grazing** livestock on the affected lands and will continue to keep all livestock off of the above lands during the designated time period. During this time period the Assistant Field Manager, Renewable Resources, Bureau of Land Management, Elko Field Office, or his authorized representative, may proceed to impound, remove, and dispose of any livestock found in violation of this notice pursuant to 43 CFR Subpart 4150.4.

Detailed maps of the Bald Mountain and Odgers Allotments and the area affected by this closure are available at the Elko Field Office, Elko, Nevada.



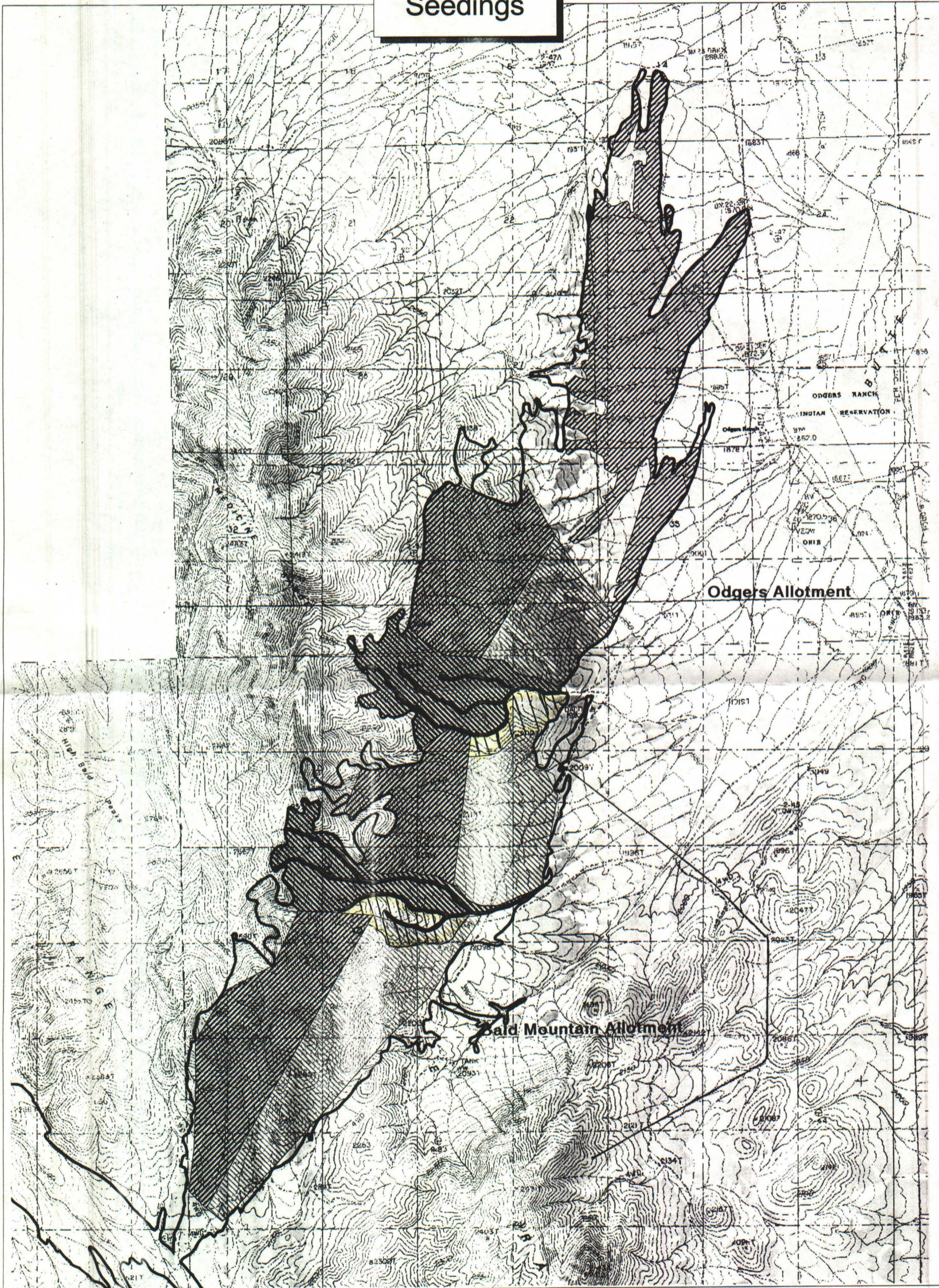
**CLINTON R. OKE, Assistant Field Manager
Renewable Resources**



Date



Rabbit Fire 2000 - 2001 Seedings



-  Drainage Mix #1
-  Drainage Mix #3
-  Drainage Mix #2
-  Drill.shp
-  Rabbit.shp
-  Lower Wildlife Aerial Seeding Mix
-  Upper Wildlife Aerial Seeding Mix
-  Fires-2000

0.5 0 0.5 1 Miles



Scale 1:40000