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**ORO VACA, INC.**  
P.O. BOX 2148  
ELKO, NEVADA 89803

January 11, 2002

USDI-BLM  
Elko Field Office  
3900 East Idaho Street  
Elko, Nevada 89803

ATTN: Clint Oke, AFM-Renewable Resources

RE: South Fork of Little Humboldt Basin, Little Humboldt Allotment, Elko  
Grazing District, Nevada (hereinafter referred to as "SFLHR Basin").  
Proposed Action and related Grazing Application by Oro Vaca, Inc.

Dear Mr. Oke:

The purpose of this letter is to deliver the Proposed Action and related  
Grazing Application for livestock management within the SFLHR Basin for 2002  
(and beyond). As Applicants under the provisions of Title 43 and 50 of the Code of  
Federal Regulations, Oro Vaca does not by presenting this proposed action and  
grazing application waive any claims or rights relative to their 10 year Grazing  
Permit dated in 1996, and/or relative to any and all appeals pending before the  
USDI, Office of Hearings and Appeals.

The current status of SFLHR Basin structures developed in 2000/2001 are as  
follow:

The product or consequence of the structures first proposed in June, 1999,  
and subsequently developed in 2000/2001, is that a number of pastures have been  
established within the SFLHR Basin; namely, South Basin Pasture, North Basin  
Pasture, Pole Creek Private Pasture, Oregon Flat Private Pasture. See also the Rim  
Pasture, Castle Ridge Pasture, and Jake's Creek Pasture, not all of which are  
relevant to this Action and Application.

1. The Pole Creek Private Pasture Fence is complete. This fence, along with  
the Hangnail Fence, established the Pole Creek Private Pasture.

Oro Vaca discovered during our November, 2001 monitoring<sup>1</sup> a small gap in the fence in the southeast corner of the Pole Creek Private Pasture. This gap allowed livestock and wild horses to access the Pole Creek Private Pasture from the Castle Ridge Pasture in 2001. This gap was unknown to BLM prior to our January 9, 2002 meeting, and was not considered in BLM's "2001 Riparian Monitoring Report" dated December 17/18, 2001.

2. The Oregon Flat Private Pasture Fence is complete. This fence established the Oregon Flat Private Pasture.

Oro Vaca discovered during our November, 2001 monitoring a small gap in the canyon portion of the fence. This gap allowed livestock (and potentially wild horses) access between the South Basin Pasture and the Oregon Flat Private Pasture in 2001. This gap was unknown to BLM prior to our January 9, 2002 meeting, and was not considered in BLM's "2001 Riparian Monitoring Report" dated December 17/18, 2001.

3. The East Basin Fence is complete. This fence, together with the Pole Creek Pasture Fence, Oregon Flat Private Pasture Fence, and Rim Fence, created the Castle Ridge Pasture. These fences, in whole or in part, also enclosed the North and South Basin Pastures on the east.
4. The Rim Fence is complete. This fence created the Rim Pasture. This fence (together with the Owyhee Bluffs), enclosed the southern end of the South Basin Pasture.
5. The West Basin Fence is complete. This fence enclosed the North and South Basin Pastures on the west.
6. The Hangnail Fence is complete. This fence, together with the Pole Creek Private Pasture Fence, enclosed the Pole Creek Private Pasture on the west, including a short section of public stream section of SFLHR below the Oregon Flat gorge.

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<sup>1</sup> By letter dated October 11, 2001, Intermountain Range Consultants invited USDI-BLM to participate in our end-of-year monitoring in the SFLHR Basin. BLM did not respond. In contrast, BLM did not timely invite Oro Vaca or IRC to participate in any monitoring, even though we have a standing request to participate in such monitoring. BLM did call IRC less than 24 hours prior to BLM's monitoring on October 3, 2001, but Mr. Schweigert was in Oregon at the time. Such short notice did not enable IRC to adjust its schedule (IRC had time blocked out at the end of October, and early November in anticipation of BLM monitoring at the time specified in the BO and BLM's Decision).

Oro Vaca discovered during our November, 2001 monitoring that the construction of the Hangnail fence tying into the upper of two rims, and the construction of the Oregon Flat Private Fence northwest corner tying into the upper of two rims, created an access corridor between our Pole Creek Private Pasture and our Oregon Flat Private Pasture. This gap was unknown to BLM prior to our January 9, 2002 meeting, and was not considered in BLM's "2001 Riparian Monitoring Report" dated December 17/18, 2001.

7. The Blue Fence is complete. This fence enclosed the North Basin Pasture from the south, and the South Basin Pasture from the north.
8. The Secret Creek Gap Fences were not constructed in 2001, because BLM prevailed upon Oro Vaca to not construct them. BLM projected that the fences were unnecessary due to the season of use (i.e., April 1 to July 15) of the South Basin Pasture. However, see Proposed Action, below.

#### Proposed Action and Grazing Application:

##### 1. ADDITIONAL FENCING<sup>2</sup>.

Notwithstanding the already good to excellent stream habitat condition and improving condition since 1986, a process of fencing private land was initiated by Oro Vaca in 1999, continued in 2000 and 2001, and is projected to continue in 2002.

The additional fencing identified and described below, together with the existing fences and physically inaccessible areas of stream lengths within the SFLHR Basin, have fundamentally changed the exposure of cattle to LCT Streams under a grazing authorization issued by BLM within the Basin. This change is summarized as follows:

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<sup>2</sup> Although not essential to the grazing system or livestock authorization of the Proposed Action and Grazing Application, Oro Vaca would: 1) urge BLM, or urge USFWS to direct BLM, to install cattleguards on several of the fences at roads, and; 2) urge BLM, or urge USFWS to direct BLM, to remove excess wild horses from the Little Humboldt Allotment. The first action will abate inadvertent access by livestock and wild horses caused by gates being left open; the second action will abate pressure on the basin fences and upon the lawful adjudicated use by livestock on the Little Humboldt Allotment.

From (Prior to 2000):

	LCT water Length	Excluded By Fence	Physically Inaccessible	Accessible to Livestock Total	Public
SFLHR	6.50 miles <sup>3</sup>	0.00 miles	1.50 miles	5.00 miles <sup>4</sup>	0.00 miles
Secret	2.00 miles	0.00 miles	N/A	2.00 miles	0.00 miles
Sheep	1.25 miles	0.00 miles	0.25 miles	1.00 miles	0.00 miles
Pole	0.20 miles	0.00 miles	0.00 miles	0.20 miles	0.00 miles
Total	9.95 miles	0.00 miles	1.75 miles	8.25 miles	0.00 miles

To (2002 and beyond):

	LCT water Length	Excluded By Fence	Physically Inaccessible	Accessible to Livestock Total	Public
SFLHR	6.50 miles <sup>5</sup>	2.25 miles	1.50 miles	2.75 miles <sup>6</sup>	0.00 miles
Secret	2.00 miles	2.00 miles	N/A	0.00 miles <sup>7</sup>	0.00 miles
Sheep	1.25 miles	1.00 miles	0.25 miles	0.00 miles	0.00 miles
Pole	0.20 miles	0.00 miles	0.00 miles	0.20 miles <sup>8</sup>	0.00 miles
Total	9.95 miles	5.25 miles	1.75 miles	2.95 miles <sup>9</sup>	0.00 miles

a. SECRET CREEK GAP FENCES.

These fences were contemplated in our January 3, 2000 and January 5, 2001 proposed actions, but BLM prevailed upon Oro Vaca to defer constructing them in 2001. These fences will exclude livestock use from the entire stream length, except for four small water gaps at livestock access points. Approximately 0.75 mile total fence, all on private lands. These fences will be constructed as soon as soil and weather conditions permit in 2002.

<sup>3</sup> Note: Monitoring in 2001 showed approximately 1.5 miles of this "channel length" to be dry channel.

<sup>4</sup> Note: Monitoring in 2001 showed approximately 1.5 miles of this "channel length" to be dry channel.

<sup>5</sup> Note: Monitoring in 2001 showed approximately 1.5 miles of this "channel length" to be dry channel.

<sup>6</sup> Note: Monitoring in 2001 showed approximately 1.5 miles of this "channel length" to be dry channel.

<sup>7</sup> Except at four small water gap areas for livestock watering.

<sup>8</sup> Note: This distance is within a fenced water gap.

<sup>9</sup> Note: Monitoring in 2001 showed approximately 1.5 miles of this "channel length" to be dry channel.

b. OREGON FLAT PRIVATE FENCE.

This fence was completed in 2000/2001. However, a small gap in the fence of perhaps 50 yards was discovered by Oro Vaca in our November, 2001 monitoring, in the canyon on the south end of the Oregon Flat Private Pasture. This gap fence will be constructed as soon as soil and weather conditions permit in 2002.

c. POLE CREEK PRIVATE FENCE.

This fence was completed in 2000/2001. However, a small gap in the southeast corner of the fence of approximately 200 yards was discovered by Oro Vaca in our November, 2001 monitoring, in the southeast corner, allowing inadvertent access by wild horses and livestock from Castle Ridge to Pole Creek Private Pasture. This gap fence will be constructed as soon as soil and weather conditions permit in 2002.

d. POLE CREEK/OREGON FLAT PRIVATE GAP FENCE.

Oro Vaca discovered in our November, 2001 monitoring an unforeseen consequence of construction of the Hangnail fence and the northwest corner of the Oregon Flat Private Pasture fences. Both of these fences tie into the upper of two rims, allowing livestock (and potentially wild horses) to travel between the two rims. This inadvertently allows access between the Pole Creek Private Pasture and Oregon Flat Private Pasture. Oro Vaca intends to construct approximately 50 yards of fence between the two rims in 2002 so as to separate Pole Creek Private Pasture from Oregon Flat Private Pasture as originally intended, and abate the inadvertent access. This fence will be constructed prior to Oro Vaca placing any cattle in the Oregon Flat Pasture in 2002.

Although the latter two fences (c. and d.) are not within the North and South Basin Pastures, the combination of constructing these two gaps, and the gap in the South Basin Fence (b.), will abate the inadvertent access to South Basin Pasture which occurred in 2001.

e. SHEEP CREEK PRIVATE PASTURE FENCE.

Approximately 2.5 miles of fence will be constructed on private land in 2002, creating the Sheep Creek Private Pasture, and removing the



following 200 acres of private lands the North Basin Pasture:

T39N, R45, Section 2 – SW 1/4NW1/4; W1/2SW1/4  
T39N, R45E, Section 3 – E1/2SE1/4.

This will remove approximately 0.5 mile of Sheep Creek on private land from the North Basin Pasture, leaving 0.25 mile of inaccessible Sheep Creek within the North Basin Pasture on public land.

This fencing will be constructed prior to fall, 2002 livestock use of the North Basin Pasture.

If BLM wishes to unequivocally assure enclosure of the inaccessible 0.25 mile of Sheep Creek on public land within the North Basin Pasture, Oro Vaca will grant permission for BLM to tie into the private land fences on the east and west ends.

## 2. WATER DEVELOPMENTS.

### PRIVATE:

#### Springs and Reservoirs:

It is our intention to develop several upland water sources (springs) on private land within the North and South Basin Pastures, so as to enhance the availability of water sources away from the LCT streams. Many of the springs within the North and South Basin Pastures are on private land, and it is our intention to develop several of these in 2002, to draw livestock away from LCT streams and to distribute the livestock throughout the pastures.

It is also our intention to develop several reservoir sites on private lands, so as to enhance the availability of water sources away from the LCT streams. While most of these reservoirs may not hold water in 2002, they will be operational for 2003 and beyond. These improvements will draw livestock away from LCT streams and to distribute the livestock throughout the pastures.

Sites which Oro Vaca is projecting to construct such projects include:

T39N, R45E, Section 2 NENW  
T39N, R45E, Section 4 SENE  
T39N, R45E, Section 5 SWNE  
T39N, R45E, Section 9 NWSW  
T39N, R45E, Section 4 NENW  
T39N, R45E, Section 16 NESE

PUBLIC<sup>10</sup>:

Springs and Reservoirs:

Upland springs on public land should be developed within the North and South Basin Pastures, so as to enhance the availability of livestock water sources away from the LCT streams.

Several reservoir sites on public land are feasible and should be developed by BLM in 2002, to enhance the availability of water sources away from the LCT streams. Some of these were included in our January 3, 2000 letter, but numerous suitable locations exist within the North and South Basin Pastures. These improvements will draw livestock away from LCT streams and will distribute the livestock throughout the pastures.

We believe numerous opportunities exist for public land projects regarding springs and reservoirs, in at least the following locations:

T39N, R45E, Section 12 NW 1/4  
T39N, R45E, Section 12 SW 1/4  
T39N, R45E, Section 13 NW 1/4  
T39N, R45E, Section 23 NE 1/4  
T39N, R45E, Section 3 SE 1/4  
T39N, R45E, Section 11 NE 1/4  
T39N, R45E, Section 15 NE 1/4

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<sup>10</sup> We recognize that the development of these public land water developments may be problematic, due to pending water rights litigation between the United States and the State of Nevada. If this litigation is an impediment to the immediate construction of these improvements, we nevertheless urge BLM, or urge USFWS to direct BLM, to approve these improvements subject to such litigation. These improvements will have the stated benefits, but are not an element upon which this Proposed Action and Grazing Application depend.

In addition, several locations within the Rim Pasture, which will be used to stage cattle into and out of the Basin Pastures, were discussed and conceptually agreed upon between BLM and us in 2000. These reservoirs should also be constructed, so as to provide additional use of the Rim Pasture, which may in turn effect turn-in and removal from the South Basin Pasture.

We believe opportunities for spring and reservoir development exist in at least the following locations:

T39N, R45E, Section 24 NE 1/4  
T39N, R45E, Section 24 NW 1/4  
T39N, R46E, Section 18.

3. SALTING WITHIN THE BASIN.

Salt blocks will be placed at least 1/4 mile away from SFLHR, Sheep Creek, Secret Creek, and Pole Creek, on ridges and benches, so as to encourage cattle to move away from these water sources.

4. RIDING WITHIN BASIN.

Oro Vaca commits to having one to two riders in the North and South Basin Pastures during the seasons of use therein for the purpose of enhancing distribution of the cattle away from the LCT streams.

5. AUTHORIZED GRAZING USE OF THE SOUTH BASIN PASTURE AND NORTH BASIN PASTURE:

As to the North Basin Pasture, the construction of the Sheep Creek fence, together with the already-constructed fences, eliminates 100% of LCT perennial stream habitat within the North Basin Pasture.

As to the South Basin Pasture, the construction of the Secret Creek Fences, together with the inaccessible portions of SFLHR, eliminates approximately 68% of the LCT stream habitat in the South Basin Pasture from access by livestock, leaving approximately 32% (approximately 2.75 miles) of the South Basin Pasture LCT stream accessible by livestock. Of further consideration is that approximately 1.5 miles of the 2.75 miles is not perennial stream. Therefore, in the South Basin Pasture, the fences and physical terrain eliminate approximately 85% of the LCT perennial stream habitat from access by livestock.



- a. South Basin Pasture. April 1 to July 15, with between 600 and 1200 head of cattle, not to exceed 3000 AUMs or 50% utilization of upland key forage species. Oro Vaca will begin on June 30 moving cattle out of the South Basin Pasture.

Notwithstanding the already good to excellent stream habitat condition and improving condition since 1986, the above season of use will permit riparian herbaceous regrowth and woody growth and development on all of the LCT habitat within the South Basin Pasture, whether accessible or inaccessible to livestock.

- b. North Basin Pasture. September 15 - October 31, with between 600 and 1200 head of cattle, not to exceed 1800 AUMs or 50% utilization of upland key forage species.

Notwithstanding the already good to excellent stream habitat condition and improving condition since 1986, the Sheep Creek Fence will eliminate 100% of the LCT perennial stream habitat. The above season of use will permit 6.5 months of deferment of grazing, allowing all vegetative species to complete their yearly growth cycles.

6. **AUTHORIZED GRAZING USE OF THE POLE CREEK PRIVATE PASTURE, OREGON FLAT PRIVATE PASTURE, AND SHEEP CREEK PRIVATE PASTURE.**

This use is outside the jurisdiction of BLM, because these are not within the Proposed Action regarding public land livestock authorization related to the Little Humboldt Allotment. If, however, this use is under the purview of USFWS, Oro Vaca hereby informs USFWS that Oro Vaca intends to use these private pastures as follows:

- a. Pole Creek Private Pasture.

Oro Vaca intends incidental use of this pasture<sup>11</sup>.

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<sup>11</sup> A small fenced water gap of approximately 200 yards may be opened to allow livestock using the Castle Ridge Pasture and North Basin Pasture access to water at the lower end of this private pasture. This water gap area is approximately 200 yards in length. The remainder of the Pasture Oro Vaca intends only for gathering during trailing, or other incidental use.

b. Oregon Flat Private Pasture.

Oro Vaca intends to use this Pasture to hold horses while herders are in the Basin, and for gathering and moving cattle during trailing between pastures, and for sick and orphaned animals.

c. Sheep Creek Private Pasture.

Oro Vaca intends incidental use. The pasture may be used to hold horses while herders are in the Basin.

7. MONITORING.

- a. BLM and Oro Vaca (and USFWS, if it so wishes) will cooperatively<sup>12</sup> monitor the length of the streams in the South Basin Pasture after removal of livestock in mid-July, and at the end of the growing season.
- b. BLM and Oro Vaca will cooperatively monitor the uplands within the South Basin and North Basin Pastures at the end of the period of use of each (or at other times as are mutually agreed).
- c. USFWS and Oro Vaca will cooperatively monitor the length of the streams in the Pole Creek Private Pasture, Oregon Flat Private Pasture, and Sheep Creek Pasture at the end of the growing season.

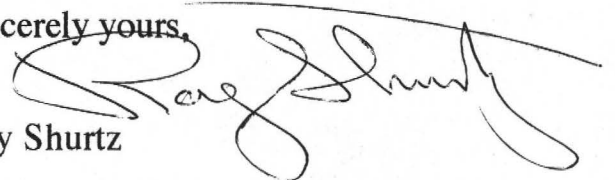
We welcome the opportunity to review this monitoring with whoever may be interested.

We reserve the right to re-initiate consultation to consider and implement management changes including, but not limited to, increasing livestock numbers, changing the rotation of the South Basin and North Basin Pastures, and expanding the season of use in the South Basin and/or North Basin Pastures.

If you have any questions regarding this letter, please call.

Sincerely yours,

Roy Shurtz



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<sup>12</sup> See Footnote 1, above.