



# United States Department of the Interior



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JAN 11 2008

In Reply Refer To:  
(NV060) 4160

CERTIFIED RECEIPT: 7007 0710 0004 4481 9352  
RETURN RECEIPT REQUESTED

Goemmer Land and Livestock  
C/O Shawn and Mindy Goemmer  
PO Box 517  
Battle Mountain, NV 89820

## **PROPOSED DECISION SOUTH BUFFALO AND BUFFALO VALLEY ALLOTMENTS**

**TRANSFER OF GRAZING PREFERENCE FROM  
JOE SAVAL RANCHING COMPANY, LLC  
TO  
GOEMMER LAND AND LIVESTOCK**

Dear Mr. and Mrs. Goemmer:

### **INTRODUCTION**

On October 11, 2007 you submitted transfer documentation for the grazing preference associated with base property you leased from Joe Saval Ranching Company, LLC and applied for a five-year grazing permit for the Buffalo Valley and South Buffalo Allotments, jointly referred to as the Buffalo Valley Allotment. This Proposed Decision will authorize the transfer of the grazing preference and issuance of a five-year permit to Goemmer Land and Livestock.

### **BACKGROUND**

The Buffalo Valley Allotment is located approximately 20 miles south of Battle Mountain, NV. The grazing preference for the Buffalo Valley Allotment would be transferred to Mr. and Mrs. Goemmer with no changes to the permitted use and terms & conditions established in the Buffalo Valley Final Grazing Decision dated October 23<sup>rd</sup>, 2007 (a copy of the final decision can be requested at the above address).

The following grazing management system and terms and conditions are specified on the grazing permit that was issued to Joe Saval Ranching Company, C/O James Ferrigan through the 2007 Buffalo Valley Final Grazing Decision:

Allotment	Use Area	Dates	Kind	Number	AUMs
Buffalo Valley	Buffalo Valley	03/01-04/30	Cattle	522	1,047
	McCoy	03/01-04/15	Cattle	522	789
	McCoy	04/15-04/30	Cattle	392	206
	Jersey Valley	04/15-05/15	Cattle	130	132
	Tobin	05/01-07/31	Cattle	522	1,579
	Fish Creek	05/01-05/15	Cattle	303	149
	Jersey High	05/01-07/15	Cattle	89	222
	Fish Creek	05/16-07/15	Cattle	433	868
	Jersey Valley	07/16-09/15	Cattle	522	1,064
	Buffalo Valley	08/01-02/28	Cattle	522	3,638
	McCoy	09/16-02/28	Cattle	522	2,849
<b>Total</b>				1,044	12,543*

\*Due to rounding errors, the AUMs utilized on an annual basis would be 12,543 under this grazing schedule. However, the active preference will remain at 12,546.

### Annual Authorization Terms & Conditions

1. Grazing use will be in accordance with the Joe Saval Ranching Company, LLC Permit Renewal Final Decision dated October 23, 2007.
2. The permittee would be required to meet with the BLM prior to each grazing year in order to determine if any temporary changes in permitted use are required either at the request of the permittee or at the discretion of the BLM based on monitoring data collected during the previous year.
3. A total of 3,077 AUMs will be placed in temporary suspension due to non-functioning water developments throughout the Buffalo Valley and South Buffalo Allotments. As watering facilities are made functional by the Joe Saval Ranching Company, LLC, the BMFO and Joe Saval Ranching Company, LLC will examine the use area(s) associated with these waters to determine when the AUMs will be placed back into active use. When all waters are functional, all 3,077 AUMs will be re-activated.
4. The period of use in any use area may be temporarily modified on an annual basis if monitoring data indicates that changes are appropriate to achieve the terms and conditions for grazing use and meet allotment specific objectives and the Standards for Rangeland Health. Temporary annual changes in grazing use that may be authorized will be considered if the use is within the intent of the grazing permit as described in 4130.4(b).

**Terms & Conditions: Buffalo Valley, McCoy, and Jersey Valley Use Areas**

1. For grazing use that occurs from 4/1 – 5/15, the permittee would be required to remove livestock within 7 days from either a portion of or from the entire use area to the next scheduled pasture anytime after 5/1 when key area utilization on key upland herbaceous species reaches 40% and key shrub species reaches 25%.
2. For grazing that occurs from 7/15 – 3/31, the permittee would be required to remove livestock within 7 days from either a portion of or from the entire use area(s), to the next scheduled pasture, or off the allotment when key area utilization on key upland species reaches 40%.

**Terms & Conditions: Jersey High, Fish Creek, and Tobin Use Areas**

1. For grazing use that occurs from 5/1 – 7/15, the permittee would be required to remove livestock within 7 days from either a portion of or from the entire use area to the next scheduled pasture anytime after 7/1 when key area utilization on key upland species reaches 40%.
2. If monitoring indicates that grazing use results in less than 4-inch residual stubble height of riparian herbaceous species by July 31<sup>st</sup>, then the BLM will examine all possible causes for exceeding the specified 4” stubble height requirement in order to determine if any temporary changes in the period of use may be required for the following year.
3. The permittee would be required to remove livestock within 7 days from either a portion of or from the entire use area(s) anytime after 6/30 when monitoring indicates that utilization of riparian woody or browse species (e.g. aspen, elderberry, serviceberry, etc.) reaches 30%.
4. The Buffalo Rehabilitation Seeding within the Tobin Use Area will be utilized in conjunction with the Buffalo Valley Use Area from 09/01 – 02/28. During this time frame, the permittee would be required to remove livestock within 7 days from the seeding once utilization of crested wheatgrass reaches 60%. Use within the seeding and Buffalo Valley combined will not exceed 3,638 AUMs during this time frame. However, use within this seeding may occur upon receiving written authorization prior to 09/01 if it is determined that utilization standards for riparian areas within the Tobin Use Area are met prior to the on-date for the next scheduled pasture. Grazing will not exceed the 3,638 AUMs designated for the Buffalo Valley Use Area if use occurs prior to 09/01.
5. Trailing through the Buffalo Rehabilitation Seeding in the spring may be authorized on an annual basis when moving to the Tobin Use Area. Trailing through the seeding with a group of cattle will be limited to one day.

**Administrative Terms & Conditions:**

1. In accordance with 43 CFR 4130.8-1(F): Failure to pay grazing bills within 15 days of the due date specified in the bill shall result in a late fee assessment of \$25.00 or 10 percent of the grazing bill, whichever is greater, but no to exceed \$250.00. Payment made later than 15 days after the due date, shall include the appropriate late fee assessment. Failure to make payment within 30 days may be a violation of 43 CFR Sec. 4140.1 (B) (1) and shall result in action by the authorized officer under 43 CFR Secs. 4150.1 and 4160.1-2
2. In accordance with 43 CFR 4130.3-2(D): Actual use information for each pasture will be submitted to the authorized officer within 15 days of completing grazing use as specified on the grazing permit and/or grazing licenses.
3. In accordance with 43 CFR 4120.31(A): All range improvements shall be installed, used, maintained, and/or modified on the public lands, or removed from these lands, in a manner consistent with multiple-use management.
4. In accordance with 43 CFR 4130.3-2(C): In order to improve livestock and rangeland management on the public lands, all salt and/or mineral supplements will not be placed within ¼ mile of any riparian area, wet meadow, or watering facility (either permanent or temporary) unless stipulated through a written agreement or decision.
5. In accordance with 43 CFR 4130.3-2(H): All grazing permittees shall provide reasonable access across private and/or leased lands to the Bureau of Land Management for the orderly management and protection of the public lands.
6. In accordance with 43 CFR 4130.3-3: The authorized officer may modify terms and conditions of the permit or lease when the active use or related management plan are not meeting the Land Use Plan, Allotment Management Plan or other activity plan, or provisions of subpart 4180 RAC Standards and Guidelines.
7. Pursuant to 43 CFR 10.4(G): The holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony (as defined at 43 CFR 10.2). Further, pursuant to 43 CFR 10.4(C) and (D), you must stop activities in the immediate vicinity of the discovery and protect it from your activities for 30 days or until notified by the authorized officer.
8. In accordance with 43 CFR 4130.3-1(B): All permits and leases shall be made subject to cancellation, suspension, or modification for any violation of these regulations or of any term or condition of the permit or lease.

As brought forward through the Final Decision for the permit renewal associated with the Buffalo Valley Allotment issued on September 30<sup>th</sup>, 2007, Mr. and Mrs. Goemmer will be required to apply for the following use for at least the 2008 grazing year:

Allotment	Use Area	Dates	Kind	Number	AUMs
Buffalo Valley	Buffalo Valley (1*)	3/1 – 4/30	Cattle	522	1047
	Buffalo Valley (1)	5/1 – 7/31	Cattle	344	1040
	Jersey High (1)	5/1 – 7/15	Cattle	100	250
	Buffalo Valley (1)	5/1 – 5/10	Cattle	78	26
	Tobin (1 + 2)	5/10 – 7/31	Cattle	600	1637
	Buffalo Valley (1)	8/1 – 2/28	Cattle	522	3638
	McCoy (2)	3/1 – 4/15	Cattle	522	789
	McCoy (2)	4/15 – 5/12	Cattle	392	361
	Jersey Valley (2)	4/15 – 5/12	Cattle	130	120
	Jersey Valley (2)	8/1 – 9/15	Cattle	522	789
	McCoy (2)	9/16 – 2/28	Cattle	522	2849
			<b>Total</b>	<b>1,044</b>	<b>12,546</b>

\*1 = Herd 1 2 = Herd 2

A public consultation letter was issued on December 26, 2007 to inform permittees and the interested public of the transfer of grazing preference and application for a five-year permit for the Buffalo Valley Allotment. The permittees and interested public were allowed a 15-day comment period from the date of the letter. No comments were received within this time frame.

A Documentation of Land Use Plan Conformance and NEPA Adequacy (DNA) has been completed for the issuance of a new five-year term permit. The DNA is tiered to the Buffalo Valley Permit Renewal Environmental Assessment (EA) NV062-EA07-080. The Buffalo Valley Permit Renewal EA analyzed impacts of the grazing management decision which was proposed and finalized in 2007.

## PROPOSED DECISION

It is my proposed decision to transfer the grazing preference for the Buffalo Valley Allotment from Joe Saval Ranching Company, LLC to Goemmer Land and Livestock. This will result in the issuance of a new grazing permit to Mr. and Mrs. Goemmer for a five year period and can be extended to ten years. Upon cancellation of the lease, the permit will revert back to Joe Saval Ranching Company, LLC. The permit will be issued consistent with the authorized use, grazing schedule and terms & conditions specified in the Buffalo Valley Permit Renewal Environmental Assessment (EA) NV062-EA07-080, Finding of No Significant Impact, and the Buffalo Valley Final Grazing Decision dated October 23<sup>rd</sup>, 2007.



## **RATIONALE**

In accordance with 43 CFR 4110.2-3(3), Mr. and Mrs. Goemmer has accepted the terms and conditions associated with the preference and permit for the Buffalo Valley Allotment. After review of Mr. and Mrs. Goemmer's transfer application and the base property that they have offered, it has been determined that the transferee is a qualified applicant as specified in 43 CFR 4110. The permitted use along with the terms and conditions that will be specified on the grazing permit are in accordance with the 2007 Buffalo Valley Final Grazing Decision, Shoshone Eureka Resource Management Plan (RMP), Sonoma-Gerlach Management Framework Plan (MFP) III, allotment specific objectives, along with the Northeastern Great Basin Resource Advisory Council (RAC) and Sierra Front-Northwestern Great Basin RAC standards and guidelines for rangeland health.

**DECISION AUTHORITY** - The authority of this decision is contained in Title 43 of the Code of Federal Regulations (CFR) including, but not limited to the following:

§43 CFR 4110.2-3(c): If a grazing preference is being transferred from one base property to another base property, the transferor shall own or control the base property from which the grazing preference is being transferred and file with the authorized officer a properly completed transfer application for approval. No transfer will be allowed without the written consent of the owner(s), and any person or entity holding an encumbrance of the based property from which the transfer is to be made.

§43 CFR 4130.2(a): Grazing permits or leases shall be issued to qualified applicants to authorize use on the public lands and other lands under the administration of the Bureau of Land Management that are designated as available for livestock grazing through land use plans. Permits or leases shall specify the types and levels of use authorized, including livestock grazing, suspended use, and conservation use. These grazing permits and shall also specify terms and conditions pursuant to §§ 4130.3, 4130.3-1, and 4130.3-2.

§43 CFR 4130.2(b): The authorized officer shall consult, cooperate and coordinate with affected permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public prior to the issuance or renewal of grazing permits and leases.

§43 CFR 4130.2(d): The term of grazing permits of leases authorizing livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management shall be 10 years unless—(1) The land is being considered for disposal; (2) The land will be devoted to a public purpose which precludes grazing prior to the end of 10 years; (3) The term of the base property lease is less than 10 years, in which case the term of the Federal permit or lease shall coincide with the term of the base property lease; or (4) The authorized officer determines that a permit or lease for less than 10 years is in the best interest of sound land management.

§4130.3: Livestock grazing permits and leases shall contain terms and conditions determined by the authorized officer to be appropriate to achieve management and resource condition objectives for the public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with the provisions of subpart 4180 of this part.

§4160.1(a): Proposed decisions shall be served on any affected applicant, permittee or lessee, and any agent and lien holder of record, who is affected by the proposed actions, terms or conditions, or modifications relating to applications, permits and agreements (including range improvement permits) or leases, by certified mail or personal delivery. Copies of proposed decisions shall also be sent to the interested public.

## **PROTEST AND APPEAL PROVISIONS**

### **Protest:**

In accordance with 43 CFR 4160.2, any applicant, permittee, lessee or other interested public may protest the proposed decision under 4160.1 of this title, in person or in writing to the authorized officer (Douglas W. Furtado, authorized officer, Battle Mountain Field Office, 50 Bastian Road, Battle, NV 89820) within 15 days after receipt of such decision. The protest, if filed, must clearly and concisely state the reason(s) why the protestant thinks the proposed decision is in error.

In accordance with 43 CFR 4160.3 (a), in the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice.

In accordance with 43 CFR 4160.3 (b), should a timely protest be filed with the authorized officer, the authorized officer will reconsider the proposed decision and shall serve the final decision on the protestant and the interested public.

### **Appeal:**

In accordance with 43 CFR 4160.4, any person whose interest is adversely affected by a final decision of the authorize officer may appeal the decision for the purpose of a hearing before an administrative law judge. The appeal must be filed within 30 days after receipt of the final decision. Appeals and petitions for a stay of the decision shall be filed at the office of the authorized officer (Douglas W. Furtado, authorized officer, Battle Mountain Field Office, 50 Bastian Road, Battle Mountain, NV 89820). Additionally the person appealing must serve a copy on any person named in the decision as listed at the end of this decision and the Office of the Solicitor, Pacific Southwest Region, U.S. Department of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, CA 95825-1890 within 15 days of filing the appeal and petition for stay.

In accordance with 43 CFR 4.470, the appeal shall state the reason, clearly and concisely, why the appellant thinks the final decision of the authorized officer is in error.

A petition for stay, if filed, must show sufficient justification based on the following standards (43 CFR 4.471(c)):

- (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.

The appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

Any person named in the decision from which an appeal is taken (other than the appellant) who wishes to file a response to the petition for a stay may file with the Hearings Division a motion to intervene in the appeal, together with the response, within 10 days after receiving the petition. Within 15 days after filing the motion to intervene and response, the person must serve copies on the appellant, the Office of the Solicitor and any other person named in the decision (43 CFR 4.472(b)).

At the conclusion of any document that a party must serve, the party or its' representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.422(c)(2)).

Sincerely,



Douglas W. Furtado  
Assistant Field Manager  
Renewable Resources

cc: Interested Public



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