



Gold Butte

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5-26-94

United States Department of the Interior



IN REPLY REFER TO:

BUREAU OF LAND MANAGEMENT
STATELINE RESOURCE AREA
4765 VEGAS DRIVE
P.O. BOX 26569
LAS VEGAS, NEVADA 89126

4160
(NV-054)

CERTIFIED MAIL #2525164
RETURN RECEIPT REQUESTED

MAY 26 1994

FINAL DECISION
GOLD BUTTE ALLOTMENT GRAZING APPLICATION

Dennis B. Whitmore
P. O. Box 196
Overton, NV. 89040

Dear Mr. Whitmore:

I have considered my April 21, 1994, proposed decision denying your September 17, 1993, application for use, in light of your letter of protest dated May 6, 1994.

In response to the two points of protest in your letter:

1. "We own or control adequate water base property to which the grazing preference for the Gold Butte allotment could be attached."

Grazing preference is attached to water base property on the basis of the livestock grazing capacity within the service area. Any water which is offered as base property has to be located within the Gold Butte allotment. Additionally, if a grazing preference is transferred from one water base to another, the new base water must service the same area as the old water base.

You did not provide documentation that you control or own base waters that service the same areas as the old water bases.

Based on the Memorandum of Understanding (MOU) (NV053-9301), between U.S. Fish and Wildlife Service, Bureau of Land Management and The Nature Conservancy, dated 2/25/94, the Bureau of Land Management has agreed to take appropriate action on grazing authorizations as provided by the appropriate land use plan, the Endangered Species Act and the Desert Tortoise Recovery Plan. The purpose of the MOU is provide conservation of the desert tortoise and its habitat and management of livestock grazing consistent with the obtainment of the desert tortoise habitat objectives, within the Gold Butte allotment.

The Nature Conservancy owns the base waters for the Gold Butte allotment and is the authorized permittee. They will apply for non-use for conservation purposes once all of John Frie's cattle are removed, which will be June 1, 1994.

2. "We are engaged in the livestock business and currently have a permit to graze ninety-six (96) head of cattle and four (4) horses on the Tassi allotment which adjoins the Gold Butte allotment."

No documentation was provided in either your grazing application or your May 6, 1994, letter of protest.

The April 21, 1994, Proposed Decision denied your application for the period June 1, 1994, to August 31, 1994. I have determined that my proposed decision will remain unchanged. This final decision will cover the entire period stated on your grazing application.

Therefore, based on the above information, my final decision is to deny your application dated and signed September 17, 1993 for all 325 cattle for the period June 1, 1994 to August 31, 1994.

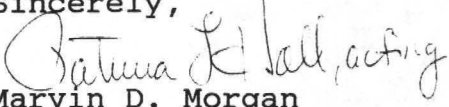
The authority for this decision is contained in Title 43 of the Code of Federal Regulations, which states in pertinent parts:

4110.1: "Except as provided under 4110.1-1, 4130.3 and 4130.4-3, to qualify for grazing use on the public lands an applicant must be engaged in the livestock business, must own or control land or water base property"

If you wish to appeal this final decision for the purpose of a hearing before an Administrative Law Judge, in accordance with 43 CFR 4160.3 (c), 4160.4, and 4.470, you are allowed thirty (30) days from receipt of this notice within which to file an appeal with the Stateline Resource Area Manager, Bureau of Land Management, 4765 Vegas Drive, P.O. Box 26569, Las Vegas, Nevada 89126.

The appeal shall state the reasons, clearly and concisely, as to why you think this Final Decision is in error.

Sincerely,


Marvin D. Morgan
Area Manager