

BLM-040



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Battle Mountain District Office

50 Bastian Road

P.O. Box 1420

Battle Mountain, NV 89820

IN REPLY REFER TO:

4400
(NV064.21)

[Handwritten initials]

OCT 20 1994

CERTIFIED MAIL No.: (P 870 695 874)
Return receipt requested

Filbert Etcheverry
Eureka Livestock Co.
7805 Calloway Drive
Bakersfield, CA 93312

AREA MANAGER'S FINAL MULTIPLE USE DECISION FOR THE ROBERTS MOUNTAIN ALLOTMENT

The Record of Decision for the Shoshone-Eureka Environmental Impact Statement and Resource Management Plan (RMP) was issued on March 10, 1986. A subsequent RMP Amendment and Record of Decision was issued November 6, 1987. These documents established the multiple use goals and objectives which guide management of the public lands within these allotments. The Rangeland Program Summary (RPS) was issued in December, 1988 which further identified the allotment specific objectives for the Roberts Mountain Allotment.

As identified in the Shoshone-Eureka Land Use Plan (LUP) and RPS, monitoring was established on these allotments to determine if existing multiple uses for the allotment were consistent with attainment of the objectives established by LUP. Monitoring data has been collected in the allotment since 1980 and has been analyzed through the allotment evaluation process to determine progress in meeting multiple use objectives.

Protest letters and comment letters were received pertaining to the Roberts Mountain Allotment Proposed Multiple Use Decision (PMUD). Copies of these letters can be found in section IV of the allotment evaluation file located in the Shoshone-Eureka Resource Area. All allotment specific comments were carefully considered for incorporation into the Final Multiple Use Decision (FMUD). The points of protest received are addressed as follows:

Wilson and Barrows on behalf of Eureka Livestock-Filbert Etcheverry states that the data used in the evaluation is outdated and there is no trend data to assist in drawing conclusions for other earlier data.

The proposed management changes will impose operational hardships on the permittee including removal of livestock within the specified time limits, and seasonal use changes in the Tagging and Chimney Pastures. The permittee does not feel that there should be any operational changes until the identified range improvements are completed.

The Bureau is within its regulations to adjust AUMs and management practices based upon monitoring data. The Bureau requested the permittee to submit a proposal for operational changes during a public meeting. The comments received were not adequate in supplying the Bureau with workable alternatives to operational changes outlined in the PMUD. The Bureau has made some adjustments from the PMUD and they are identified in the Livestock Grazing Management Decision below. The Bureau believes that the specified time for livestock removal from a pasture is adequate. Construction of range improvements prior to implementing management changes is not needed. The Bureau is aware of the potential for drift problems occurring between unfenced pastures and will examine the occurrences on a case-by-case basis.

Eureka County Commissioners Public Lands Advisory Council addressed four points: Ecological condition and trend data were not adequately collected nor were they used as a basis for the decision; Decrease in big game numbers could be a result of factors other than over-grazing; A 27% - 32% cut in wild horse numbers was suggested; and monitoring data should not be used for further evaluations if there is no guarantee it will be collected in the future.

The Bureau is within its regulations to adjust AUMs and management practices based upon monitoring data. The Bureau will continue to collect data with approved methods for future evaluations. Monitoring data indicates wildlife are not contributing significantly to over-utilization of vegetative resources. Determination of adjustments for livestock and wild horses are based on the weighted average percent utilization calculations, using active preference for livestock and average actual use and estimated use for wild horses and is an approved Bureau method and State policy. An annual census is adequate to provide needed data, without being cost prohibitive.

The Commission for the Preservation of Wild Horses - Catherine Barcomb states in review of the final evaluation and PMUD, they find the following errors: Livestock carrying capacity and the appropriate management level for the Roberts Mountain herd are flawed. Restricting the Roberts Mountain wild horse herd has not complied with the National Environmental Policy Act.

Determination of adjustments for livestock and wild horses are based on the weighted average percent utilization calculations, using active preference for livestock and average actual and estimated use for wild horses and is an approved Bureau method and State policy. An annual census is adequate to provide needed data, without being cost prohibitive.

The National Research Council, National Academy of Sciences stated on page 44 of its Final Report on wild and free roaming horses and burros, that annual censuses are not necessary. The Bureau has also completed seasonal distribution studies on wild horses.

United States Fish and Wildlife Service concurs that the grazing plan proposed in the PMUD and Management Action Selection Report is not likely to adversely affect Lahontan Cutthroat Trout. Therefore, formal consultation pursuant to section 7 of the Act is not required.

Sagebrush Chapter of Trout Unlimited is in full support of the Battle Mountain District of the BLM's PMUD for the Roberts Mountain Allotment.

The specific multiple use objectives for the Roberts Mountain allotment are listed below:

I. Allotment Specific Objectives:

A. Vegetation and Ecological Condition:

1. Utilization not to exceed 50% on key species by seed dissemination, and 60% by end of grazing year.
2. In the long term, improve 22,844 acres to good, and 1,096 acres to excellent condition.
3. In the long term, stop downward trend on 7,552 acres, and manage for upward trend on 25,073 acres.

B. Livestock Use

1. In the short term, manage use at 10,960 AUMs.
2. In the long term, manage use at 11,946 AUMs, in conformance with other objectives of the RMP.

C. Wildlife Use:

1. Utilization of riparian habitat not to exceed 30% on stream banks to be improved for aquatic habitat, or exceed 50 % on other riparian habitat to be improved.
2. In the short term, improve 15 miles of riparian/aquatic habitat to good condition on the following streams: 7 miles of Roberts Creek, 5 miles of Vinini Creek, and 3 miles of Henderson Creek including 180 acres of other riparian habitat.
3. Utilization of key browse species not to exceed 50% in terrestrial big game habitat to support 2,450 AUMs of big game use, in conformance with other objectives of the RMP.
4. In the long term, provide habitat to support 2,450 AUMs of big game use, in conformance with other objectives of the RMP.

5. In the long term, within the Roberts Mountain Habitat Management Plan Area, improve 9,850 acres of terrestrial big game habitat to good, and 473 acres to excellent condition. Stop downward trends on 3,256 acres and manage for upward trends on 10,811 acres.
6. Manage rangeland habitat to maintain or enhance sage grouse strutting and nesting areas in conformance with other objectives of the RMP.

D. Wild Horses:

1. Initially manage to provide 984 AUMs of forage within the Roberts Mountain Herd Management Area (HMA). 64.6% of the HMA is within this allotment.
2. Maintain or improve wild horse habitat in a condition which enhances their wild and free-roaming behavior, in conformance with other objectives of the RMP.
3. Maintain or improve wild horse habitat by ensuring free access to water, in conformance with other objectives of the RMP.

II. Activity Plan Objectives:

A. Roberts Mountain Habitat Management Plan:

1. To protect and improve the quality of upland meadows.
2. To protect and improve the quality of riparian and stream habitat.
3. To protect and develop important springs and associated meadows.
4. To establish a viable population of Lahontan Cutthroat trout.
5. To retain 20 to 30 percent canopy cover of sagebrush on sage grouse range, except for upland meadows.
6. To retain an undisturbed area within a 2-mile radius of all sage grouse breeding complexes.
7. To provide forage for 1,710 mule deer (2,992 AUMs) from April 1 to October 31 and for 480 mule deer (600 AUMs) from November 1 to March 31.
8. Improve quality and quantity of browse, forbs, and spring grass availability on mule deer ranges, particularly in summer use areas.
9. Increase carrying capacity of Roberts, Vinini, and Tonkin Creeks to 1,500 trout per mile.

III. THREATENED AND ENDANGERED PLANTS

- A. There are no known threatened and/or endangered plant species within the allotment.

IV. THREATENED AND ENDANGERED ANIMAL SPECIES

- A. No threatened or endangered animal species are found within the Roberts Mountain allotment. Two candidate species, the ferruginous hawk and the Northern Goshawk have been sighted hunting and nesting in the allotment.

Through the allotment evaluation process it was determined that the following vegetation objectives were not fully being met and the key browse species objectives were not met, indicating that a change in existing management is required in order to meet all of the multiple use objectives for this allotment:

Vegetation and Ecological Condition:

A1- Use pattern maps show utilization objectives being met for upland areas. However, use pattern maps also show repeated over-utilization of riparian areas and drainages, therefore this objective is not being met.

A2- Ecological condition data was gathered once, therefore it cannot be determined whether any land is improving to good or excellent condition.

A3- Trend data is incomplete, therefore it cannot be determined whether trend is up or down.

Livestock

B1- Average livestock use has exceeded the LUP objective level in the short term, therefore this objective is not being met.

B2- Short term objectives are not being met, therefore this objective is not being met.

Wildlife

C1- Management objectives as identified in the Roberts Mountain HMP amendment to improve riparian and stream habitat are being implemented. Planned actions 1, 2, and 3 involving riparian pasture construction and herding practices on 5 miles of Roberts Creek are being monitored. Utilization of riparian habitat exceeds 30 % on stream banks to be improved for aquatic habitat, and exceeds 50 % on other riparian habitat. This objective has not been met.

C2- HMP management actions to improve riparian/aquatic habitat on 5 miles of Roberts Creek have been implemented. These actions were initiated in 1989 and no reversal of downward trends can be expected. No actions have been initiated on another 10 miles of stream to be improved. No actions have been implemented to improve 1.8 miles of Pete Hanson Creek--habitat of the federally threatened Lahontan Cutthroat trout. This objective has been partially met.

C3- Utilization of key browse species exceeds 50 % in terrestrial big game habitat. This objective has not been met.

C4- Existing big game use has decreased from 1,735 AUMs to 1041. The long term objective of 2,450 AUMs in terms of forage is farther from realization than it was when the RPS was written.

C5- Terrestrial big game habitat within the Roberts Mountain HMP area has not improved, and downward trends continue in areas where this trend was to be arrested. This objective is not being met.

C6- The sage grouse population continues to decline, and the sage grouse habitat condition is fair to poor throughout the allotment. This objective has not been met. (See Table IV, Appendix E for data).

Wild Horses:

D1- Objective 1 is being met. Aerial census records throughout the monitoring time period show wild horses fairly evenly distributed within the Roberts Mountain Allotment portion of the HMA. Horse use averaged 1,296 AUMs of forage per year during the ten year monitoring period. Use pattern maps of the part of Roberts Mountain Allotment which is within the HMA documents actual use as being light to moderate, with the exception of Nichols Seeding, which is classified as heavy.

D2- Objective two is being met. Allotment fences and mining were present prior to 1971, therefore these activities have not inhibited their wild and free-roaming behavior.

D3- Objective three is being met. Allotment fences and mining were present prior to 1971, therefore these activities have not inhibited their wild and free-roaming behavior.

Activity Plan Objectives

A- Roberts Mountain Habitat Management Plan:

1) See C-2.

Threatened and Endangered Species

A- There are no known threatened or endangered plants within the Roberts Mountain allotment.

B- The threatened Lahontan cutthroat trout has been reestablished in Pete Hanson Creek.

C- The Candidate species ferruginous hawk nests in the allotment and spends summers there.

Through the consultation, coordination, and cooperation process (CCC), your input as well as input from other affected interests has been considered in the allotment evaluation process. As a result of evaluation conclusions and after consideration of input received through CCC, and in order to meet multiple use objectives established by the LUP, the following decisions are necessary:

WILDLIFE MANAGEMENT DECISION

Based on the information provided in the allotment evaluation, the technical recommendations of my staff, the input provided by the permittee, NDOW, and other interested parties, no wildlife management decision is necessary.

LIVESTOCK GRAZING MANAGEMENT DECISION

Based on the information provided in the allotment evaluation, the technical recommendations of my staff, and the input provided by the permittee, and other interested parties, it is my decision to implement the following changes in livestock management within these allotments:

In accordance with 43 CFR 4110.3, 4110.3-2(b), 41103-2(c), and 4130.6-1(a), the current authorized livestock active use shall be decreased by 3,614 AUMs: 800 AUMs suspended in accordance with a 1991 "Two Year Notice", a further suspension of 798 AUMs will reduce the active preference to the permittees average actual use during the evaluation period (11,362 AUMs), and an additional 2,016 AUM reduction as nonuse for conservation/protection purposes bringing the active preference equal to the allotment's carrying capacity.

AUTHORIZED LIVESTOCK USE:

FROM:

<u>PASTURE</u>	<u>LIVESTOCK</u>		<u>GRAZING PERIOD</u>		<u>TYPE</u>		<u>AUMs</u>
	<u>NUMBER</u>	<u>KIND</u>	<u>BEGIN</u>	<u>END</u>	<u>%PL</u>	<u>USE</u>	
10046 ROBERTS MOUNTAIN							
	60	cattle	03/01	12/31	100	active	604
	2625	sheep	04/16	10/15	100	active	3159
	724	cattle	03/10	08/31	100	active	4165
	261	cattle	09/01	10/15	100	active	386
	242	cattle	10/16	12/31	75	active	459
	125	cattle	01/01	02/28	25	active	61
	623	cattle	03/10	08/31	100	active	3584
	350	cattle	09/01	10/15	50	active	259
	200	cattle	10/16	12/31	50	active	253
	124	cattle	01/01	02/28	25	active	60
	27	cattle	03/01	12/31	100	active	248

ALLOTMENT SUMMARY (AUM's):

P R E F E R E N C E		
ACTIVE	SUSP	TOTAL
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13238	4982	18220

Authorized livestock use effective Year 3:

PASTURE	NO.	Kind	Period of Use	(%Fed)	Active AUMs
Roberts Mtn. Allotment:					
	1473	s	04/10-10/15	100	1831
	499	c	03/10-10/30	100	3853
	85	c	03/01-12/31	100	852
Alpha Field	242	c	10/16-12/31	75	459
Henderson Fld	350	c	09/01-10/15	50	259
Chimney Fld	200	c	10/16-12/31	50	253
Rbrts.Crk.Rnch	124	c	01/01-02/28	25	61
Garden Valley	124	c	01/01-02/28	25	60
Tagging	562	s	05/25-09/05	100	384
	356	c	05/25-09/05	100	1216
Vinini	213	s	06/01-10/15	100	192
	134	c	06/15-10/30	100	608
Henderson	273	s	07/01-10/15	100	192
	171	c	07/15-10/30	100	608
Poison	-----rest-----				
Totals					10828

Authorized livestock use effective Year 5:

PASTURE	NO.	Kind	Period of Use	(%Fed)	Active AUMs
Roberts Mtn. Allotment:					
	1086	s	04/10-10/15	100	1350
	302	c	03/10-10/30	100	2330
	85	c	03/01-12/31	100	852
Alpha Field	242	c	10/16-12/31	75	459
Henderson Fld	350	c	09/01-10/15	50	259
Chimney Fld	200	c	10/16-12/31	50	253
Rbrts.Crk.Rnch	124	c	01/01-02/28	25	61
Garden Valley	124	c	01/01-02/28	25	60
Poison	546	s	07/01-10/15	100	384
	342	c	07/15-10/30	100	1216
Vinini	174	s	05/01-10/15	100	192
	109	c	05/15-10/30	100	608
Tagging	642	s	05/01-07/30	100	384
	406	c	05/01-07/30	100	1216
Henderson	-----rest-----				
Totals					9624

The three year rest-rotation is as follows:
 Eureka Livestock Co. (Filbert Etcheverry)

Year 1:

Pasture	Period of Use	<u>AUMs</u> Active
Poison	07/01-10/30	1600
Henderson	06/01-10/30	800
Vinini	-----rest-----	
Tagging	-----rest-----	

Year 2:

Pasture	Period of Use	<u>AUMs</u> Active
Poison	07/01-10/30	1600
Vinini	06/01-10/30	800
Tagging	05/01-07/30	1600
Henderson	-----rest-----	

Year 3:

Pasture	Period of Use	<u>AUMs</u> Active
Tagging	05/25-09/05	1600
Vinini	06/01-10/30	800
Henderson	07/01-10/30	800
Poison	-----rest-----	

The following terms and conditions shall be made a part of all grazing permits in the Roberts Mountain Allotment:

This permit reflects your adjusted grazing preference based upon the "Allotment Evaluation" issued for a period of 10 years. Any terms and/or conditions of this permit shall be amended or changed when additional and/or new monitoring data reflects the need to do so.

The AUMs taken as temporary nonuse for conservation/protection purposes will be held in nonuse until such time as the Authorized Officer determines through monitoring that active use may resume. The monitoring data will be evaluated to determine the allotment carrying capacity. The data will indicate if the allotment can sustain an increase in active use.

Four pastures; Tagging, Poison, Vinini, and Henderson will be managed under a rest-rotation grazing system. The authorized use shall follow the schedule outlined in the Final Multiple Use Decision for the Roberts Mountain Allotment.

Monitoring data and actual use reports collected each year will indicate any needed changes in the rotation schedule prior to next grazing season. Adjustments in rotation dates among pastures and allocated AUMs per pasture can be made if vegetation conditions indicate it is necessary.

The permittee will be required to haul water, increase riding pressure, and salting in Vinini and Henderson Pastures to ensure minimal drift until the pasture fence and well at Steel Springs is constructed.

When utilization has reached Land Use Plan Objectives in any given area then the permittee will have 24 hours to begin moving livestock out of that pasture and 96 hours (4 days) to have all livestock removed. If portions of a pasture reach the maximum utilization level prior to other areas in the pasture, continued use of the pasture will be allowed if livestock are kept in the areas which contain available forage. If the livestock cannot be kept in the proper areas, livestock removal shall be required. The AUMs authorized for use in that pasture that are not utilized will not be used in the other rotating pastures. If forage is not available elsewhere fees paid shall be refunded.

If this monitoring is not able to be done in some years it is recommended that each pasture be monitored at the end of the grazing season, paying considerable attention to key areas and areas of critical concern. The following grazing season the licensed use and active preference shall be adjusted, based on the previous years monitoring data, to meet the LUP utilization objectives.

Active preference AUMs reduced based on monitoring shall be placed in nonuse for conservation/protection purposes and shall not be activated until suitable forage is available and approved by the authorized officer.

Sheep will follow the rest-rotation system also. Sheep bedgrounds will be moved every day, sheep camps will be moved every 5 days, and sheep bedgrounds will not be located within 1/2 mile of any water sources and/or riparian areas.

Sage grouse areas in Rutabaga, Kobeh, Nichols, and Chimney pastures will not be used prior to June 1st. two out of every three years. Chimney pasture can be used early year one and restricted year two and three. The permittee will have year two to decide on another pasture for early use prior to the Chimney division fence construction in year three.

Livestock grazing on all portions of Pete Hanson Creek above the falls will be restricted for three years. Use below the falls will be in conjunction with the rest-rotation system for the Tagging Pasture. In three years the watershed will be evaluated to determine its condition and suitability for a grazing management system.

Actual use information for each use area will be submitted within 15 days of completing grazing use as specified on the grazing permit and grazing licenses. Livestock grazing will not be authorized the following grazing season if these reports are not filed in a timely manner.

Prior to implementing adjustments scheduled at the third and fifth year, following implementation of the decision, existing and future monitoring data will be evaluated to determine if the indicated adjustments are warranted and/or if any additional modifications in existing management are necessary.

RATIONALE: The analysis and evaluation of available monitoring data indicate that the current management practices are not meeting all of the multiple use management objectives for the Roberts Mountain Allotment. The proposed reduction in AUMs, range improvements, deferred-rest rotation system, and new sheep stipulations will improve rangeland productivity. The increased intensity of management proposed in this decision will provide needed rest during critical growth periods for the key species and allow multiple use objectives to be met.

Overall grazing pressure will be reduced with an adjustment in AUMs. Continued monitoring will reflect whether or not land use plan objectives are being met. In the long term, a rest rotation system in conjunction with the new fencing will enhance sage grouse areas by distributing livestock better.

The Bureau believes the permittee can make a valid effort of avoiding sage grouse areas during critical periods and controlling livestock distribution in a pasture through the combination of herding, hauling water, and salting. Season-of-use changes in rotating pastures was necessary to ensure minimal use during the hot season.

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

4110.0-8: "The authorized officer shall manage livestock grazing on public lands under the principle of multiple use and sustained yield, and in accordance with applicable land use plans. Land use plans shall establish allowable resource uses (either singly or in combination), related levels of production or use to be maintained, areas of use and resource condition goals and objectives to be obtained. The plans also set forth program constraints and general management practices needed to achieve management actions approved by the authorized officer shall be in conformance with the land use plan as identified at 43 CFR 1601.0-5(b)."

4110.3: "The authorized officer shall periodically review the grazing preference specified in a grazing permit or a grazing lease and may make changes in the grazing preference status. These changes shall be supported by monitoring, as evidenced by rangeland studies conducted over time, unless the change is either specified in an applicable land use plan or necessary to manage, maintain, or improve rangeland productivity."

4110.3-2(b): "When monitoring shows active use is causing an unacceptable level or pattern of utilization or exceeds livestock carrying capacity as determined through monitoring, the authorized officer shall reduce active use if necessary to maintain or improve rangeland productivity, unless the authorized officer determines a change in management practices would achieve the management objectives."

4110.3-2(c): "Where active use is reduced it shall be held in suspension or in nonuse for conservation/protection purposes, until the authorized officer determines that active use may resume."

4110.3-3(a): "Changes in active use in excess of 10 percent shall be implemented over a 5 year period..."

4120.3-1(c): "The authorized officer may require a permittee or lessee to maintain and/or modify range improvements on the public lands under 4130.6-1 of this title."

4130.6: "Livestock grazing permits and leases shall contain terms and conditions necessary to achieve the management objectives for the public land and other lands under Bureau of Land Management administration."

4130.6-1(a): "The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the amount of use, in animal unit months, for every grazing permit or lease. The authorized livestock grazing use shall not exceed the livestock carrying capacity as determined through monitoring and adjusted as necessary under 4110.3, 4110.3-1 and 4110.3-2."

4130.6-1(b): "All permits and leases shall be made subject to cancellation, suspension, or modification for any violations of these regulations or if any terms and conditions of the permit or lease."

4130.6-2: "The authorized officer may specify in grazing permits and leases other terms and conditions which will assist in achieving management objectives, provide for proper range management or assist in the orderly administration of the public rangelands."

APPEAL:

If you wish to appeal this decision for the purpose of a hearing before an Administrative Law Judge, in accordance with 43 CFR 4.470, you are allowed thirty (30) days from receipt of this notice within which to file such an appeal with the Shoshone-Eureka Resource Area Manager, Bureau of Land Management, 50 Bastian Rd., P.O. Box 1420, Battle Mountain, NV 89820. The appeal should state the reasons, clearly and concisely, why you think the final decision is in error. All grounds of error not stated shall be considered waived [43 CFR 4.470 (a)].

WILD HORSE MANAGEMENT DECISION

Monitoring data reflects that a thriving ecological balance is not being obtained in the Roberts Mountain Allotment primarily due to wild horses establishing residence outside the HMA. Based on the information provided, wild horse use shall be adjusted and managed at 1,106 AUMs (92 horses)

RATIONALE

The analysis and evaluation of available monitoring and census data indicates that wild horses have become established outside of the HMA. Therefore, modifications in management actions are needed to ensure the multiple use management objectives continue to be met. Continued monitoring will be used to ensure management objectives are being met.

AUTHORITY

The authority for this decision is contained in Section 3 (a) and (b) of the Wild Horse and Burro Act (P.L. 92-195) as amended, and in Title 43 of the Code of Federal Regulations, which states in pertinent parts:

4700.0-6 (a): "Wild horses and burros shall be managed as self-sustaining populations of healthy animals in balance with other uses and the production capacity of their habitat."

4700.0-6 (d): "In administering these regulations, the authorized officer shall consult with Federal and State wildlife agencies and all other affected interests, to involve them in planning for and management of wild horses and burros on the public lands."

4710.1" "Management activities affecting wild horses and burros, including the establishment of herd management areas, shall be in accordance with approved land use plans prepared pursuant to part 1600 of this title."

4710.3-1. "Herd management areas shall be established for the maintenance of wild horse and burro herds. In delineating each herd management area, the authorized officer shall consider the appropriate management level for the herd, the habitat requirements of the animals, the relationships with other uses of the public and adjacent private lands, and the constraints contained in 4710.4. The authorized officer shall prepare a herd management area plan, which may cover one or more herd management areas."

APPEAL:

Within 30 days of receipt of this decision, you have the right to appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR 4.4. If an appeal is taken, you must follow the procedures outlined in the enclosed form 1842-1, Information on Taking Appeals to the Board of Land Appeals. Within 30 days after you appeal, you are required to provide a Statement of Reasons to the Board of Land Appeals and a copy to the Regional Solicitor's Office listed in item 3 on the form. Please provide a copy of your appeal and Statement of Reasons to the Shoshone-Eureka Resource Area Manager, Bureau of Land Management, Battle Mountain District, 50 Bastian Road, P.O. Box 1420, Battle Mountain, Nevada 89820. Copies of your appeal and the Statement of Reasons must also be served upon any parties adversely affected by this decision. The appellant has the burden of showing that the decision appealed from is in error.

In addition, within 30 days of receipt of this decision you have the right to file a petition for a stay (suspension) of the decision together with your appeal in accordance with the regulations at 43 CFR 4.21. The petition must be served upon the same parties specified above.

If you request a stay, you have the burden of proof to demonstrate that a stay should be granted based on the following reasons:

- (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.
- "Any person who is adversely affected by a decision of the authorized officer in the administration of these regulations may file an appeal."

Appeals must be filed within 30 days of receipt of the decision in accordance with 43 CFR part 4, subpart E."

/s/ Wayne King

OCT 20 1984

Wayne King, Area Manager
Shoshone-Eureka Resource Area

Date

cc:	(Certified Mail No.)
• Nevada Department of Wildlife	(P 870 695 847)
• Sierra Club	(P 870 695 848)
• U.S. Fish and Wildlife Service	(P 870 695 849)
Animal Protection Institute	(P 870 695 851)
Nevada State Dept. of Agriculture	(P 870 695 852)
Resource Concepts, Inc.	(P 870 695 853)
Michael Blake	(P 870 695 854)
Natural Resources Defense Council	(P 870 695 855)
• Nevada Cattlemen's Association	(P 870 695 856)
Nevada Department of Wildlife	(P 870 695 857)
• Nye County	(P 870 695 858)
• The Humane Society	(P 870 695 859)
• Trout Unlimited	(P 870 695 860)
Georgia Earth Alliance	(P 870 695 861)
Nevada Farm Bureau	(P 870 695 862)
Commission for the Preservation of Wild Horses	(P 870 695 863)
Eureka County Commissioners	(P 870 695 864)
Battle Mountain Bugle	(P 870 695 865)
Wild Horse Organized Assistance	(P 870 695 866)
National Mustang Association, Inc.	(P 870 695 867)
Larralde Sheep Co.	(P 870 695 868)
Stewart Wilson	(P 870 695 869)
Lander County Commissioners	(P 870 695 870)
Sierra Club-Glenn Miller	(P 870 695 871)
Chuck Saulisberry	(P 870 695 872)
Nevada Department of Wildlife	(P 870 695 873)
Eureka County Commissioner's Public Lands Advisory Council	(P 870 695 875)



IN REPLY REFER TO:

United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS

139 East South Temple, Suite 600
Salt Lake City, Utah 84111
Phone: 801-524-5344

October 2, 1997

EUREKA LIVESTOCK CO.,	:	N6-95-01
	:	IBLA 95-179
Appellant	:	
v.	:	Appeal from the Area Manager's Final
	:	Multiple Use Decision, dated October 20,
	:	1994, Roberts Mountain Allotment,
BUREAU OF LAND MANAGEMENT,	:	Shoshone-Eureka Resource Area, Battle
	:	Mountain District
Respondent	:	

MOTION FOR DISMISSAL GRANTED

The Bureau of Land Management has submitted a Motion for Dismissal with respect to these dockets dated October 1, 1997. The Motion is premised upon a settlement agreement between the Appellant and the Bureau of Land Management, which has resulted in a new, executed ten year grazing permit (copy attached). Consequently, for good cause shown, the Respondent's Motion for Dismissal is hereby granted.



James H. Heffernan
Administrative Law Judge

Attachment

See page 2 for distribution

AH



United States Department of the Interior

OFFICE OF THE SOLICITOR
SUITE 6201, FEDERAL BUILDING
125 SOUTH STATE STREET
SALT LAKE CITY, UTAH 84138

James H. Heffernan
RECEIVED

OCT - 2 1997

OFFICE OF HEARINGS & APPEALS
HEARINGS DIVISION
SALT LAKE CITY, UTAH

October 1, 1997

Hon. James H. Heffernan, ALJ
Office of Hearings and Appeals
Hearings Division
139 East South Temple, Suite 600
Salt Lake City, UT 84111
Telefax 801-524-5539

Re: Eureka Livestock Co. v. BLM, N6-95-01, IBLA No. 95-179

Dear Judge Heffernan,

Enclosed find a motion for dismissal in the above-captioned case. The motion to dismiss is based on the Appellant's agreement to withdraw its appeal. Consequently, the September 23, 1997, letter from the Appellant's counsel, Mr. Stewart Wilson, requesting that the hearing be rescheduled in this matter is now inapposite. For the same reason, the September 24, 1997, letter from the Eureka County District Attorney is also inapposite.

Sincerely,

John W. Steiger
Counsel for the
Bureau of Land Management

cc: service list on attached motion

DAVID NAWI
Regional Solicitor

BRUCE HILL
Field Solicitor

JOHN W. STEIGER
Attorney-Advisor
Office of the Field Solicitor
Suite 6201, Federal Building
Salt Lake City, Utah 84138
Telephone: 801-524-5677 ext. 233
Telefax: 801-524-4506

Attorneys for the Bureau of Land Management

UNITED STATES DEPARTMENT OF THE INTERIOR
OFFICE OF HEARINGS AND APPEALS
HEARINGS DIVISION

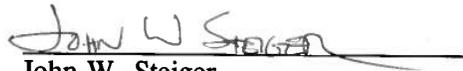
EUREKA LIVESTOCK CO.)	BLM No. N6-95-01
)	IBLA No. 95-179
Appellant,)	
)	Appeal of Final Multiple Use Decision,
v.)	Roberts Mountain Allotment,
)	Battle Mountain District
BUREAU OF LAND MANAGEMENT,)	
)	
Respondent,)	
_____)	

MOTION FOR DISMISSAL

The Bureau of Land Management (BLM), through the undersigned counsel,¹ hereby moves to dismiss the above-captioned matter. The BLM and the Appellant, Eureka Livestock Co. through its principals Messrs. Filbert Etcheverry and Jim Etcheverry, have reached a settlement agreement embodied in the attached, executed 10-year grazing permit.

¹ To the extent necessary, the undersigned hereby enters an appearance on behalf of the BLM in the above-captioned matter. All pleadings and documents related to this matter must henceforth be served on him at the address above as required by 43 C.F.R. § 4.413(b)(4) and (c).

The BLM has been authorized by Mr. Jim Etcheverry to represent that this permit fully resolves all of the Appellant's concerns and the Appellant agrees to withdraw its appeal. The BLM therefore moves for dismissal of the above-captioned case. Respectfully submitted this 1st day of October, 1997.

A handwritten signature in black ink, appearing to read "John W. Steiger", with a long horizontal flourish extending to the right.

John W. Steiger
Counsel for BLM

CERTIFICATE OF SERVICE

I certify that on the 1st day of October, 1997, the foregoing MOTION TO DISMISS was served by telefax and mail, return receipt requested, on the following as required by 43 C.F.R. § 4.401(c)(1):

Stewart Wilson, Esq.
Wilson & Barrows, Ltd.
442 Court Street
Elko, NV 89801
Telefax 702-738-5041

Eureka County District Attorney
Attention: Zane Stanely Miles, Esq.
Eureka County Justice Facility
P.O. Box 190
Eureka, NV 89316
Telefax 702-237-6005

C. Wayne Howle, Esq.
Deputy Attorney General
Capital Complex
Carson City, NV 89710
Telefax 702-687-5798

Catherine Barcomb
Executive Director
Commission for the Preservation of Wild Horses
1105 Terminal Way, Suite 209
Reno, NV 89502
Telefax 702-688-2626

Dawn Y. Lappin
Wild Horse Organized Assistance
P.O. Box 555
Reno, NV 89504
Telefax 702- - -


Secretary

cc: Interior Board of Land Appeals
Office of Hearings and Appeals
4015 Wilson Blvd
Arlington, VA 22203

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

GRAZING PERMIT

STATE NV
OFFICE 062
OPERATOR NUMBER 276057
PREFERENCE CODE 03
DATE PRINTED 09/04/97
TERM 03/01/1997 TO 02/28/2006

EUREKA LIVESTOCK CO.

7805 CALLOWAY DR
BAKERSFIELD, CA 93312

BUREAU OF LAND MANAGEMENT
BATTLE MT. FIELD OFC
P.O. BOX 1420
BATTLE MOUNTAIN, NV 89820

THIS GRAZING PERMIT IS OFFERED TO YOU BASED ON YOUR RECOGNIZED GRAZING PREFERENCE ON THE PUBLIC LANDS AND/OR OTHER LANDS ADMINISTERED BY THE BLM. YOU ARE AUTHORIZED TO MAKE GRAZING USE TO THE EXTENT OF YOUR ACTIVE GRAZING PREFERENCE AS SHOWN BELOW UPON YOUR ACCEPTANCE OF THE TERMS AND CONDITIONS INCORPORATED HEREIN AND YOUR PAYMENT OF GRAZING FEES.

ALLOT

PASTURE	LIVESTOCK		GRAZING PERIOD		%PL	TYPE USE	AUM'S
	NUMBER	KIND	BEGIN	END			
10046 ROBERTS MOUNTAIN	85	CATTLE	03/01	12/31	100	ACTIVE	855
	695	CATTLE	03/10	10/30	100	ACTIVE	5370
	1859	SHEEP	04/10	10/15	100	ACTIVE	2310
	242	CATTLE	10/16	12/31	75	ACTIVE	459
	350	CATTLE	09/01	10/15	50	ACTIVE	259
	200	CATTLE	10/16	12/31	50	ACTIVE	253
	124	CATTLE	01/01	02/28	25	ACTIVE	60
	124	CATTLE	01/01	02/28	25	ACTIVE	60

TERMS AND CONDITIONS:

THE TERMS AND CONDITIONS SET FORTH IN THE MULTIPLE USE DECISION FOR THE ROBERTS MOUNTAIN ALLOTMENT SIGNED BY WAYNE KING, AREA MANAGER, SHOSHONE EUREKA RESOURCE AREA ON OCTOBER 20, 1994 ARE INCORPORATED INTO THESE TERMS AND CONDITIONS OF THIS 10 YEAR PERMIT AND WILL BE FOLLOWED IN THE MANAGEMENT OF THE ROBERTS MOUNTAIN ALLOTMENT, WITH THE FOLLOWING MODIFICATIONS.

- A) THE ROTATION CYCLE WILL BEGIN WITH YEAR TWO (2) OF THE GRAZING SYSTEM.
- B) THE VININI PASTURE WILL BE LICENSED UP TO 1,600 AUMS UNTIL THE PROPOSED PASTURE DIVISION FENCE IS CONSTRUCTED.
- C) THE TAGGING PASTURE WILL BE LICENSED ANNUALLY FROM 05/25 TO 09/05 CONTINGENT UPON THE ANNUAL REST CYCLE CALLED FOR IN THE GRAZING

OPERATOR NUMBER: 276057

SYSTEM.

- D) THE CHIMNEY FIELD PASTURE WILL BE LICENSED ANNUALLY FROM 05/01 TO 07/15, CONTINGENT UPON THE ANNUAL REST CYCLE CALLED FOR IN THE GRAZING SYSTEM
- E) FULL IMPLEMENTATION OF THE THREE YEAR REST ROTATION SYSTEM WILL BE DEPENDENT UPON THE COMPLETION OF THE PROPOSED RANGE IMPROVEMENTS (PASTURE FENCES).
- F) "2,016 AUMS" OF THE 8,596 AUMS UNDER THE SUSP COLUMN ARE AUTHORIZED "NON-USE AUMS" BY THE BATTLE MTN. DISTRICT OFFICE AS PER THE MULTIPLE USE DECISION-FOR THE ROBERTS MTN. ALLOTMENT.

THIS 10 YEAR GRAZING PERMIT IS BEING OFFERED TO YOU BASED UPON THE ASSUMPTION THAT IT WILL BE RENEWED WHEN IT EXPIRES ON NOV. 30, 2004. IF YOUR GRAZING LEASE FROM MICHEL ETCHEVERRY IS NOT RENEWED THIS PERMIT WILL BE CANCELLED ON THE DATE SAID LEASE EXPIRES.

- 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 NOT 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.
- IN ACCORDANCE WITH 43 CFR 4130.3-2(D): ACTUAL USE INFORMATION, FOR EACH USE AREA, WILL BE SUBMITTED TO THE AUTHORIZED OFFICER WITHIN 15 DAYS OF COMPLETING GRAZING USE AS SPECIFIED ON THE GRAZING PERMIT AND/OR GRAZING LICENSES.
- IN ACCORDANCE WITH 43 CFR 4120.3-1(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.
- 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 1/4 MILE OF ANY RIPARIAN AREA, WET MEADOW, OR WATERING FACILITY (EITHER PERMANENT OR TEMPORARY) UNLESS STIPULATED THROUGH A WRITTEN AGREEMENT OR DECISION.
- 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.

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.

CASE FILE

OPERATOR NUMBER: 276057

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 ACTIVITES FOR 30 DAYS OR UNTIL NOTIFIED BY THE AUTHORIZED OFFICER.

ALLOTMENT SUMMARY (AUM'S)

ALLOT -----	P R E F E R E N C E		
	ACTIVE	SUSP	TOTAL
-----	-----	-----	-----
10046 ROBERTS MOUNTAIN	9624	8596	18220

THIS PERMIT-; 1. CONVEYS NO RIGHT, TITLE OR INTEREST HELD BY THE UNITED STATES IN ANY LANDS OR RESOURCES AND 2. IS SUBJECT TO (A) MODIFICATION, SUSPENSION OR CANCELLATION AS REQUIRED BY LAND PLANS AND APPLICABLE LAW; (B) ANNUAL REVIEW AND TO MODIFICATION OF TERMS AND CONDITIONS AS APPROPRIATE; AND (C) THE TAYLOR GRAZING ACT, AS AMENDED, THE FEDERAL LAND POLICY AND MANAGEMENT ACT, AS AMENDED, THE PUBLIC RANGELANDS IMPROVEMENT ACT, AND THE RULES AND REGULATIONS NOW OR HEREAFTER PROMULGATED THEREUNDER BY THE SECRETARY OF THE INTERIOR.

ACCEPTED:

SIGNATURE OF PERMITTEE: *Gilbert G. Henry* DATE 9-5-97

AREA MANAGER: *Jerry A. Weeks* DATE 10-1-97

Form 4130-2a
(February 1999)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

GRAZING PERMIT

RECEIVED-MAILROOM

2014 MAR -5 PM 4: 07

BUREAU OF LAND MANAGEMENT
BATTLE MOUNTAIN
DISTRICT OFFICE

STATE NV
OFFICE LLNVB01000
AUTH NUMBER 2700138
PREFERENCE CODE 03
DATE PRINTED 02/27/2014
TERM 03/01/2014 TO 02/28/2024

BUREAU OF LAND MANAGEMENT
MOUNT LEWIS FO
50 BASTIAN RD
BATTLE MOUNTAIN NV 89820

DIAMOND CATTLE CO.
C/O MARTIN ETCHEVERRY
7933 CALLOWAY DR.
BAKERSFIELD CA 93314

THIS GRAZING PERMIT IS OFFERED TO YOU UNDER 43 CFR PART 4100 BASED ON YOUR RECOGNIZED QUALIFICATIONS. YOU ARE AUTHORIZED TO MAKE GRAZING USE OF LANDS, UNDER THE JURISDICTION OF THE BUREAU OF LAND MANAGEMENT AND COVERED BY THIS GRAZING PERMIT, UPON YOUR ACCEPTANCE OF THE TERMS AND CONDITIONS OF THIS GRAZING PERMIT AND PAYMENT OF GRAZING FEES WHEN DUE. CONTACT YOUR LOCAL BLM OFFICE AT 775-635-4000 IF YOU HAVE QUESTIONS.

MANDATORY TERMS AND CONDITIONS

ALLOTMENT	PASTURE	LIVESTOCK		GRAZIN PERIO		I P	TYPE USE	AUMS
		NUMBER	KIND	G REGTN	D END			
10046 ROBERTS MOUNTAIN		85	CATTLE	03/01	12/31	100	ACTIVE	855
		695	CATTLE	03/10	10/30	100	ACTIVE	5370
		1859	SHEEP	04/10	10/15	100	ACTIVE	2310
	HENDERSON FLD	178	CATTLE	09/01	10/15	50	ACTIVE	132
		1	CATTLE	09/01	10/01	50	ACTIVE	1
	ALPHA	181	CATTLE	10/16	12/31	75	ACTIVE	344
		1	CATTLE	10/16	11/16	75	ACTIVE	1
	CHIMNEY	101	CATTLE	10/16	12/31	99	ACTIVE	253
		32	CATTLE	01/01	02/28	95	ACTIVE	59
	ROBERTS CRK SDG	1	CATTLE	01/01	02/01	95	ACTIVE	1
		31	CATTLE	01/01	02/28	98	ACTIVE	59
	GARDEN VALLEY/FRAZIE	1	CATTLE	01/01	02/01	98	ACTIVE	1

OTHER TERMS AND CONDITIONS:

THIS PERMIT OR LEASE IS ISSUED UNDER THE AUTHORITY OF SECTION 411, PUBLIC LAW 113-76 AND CONTAINS THE SAME TERMS AND CONDITIONS AS THE PREVIOUS PERMIT OR LEASE. THIS PERMIT OR LEASE MAY BE CANCELED, SUSPENDED, OR MODIFIED, IN WHOLE OR IN PART TO MEET THE

REQUIREMENTS OF APPLICABLE LAWS AND REGULATIONS.

THE TERMS AND CONDITIONS SET FORTH IN THE MULTIPLE USE DECISION FOR THE ROBERTS MOUNTAIN ALLOTMENT SIGNED BY WAYNE KING, AREA MANAGER, SHOSHONE EUREKA RESOURCE AREA ON OCTOBER 20, 1994 ARE INCORPORATED INTO THESE TERMS AND CONDITIONS OF THIS 10 YEAR PERMIT AND WILL BE FOLLOWED IN THE MANAGEMENT OF THE ROBERTS MOUNTAIN ALLOTMENT, WITH THE FOLLOWING MODIFICATIONS.

- A) THE ROTATION CYCLE WILL BEGIN WITH YEAR TWO (2) OF THE GRAZING SYSTEM.
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- C) THE TAGGING PASTURE WILL BE LICENSED ANNUALLY FROM 05/25 TO 09/05 CONTINGENT UPON THE ANNUAL REST CYCLE CALLED FOR IN THE GRAZING SYSTEM.
- D) THE CHIMNEY FIELD PASTURE WILL BE LICENSED ANNUALLY FROM 05/01 TO 07/15, CONTINGENT UPON THE ANNUAL REST CYCLE CALLED FOR IN THE GRAZING SYSTEM.

- E) FULL IMPLEMENTATION OF THE THREE YEAR REST ROTATION SYSTEM WILL BE DEPENDENT UPON THE COMPLETION OF THE PROPOSED RANGE IMPROVEMENTS (PASTURE FENCES).
- F) "2,016 AUMS" OF THE 8,596 AUMS UNDER THE SUSP COLUMN ARE AUTHORIZED "NON USE AUMS" BY THE BATTLE MTN. DISTRICT OFFICE AS PER THE MULTIPLE USE DECISION FOR THE ROBERTS MTN. ALLOTMENT.

THIS 10 YEAR GRAZING PERMIT IS BEING OFFERED TO YOU BASED UPON THE ASSUMPTION THAT IT WILL BE RENEWED WHEN IT EXPIRES ON NOV. 30, 2004. IF YOUR GRAZING LEASE FROM MICHEL ETCHEVERRY IS NOT RENEWED THIS PERMIT WILL BE CANCELLED ON THE DATE SAID LEASE EXPIRES.

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 NOT 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 SECTIONS 4150.1 AND 4160.1-2.

IN ACCORDANCE WITH 43 CFR 4130.3-2(D): ACTUAL USE INFORMATION, FOR EACH PASTURE/USE AREA, WILL BE SUBMITTED TO THE AUTHORIZED OFFICER WITHIN 15 DAYS OF COMPLETING GRAZING USE AS SPECIFIED ON THE GRAZING PERMIT AND/OR GRAZING LICENSES.

IN ACCORDANCE WITH 43 CFR 4120.3-1(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.

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 1/4 MILE OF ANY RIPARIAN AREA, WET MEADOW, OR WATERING FACILITY (EITHER PERMANENT OR TEMPORARY) UNLESS STIPULATED THROUGH A WRITTEN AGREEMENT OR DECISION.

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.

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 PRACTICES ARE NOT MEETING THE LAND USE PLAN, ALLOTMENT MANAGEMENT PLAN OR OTHER ACTIVITY PLAN, OR MANAGEMENT OBJECTIVES, OR IS NOT IN CONFORMANCE WITH THE PROVISIONS OF SUBPART 4180 RAC STANDARDS AND GUIDELINES.

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

CASE FILE COPY

AUTH NUMBER: 2700138
DATE PRINTED: 2/27/2014

FROM YOUR ACTIVITES FOR 30 DAYS OR UNTIL NOTIFIED BY THE AUTHORIZED OFFICER.

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.

ALLOTMENT SUMMARY (AUMS)

<u>ALLOTMENT</u>	<u>ACTIVE AUMS</u>	<u>SUSPENDED AUMS</u>	<u>TEMP SUSPENDED AUMS</u>	<u>PERMITTED USE</u>
10046 ROBERTS MOUNTAIN	9624	8596	0	18,220

Standard Terms and Conditions

1. Grazing permit or lease terms and conditions and the fees charged for grazing use are established in accordance with the provisions of the grazing regulations now or hereafter approved by the Secretary of the Interior.
2. They are subject to cancellation, in whole or in part, at any time because of:
 - a. Noncompliance by the permittee/lessee with rules and regulations.
 - b. Loss of control by the permittee/lessee of all or a part of the property upon which it is based.
 - c. A transfer of grazing preference by the permittee/lessee to another party.
 - d. A decrease in the lands administered by the Bureau of Land Management within the allotment(s) described.
 - e. Repeated willful unauthorized grazing use.
 - f. Loss of qualifications to hold a permit or lease.
3. They are subject to the terms and conditions of allotment management plans if such plans have been prepared. Allotment management plans MUST be incorporated in permits or leases when completed.
4. Those holding permits or leases MUST own or control and be responsible for the management of livestock authorized to graze.
5. The authorized officer may require counting and/or additional or special marking or tagging of the livestock authorized to graze.
6. The permittee's/lessee's grazing case file is available for public inspection as required by the Freedom of Information Act.
7. Grazing permits or leases are subject to the nondiscrimination clauses set forth in Executive Order 11246 of September 24, 1964, as amended. A copy of this order may be obtained from the authorized officer.
8. Livestock grazing use that is different from that authorized by a permit or lease MUST be applied for prior to the grazing period and MUST be filed with and approved by the authorized officer before grazing use can be made.
9. Billing notices are issued which specify fees due. Billing notices, when paid, become a part of the grazing permit or lease. Grazing use cannot be authorized during any period of delinquency in the payment of amounts due, including settlement for unauthorized use.
10. The holder of this authorization must notify the authorized officer immediately upon the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony (cultural items), stop the activity in the area of the discovery and make a reasonable effort to protect the remains and/or cultural items.
11. Grazing fee payments are due on the date specified on the billing notice and MUST be paid in full within 15 days of the due date, except as otherwise provided in the grazing permit or lease. If payment is not made within that time frame, a late fee (the greater of \$25 or 10 percent of the amount owed but not more than \$250) will be assessed.
12. No Member of, or Delegate to, Congress or Resident Commissioner, after his/her election of appointment, or either before or after he/she has qualified, and during his/her continuance in office, and no officer, agent, or employee of the Department of the Interior, other than members of Advisory committees appointed in accordance with the Federal Advisory Committee Act (5 U.S.C. App.1) and Sections 309 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) shall be admitted to any share or part in a permit or lease, or derive any benefit to arise therefrom; and the provision of Section 3741 Revised Statute (41 U.S.C. 22), 18 U.S.C. Sections 431-433, and 43 CFR Part 7, enter into and form a part of a grazing permit or lease, so far as the same may be applicable.

THIS GRAZING PERMIT:

1. CONVEYS NO RIGHT, TITLE OR INTEREST HELD BY THE UNITED STATES IN ANY LANDS OR RESOURCES
2. IS SUBJECT TO (A) MODIFICATION, SUSPENSION OR CANCELLATION AS REQUIRED BY LAND PLANS AND APPLICABLE LAW; (B) ANNUAL REVIEW AND MODIFICATION OF TERMS AND CONDITIONS AS APPROPRIATE; AND (C) THE TAYLOR GRAZING ACT, AS AMENDED, THE FEDERAL LAND POLICY AND MANAGEMENT ACT, AS AMENDED, THE PUBLIC RANGELANDS IMPROVEMENT ACT, AND THE RULES AND REGULATIONS NOW OR HEREAFTER PROMULGATED THEREUNDER BY THE SECRETARY OF THE INTERIOR.

ACCEPTED:
SIGNATURE OF PERMITTEE: Martin Stevens

DATE: 3-1-14

APPROVED
BLM AUTHORIZED OFFICER: [Signature]

DATE: 3/7/14



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Mount Lewis Field Office
50 Bastian Road
Battle Mountain, Nevada 89820

Phone: 775-635-4000 Fax: 775-635-4034
<https://blm-prod.opengov.ibmcloud.com/nevada>
<http://www.blm.gov/office/mount-lewis-field-office>

In Reply Refer To:
4130 (NVB0100)

FEB 27 2018

Memorandum

To: Case File, Roberts Mountain (#10046) Authorization #2700138
From: Jon D. Sherve, MLFO Field Manager *Jon D. Sherve*
Subject: Roberts Mountain 1994 Final Multiple Use Decision (FMUD) Guidance

This memorandum reflects a comprehensive review and analysis of the case file that resolves what grazing system is authorized under the 1994 FMUD for the Roberts Mountain Allotment in association with the 1997 Settlement Agreement and Appeal Dismissal. After consultation with BLM legal counsel, District and Field Managers and specialists, this constitutes the superseding guidance for grazing authorizations pending permit renewal. Prior individual memos, conversation records, letters, or notes to file written prior to February 2017 cannot replace or modify the 1994 FMUD and 1997 settlement permit for approval of grazing applications. Keep this document on top of permit section of case file.

Contents

History of Diamond Cattle Company Permit	2
Modifications to the 1994 FMUD under the 1997 settlement (as reflected in the terms and conditions for the settlement permit).....	3
Understanding the Permit.....	4
Rationale for Deferred Full Evaluation for Permit Renewal of Roberts Mountain Allotment Grazing Permit	6
Description of pastures within the Roberts Mountain Allotment.....	7

Appendixes:

- A: MOTION FOR DISMISSAL GRANTED
- B: Letter from Jim Etcheverry of Eureka Livestock Company
- C: Memorandum to Wayne King from Rick L. Oyler

History of Diamond Cattle Company Permit

- June 1994 Roberts Mountain Allotment Final Evaluation
- October 1994 Area Manager's Final Multiple Use Decision (FMUD) for the Roberts Mountain Allotment
 - Eureka Livestock Company appeals FMUD
- October 1997 Eureka County and BLM settle the appeal and permit is issued
 - Settlement includes some modifications to the FMUD as reflected on the term permit attached to the motion to dismiss the appeal.
 - Appendix A: MOTION FOR DISMISSAL GRANTED
 - Granted on October 2, 1997 by Judge James H. Heffernan.
 - Official Appeal Case File Copy includes the settlement grazing permit.
 - Associated letter and memo found in Appendixes
 - Appendix B: Letter from Jim Etcheverry of Eureka Livestock Company addressed to Jeffrey Weeks, Assistant District Manager on August 20, 1997. This is the letter the permittee's consultant consistently references as lost. This letter addresses the requests that result in the 1997 settlement and modifications to the terms and conditions for the grazing permit.
 - Appendix C: Memorandum to Wayne King, Shoshone/Eureka Resource Area Manager from Rick L Oyler, Acting Supervisory RMS. This memo references a June 20, 1995 meeting with Jim Etcheverry of Eureka Livestock Company to discuss a settlement for the Roberts Mountain and Three-Bars Allotment Appeals. The Appendix B letter references this memo.
- December 2004 Eureka Livestock Company transfers base property and preference for Roberts Mountain Allotment to Diamond Cattle Company (Martin Etcheverry).
 - Percent Public Land is recalculated and reflected on current permit (issued 2014)
 - A review of this recalculation in 2017 indicates the percent public land was changed/recalculated in error because the renewal was done under the Appropriations Act and the recalculation alters the AUMs. The percent public land matches the fenced pastures that contain portions of private land and not the main larger pastures. The interpretation was confusing because the 1994 FMUD has names with the line item percent public land authorizations, but the settlement agreement does not list the names of the fields.
- In 2007, Martin Etcheverry requests to graze full cattle numbers and non-use for the sheep. Even though the Roberts Mountain Allotment had an evaluation completed, the dates in the rotation grazing system along with field observations and large cattle numbers raise concerns for riparian and aspen resources. For the next four years, the MLFO works with Martin to develop a grazing management system to improve resource conditions.
- In 2011, Martin stated that the working relationship was one sided, and it was only Diamond Cattle Company modifying his grazing and that the MLFO is not making concessions or taking his needs and concerns into account. Due to the inability to attain

an agreement for the 2011 grazing season, the grazing system reverts back to the FMUD.

- Series of Drought Decisions are implemented for the allotment between 2012 and 2016. Drought ends in 2016.
- In 2017, BLM determines that the 2014 modification to percent public land was an error and the 1994 FMUD percent public land remains appropriate and operative.
 - This will be corrected in the permit for GY2018.
- GY 2017 = Year 2 in the 3-year rotation schedule set forth in FMUD. Succeeding years will continue rotation from this year as the settlement agreement and the drought decisions obscure the original rotation start date.

Modifications to the 1994 FMUD under the 1997 settlement (as reflected in the terms and conditions for the settlement permit)

- A. *The rotation cycle will begin with year two (2) of the grazing system.*
- B. *The Vinini Pasture will be licensed up to 1,600 AUMs until the proposed pasture division fence is constructed.*
 - This modification is no longer applicable.
 - This fence was completed on 7/1/2005.
 - Authorized AUMs are back to the 800 AUMs authorized for this pasture in the 1994 FMUD.
- C. *The Tagging pasture will be licensed annually from 5/25 to 9/05 contingent upon the annual rest cycle called for in the grazing system.*
 - This modification is still applicable and is applied.
 - Grazing is authorized on years two (2) and three (3) of the 3-year rest-rotation system.
 - The pasture is rested in year one (1) and (4) of the 3-year rest-rotation system.
 - Adaptive management (FMUD, pg.11) can be considered upon approval from management.
- D. *The Chimney field pasture will be licensed annually from 5/1 to 7/15 contingent upon the annual rest cycle called for in the grazing system.*
 - This modification is a clarification of the FMUD sage grouse restrictions.
 - The Chimney pasture is authorized to be grazed year 1: 5/1 to 7/15.
 - Year 2 and 3: 6/1 to 7/15 due to the sage grouse areas. FMUD page 11, paragraph 7 states:

Sage grouse areas in Rutabaga, Kobeh, Nichols, and Chimney pastures will not be used prior to June 1st. two out of every three years. Chimney pasture can be used early year one and restricted year two and three. The permittee will have year two to decide on another pasture for early use prior to the Chimney division fence construction in year three.
 - As stated in Jim Etcheverry's letter (Appendix B), item 4:

Permit the use of the Chimney pasture for a May 1st turn-out until the Chimney division fence has been constructed. In connection with this

fencing throughout the allotment, it is important to understand that until the Bureau constructs the fences needed to facilitate rotation, Eureka Livestock cannot guarantee full implementation.

- Chimney division fence completed August 25, 2000.
- E. *Full implementation of the 3-year rest-rotation system will be dependent upon the completion of the proposed range improvements (pasture fences).*
- Pasture fences are complete and the 3-year rest-rotation system is in place under the FMUD.
- F. *"2,016 AUMs" of the 8,596 AUMs under the suspended column are authorized "Non-Use AUMs" by the Battle Mtn. District Office as per the multiple use decision for the Roberts Mtn. Allotment.*
- This modification is applicable and is applied.

Understanding the Permit

The 1994 Roberts Mountain Final Multiple Use Decision (FMUD) implemented a five year phased reduction and rest-rotation system. The "Authorized livestock use effective Year 5" is the current number of Active AUMs. AUMs limits are stipulated through the FMUD displayed in Table 1. The valley pastures cannot exceed 3,182

The Terms and Conditions established by the 1994 FMUD for cattle permitted AUMs vary year by year due to the three-year rest-rotation (Table 2). A total of 7,314 AUMs; however due to the 3 year restrotation, AUM numbers are lower two out of three years. Year 1 has 6,098 AUMs, year 2 has 7,314 AUMs and year 3 has 6,706 AUMs. With the 2,310 Sheep AUMs, a total of 9,624 AUMs are permitted for the allotment.

This is essentially a flexible permit for the valley pastures (with the exception of the sage grouse stipulation D), with respect to valley pastures that can be grazed within the allotment. Specific seasons of use are specified in the FMUD for each of the mountain pastures and smaller field pastures. The mountain pastures are grazed under a 3-year rest-rotation system. These pastures are the Poison, Henderson, Vinini and Tagging pastures. The season of use in the mountain pastures vary depending on the 3-year rotation. Season of use is also specified for the smaller field pastures that are fenced pastures with intermingled private and public lands. Henderson, Alpha, Chimney, Roberts Seeding and Garden Valley/Frazier. The FMUD identifies the percent public land included within these smaller field pastures.

While the season of use for each mountain pasture is specified in the 1994 FMUD, some flexibility is potentially allowed through adaptive management. Page 11 of the 1994 FMUD explains that adjustments in rotation dates and in the allocated AUMS can be allowed by BLM for the mountain pastures if supported by monitoring data and vegetation conditions:

Monitoring data and actual use reports collected each year will indicate any needed changes in the rotation schedule prior to next grazing season. Adjustments in rotation dates among pastures and allocated AUMs per pasture can be made if vegetation conditions indicate it is necessary.

For example, season of use dates can potentially be adjusted in one or more mountain pastures if

monitoring data supports the need for adjustment to protect vegetative resources. However, rotation dates and AUMs may only be adjusted for the mountain pastures. AUMs that are not used in the mountain pastures cannot be transferred to the valley pastures under the 1994 FMUD. Consistent with the 1994 FMUD, monitoring data and actual use reports should be reviewed by specialists and Field Manager to determine if adjustments in rotation dates or allocated AUMs are needed. Any adjustments to dates and AUM allocations among the mountain pastures must reflect adjustments necessary to achieve healthy use of rangelands and riparian areas and must be approved by BLM. If determination is made for changes from monitoring data, the modified season-of-use may be for more than a single year in support of meeting objectives. The objective is to achieve healthy use of rangelands and riparian areas.

Table 1. AUM Limits Table

	Pasture	Livestock Kind	FMUD Season of Use		AUMs
			Begin	End	
Mountain Pastures	Tagging	Cattle	5/25	9/05	1,216
	Poison	Cattle	7/1	10/30	1,216
	Henderson	Cattle	6/1	10/30	608
	Vinini	Cattle	6/1	10/30	608
Valley Pastures	Chimney N	Cattle	852 AUMs 3/1 to 12/31		Not to exceed 3,182 AUMs
	Chimney E	Cattle			
	McCloud	Cattle			
	Frazier	Cattle			
	Roberts E	Cattle	2330 AUMs 3/10 to 10/30		
	Roberts W	Cattle			
	Rutabaga	Cattle			
	Alpha	Cattle			
	Nichols	Cattle			
	Roberts	Cattle			
Fields	Alpha Field	Cattle	10/16	12/31	459
	Henderson Field	Cattle	9/1	10/15	259
	Chimney Field	Cattle	10/16	12/31	253
	Roberts Creek Ranch	Cattle	1/1	2/28	61
	Garden Valley	Cattle	1/1	2/28	60

Permittees have applied by using AUMs not grazed in the Mountain pastures be reallocated to the Valley pastures. Reallocation of authorized AUMs in the Mountain pastures (during non-rest years) to Valley pastures is also not authorized under the FMUD, as this would result in total AUMs exceeding the total permitted AUMs. AUMs in the valley pastures cannot exceed 3,182 AUMs between 3/1 and 12/31.

Table 2. Yearly AUM Table

Rotation Year	Use Area	Cattle AUMs	Sheep AUMs	Total Active AUMs	Rested cattle/sheep AUMs due to Rotation		Active and Rested AUMs
Year 1	Mountain	1,824	576	8,024	1,824	576	10,424
	Valley	3,182	1,350		0		
	Fields	1,092	0		0		
Total		6,098	1,926	8,024	1,824	576	10,424
Year 2	Mountain	3,040	960	9,624	608	192	10,424
	Valley	3,182	1,350		0		
	Fields	1,092	0		0		
Total		7,314	2,310	9,624	608	192	10,424
Year 3	Mountain	2,432	768	8,632	1,216	384	10,232
	Valley	3,182	1,350		0		
	Fields	1,092	0		0		
Total		6,706	2,118	8,632	1,216	384	10,232

Table 3. Pasture Rest-Rotation

Rotation Year	Pasture	Period of Use	Cattle AUMs	Sheep AUMs
Year 1	Poison	7/1-10/30	1,216	384
	Henderson	6/1-10/30	608	192
	Vinini	Rest		
	Tagging	Rest		
Year 2	Poison	7/1-10/30	1,216	384
	Vinini	6/1-10/30	608*	192*
	Tagging	5/25-9/05**	1,216	384
	Henderson	Rest		
Year 3	Tagging	5/25-9/05	1,216	384
	Vinini	6/1-10/30	608*	192*
	Henderson	7/1-10/30	608	192
	Poison	Rest		

*AUMs changed from FMUD per the Settlement Agreement. The Vinini Pasture AUMs were temporarily increased to 1,600 Total AUMs from the 800 AUMs. However, with completion of fence construction, the AUMs have returned to the 800 AUMs specified in the FMUD.

**Dates changed per the Settlement Agreement.

Rationale for Deferred Full Evaluation for Permit Renewal of Roberts Mountain Allotment Grazing Permit

In 1995, BLM Nevada State Office prioritized rangeland evaluations of allotments that had never been fully evaluated and to set wild horses AMLs. Because in 1994 Roberts Mountain had completed the multiple use decision process (leading to issuance of a fully processed 10-year permit) and that set AML for wild horses, the permit was not a priority for renewal between 1996 and 2005. When the 10-year permit for Roberts Mountain expired in 2004, other allotments with

expiring permits remained a higher priority for evaluation since they had never gone through an evaluation for permit renewal. The Roberts Mountain Allotment permit was, therefore, reissued under the Congressional rider.

In 2012, severe and extreme drought conditions led to a focus on adjusting grazing use throughout the State in response to drought. Drought agreements and drought decisions were used to reduce and/or modify grazing use during this period, including for the Roberts Mountain Allotment.

In 2015, the Greater Sage Grouse Approved Resource Management Plan Amendments (ARMPA) led to a prioritization of permit renewals within allotments with priority sage-grouse habitat, especially allotments with priority sage grouse habitat that have never had a fully processed grazing permit. For this reason, Roberts Mountain is not a priority for the first round of post-ARMPA evaluations that will occur between 2017-2023 under WO-IM-2016-141.

Description of pastures within the Roberts Mountain Allotment

Many of the riparian exclosures were part of the Roberts Mountain Habitat management Plan (approved in 1982) and the Roberts Mountain Allotment Riparian Management Plan (approved in 1988) and constructed in the late 1980s and early 1990s. Summer Camp Pasture, Roberts Exclosure 1 and 2 were part of this effort. Water gaps were included in this plan.

1) Alpha

- a) This pasture is primarily used as a bull pasture, approximately 4,016 acres in size dominated with Wyoming big sagebrush.
- b) No active or pending leks occur in this pasture.
- c) This pasture contains Greater sage-grouse priority habitat management areas (PHMA) and general habitat management areas (GHMA). Additionally, this pasture contains nesting, breeding, brood-rearing, and winter habitat for Greater sage-grouse.

2) Chimney (North and East)

- a) This pasture was divided into 2 pastures (Chimney North and Chimney East). Together they are approximately 12,387 acres in size and include a 1,800-acre crested wheatgrass seeding. Approximately 15 percent conifer cover in Chimney North; 44 percent conifer cover in Chimney East. This pasture is referenced in grazing application as Chimney North and Chimney East because of how the cattle are turned out geographically. There is a fence boundary presently.
- b) With the history of fires in this pasture, use during growing and dormant season to target excessive annual grasses is suitable.
- c) Table Mountain Fire in 1985 (approximately 5,200 acres within this pasture).

- d) Table Mountain Fire in 2006, entirely contained within pasture (627 acres), re-burning some area of the 1985 Table Mountain Fire.
- e) Tonkin Fire in 2011, entirely contained within pasture (37 acres), re-burning small area of the 1985 Table Mountain Fire (not 2006 Table Mountain Fire).
- f) Table Fire in 2012, entirely contained within pasture (23 acres), re-burning small area of the 1985 Table Mountain Fire (not 2006 Table Mountain Fire, or 2011 Tonkin Fire).
- g) No active or pending leks occur in this pasture, one active lek within adjacent pasture (McCloud).
- h) This pasture contains Greater sage-grouse PHMA, GHMA, other habitat management areas (OHMA), and non-habitat. Additionally, this pasture contains Greater sage-grouse nesting, breeding, some brood-rearing, and winter habitat. Summer GRS habitat primarily along pinyon-juniper mountain range.

3) Frazier

- a) This pasture is approximately 16,235 acres in size. Approximately 60 percent conifer cover and includes Henderson Creek, considered historic Lahontan Cutthroat Trout habitat, and some sage-grouse habitat.
- b) Lower Henderson Creek flows along the highway and old railroad grade.
- c) Frazier Fire in 2012; approximately 2,600 acres within this pasture (16 percent). Most of the Frazier fire burned through conifer-invaded rangeland. This area appears to have responded to the seeded treatments, but there is presence of cheatgrass. The last year to for ESR treatments on this fire is 2017.
- d) Targeted grazing opportunities in areas dominated by annual grasses.
- e) No active or pending leks occur in this pasture.
- f) This pasture contains Greater sage-grouse PHMA, GHMA, and non-habitat. Additionally, this pasture contains nesting, breeding, brood-rearing, and winter habitat for Greater sage-grouse.

4) McCloud

- a) The pasture is approximately 21,965 acres in size and includes one spring and some sage-grouse habitat. Approximately 68 percent conifer cover.
- b) Using McCloud in the summer has been tried before and there was concern that summer grazing was detrimental to the long-term ecological health of the salt desert shrub ecological site. There were several issues: McCloud is primarily Wyoming sagebrush and salt desert shrub ecological sites. These sites are best suited for winter and spring grazing. Additionally, livestock water is limited in McCloud in the summer and forage quality is low.
- c) One active lek occurs within this pasture.

- d) This pasture contains PHMA, GHMA, OHMA, and non-habitat. Additionally, this pasture contains nesting, and some breeding, and some winter habitat for Greater sage-grouse.

5) Vinini

- a) This is one of the four mountain/riparian pastures in the FMUD rotation. This pasture is approximately 13,288 acres in size and includes Frazier Creek, Vinini Creek, Henderson Creek, aspen and some sage-grouse and pygmy rabbit habitat. Approximately 62 percent conifer cover.
- b) Riparian grazing has been reduced in the Vinini pasture since the 1994 FMUD, through the construction of riparian pastures and exclosures (1.5 miles of Vinini Creek exclosed - private land). Most of the riparian areas of concern in the Vinini Pasture have been fenced in a riparian pasture.
- c) Frazier Fire in 2012 burned approximately 2,000 acres within this pasture (15 percent). Targeted grazing opportunities in areas dominated by annual grasses.
- d) Two active leks occur within this pasture, and the buffer zone of an additional lek (within Poison Pasture) overlaps this pasture.
- e) This pasture contains Greater sage-grouse PHMA and GHMA. Additionally, this pasture contains nesting, breeding, brood-rearing, and winter habitat for Greater sage-grouse.

6) Henderson

- a) This is one of the four mountain/riparian pastures in the FMUD rotation. This pasture is approximately 8,429 acres in size and includes a few springs, Henderson Creek, some sage-grouse habitat and approximately 94 percent dominated by conifer. The dominance of conifers species will force the cattle to congregate around Henderson Creek and other open areas intensifying utilization in a small area. In addition, this pasture cannot be reliably grazed in the winter. Portions of this pasture are high and are often snowed in. This concentrates use on the low-elevation portion of the pasture when grazed in early spring in heavy snow years. This plan allows for winter grazing. It is anticipated that by extending the grazing season into winter, there will be additional opportunity for dormant season grazing within this pasture.
- b) No active or pending leks occur within this pasture; buffer zone of two additional leks in adjacent pasture intersect this pasture.
- c) This pasture contains primarily Greater sage-grouse PHMA, with a small amount of GHMA. Additionally, this pasture contains nesting, and some breeding, brood-rearing, and winter habitat for Greater sage-grouse.
- d) The approved Mt. Hope project will occur partially within this pasture (along with Nichols Pasture).
- e) Henderson Creek flows through this pasture, Henderson Field, Vinini and Frazier Pastures, and Pine/Garden Valley/Frazier Field to the Alpha Ranch headquarters. The

most sensitive portion of this stream is within the Henderson Pasture (rated Functioning at Risk- Not Apparent and Functioning at Risk-Downward in 2017).

- i) The portions of this stream through Vinini and Frazier Pastures have been documented as Proper Functioning Condition in 2017. Henderson Creek within these pastures is highly entrenched (~15 to 30 feet). The stream has reestablished a new floodplain within the entrenched area. Horse sign is numerous in accessible areas; however, cattle or horses did not heavily utilize the majority of the stream. There are good obligate plant communities along banks and floodplains. In the Frazier Pasture, almost nearing the Pine/Garden Valley/Frazier Field, the stream becomes dry intermittent/ephemeral looking like a true gravel ditch (vertical sides with gravelly bottom with virtually no vegetation).

7) Nichols

- a) This pasture is approximately 26,209 acres in size, includes a 1,930-acre crested wheatgrass seeding, wild horses, and with approximately 49 percent conifer cover. The entirety of this pasture is within the Roberts Mountain HMA.
- b) The approved Mt. Hope project will occur partially within this pasture (along with Henderson Pasture).
- c) Two active leks occur within this pasture.
- d) This pasture contains mostly Greater sage-grouse PHMA, with some GHMA, and a small amount of non-habitat. Additionally, this pasture contains nesting, breeding, brood-rearing, and winter habitat for Greater sage-grouse.

8) Poison

- a) This is one of the four mountain/riparian pastures in the FMUD rotation. This pasture is approximately 14,829 acres in size, includes numerous springs, the headwaters of Vinini Creek, Roberts Creek, aspen, and is approximately 56 percent conifer cover. Approximately one-third of this pasture is within the Roberts Mountain HMA.
- b) Larkspur known to occur in this pasture, (hence the name). Additionally, pasture cannot be counted on for winter grazing. With some of the highest elevation on the allotment, snow is often on most of this pasture during the winter. This can create management challenges if the snow on part of the pasture concentrates grazing on the open part. The pasture is large enough and the proposed plan allows use of more than one pasture at a time. This may provide opportunity to extend use on this pasture during the dormant season.
- c) A small portion of the Poison pasture is included within the Roberts Mountain Wilderness Study Area.
- d) Two active leks occur within this pasture, with on additional lek's buffer zone intersecting this pasture.

- e) This pasture contains mostly Greater sage-grouse PHMA, with some GHMA. Additionally, this pasture contains nesting, breeding, brood-rearing, and winter habitat for Greater sage-grouse.

9) Tagging

- a) This is one of the four mountain/riparian pastures in the FMUD rotation. This pasture is approximately 9,402 acres in size, includes numerous springs, the headwaters of Pete Hanson Creek and 3.5 miles of Roberts Creek, aspen, and is approximately 70 percent dominated by conifer.
- b) Pete Hanson Creek headwaters located in the Roberts Mountain Tagging Pasture and the majority of the stream is within the JD Allotment. There is a waterfall on the boundary of the two allotments, whereas, the upper is considered to be within the Roberts Mountain Allotment and the lower is within the JD Allotment. The portion of Pete Hanson Creek within the JD Allotment was part of a formal consultation with the US Fish and Wildlife Service (Biological Opinion File No. 1-5-04-F-078). Pete Hanson Creek has an existing population of Lahontan Cutthroat Trout, which is a federally listed endangered species.
- c) Approximately 3.5 miles of Roberts Creeks flows within this pasture. The water gap is approximately 0.25 miles between *Roberts Exclosure 1* and *2*. In the higher terrain, there is about 1.5 miles of Roberts Creek that is unfenced above *Roberts Exclosure 2*. Riparian grazing has been reduced in the Tagging and Vinini pastures since the 1994 Evaluation, through the construction of riparian pastures and exclosures.
- d) Approximately half of Tagging pasture is included within the Roberts Mountain Wilderness Study Area.
- e) One pending lek occurs within this pasture.
- f) This pasture contains primarily Greater sage-grouse PHMA, with some GHMA. Additionally, this pasture contains nesting, breeding, brood-rearing, and winter habitat for Greater sage-grouse.

10) Summer Camp South (formerly known as Summer Camp)

- a) This pasture is the southern portion of the Summer Camp fenced area, approximately 384 acres in size; and approximately 93 percent conifer cover. This pasture has been used when the cattle is trailed to the Tagging Pasture by Diamond Cattle Co. There is some confusion with the naming of this pasture as the permittee refers to Summer Camp as the smaller area that is near the old sheep camp cabin (RIPs #590772), and refers to this pasture as "the road to Buck Camp." For clarification purposes, from this time forward, this 384 acre area will be referred to as Summer Camp South Pasture. The area north of the cabin, enclosed geographically with gates at each end, will be referred to as Summer Camp North (See Pasture Map).
- b) The Roberts Mountain Spring complex is in this fenced area and the fence was constructed in 1990 as part of Roberts Mountain Allotment Riparian Management Plan (approved in 1988). It was to exclude cattle from grazing in the early 1990s on the

sensitive and deteriorating riparian areas initially and then open the pasture up as a riparian pasture once streambanks recovered.

- i) There is a need to work with and remind Diamond Cattle Co. each year about moving the cattle through in 5 days or less. Longer time would allow cattle to congregate at the spring sources.
- c) No active or pending leks occur within this pasture. However, springsnail occurs close to the boundary of Summer Camp and Rutabaga Pastures.
- d) This pasture contains primarily Greater sage-grouse GHMA, with a small portion of PHMA. Additionally, this pasture contains nesting, breeding, brood-rearing, and winter habitat for Greater sage-grouse.

11) Summer Camp North

- a) Near the boundary of *Summer Camp North* and *Summer Camp South*, there is an old cabin homestead. *Summer Camp North* is the small area, approximately 160 acres, located north of the cabin (RIPs #590772). It is used by the permittee Diamond Cattle Co. for holding stray/drift cattle between pastures until they can be moved. There are two gates at each end where the road exists and is geographically confined. There is one fenced spring source within this area (RM-051).

12) Rutabaga

- a) This pasture is approximately 14,092 acres in size and includes Roberts Creek, aspen, wild horses and is approximately 86 percent dominated by conifer. With this pasture being predominantly conifer, the majority of the use occurs more in the valley where conifers are limited. Approximately half of this pasture is within the Roberts Mountain HMA.
- b) The *Pyrgulopsis kolobensis*, a springsnail, is known to occur within this pasture.
- c) The proposed Gold Bar mine occurs primarily in this pasture.
- d) No active or pending leks occur within this pasture, with two pending lek buffer zones intersect this pasture.
- e) This pasture contains approximately equal amounts of Greater sage-grouse PHMA and GHMA. Additionally, this pasture contains nesting, breeding, and brood-rearing habitat for Greater sage-grouse, with some winter habitat.

13) West Roberts Seeding

- a) This pasture is a crested wheatgrass seeding which is approximately 3,820 acres in size. The majority of this pasture is within the Roberts Mountain HMA. Approximately 8 percent conifer cover.
- b) One pending lek occurs within this pasture.

- c) This pasture occurs entirely in Greater sage-grouse PHMA. Additionally, this pasture contains brood-rearing, and winter habitat for Greater sage-grouse, with some nesting and breeding habitat.

14) East Roberts Seeding

- a) This pasture is a crested wheatgrass seeding which is approximately 2,213 acres in size. The entirety of this pasture is within the Roberts Mountain HMA.
- b) No active or pending leks occur within this pasture, one active lek in adjacent pasture.
- c) This pasture occurs entirely within Greater sage-grouse PHMA. This pasture contains brood-rearing, breeding, and winter habitat for Greater sage-grouse, with some brood-rearing habitat.

15) Roberts Ranch

- a) This pasture is approximately 17,652 acres in size and includes wild horses. Formerly known as Kobeh Pasture. The entirety of this pasture is within the Roberts Mountain HMA. Approximately 1 percent conifer cover.
- b) No leks occur within this pasture.
- c) This pasture occurs almost entirely within Greater sage-grouse PHMA, with a small portion of GHMA. This pasture occurs entirely within Greater sage-grouse PHMA. This pasture contains brood-rearing, breeding, and winter habitat for Greater sage-grouse, with some brood-rearing habitat.

Fields

These areas are fenced smaller fields with both private and public lands. The five fields make up approximately 0.8 percent of the allotment and contain/border a majority of the base property for the grazing preference held by Diamond Cattle Co. Historically, these five fields have occasionally been included on the permit and annual grazing application; however, not consistently. Historic calculations of AUMs do not seem to match current pasture sizes/forage availability. The accuracy of surveys when the fences were constructed (WWII era or earlier) resulted in discrepancies with current land surveys.

Fields	Total Acres	Public Acres	Private Acres	% PL
Alpha Field	292	132	165	45%
Chimney Field	212	129	83	60%
Pine Field	289	56	233	19%
Henderson Field - North	59	25	34	42%
Henderson Field- Middle	53	53	0	100%
Henderson Field - South	63	16	47	25%
Roberts Creek. Ranch Field	368	145	224	39%

1) Alpha Field (ranch headquarters)

This field is approximately 292 acres in size. The Alpha Ranch headquarters is located on the private portion. Riparian resources occur on private land. There is approximately 45 percent public land.

2) Chimney Field

This field is approximately 212 acres in size. This is the fenced in area around Chimney Springs. The field contains both public and private lands and riparian areas. Chimney Springs and riparian areas are located almost entirely on private portion, with 0.28 miles occurring on public land within Chimney Field. The stream continues to go under Hwy 278 to the other private land holdings known as Alpha Field (Alpha Ranch Headquarters). Between the two private land boundaries for Chimney and Alpha Fields, there is approximately 0.54 miles of stream on public land, which goes under Hwy 278. This field is 60 percent public land. The spring source areas lie primarily on private land.

3) Henderson Field

This is the fenced in area of 175 acres along Henderson Creek and within the Vinini and Henderson Pastures. The portion within the Henderson Pasture includes dry meadows that potentially could have been wet meadows in the past. The portion within the Vinini Pasture appears overgrown with Basin Big sagebrush and rabbit brush. This field is fenced into three sections. The middle portion is almost entirely public land and is approximately 53 acres. The northern portion is about 59 acres with approximately 42 percent public land. The southern portion is about 63 acres and approximately 25 percent public land.

4) Pine Field

This field has had at least three names. It has been known as *Pine*, *Garden Valley*, or *Frazier Field*; changing the name to Pine Field reflects the name used by the ranch. This field occurs along Henderson Creek. This field is approximately 289 acres in size and 19 percent public land.

5) Roberts Creek Ranch (ranch headquarters)

The Roberts Ranch headquarters is located on the 224 private acres within this field. Roberts Creek Ranch Field is approximately 368 acres in size with 39 percent public land. A reservoir exists on the northern end. A little more than half of this field is within the Roberts Mountain HMA.



IN REPLY REFER TO

United States Department of the Interior

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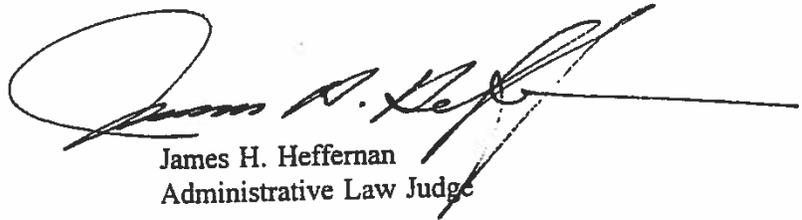
Appendix A

October 2, 1997

EUREKA LIVESTOCK CO.,	:	N6-95-01
	:	IBLA 95-179
Appellant	:	
v.	:	Appeal from the Area Manager's Final
	:	Multiple Use Decision, dated October 20,
	:	1994, Roberts Mountain Allotment,
BUREAU OF LAND MANAGEMENT,	:	Shoshone-Eureka Resource Area, Battle
	:	Mountain District
Respondent	:	

MOTION FOR DISMISSAL GRANTED

The Bureau of Land Management has submitted a Motion for Dismissal with respect to these dockets dated October 1, 1997. The Motion is premised upon a settlement agreement between the Appellant and the Bureau of Land Management, which has resulted in a new, executed ten year grazing permit (copy attached). Consequently, for good cause shown, the Respondent's Motion for Dismissal is hereby granted.



James H. Heffernan
Administrative Law Judge

Attachment

See page 2 for distribution

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UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

GRAZING PERMIT

STATE NV
OFFICE 062
OPERATOR NUMBER 276057
PREFERENCE CODE 03
DATE PRINTED 09/04/97
TERM 03/01/1997 TO 02/28/2006

EUREKA LIVESTOCK CO.

7805 CALLOWAY DR
BAKERSFIELD, CA 93312

BUREAU OF LAND MANAGEMENT
BATTLE MT. FIELD OFC
P.O. BOX 1420
BATTLE MOUNTAIN, NV 89820

THIS GRAZING PERMIT IS OFFERED TO YOU BASED ON YOUR RECOGNIZED GRAZING REFERENCE ON THE PUBLIC LANDS AND/OR OTHER LANDS ADMINISTERED BY THE BLM. YOU ARE AUTHORIZED TO MAKE GRAZING USE TO THE EXTENT OF YOUR ACTIVE GRAZING REFERENCE AS SHOWN BELOW UPON YOUR ACCEPTANCE OF THE TERMS AND CONDITIONS INCORPORATED HEREIN AND YOUR PAYMENT OF GRAZING FEES.

ALLOT ----- PASTURE -----	LIVESTOCK		GRAZING PERIOD		TYPE		AUM'S -----
	NUMBER	KIND	BEGIN	END	%PL	USE	
10046 ROBERTS MOUNTAIN	85	CATTLE	03/01	12/31	100	ACTIVE	355
	695	CATTLE	03/10	10/30	100	ACTIVE	5370
	1859	SHEEP	04/10	10/15	100	ACTIVE	2310
	242	CATTLE	10/16	12/31	75	ACTIVE	459
	350	CATTLE	09/01	10/15	50	ACTIVE	259
	200	CATTLE	10/16	12/31	50	ACTIVE	253
	124	CATTLE	01/01	02/28	25	ACTIVE	60
	124	CATTLE	01/01	02/28	25	ACTIVE	60

TERMS AND CONDITIONS:

THE TERMS AND CONDITIONS SET FORTH IN THE MULTIPLE USE DECISION FOR THE ROBERTS MOUNTAIN ALLOTMENT SIGNED BY WAYNE KING, AREA MANAGER, SHOSHONE EUREKA RESOURCE AREA ON OCTOBER 20, 1994 ARE INCORPORATED INTO THESE TERMS AND CONDITIONS OF THIS 10 YEAR PERMIT AND WILL BE FOLLOWED IN THE MANAGEMENT OF THE ROBERTS MOUNTAIN ALLOTMENT, WITH THE FOLLOWING MODIFICATIONS.

- A) THE ROTATION CYCLE WILL BEGIN WITH YEAR TWO (2) OF THE GRAZING SYSTEM.
- B) THE VININI PASTURE WILL BE LICENSED UP TO 1,600 AUMS UNTIL THE PROPOSED PASTURE DIVISION FENCE IS CONSTRUCTED.
- C) THE TAGGING PASTURE WILL BE LICENSED ANNUALLY FROM 05/25 TO 09/05 CONTINGENT UPON THE ANNUAL REST CYCLE CALLED FOR IN THE GRAZING

allow flexibility - can be modified

CASE FILE

OPERATOR NUMBER: 276057

2
SYSTEM. *Applied*

~~D) THE CHIMNEY FIELD PASTURE WILL BE LICENSED ANNUALLY FROM 05/01 TO 07/15, CONTINGENT UPON THE ANNUAL REST CYCLE CALLED FOR IN THE GRAZING SYSTEM~~

~~E) FULL IMPLEMENTATION OF THE THREE YEAR REST ROTATION SYSTEM WILL BE DEPENDENT UPON THE COMPLETION OF THE PROPOSED RANGE IMPROVEMENTS (PASTURE FENCES).~~

F) "2,016 AUMS" OF THE 8,596 AUMS UNDER THE SUSP COLUMN ARE AUTHORIZED "NON-USE AUMS" BY THE BATTLE MTN. DISTRICT OFFICE AS PER THE MULTIPLE USE DECISION-FOR THE ROBERTS MTN. ALLOTMENT.

THIS 10 YEAR GRAZING PERMIT IS BEING OFFERED TO YOU BASED UPON THE ASSUMPTION THAT IT WILL BE RENEWED WHEN IT EXPIRES ON NOV. 30, 2004. IF YOUR GRAZING LEASE FROM MICHEL ETCHEVERRY IS NOT RENEWED THIS PERMIT WILL BE CANCELLED ON THE DATE SAID LEASE EXPIRES.

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 NOT 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.

IN ACCORDANCE WITH 43 CFR 4130.3-2(D): ACTUAL USE INFORMATION, FOR EACH USE AREA, WILL BE SUBMITTED TO THE AUTHORIZED OFFICER WITHIN 15 DAYS OF COMPLETING GRAZING USE AS SPECIFIED ON THE GRAZING PERMIT AND/OR GRAZING LICENSES.

IN ACCORDANCE WITH 43 CFR 4120.3-1(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.

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 1/4 MILE OF ANY RIPARIAN AREA, WET MEADOW, OR WATERING FACILITY (EITHER PERMANENT OR TEMPORARY) UNLESS STIPULATED THROUGH A WRITTEN AGREEMENT OR DECISION.

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.

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.

CASE FILE

OPERATOR NUMBER: 276057

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.

ALLOTMENT SUMMARY (AUM'S)

ALLOT	P R E F E R E N C E		
	ACTIVE	SUSP	TOTAL
10046 ROBERTS MOUNTAIN	9624	8596	18220

THIS PERMIT-; 1. CONVEYS NO RIGHT, TITLE OR INTEREST HELD BY THE UNITED STATES IN ANY LANDS OR RESOURCES AND 2. IS SUBJECT TO (A) MODIFICATION, SUSPENSION OR CANCELLATION AS REQUIRED BY LAND PLANS AND APPLICABLE LAW; (B) ANNUAL REVIEW AND TO MODIFICATION OF TERMS AND CONDITIONS AS APPROPRIATE; AND (C) THE TAYLOR ZONING ACT, AS AMENDED, THE FEDERAL LAND POLICY AND MANAGEMENT ACT, AS AMENDED, THE PUBLIC RANGELANDS IMPROVEMENT ACT, AND THE RULES AND REGULATIONS NOW OR HEREAFTER PROMULGATED THEREUNDER BY THE SECRETARY OF THE INTERIOR.

ACCEPTED:

SIGNATURE OF PERMITTEE: Libert Etcheberry DATE 9-5-97

AREA MANAGER: Jeffrey A Weeks DATE 10-1-97

COPY

Eureka Livestock Company

7805 CALLOWAY DRIVE
BAKERSFIELD, CA 93312

P.O. BOX 540
EUREKA, NV 89316

RECEIVED

1997 AUG 25 P 2: 14

August 20, 1997

LAND MANAGEMENT
BATTLE MOUNTAIN DISTRICT

APP. B

Jeffrey A. Weeks
Assistant District Manager
Renewable Resources
United States Department of Interior
Bureau of Land Management
Battle Mountain District Office
P.O. Box 1420
Battle Mountain, NV 89820

Re: Department of Interior Reference
No. 4110.1 (NV-062.02)

Dear Mr. Weeks:

This letter is written in follow up to our telephone conversation earlier this month concerning the Roberts Mountain Multiple Use Decision (MUD). I appreciate your taking the time to discuss the MUD with me. I hope this letter brings to conclusion Eureka Livestock's efforts to sign a 10-year permit.

Based upon your statement that during the term of the Roberts Mountain allotment owner's appeal of the MUD, Eureka will not be permitted to turn out its livestock unless we agree to the final MUD and sign a grazing permit indicating our agreement. Because of this statement, Eureka is motivated to enter into a grazing permit, rather than to lose it. In reliance thereon, Eureka will sign a permit agreeing to accept the final MUD. However, I renew my request that the Bureau consider a few temporary changes to the final MUD concerning turn-out dates, language of management rotation, and pending construction of fences to implement rotation. You requested that I present these changes in writing for consideration. Below is a description of the requested changes:

Jeffrey A. Weeks
August 20, 1997
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o under the FMUD
w/ this now b/c fulfilled
o change back to Land
* Pine Field is Garden Valley
1/1-2/28

1. The rotation cycle would need to start with year 2 because Eureka rested tagging in 1997;

2. We need to have the same AUMs in Vinini as are in the other fields. This is necessary in light of the fact that Vinini is by far the largest field. Overall, this transfer of AUMs from one field to another will not affect the total AUMs allotted under the MUD;

3. We need to move the tagging pasture season of use to the same period of the year. We need to have the same time frame (May through September) in year 2 as we have in year 3.

4. Permit the use of the Chimney pasture for a May 1st turn-out until the Chimney division fence has been constructed. In connection with this fencing throughout the allotment, it is important to understand that until the Bureau constructs the fences needed to facilitate rotation, Eureka Livestock cannot guarantee full implementation.

#1
list in
Memo
that this is completed

All of the temporary changes Eureka is requesting were discussed on June 20, 1995, at an on-site meeting between myself, Matt Spaulding and Rick Oyler. (A copy of the memo from Rick Oyler to Wayne King concerning that conversation is enclosed with this letter.) The comments contained in Oyler's memo to King concerning that meeting were the basis for the allowed changes to the Three Bar Multiple Use Decision which enabled Eureka to drop the Three Bar allotment appeal. It is our request that those same issues discussed on June 20, 1995 be incorporated as temporary changes to the Roberts Mountain MUD as applied to Eureka in a new grazing permit.

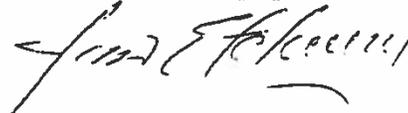
Lastly, I would appreciate clarification from the Bureau as to the length of the grazing permit, its commencement date and termination date. The lease dated July 11, 1997 and sent to Eureka on July 25, 1997, indicates it is to run for a 10-year period. However, in the upper right-hand corner the term is indicated to be from March 1,

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1989 to February 28, 1999. However, the first paragraph of the terms and conditions indicates the permit is based on an assumption that it "will be renewed when it expires on November 30, 2004." Your input clarifying the length, commencement and termination dates of the requested grazing permit would be greatly appreciated.

Eureka Livestock Company is very interested in working with the Bureau in putting together a grazing permit which results in the implementation of the final multiple use decision, with very minor changes, throughout the allotment owner's appeal. It is Eureka Livestock's intent to accept the Bureau's offer and enter into a long-term grazing permit covering the time in which we will be utilizing the Roberts Mountain allotment. As I am sure you are aware, we have always cooperated and worked with the Bureau and intend to continue to do so in the future. I will be happy to meet with you or Mike Neff at the ranch and show you the allotment from the permittee's view. The few temporary changes requested by Eureka will, in my opinion, make the Roberts Mountain MUD a better and more feasible plan during the short term.

Very truly yours,



JIM ETCHEVERRY

Enclosure



United States Department of the Interior

Bureau of Land Management
Shoshone - Eureka Resource Area
50 Bastian Road
P.O. Box 1420
Battle Mountain, Nevada 89820

COPY

APP. C

In Reply Refer To:

MEMORANDUM

To: Wayne King Shoshone/Eureka Resource Area Manager

From: Rick L Oyler Acting Supervisory Rangeland Management Specialist SERA ~~X-0~~

Subject: Roberts Mountain and Three Bars Allotment Evaluations, Appeals and potential settlement.

On June 20, 1995 Rick Oyler and Matt Spaulding met with Jim Etcheverry (Roberts Mountain & Three Bars Allotment Permittee) to discuss a settlement for the Roberts Mountain and Three-Bars Allotment Appeals. We toured the Roberts Mountain and Three Bars allotments so everyone present could see the resources and get a better understanding of the allotment. The following is a list of the items that were discussed during the meeting/tour:

Roberts Mountain

1. Place a riparian fence around of Vinini Creek drainage. This fence would allow Jim to use the riparian area in the drainage, but when the utilization objectives for the riparian area had been met Jim could push the cattle up on the benches to the north of Vinini Creek. This fence would separate Vinini creek from Henderson Creek and the Alpha Ranch.

Jim offered to build the Vinini Creek Riparian Pasture if the BLM would supply the materials and due the Archeological clearances and NEPA clearances

2. Jim would like to see the season of use for the Tagging pasture moved back one month from 05/01 - 07/30, To 06/01 - 08/30.
3. Jim felt that there needed to be more AUMs tied to the Vinini Creek pasture to better balance the summer AUMs.

4. Jim would like to use the Chimney pasture before June 1. Jim would have riders herd the cattle away from sage grouse leks, Strutting grounds and nesting areas. Jim would like the wording on page eleven paragraph seven stated more clearly. Jim would like to add some verbiage to this same paragraph stating that when cattle drift into an unauthorized area he would have riders herd the cattle back to the authorized pasture.
5. Jim also stated that he would like to see the AUMs more balanced. Jim felt that there was not enough AUMs in the first year of the rest rotation schedule.
6. On page eleven paragraph three of the Final Multiple Use Decision Jim would like to remove the first sentence. Jim didn't have a problem with the Land Use Plan Objectives. What he didn't like was the time frames to remove the cattle from a given pasture.

Three-Bars

1. Provide Jim a better map of the Sage Grouse strutting grounds, and identify which areas need to be rested from early grazing.
2. Jim will have riders herd cattle away from sage grouse strutting grounds when the cattle are in the Basin Pasture. The BLM would need to identify the strutting grounds and provide a detailed map to Jim showing the Strutting grounds.
3. When sheep use the Basin pasture early, Jim would need a five day trailing permit to get to the Basin pasture through the Horse pasture.
4. Jim would prefer that the BLM **not** build a fence in the upper Coils pasture. Jim said that he would have riders herd the cattle away from any and all sage grouse strutting. Jim only uses the upper coils pasture early one out of four years. Jim felt that a fence to hold cattle out of a pasture one of four years was a costly alternative. Jim felt that it would be more cost effective to herd the cattle once every four years than to maintain a fence every year.
5. Jim would like to have 300 cattle AUMs of winter use in lower coils/Willow wash from 12/01 to 02/28.
6. Jim would like to run the Coils pasture and upper Coils pasture together. Jim would keep cattle off the upper Coils pasture until June 1, two out of three years and would herd the cattle away from the sage grouse strutting and nesting area on the year that he turned into the upper Coils pasture before June 1.



The meeting was adjourned with the intentions of having future meetings to refine the decision and above stated objectives.