

EUREKA_019



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

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In Reply Refer To:
1785 (LLNVB0100)

SEP 12 2014



Chairman, Eureka County Commission
Attn: Mr. J.J. Goicoechea
P.O. Box 694
10 Main Street
Eureka, Nevada 89316

Dear Chairman Goicoechea,

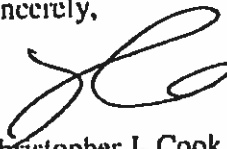
This letter is in response to your letter dated September 5, 2014 regarding the Mount Lewis Field Office protest of water right application 83902.

After reviewing the documentation, you provided we have determined that the allotment boundary fence for the Corta Allotment is not projected accurately in BLM's GIS corporate data layer. This error in our database led the BLM to believe that a protest was warranted since it appeared that the Bailey Family Trust was applying for a stockwater right in the Corta Allotment where they do not have a permit to graze. Nevada Revised Statute (NRS) 533.503 mandates that the State Water Engineer will issue a permit to appropriate water for the purpose of watering livestock only to permit applicants who are legally entitled to place livestock on the lands for which that permit is sought. The Bailey Family Trust does not have a permit in the Corta Allotment. This was the intended rationale for BLM's protest. As a result of this error, the BLM will be withdrawing the protest of water right application 83902.

However, it is important to note that the range improvement and water development structures at Pill Box Spring have not been authorized by the BLM. We have confirmed this after reviewing the Assignment of Range Improvements and respective Section 3 grazing case files for the past and current permittees for both the North Diamond and Corta Allotments. The grazing regulations at 43 CFR 4140.1 (b) (2) defines using, maintaining, or modifying range improvements without BLM authorization as a prohibited act. In addition to withdrawing BLM's protest, we plan on sending the Nevada Division of Water Resources a letter communicating BLM's concern that this range improvement which would be used to put the water to beneficial use and is located entirely on public land, is not currently authorized by the BLM.

BLM will be happy to schedule a meeting with Mr. and Mrs. Bailey to review all relevant information associated with the Pill Box Spring range improvement in an effort to arrive at a meaningful resolution, including a review of the applicability of National Environmental Policy Act compliance, Section 106 of the National Historic Preservation Act compliance and the requirements under the grazing regulations requiring all range improvements be approved through the issuance of a proposed grazing decision as specified in 43 CFR 4120.3-1(f). We would be happy to invite Mr. Jake Tibbitts, Eureka County Natural Resources Manager, to the meeting as well.

Sincerely,



Christopher J. Cook
Field Manager

cc: State Director, Nevada (NV-910)
Jason King-State Engineer, Nevada Division of Water Resources
Honorable Brian Sandoval, Governor of Nevada
Honorable Pete Goicoechea, Nevada State Senator
Honorable John Ellison, Nevada State Assemblyman
Honorable Harry Reid, United States Senate-Nevada
Honorable Dean Heller, United States Senate-Nevada
Honorable Mark Amodei, United States House of Representatives-Nevada
Honorable Dina Titus, United States House of Representatives-Nevada
Honorable Joe Heck, United States House of Representatives-Nevada
Jim Barbee-Director, Nevada Department of Agriculture
Leo Drozdoff-Director, Nevada Department of Conservation and Natural Resources
Nevada Interim Legislative Committee on Public Lands
Nevada Association of Counties
Nevada Cattlemen's Association
Churchill County Commissioners
Esmeralda County Commissioners
Lander County Commissioners
Nye County Commissioners