



## United States Department of the Interior



BUREAU OF LAND MANAGEMENT  
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Carson City, Nevada 89701-1448  
[http://www.blm.gov/nv/st/en/fo/carson\\_city\\_field.html](http://www.blm.gov/nv/st/en/fo/carson_city_field.html)

In Reply Refer To:  
4160 (NV0200)

CERTIFIED MAIL RETURN  
RECEIPT REQUESTED #7013 0600 0001 1525 7228

**SEP 05 2013**

Elwood Lowery  
Chairman  
Pyramid Lake Paiute Tribe  
P.O. Box 256  
Nixon, NV 89424

### **NOTICE OF FIELD MANAGER'S FINAL DECISION GRAZING PERMIT ISSUANCE FOR THE PAH RAH ALLOTMENT**

Dear Chairman Lowery:

The Bureau of Land Management (BLM) will issue the Pyramid Lake Paiute Tribe a 10-year term livestock grazing permit that would allow use by 72 cattle from September 1 to November 15 (resulting in forage removal of 180 Animal Unit Months (AUMs)) annually, in the Pah Rah Allotment #03042 (Allotment). The permit would include the Standard Terms and Conditions found in the attached Appendix A, as well as the following additional terms and conditions:

- This permit or lease may be canceled, suspended, or modified, in whole or in part to meet the requirements of applicable laws and regulations;
- Grazing management shall be authorized in a manner that will make progress towards meeting the standards as set forth by the Sierra Front - Northwestern Great Basin RAC, 1997;
- Pursuant to 43 CFR 10.4(g) you must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony; 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 to proceed by the authorized officer;
- Salt and/or supplements will be placed at least 1/4 mile from live waters (springs/streams), and outside of associated riparian areas, permanent livestock water

facilities, wet or dry meadows and aspen stands, salt should not be placed in known historic properties;

- It is your responsibility to maintain all assigned range improvements in good working order and an aesthetic state; and
- By accepting this permit, you agree to provide reasonable administrative access across your controlled lands to BLM employees and contractors when needed for the orderly management and protection of the public lands.

## **BACKGROUND**

The Allotment is southwest of Pyramid Lake in Washoe County approximately 24 miles northeast of Reno, Nevada. The Allotment encompasses approximately 4,504 acres of BLM-managed land and 1,358 acres of private land most of which is owned by two mining companies and is not fenced. The Allotment is within the jurisdictional boundary of the Sierra Front Field Office and managed under the provisions of the Carson City Field Office Consolidated Resource Management Plan (CRMP). The BLM currently permits the Pyramid Lake Paiute Tribe (Tribe) to graze the Allotment with 45 cattle from September 1 to December 31 for a total of 180 AUMs. The BLM issued the permit under the Appropriations Act for the term March 1, 2010 to February 28, 2020.

In 2012, an interdisciplinary team of BLM specialists in hydrology, range management, botany and wildlife biology reviewed the Allotment's vegetative trend and condition, rangeland health, livestock utilization, plant and animal habitat, riparian health and water quality. The BLM documented this review in an Allotment Evaluation and which can be found online at: [http://www.blm.gov/nv/st/en/fo/carson\\_city\\_field/blm\\_information/nepa/nepa\\_archives.html](http://www.blm.gov/nv/st/en/fo/carson_city_field/blm_information/nepa/nepa_archives.html) under the subheading of "Livestock Grazing/Range Projects."

On July 16, 2012, this project was considered during an interdisciplinary team meeting. Issues discussed included:

- What is the impact of dormant season grazing on vegetation?
- How much use in the Allotment is there from horses belonging to the Tribe?
- What is the impact of juniper encroachment into the sagebrush steppe vegetation?

BLM grazing regulation § 4160.1(a) requires that the BLM authorized officer serve a proposed decision to affected applicants and others to take official action relating to applications.

## **PUBLIC PARTICIPATION**

Public involvement for this project was afforded during public scoping and public review of the draft EA. On June 26, 2012 the BLM mailed a scoping letter to individuals and organizations that had identified themselves as an interested public for the Allotment. The scoping period closed on August 1, 2012. The BLM received no public comments during the scoping period.

The BLM made a draft EA available for review and comment by the public, Tribes and other agencies for a 30-day period beginning on March 26, 2013 and ending on April 25, 2013.

During the review and comment period, the BLM received two comment letters: one from the Nevada Division of Water Resources concerning State water rights and the other from Western Watersheds Project concerning resources and resource management in the Pah Rah Range. The issues raised in the comment letters were either already addressed in the draft EA, outside the jurisdiction of the BLM, or outside the scope of the draft EA. None of the comments resulted in substantive revisions to the draft EA.

## **NEED FOR DECISION**

A livestock grazing decision is needed for the Allotment at this time because the BLM is responding to the permit holder's application that the BLM change the Allotment's current September 1 through December 31 use period to September 1 through November 15 to coincide with grazing on the Tribal lands from September 1 through November 15. This will enable the Tribe to better coordinate grazing management on both the Tribal and public lands.

## **FIELD MANAGER'S DECISION**

It is my Decision to implement the Proposed Action as described in the *Pah Rah Grazing Allotment Final Environmental Assessment* (DOI-BLM-NV-C020-2012-0048-EA), dated May 2013 (EA). This EA and its accompanying Finding of No Significant Impact (FONSI) are incorporated into this Final Decision by reference. The Final EA, Finding of No Significant Impact (FONSI), and all other supporting documents are available on-line at: [http://www.blm.gov/nv/st/en/fo/carson\\_city\\_field/blm\\_information/nepa/nepa\\_archives.html](http://www.blm.gov/nv/st/en/fo/carson_city_field/blm_information/nepa/nepa_archives.html) under the subheading of "Livestock Grazing/Range Projects."

As stated in the Final EA, this action will result in the BLM issuing to the Pyramid Lake Paiute Tribe a permit to graze the Allotment for the next 10-years with 72 cattle from September 1 to November 15 (resulting in forage removal of 180 AUMs) annually, subject to the terms and conditions listed above and the Standard Terms and Conditions listed in Appendix A.

## **RATIONALE**

The actions proposed for implementation by this Proposed Decision respond to the purpose and need explained in *Pah Rah Grazing Allotment Final Environmental Assessment* (DOI-BLM-NV-C020-2012-0048-EA) to modify grazing practices on the Allotment, while providing for multiple use and ensuring ecosystem health. The permit will provide livestock grazing parameters and guidelines for proper management of the range resources on the Allotment.

The Allotment is classified as a "Custodial" Allotment because of the low vegetative productivity due to its soils and precipitation. The Allotment has the following natural resource objectives contained in the Lahontan Rangeland Program Summary Update (1989):

- Maintain existing ecological condition and trend;

- Maintain utilization not to exceed 55 percent on identified key species on upland key areas; and
- Initially allow 184 AUMs.

At the current 180 AUMs of dormant season livestock grazing, existing ecological condition and trend is static as measured by long term vegetation monitoring. The existing ecological condition and trend has been maintained. The livestock utilization has been slight (10%) to light (30%) overall on the Allotment since 1984. This is below the 55% “not to exceed” level of the Lahontan Rangeland Program Summary Update (1989).

The use level of 180 AUMs of dormant season livestock grazing has met natural resource objectives under the prior permit.

The BLM lands within the Allotment are available for livestock grazing pursuant to the CRMP, and livestock grazing on these lands is consistent with the goals, objectives, standards and guidelines identified in the CRMP. Where consistent with other multiple use goals and objectives, there is a congressional intent to allow grazing on BLM managed lands. This is evidenced by the Taylor Grazing Act of 1934 (as amended), the Federal Land Policy and Management Act of 1976, the Public Rangelands Improvement Act of 1978, and the approved Standards and Guidelines of 1997, as well as various other federal laws and regulations.

## **AUTHORITY**

My authority for this action is found in statutory and regulatory authorities contained in the Taylor Grazing Act as amended, the Federal Land Policy and Management Act of 1976, Title 43 Code of Federal Regulations, Subpart 4100 (2005).

The authority from Title 43 of Code of Federal Regulations, subpart 4100, includes but is not limited to:

- §4100.0-8 states that “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 objectives. Livestock grazing activities and management actions approved by the authorized officer shall be in conformance with the land use plan as defined at 43 CFR 1601.0-5(b).”
- §4110.3 (a) (b) states that “The authorized officer shall periodically review the permitted use specified in a grazing permit or lease and shall make changes in the permitted use as needed to manage, maintain or improve rangeland productivity, to assist in restoring ecosystems to properly functioning condition, to conform with land use plans or activity plans, or to comply with the provisions of subpart 4180 of this part. These changes must

be supported by monitoring, field observations, ecological site inventory or other data acceptable to the authorized officer.”

- §4130.3 (a) states that “Livestock grazing permits and leases shall contain terms and conditions determined by the authorized officer to be appropriate to achieve management and resource condition objectives for the public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with the provisions of subpart 4180 of this part.”
- §4130.3-1 states that “(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 of the allotment. (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. (c) Permits and leases shall incorporate terms and conditions that ensure conformance with subpart 4180 of this part.”

## **RIGHT OF APPEAL**

### **Appeal of Final Decision**

In accordance with 43 CFR 4.470, 4160.3 (c) and 4160.4, any person whose interest is adversely affected by a final decision of the Authorized Officer may appeal the decision for the purpose of a hearing before an administrative law judge. The appeal must be filed within 30 days after the date the proposed decision becomes final or 30 days after receipt of the final decision. In accordance with 43 CFR 4.470, the appeal shall state clearly and concisely the reason(s) why the appellant thinks the final decision of the authorized officer is wrong.

Pursuant to 43 CFR 4.471 and 4160.3(c), an appellant also may petition for a stay of the final decision pending appeal by filing a petition for stay along with the appeal within 30 days after the date the proposed decision becomes final or 30 days after receipt of the final decision.

The appeal and any petition for stay must be filed at the office of the authorized officer Authorized Officer: Leon Thomas, Field Manager, Sierra Front Field Office, Bureau of Land Management, Carson City District Office, 5665 Morgan Mill Road, Carson City, NV 89701. Within 15 days of filing the appeal and any petition for stay, the appellant also must serve a copy of the appeal and any petition for stay on any person named in the decision and listed at the end of the decision, and on the Office of the Solicitor, Regional Solicitor, Pacific Southwest Region, U.S. Department of the Interior, 2800 Cottage Way, Room E-1712, Sacramento, California 95825-1890.

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

- (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.

43 CFR 4.471(d) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

Any person named in the decision from which an appeal is taken (other than the appellant) who wishes to file a response to the petition for a stay may file with U.S. Hearings & Appeals Office 405 S Main St, Suite 400, Salt Lake City, UT 84111 a motion to intervene in the appeal, together with the response, within 10 days after receiving the petition. Within 15 days after filing the motion to intervene and response, the person must serve copies on the appellant, the Office of the Solicitor and any other person named in the decision (43 CFR 4.472(b)).

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

Sincerely,



Leon Thomas  
Field Manager  
Sierra Front Field Office

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CC: Final Decision – Final Environmental Assessment (DOI-BLM-NV-C020-2012-0048-EA)  
May 2013 - Pah Rah Grazing Allotment.

Western Watersheds Project  
Attn: Katie Fite  
P.O. Box 2863  
Boise, ID 83701

Resource Concepts Inc.  
340 N. Minnesota Street  
Carson City, NV 89703

Sustainable Grazing Coalition  
c/o Richard Orr  
P.O. Box 145  
Caliente, NV 89008-0145

Pyramid Lake Paiute Tribe  
P.O. Box 256  
Nixon, NV 89424

Michelle Langsdorf  
N3 Grazing Board  
6255 S. Center St.  
Yerington, NV 89447

Matt Spaulding  
BIA  
311 East Washington St.  
Carson City, NV 89701

Nevada Cattlemen's Association  
P.O. Box 310  
Elko, NV 89803

## Appendix A Standard Grazing Permit Terms & 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 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 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 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 there from; and the provision of Section

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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 and 2. Is subject to (A) modification, suspension or cancellation as provided by land plans and applicable law; (b) 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 regulations now or hereafter promulgated thereunder by the Secretary of the Interior.

## APPENDIX B

### RESPONSE TO PROTEST SUBMITTED BY WESTERN WATERSHEDS PROJECT ON JULY 1, 2013

**Point #1.** “WWP Protests that the BLM has not carefully assessed habitat conditions and the viability of the Pahrah (sic) Range sage-grouse population.”

**Response to Point #1.** The Final Environmental Assessment (EA) included site-specific analysis of the direct, indirect and cumulative effects to the sage-grouse (Sections 3.4.6, 4.2.6, and 5 of the Final EA). As described in Sections 1.2 and 1.4, assessment of the sage-grouse population throughout the Pah Rah Range is outside the scope of the Final EA.

**Point #2.** “We Protest the failure of BLM to take a hard look at all seasonal habitats used by this population of sage-grouse, and address the conservation, maintenance and enhancement of sage-grouse habitats in order to best determine what level of grazing, if any, can be sustained without causing impairment or increasing potential for losses and even extirpation.”

**Response to Point #2.** As described in Section 3.4.6, the Allotment occurs within preliminary general habitat (PGH). The habitat is winter use, which the analysis contained in Section 4.2.6 and 5 of the Final EA addressed. Levels of grazing forage utilization were addressed in Section 3.4.1 and found to be slight or light. As described in Section 1.2 and 2.2 of the Final EA, the term grazing permit is for fall/winter grazing. The BLM assessed the effects to sage-grouse during the appropriate season. The sage-grouse is listed as a BLM Sensitive Species (Section 3.4.6 of the Final EA) and the BLM considered the effects to the species in consideration of its status.

**Point #3.** “We Protest the failure to conduct an adequate carrying capacity, stocking rate, sustainability and suitability analysis.”

**Response to Point #3.** Actual use and utilization analysis included in Section 3.4.1 of the Final EA, indicates that the carrying capacity and stocking rate determined at adjudication continues to be appropriate for this Allotment, and thus that the use deemed suitable in the May 2001 Consolidated Resource Management Plan continues to be sustainable.

**Point #4.** “We Protest the failure to conduct current site-specific baseline inventories for numerous important and sensitive species – ranging from loggerhead shrike to pygmy rabbit to golden eagle to prairie falcon to ferruginous hawk.”

**Response to Point #4.** As described in Section 3.4.4 of the Final EA, the BLM bases its effects analysis for species on “key habitats” determined through the Southwest Regional GAP Analysis. Based on associations with key habitats, the BLM conducts site-specific analysis to determine the direct, indirect and cumulative effects to those species and their associated habitats (Sections 3.4.4, 3.4.5 and 3.4.6, 4.1.4, 4.1.5 and 4.1.6 of the Final

EA). As stated in Section 3.4.6 of the Final EA, the BLM and the Nevada Department of Wildlife (NDOW) have not identified suitable habitat for the pygmy rabbit within the Allotment. Appendix C of the Final EA lists those species and/or their habitat that may be present within the Allotment. All analysis contained in the Final EA considered the potential direct, indirect and cumulative effects to these species and their habitat.

**Point #4.5.** “We Protest the lack of adequate measurable use standards to ensure essential residual cover for sage-grouse nesting, and other critical habitat components, such as sustainable brood rearing habitat in mesic areas – are not being met.”

**Response to Point #4.5.** As stated in Section 3.4.6 of the Final EA, there are no leks and their associated no nesting or brood rearing habitat within the Allotment. There are no mesic areas within the Allotment.

**Point #5.** “We Protest BLM imposing the disturbance associated with grazing on top of sage-grouse wintering habitats.”

**Response to Point #5.** The rangeland within the Allotment is of moderate importance to sage-grouse, and winter grazing provides the lowest impact on the Allotment’s vegetation. Grasses are grazed in their dormant state. As described in Sections 3.4.6, 4.2.6, and 5 of the Final EA, the BLM assessed the direct, indirect and cumulative effects to the sage-grouse.

**Point #6.** “We Protest BLM failing to fully examine the impacts of grazing on soils, microbiotic crusts, watersheds, sustainability of flows, water quality and quantity, native vegetation community composition, function and structure (see Fleischner 1994), risk of cheatgrass and other invasive species increasing (Reisner et al. 2013), the habitat quality and quantity for important and sensitive wildlife species (and what are the trends in habitats and populations for these species???), recreational, and other uses of the public lands.”

**Response to Point #6.** In 2012 a review of the Allotment was conducted by an interdisciplinary team of BLM specialists in hydrology, range management, botany and wildlife biology. The review considered the vegetative trend and condition, rangeland health, livestock utilization, plant and animal habitat, riparian health and water quality. Results are summarized in the Final EA for the Allotment.

The rangeland health assessment (RHA) provided a quantitative examination of microbiotic crusts, native vegetation community composition, function and structure. The RHA also examined the increase of invasive species. These attributes were compared to an ecological site description which is what would be expected on the site in normal and drought conditions.

The BLM analyzed the impacts from the issuance of a term livestock grazing permit to vegetation, riparian areas, wildlife including sensitive species in Chapters 3, 4 and 5 of the Final EA. As described in the Allotment Evaluation, water quality and riparian habitat was assessed in 2010.

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The Final EA included site-specific analysis of the direct, indirect and cumulative effects as a result of issuing a new term livestock grazing permit (Chapters 3, 4 and 5 of the Final EA). As described in Sections 1.2 and 1.4, assessment of the watershed is outside the scope of the Final EA. Chapter 5 assessed the effects of other activities in the Allotment such as recreational use, rights-of-ways and historic mining.

**Point #7.** “We Protest the failure of BLM to assess the adverse effects of the battery of existing livestock facilities, and identifying fences, water developments, and minimizing their impacts to native biota.”

**Response to Point #7.** Livestock facilities, identifying fences, and water developments on the Allotment include: three cattleguards for public safety that prevent livestock and horses from crossing Pyramid Highway or entering the adjacent private land; (as stated in Section 5 of the Final EA) there are 14 miles of Allotment boundary fencing; and a small enclosure protecting Mullen Pass Spring from use by cattle and horses.