U.S. Department of the Interior
Bureau of Land Management

Final Decision

(DOI-BLM-NV-L030-2013-0001-EA)

September 4, 2013

Authorizations
for
Authorization Numbers 2703863 and 2705132 on the
Lower Lake West Allotment (#11013)

Lincoln County, Nevada

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In Reply Refer to:
4160 (NVL0300)

SEP 04 2013

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FINAL DECISION

Leo K. Stewart (#2703863) and Lynn Kitchen (#2705132) on the
Lower Lake West Allotment (#11013)

Background Information

On July 24, 2013, the Finding of No Significant Impact (FONSI) for Leo K. Stewart (#2703863) and Lynn Kitchen (#2705132) on the Lower Lake West Allotment (#11013) was signed. The Final Environmental Assessment (DOI-BLM-NV-L030-2013-0001-EA), Finding of No Significant Impact (FONSI) and Standards Determination Documents are contained herein. This final decision is issued in accordance with 43 CFR § 4160.3.

The proposed action, associated with DOI-BLM-NV-L030-2013-0001-EA (EA), is to fully process and issue new term grazing permits to the aforementioned on the Lower Lake West Allotment which encompasses approximately 48,497 acres.

Both current term grazing permits have been issued for the period 3/01/2013 – 9/30/2013. The new grazing permit will reflect terms and conditions in accordance with the Final EA.

The Ely District Record of Decision and Approved Resource Management Plan (RMP) (August 2008) states as a goal (p. 85): "Manage livestock grazing on public lands to provide for a level of livestock grazing consistent with multiple use, sustained yield, and watershed function and health." It further states as an objective (p. 86): "To allow livestock grazing to occur in a manner and at levels consistent with multiple use, sustained yield, and the standards for rangeland health." Management Action LG-8 states, "Implement management actions for desert tortoise habitat contained in the 2008 Biological Opinion."

The Programmatic Biological Opinion (PBO) in Appendix D of the Ely District Record of Decision and Approved Resource Management Plan (RMP) (August 2008) identified the Lower Lake West Allotment as an allotment in desert tortoise habitat available for livestock grazing. It also states: "Allotments or portions of allotments in desert tortoise habitat outside ACECs will be managed according to seasonal utilization limits of 40% of annual growth on key forbs, perennial grasses and shrubs (March 1 to October 31)".

The east portion of the Lower Lake West Allotment contains habitat for the federally threatened Agassiz's desert tortoise (*Gopherus agassizii*) (Appendix I, Map #2). Desert tortoise critical habitat and desert tortoise Areas of Critical Environmental Concern (ACEC) do not exist within the allotment.

On April 23, 2013, the BLM sent a memorandum to the U.S. Fish and Wildlife Service requesting Section 7 consultation, regarding the proposed action, for the federally threatened Agassiz's desert tortoise (Gopherus agassizii). The FWS provided a response, dated June 24, 2013, which was received by the BLM on July 8, 2013.

The conclusion of the consultation stated: "After reviewing the current status of the desert tortoise, the environmental baseline for the action area, the effects of the proposed action and the cumulative effects, it is the Service's biological opinion that the proposed action is within the scope of the PBO issued to the Ely District Office and is therefore, not likely to jeopardize the continued existence of the Mojave desert tortoise."

Fully processing and renewing the term grazing permits for Leo K. Stewart and Lynn Kitchen on the Lower Lake West Allotment provides for a legitimate multiple use of public lands. The permit will include terms and conditions, for grazing use, that conform to grazing Guidelines which will aid in continuing to achieve the Resource Advisory Council Standards for Nevada's Mojave-Southern Great Basin Area in accordance with all applicable laws, regulations, and policies; and in accordance with Title 43 CFR § 4130.2(a) which states in part: "Grazing permits or leases shall be issued to qualified applicants to authorize use on the public lands and other lands under the administration of the Bureau of Land management that are designated as available for livestock grazing through land use plans".

Consequently, this decision specifically identifies management actions and terms and conditions deemed appropriate to achieve management and resource condition objectives. The proposed actions that were developed under this final decision execute management actions that will aid in ensuring that continued achievement of the Standards for Rangeland Health and multiple use objectives occur.

Conclusions of the Standards Determination Document

Current monitoring data were reviewed and an evaluation of the rangeland health was completed during the permit renewal process. As a result, a Standards Determination document was prepared (Appendix II of EA). The results of the findings, regarding the achievement or non-achievement of the Mojave-Southern Great Basin Area Standards for Rangeland Health for the aforementioned allotment are summarized in Table 1, below.

Table 1 Summary of Assessment of the Mojave-Southern Great Basin Area Standards for the Lower Lake West Allotment.

Standard	Status
1. Soils	Achieved
2. Riparian and Wetland Sites Standard	Upland portion – Achieved Riparian Portion – Not Applicable
3. Habitat and Biota Standard	Achieved

The data indicate that grazing is in conformance with all applicable Guidelines. However, the new term permit will include terms and conditions directed toward the achievement of both, the Standards and Guidelines for Grazing Administration and other pertinent land use objectives for livestock use.

In addition, Best Management Practices (BMPs) will be included, as Terms and Conditions, in the term grazing permits. Utilization objectives for the allotment are a quantification of the land use plan objectives and will be included as a BMP.

Consultation and Coordination

On January 12, 2013, the annual Ely BLM annual Consultation, Cooperation and Coordination letter was mailed to individuals and organizations who have previously expressed an interest in federal actions on the Ely District. The letter solicited public requests, regarding various program areas, to be a 2013 interested public.

On October, 11, 2012, authorization numbers 2703863 and 2705132 were each sent a letter informing them of the proposed term permit renewal process, associated with their permit on the Lower Lake West Allotment, scheduled during 2013 grazing year. No comments were received.

On April 16, 2013, the proposal to fully process the term permit for authorization numbers 2703863 and 2705132 was posted on the following E-Gov for Planning (ePlanning) and National Environmental Policy Act (NEPA) website:
https://www.blm.gov/epl-front-office/eplanning/nepa/nepa_register.do.

On June 15, 2012, a letter was sent to local Native American tribes requesting comments regarding the permit renewal process for authorization numbers 2703863 and 2705132 on the Lower Lake West Allotment. No comments were received.

On April 2, 2013 a BLM internal meeting was held in coordination between the Caliente Field Office and the Ely BLM District Office. The term permit renewal proposal for authorization numbers 2703863 and 2705132 was presented and scoped by resource specialists to identify any relevant issues. Comments were provided by the staff wildlife biologist and archaeologist.

On May 14, 2013, a hard copy of the Lower Lake West Allotment Preliminary EA was mailed to

all interested publics who had expressed an interest in grazing permit renewals during the 2012 calendar year. The public mailing List, as updated through May 14, 2013, was used. The due date for all comments ended at the close of business on May 31, 2013.

On May 15, 2013, the Preliminary EA was posted on the NEPA Register webpage for a 16 day public review and comment period with the direct link to this webpage posted on the Ely BLM Homepage. No comments were received. The due date for all comments ended at the close of business on May 31, 2013

On May 15, 2013, the Preliminary EA was posted on the Nevada State Clearinghouse website for a 16 day public review and comment period. Statements regarding general state water laws and existing water rights were cited by the Division of Water Resources and received as comments by the BLM. Comments were also received by Nellis Air Force Base stating that aircraft could periodically be flying over livestock.

On April 23, 2013, the BLM sent a memorandum to the U.S. Fish and Wildlife Service requesting Section 7 consultation, regarding the proposed action, for the federally threatened Agassiz's desert tortoise (Gopherus agassizii). The UFWS provided a response, dated June 24, 2013, which was received by the BLM on July 8, 2013.

On July 24, 2013 the Proposed Decision was issued. A protest was received by Western Watersheds Project in the form of an email on August 16, 2013. The protest points were reviewed and were determined to be either conjecture, statements of opinion, unfounded claims of fact, or outside the scope of the proposed action.

LIVESTOCK MANAGEMENT DECISION

In accordance with 43 CFR §4130.3, §4130.3-1 and §4130.3-2, the Mandatory Terms and Conditions (Season of Use, Active Use, Suspended Use and Number and Kind of Livestock), contained in both term permits – Leo K. Stewart (#2703863) and Lynn Kitchen (#2705132) – on the Lower Lake West Allotment, will remain unchanged. Therefore, both term permits will be issued according to the following:

ALLOTMENT		Authorization Num.	LIVESTOCK		GRAZING PERIOD		** % Public Land	AUMs		
Name	Number		* Number	Kind	Begin	End		Active Use	Hist. Susp. Use	Permitted Use
Lower Lake West	11013	Leo K. Stewart #2703863	54	cattle	3/1	2/28	100%	647	0	647
		Lynn Kitchen #2705132	50	cattle	3/1	2/28	100%	600	0	600

* These numbers are approximate
** This is for billing purposes only.

The renewal of the term grazing permit will be for a period of up to 10 years. This decision will be effective upon the decision becoming final or pending final determination on appeal. If the

grazing privileges are transferred during this 10-year period – with no changes to the terms and conditions of the permit – the new term permit will be issued for the remainder of the 10-year period.

In addition, the following BMPs will be added to the term grazing permits, as Terms and Conditions, for Leo K. Stewart (#270386) and Lynn Kitchen (#2705132) on the Lower lake West Allotment. Utilization objectives for the allotment are a quantification of the land use plan objectives and will be included as a BMP.

Best Management Practices:

1. Allowable Use Levels on current year's growth of upland vegetation (grasses, forbs and shrubs) within the Lower Lake West Allotment - during the authorized grazing use period (3/1-2/28) - will not exceed 40%.

2. Watering locations will be rotated, so that those used during one grazing season will not be used during the next.

3. Under the discretion of the BLM, waterhauling locations will be used in a manner which will yield maximum livestock distribution within the allotment. Herding will be used, as needed, to achieve this objective.

4. Waterhauling will be limited to existing roads. No roads will be bladed or improved in any way, with mechanical equipment, without the expressed consent of the authorized officer.

To minimize incidental take of desert tortoises that may result from the implementation of programs in general, the following terms and conditions – from the *Programmatic Biological Opinion for the Bureau of Land Management's Ely District Resource Management Plan* (File No. 84320-2008-F-0078) (RMP 2; pp. 132-133) – will be included in the term grazing permits:

5. Prior to initiation of an activity within desert tortoise habitat, a desert tortoise awareness program shall be presented to all personnel who will be onsite, including but not limited to contractors, contractors' employees, supervisors, inspectors, and subcontractors. This program will contain information concerning the biology and distribution of the desert tortoise and other sensitive species, their legal status and occurrence in the project area; the definition of "take" and associated penalties; speed limits; the terms and conditions of this biological opinion including speed limits; the means by which employees can help facilitate this process; responsibilities of workers, monitors, biologists, etc.; and reporting procedures to be implemented in case of desert tortoise encounters or noncompliance with this biological opinion.

6. Tortoises discovered to be in imminent danger during projects or activities covered under this biological opinion, may be moved out of harm's way.

7. Desert tortoises shall be treated in a manner to ensure they do not overheat, exhibit signs of overheating (e.g., gaping, foaming at the mouth, etc.), or are placed in a situation where they cannot maintain surface and core temperatures necessary to their well-being. Desert tortoises will be kept shaded at all times until it is safe to release them. No desert tortoise will be captured, moved, transported, released, or purposefully caused to leave its burrow for whatever reason when the ambient air temperature is above 95°F. Ambient air temperature will be measured in the shade, protected from wind, at a height of two inches above the ground surface. No desert tortoise will be captured if the ambient air temperature is anticipated to exceed 95°F before handling and relocation can be completed. If the ambient air temperature exceeds 95°F during handling or processing, desert tortoises will be kept shaded in an environment that does not exceed 95°F and the animals will not be released until ambient air temperature declines to below 95°F.

8. Desert tortoises shall be handled by qualified individuals. For most projects, an authorized desert tortoise biologist will be onsite during project activities within desert tortoise habitat. Biologists, monitors, or anyone responsible for conducting monitoring or desert tortoise field activities associated with the project will complete the Qualifications Form (Appendix D) and submit it to the Service for review and approval as appropriate. The Service should be allowed 30 days for review and response.

9. A litter-control program shall be implemented to minimize predation on tortoises by ravens drawn to the project site. This program will include the use of covered, raven-proof trash receptacles, removal of trash from project areas to the trash receptacles following the close of each work day, and the proper disposal of trash in a designated solid waste disposal facility. Appropriate precautions must be taken to prevent litter from blowing out along the road when trash is removed from the site. The litter-control program will apply to all actions. A litter-control program will be implemented by the responsible federal agency or their contractor, to minimize predation on tortoises by ravens and other predators drawn to the project site.

The following terms and conditions, also from the *Programmatic Biological Opinion* (pp. 138-140), would be included in the term grazing permits to minimize incidental take of desert tortoises that may result from permitting livestock grazing:

10. Livestock grazing in desert tortoise habitat shall be managed in accordance with the most current version of the Desert Tortoise Recovery Plan, including allotments or portions of allotments that become vacant and occur within desert tortoise critical habitat outside of ACECs. Grazing may continue in currently active allotments until such time they become vacant. BLM will work with the permittees of active allotments to implement changes in grazing management to improve desert tortoise habitat which may include use of water, salt and mineral licks, or herding to move livestock; changes in season of use and/or stocking rates; installation of exclusionary fences; reconfiguring pasture or allotment boundaries; and retiring pastures or allotments.

11. BLM and Service will cooperatively develop livestock grazing utilization levels or other thresholds, as appropriate for each of the listed species. These levels or thresholds shall

be incorporated into each of the allotment term permit for those allotments that overlap with habitat for the listed species.

12. The permittee shall be required to take immediate action to remove any livestock that move into areas unavailable for grazing. If straying of livestock becomes problematic, BLM, in consultation with the Service, will take measures to ensure straying is prevented.

13. All vehicle use in listed species habitat associated with livestock grazing, with the exception of range improvements, shall be restricted to existing roads and trails. Permittees and associated workers will comply with posted speed limits on access roads. No new access roads will be created.

14. Use of hay or grains as a feeding supplement shall be prohibited within grazing allotments. Where mineral and salt blocks are deemed necessary for livestock grazing management they will be placed in previously disturbed areas at least one half mile from riparian areas wherever possible to minimize impacts to flycatchers and listed fishes and their habitat. In some cases, blocks may be placed in areas that have a net benefit to tortoise by distributing livestock more evenly throughout the allotment, and minimizing concentrations of livestock that result in habitat damage. Waterhaul sites will also be placed at least one half mile from riparian areas.

15. Site visits shall be made to active allotments by BLM rangeland specialists and other qualified personnel, including Service biologists, to ensure compliance with the terms and conditions of the grazing permit. Any item in non-compliance will be rectified by BLM and permittee, and reported to the Service.

16. Livestock levels shall be adjusted to reflect significant, unusual conditions that result in a dramatic change in range conditions (e.g., drought and fire) and negatively impact the ability of the allotment to support both listed species and cattle.

In relation to grazing, there would be no additional terms and conditions needed for management practices to conform to guidelines to either make progress toward or to maintain achievement of the Standards for Rangeland Health.

Standard Operating Terms and Conditions:

The new term permits will also include standard terms and conditions which further assist in achieving/maintaining the Standards and Guidelines for Grazing Administration in addition to other pertinent land use objectives for livestock use.

In accordance with 43 CFR § 4130.3, § 4130.3-1 and § 4130.3-2, the following will also be included as terms and conditions in the term grazing permits for Leo K. Stewart (#270386) and Lynn Kitchen (#2705132).

1. Livestock numbers identified in the Term Grazing Permit are a function of seasons of use and permitted use. Deviations from those livestock numbers and seasons of use may be authorized on an annual basis where such deviations are consistent with multiple-use

objectives. Such deviations will require an application and written authorization from the authorized officer prior to grazing use.

2. The authorized officer is requiring that an actual use report (Form 4130-5) be submitted within 15 days after completing your annual grazing use.

3. Grazing use will be in accordance with the Standards and Guidelines for Grazing Administration. The Standards and Guidelines have been developed by the respective Resource Advisory Council and approved by the Secretary of the Interior on February 12, 1997. Grazing use will also be in accordance with 43 CFR Subpart 4180 - Fundamentals of Rangeland Health and Standards and Guidelines for Grazing Administration.

4. If future monitoring data indicates that Standards and Guidelines for Grazing Administration are not being met, the permit will be reissued subject to revised terms and conditions.

5. The permittee must notify the authorized officer by telephone, with written confirmation, immediately upon discovery of any hazardous or solid wastes as defined in 40 CFR Part 261.

6. The permittee is responsible for all maintenance of assigned range improvements including wildlife escape ramps for both permanent and temporary water troughs.

7. When necessary, control or restrict the timing of livestock movement to minimize the transport of livestock-borne noxious weed seeds, roots, or rhizomes between weed-infested and weed-free areas.

8. Livestock will be moved to another authorized pasture (where applicable) or removed from the allotment before utilization objectives are met or no later than 5 days after meeting the utilization objectives. Any deviation in livestock movement will require authorization from the authorized officer.

9. The placement of mineral or salt supplements will be a minimum distance of 1/2 mile from known water sources, riparian areas, winterfat dominated sites, sensitive sites, populations of special status plant species, and cultural resource sites. Mineral and salt supplements will also be one mile from active sage-grouse leks. Placing supplemental feed (i.e. hay, grain, pellets, etc.) on public lands without authorization is prohibited.

Rationale

The introduction of eight new waterhaul locations within the allotment, in combination with the two existing waterhauls, would provide an additional means of controlling livestock; especially with respect to the potential to relieve grazing pressure, within the designated desert tortoise habitat, by displacing livestock to the areas serviced by the new water sites. This would be especially important in the east portion of the allotment where three of the eight proposed

watering locations would be located, where desert tortoise habitat is found, and where there is currently only one watering location.

Having ten total watering locations throughout the allotment would also enable the permittees to rotate grazed areas, during the year, in a manner which would allow periodic rest for grazed plants; especially, during the spring critical growing period.

Additionally, under the discretion of the BLM, the strategic use of multiple watering locations at any one time should maintain livestock distribution in a manner which would promote a uniform utilization level within the allotment. When coupled with the introduction of allowable use levels, it would aid in preventing overall negative impacts to the soil and plant resource accordingly.

As an overall result, it would promote the potential for plants: to develop above ground biomass to protect soils and provide desirable perennial cover for wildlife; to contribute to litter cover; and, to continue to develop root masses which would lend itself to improved carbohydrate storage for vigor and reproduction.

Consequently, the following would be promoted: the potential benefits to plant physiology, added soil protection, and wildlife cover; the plant quality and volume of existing forage species; and, the reduction in the potential for loss of desired plant species. Accordingly, this would influence the desired forage base in a positive manner.

In summary, creating a more uniform utilization level within allotments should result in the promotion of overall forage production, ground cover, plant vigor and overall range condition. In addition, the potential for unacceptable utilization levels would he reduced while providing benefits to wildlife, regarding not only forage and cover, but additional water availability during the livestock grazing season.

A concentrated influence on vegetation, vicinal to water troughs, is expected due to typical ungulate behavior associated with point water sources. Typically, there is an area immediately surrounding the troughs where soil and vegetation is the most affected as a result of cattle trampling and grazing while drinking. Varying degrees of grazing use/trampling subsequently occurs, in a radial pattern, with such affects decreasing as distance from the watering source increases. However, with the establishment of eight new waterhauls, logic dictates that the overall degree of such impacts should further decline, because of additional water sources servicing the same number of previously grazed livestock.

The impacts of the construction of a small removable corral, regarding trampling, would be very similar to the impacts for point water sources as described in the above paragraph. However, because the objective of the permittees is to directly herd the livestock to the corral in preparation for removal from the allotment, grazing impacts on the vegetational resource outside the corral would be minimal. In addition, because the small removable corral would be located adjacent to an existing fence and road; used only for a few days per year to remove small numbers of livestock, at a time, from the allotment; and, would be placed in an already very highly disturbed locality, the overall impacts should be of a very small degree.

The installation and maintenance of bird ladders would allow a means of escape for wildlife.

Standards 1, 3, and the upland portion of Standard 2 should continue to be achieved while overall grazing impacts to the environment should decrease.

The Proposed Action would also add other terms and conditions (BMPs) to the permit that would further aid in maintaining the Mojave-Southern Great Basin Standards.

Land Use Plan Conformance

The proposed action is in conformance with the Ely District Record of Decision and Approved Resource Management Plan (RMP) dated August 20, 2008. The proposed action is specifically provided for in the following Management Decisions: "LG-1: Make approximately 11,246,900 acres and 545,267 animal unit months available for livestock grazing on a long-term basis. LG-5: Maintain the current preference, season-of-use, and kind of livestock until the allotments that have not been evaluated for meeting or making progress toward meeting the standards or are in conformance with the policies are evaluated. Depending on the results of the standards assessment, maintain or modify grazing preference, seasons-of-use, kind of livestock, and grazing management practices to achieve the standards for rangeland health. Changes, such as improved livestock management, new range improvement projects, and changes in the amount and kinds of forage permanently available for livestock use, can lead to changes in preference, authorized season-of-use, or kind of livestock. Ensure changes continue to meet the RMP goals and objectives, including the standards for rangeland health."

AUTHORITY: The authority for this decision is contained in Title 43 of the Code of Federal Regulations (2004), which states in pertinent part(s):

§ 4130.2 Grazing Permits and Leases

(a) States in part: "Grazing permits or leases shall be issued to qualified applicants to authorize use on the public lands and other lands administered by the Bureau of Land Management that are designated as available for livestock grazing through land use plans."

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

§ 4130.3-1 Mandatory terms and conditions.

(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."

§ 4130.3-2 Other Terms and Conditions

"The authorized officer may specify in grazing permits or 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."

§ 4160.3 Final Decisions.

(a) "In the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice unless otherwise provided in the proposed decision.

(b) Upon the timely filing of a protest, the authorized officer shall reconsider her/his proposed decision in light of the protestant's statement of reasons for protest and in light of other information pertinent to the case. At the conclusion to her/his review of the protest, the authorized officer shall serve her/his final decision on the protestant or her/his agent, or both, and the interested public.

(c) A period of 30 days following receipt of the final decision, or 30 days after the date the proposed decision becomes final as provided in paragraph (a) of this section, is provided for filing an appeal and petition for stay of the decision pending final determination on appeal. A decision will not be effective during the 30-day appeal period, except as provided in paragraph (f) of this section. See Sec. Sec. 4.21 and 4.470 of this title for general provisions of the appeal and stay processes."

§ 4180.1 Fundamentals of Rangeland Health and Standards and Guidelines for Grazing Administration.

"The authorized officer shall take appropriate action under subparts 4110,

4120, 4130, and 4160 of this part as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management needs to be modified to ensure that the following conditions exist.

(a) Watersheds are in, or are making significant progress toward, properly functioning physical condition, including their upland, riparian-wetland, and aquatic components; soil and plant conditions support infiltration, soil moisture storage, and the release of water that are in balance with climate and landform and maintain or improve water quality, water quantity, and timing and duration of flow.

(b) Ecological processes, including the hydrologic cycle, nutrient cycle, and energy flow, are maintained, or there is significant progress toward their attainment, in order to support healthy biotic populations and communities.

(c) Water quality complies with State water quality standards and achieves, or is making significant progress toward achieving, established BLM management objectives such as meeting wildlife needs.

(d) Habitats are, or are making significant progress toward being, restored or maintained for Federal threatened and endangered species, Federal Proposed, Category 1 and 2 Federal candidate and other special status species."

APPEAL

In accordance with 43 CFR §§ 4.470 and 4160.4, any person who wishes to appeal or seek a stay of a BLM grazing decision must follow the requirements set forth in 4.470 through 4.480 of this title. The appeal or petition for stay must be filed with the BLM office that issued the decision within 30 days after its receipt or within 30 days after the proposed decision becomes final as provided in § 4160.3 (a).

The appeal and any petition for stay must be filed at the office of the authorized officer:

Victoria Barr
Field Manager
Caliente Field Office
1400 S. Front Street
Caliente, NV 89008

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 the Hearings Division in Salt Lake City, Utah, 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,

Victoria Barr
Field Manager
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Enclosures

cc:

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Gracian Uhalde
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Ely, Nevada 89315

CERTIFIED MAIL 7010 3090 0002 6403 5190
RETURN RECEIPT REQUESTED

Halstead Forsgren, Inc.
Da Duckwater Cattle Co
Duckwater Road 1
Duckwater, Nevada 89314

CERTIFIED MAIL 7010 3090 0002 6403 5206
RETURN RECEIPT REQUESTED

Lincoln County Planning
and Building
Attn: Cory Lytle
PO Box 329
Pioche, Nevada 89043

CERTIFIED MAIL 7010 3090 0002 6403 5213
RETURN RECEIPT REQUESTED

Sharedvision Inc.
6199 North Bellecreek Ave
Boise, Idaho 83713

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Duckwater Shoshone Tribe
Chairperson Virginia Sanchez
PO Box 140068
Duckwater, Nevada 89314-0068

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Nevada State Clearinghouse

Clearinghouse@budget.state.nv.us
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