



# 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

[http://www.blm.gov/nv/st/en/fo/battle\\_mountain\\_field.html](http://www.blm.gov/nv/st/en/fo/battle_mountain_field.html)

In Reply Refer To:  
4110 (NVB0100)

**DEC 28 2015**

Dear Interested Public:

Enclosed, please find the Final Decision Effective on Issuance Wild Horse Ranching Company, LLC Change in Season of Use.

If you have any questions, please contact Dustin Fowler, Rangeland Management Specialist, at (775) 635-4194 or myself at (775) 635-4000.

Sincerely,

Jon D. Sherve  
Acting Field Manager  
Mount Lewis Field Office

Enclosures





# United States Department of the Interior



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In Reply Refer To:  
4110 (NVB0100)

**DEC 28 2015**

**CERTIFIED MAIL 7014 2120 0001 0032 3756- RETURN RECEIPT REQUESTED**

Wildhorse Ranching Company  
C/O John Fraser  
777 Mason Road  
Hazen, NV 89408

**FINAL DECISION EFFECTIVE ON ISSUANCE  
WILD HORSE RANCHING COMPANY, LLC.  
CHANGE IN SEASON OF USE**

Dear Mr. Fraser:

After consultation, coordination and cooperation with you, the interested public and the Bureau of Land Management (BLM) Mount Lewis Field Office (MLFO) Interdisciplinary Team (ID Team), I am issuing this Final Decision implementing drought response actions for the Fish Creek Ranch Allotment. Under the BLM grazing regulations, this Decision is being issued Effective on Issuance in accordance with 43 CFR §4110.3-3(b). In response to ongoing drought conditions within the Fish Creek Ranch Allotment, this Decision temporarily modifies the current terms and conditions for Wild Horse Ranching Company, LLC Permit #2703605. A Determination of NEPA Adequacy (DNA) has been completed.

**BACKGROUND**

According to the U.S. Drought Monitor ([droughtmonitor.unl.edu](http://droughtmonitor.unl.edu)), as of December 15, 2015, 93.78% of Nevada is experiencing drought classified between moderate to exceptional drought. The Fish Creek Ranch Allotment is identified in the Severe Drought category (see attached Drought Monitor Map). The U.S. Seasonal Drought Outlook for the period of November 18 through February 29, 2016 indicates the drought will persist or intensify. The US Veg DRI is currently out of season due to the dormant winter months. Due to continued drought conditions within the Fish Creek Ranch Allotment, the Mount Lewis Field Office (MLFO) is proposing to implement drought management actions analyzed in the Battle Mountain Drought Management Environmental Assessment (EA #DOI-BLM-NV-B0000-2012-0005-EA).

The Fish Creek Ranch Allotment is located approximately six miles south of Eureka, Nevada and is characterized by steep mountains, sagebrush/grass foothills and loamy valley bottoms. The allotment is approximately 287,984 acres in size and encompasses portions of Antelope and Little Smoky Valleys. Elevations range from 6,300 feet in the valley to over 10,000 feet in the mountains. The major vegetation type in the lower elevations is sagebrush/bunchgrass and salt desert shrub (primarily winter fat communities), the mid-elevations contain a mixture of sagebrush/bunchgrass and pinyon/juniper, and the higher elevations are composed primarily of pinyon/juniper. There are currently three grazing permits authorizing grazing in the Fish Creek Ranch Allotment. Each permit is for separate use areas and is grazed during different seasons of use. The affected permit currently allows for 600 cattle from 3/1 to 5/15 for a total of 1500 Animal Unit Months (AUMs) in the Fish Creek Ranch Allotment.

Riparian, wild horses and greater sage-grouse resources occur on the allotment. The majority of riparian resources on the allotment occur within the Antelope and Fish Creek Mountain Ranges outside of the effected pastures. The Fish Creek Herd Management Areas (HMA) overlaps much of the allotment and is currently over the Appropriate Management Level (AML). Additionally, there is greater sage-grouse Priority Habitat Management Areas (PHMA), General Habitat Management Areas (GHMA) and Other Habitat Management Areas (OHMA) within the allotment (see enclosed map). Only GHMA and OHMA are in the effected pastures.

Since the onset of drought in the Fish Creek Ranch Allotment, Wild Horse Ranching Company, LLC has voluntarily reduced their livestock herd and has modified their grazing rotation. While these measures have helped mitigate the effects of livestock grazing during drought, further action can provide additional resilience to the allotment. This Decision modifies the Season of Use for Wild Horse Ranching Company, LLC in the North Fish Creek and South Fish Creek Pastures to winter/spring grazing. This will allow reduced grazing intensity during the growing season each spring. This temporary grazing system will allow Wild Horse Ranching Company, LLC to maintain spring use within their prescribed use areas while providing resource protection within the Fish Creek Ranch Allotment.

This Decision implements voluntary drought response actions which allow for resource protection and recovery that are in conformance with BLM drought policy (BLM Handbook H-1730-1, IM 2013-094), the Shoshone-Eureka Resource Management Plan (RMP) Amendment and the Nevada and Northeastern California Greater Sage-Grouse Approved Resource Management Plan Amendment (GRSG ARMPA). This Decision is required due to the proposed changes being outside the terms and conditions of the grazing permit and is issued Full Force and Effect, Effective on Issuance in accordance with 43 CFR §4110.3-3(b) to protect public land resources during drought for the remainder of the drought plus one additional growing season.

## FINAL DECISION

After careful consideration, it is my Final Decision to temporarily modify the terms and conditions of your grazing permit for the 2015 grazing year and for the remainder of the drought and one additional growing season. These temporary modifications are as follows:

Pasture	Livestock Kind	FMUD Season of Use		Drought Season of Use		AUMs Not to Exceed
		Begin	End	Begin	End	
North Fish Creek	Cattle	4/1	5/15	12/1	5/15	888
South Fish Creek	Cattle	3/1	3/31	12/1	3/31	612
8-Mile Seeding <sup>1</sup>	Cattle	3/1	3/31	5/1	5/15	

1. Actual livestock numbers and AUMs will be discussed and approved by the BLM's authorized officer prior to turnout dates, within modified schedule.
2. The AUMs associated with each use area will not exceed the permitted AUMs.
3. Trailing through the South Fish Creek Pasture to the 8-Mile Seeding is permitted with an active rider starting 5/1. AUMs will be used from the South Fish Creek Pasture during the trailing timeframe.
4. Implement the following within season of use triggers within the Fish Creek Ranch Allotment and require that livestock be removed within 7 days from areas achieving the triggers:
  - Salt Desert Shrub - 25% utilization of key species
  - Sagebrush Grassland - 30% utilization of key species
  - Pinyon-Juniper Woodland - 30% utilization of key species
  - Mountain Shrub - 30% utilization of key species
  - Riparian Zones – Four inch stubble height of key riparian species

If triggers are close to being approached, met or exceeded, livestock will be moved to the next location in the rotation or to private pasture. If livestock are moved to the next use area in the rotation, the remaining scheduled dates will shift forward accordingly.

## RATIONALE

The MLFO is issuing this Decision approving the grazing system developed by Wild Horse Ranching Company, LLC and BLM which implements a modified grazing plan in the Fish Creek Ranch Allotment. Monitoring and field observations since 2012 and the U.S. Drought Monitor indicate persistent drought throughout much of the allotment. More conservative standards of utilization are necessary to provide adequate protection to plant communities during drought.

<sup>1</sup> 8-Mile seeding is a fenced crested wheatgrass seeding within the Fish Creek Valley South Pasture.

This will be implemented through within season of use triggers. When these triggers are reached or nearly reached, Wild Horse Ranching Company, LLC will be required to move their livestock to the next use area in the schedule or to their private property.

In 2015, monitoring indicated drought was still present on the allotment. The large winter fat communities dispersed throughout the north and south pastures indicated drought stress, evident of the reduced leader growth. Other available forage, such as Indian ricegrass, needle and thread and bottle brush squirrel tail all exhibit drought stress with reduced shoot and leaf growth and in some instances no seed head developed for this year. Through this decision the majority of the AUMs will be grazed during plant dormancy, leaving reduced AUMs during the growing season. This will allow plants to complete the growth cycles before being grazed.

Starting the grazing year in December will shift the majority of the AUMs to the dormant season grazing, in addition to appropriate livestock distribution across the allotment. Livestock will be allowed to distribute across the allotment, following winter precipitation, instead of the permitted higher concentrated livestock numbers around developed water sources. The intensity of livestock use will be decreased, since fewer cattle numbers will be allowed on the allotment, in order to accommodate for the permitted AUMs.

The 8-Mile Seeding is a crested wheatgrass seeding, which will be grazed starting May 1st. Focusing the grazing pressure on the crested wheatgrass seeding will alleviate grazing pressure on native intact rangelands for the month of May. Using the crested wheatgrass allows for reduced grazing pressure during the critical growing season of the native plants, which will aid in the completion of the growth cycle without cattle grazing.

Proper use of range forage allows plants to survive dry periods, recover quickly, and provide cover to protect soil and promote water infiltration (Hanselka and White 1986). The degree to which drought impairs the range depends on the intensity, frequency and timing of grazing (Howery 1999). To survive, perennial plants must accumulate both above ground (shoot growth) and below ground (root growth) biomass through the process of photosynthesis, transpiration, and respiration (Howery 1999). Excessive removal of above ground biomass during the growing season (such as through overgrazing) reduces root growth. A healthy root system is paramount in the growth of any range plant, especially during dry years when competition for nutrients is most severe (Bedell and Ganskopp 1980).

The North Fish Creek, South Fish Creek and Eight Mile Seeding Pastures are located within GHMA and OHMA. Even though grazing will occur during the leking season, the closest active lek is 4 miles away from the pastures being grazed. Since the majority of the AUMs will now be used during the dormant season a net conservation gain should be achieved by increasing canopy cover during the brood rearing season.

This Decision will remain in effect for the remainder of the drought and one additional growing season. The MLFO will review the U.S. Drought Monitor and Veg DRI in mid-May (exact calendar date will depend on the scheduled release of the maps) each year the Decision is in effect. By mid-May most of the spring precipitation will have been received and the conditions that will provide plant growth and drought relief are mostly a known quantity. A rating of

Abnormally Dry (U.S. Drought Monitor) and Pre-Drought (Veg DRI), in addition to field verification, will signal the cessation of the drought. Grazing would resume as normally permitted in the allotment after the cessation of the drought and one additional growing season.

Based on the BMD Drought EA, BLM has determined that this decision will not result in any undue or unnecessary environmental degradation of the public lands and is consistent with federal, state and local laws, regulations and plans. The BMD Drought EA Finding of No Significant Impact, dated June 22, 2012, supports this decision.

This Decision is further informed by the Wild Horse Ranching Company, LLC Change in Season of Use Drought Management Determination of NEPA Adequacy (DNA) # DOI-BLM-NV-B010-2016-0004-DNA. Further, on the basis of the information in the DNA, there are no additional impacts beyond those in the supporting EA.

## **AUTHORITY**

All citations are from Part 43, Code of Federal Regulations (CFR), Subpart 4100 (2005).

- §4110.3-3(a) – After consultation, cooperation, and coordination with the affected permittee or lessee, the State having lands or managing resources within the area, and the interested public, reductions of permitted use shall be implemented through a documented agreement or by decision of the authorized officer. Decisions implementing §4110.3-2 shall be issued as proposed decisions pursuant to §4160.1, except as provided in paragraph (b) of this section.
- §4110.3-3(b) – When the authorized officer determines that the soil, vegetation, or other resources on the public lands require immediate protection because of conditions such as drought, fire, flood, insect infestation, or when continued grazing use poses an imminent likelihood of significant resource damage, after consultation with, or a reasonable attempt to consult with, affected permittees or lessees, the interested public, and the State having lands or responsible for managing resources within the area, the authorized officer shall close allotments or portions of allotments to grazing by any kind of livestock or modify authorized grazing use notwithstanding the provisions of paragraph (a) of this section. Notices of closure and decisions requiring modification of authorized grazing use may be issued as final decisions effective upon issuance or on the date specified in the decision. Such decisions shall remain in effect pending the decision on appeal unless a stay is granted by the Office of Hearings and Appeals in accordance with 43 CFR§ 4.21.
- §4160.3(f) – Notwithstanding the provision of §4.21(a) of this title pertaining to the period during which a final decision will not be in effect, the authorized officer may provide that the final decision shall be effective upon issuance or on a date established in the decision and shall remain in effect pending the decision on appeal unless a stay is granted by the Office of Hearings and Appeals when the authorized officer has made a determination in accordance with §4110.3-3(b) or §4150.2(d). Nothing in this section shall affect the authority of the Director of the Office of Hearings and Appeals or the

Interior Board of Land Appeals to place decision in full force and effect as provided in §4.21(a)(1) of this title.

## **APPEAL PROVISIONS**

In accordance with 43 CFR §4.470 and §4160.4, any applicant, permittee, lessee or other person whose interest is adversely affected by the Final Decision may file an appeal of the Decision. An appellant may also file a petition for stay of the Decision pending final determination on appeal. The appeal and petition for stay must be filed in the office of the authorized officer, as noted above, within 30 days following receipt of the Final Decision. 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, Pacific Southwest Region, 2800 Cottage Way, Rm. E-1712, Sacramento, CA 95825-1890 CFR§ 4.471(b).

The appeal must be in writing and state the reasons, clearly and concisely, why the appellant thinks the Final Decision is in error. Other provisions of 43 CFR §4.470 also apply. The BLM does not accept appeals sent by electronic mail. Appeals transmitted by facsimile will be accepted so long as the BLM receives the original document with original signature within seven days of the receipt of the facsimile transmittal.

A petition for stay, if filed, shall show sufficient justification based on the following standards (43 CFR §4.471(c)):

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 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 Office of Hearings and Appeals, Hearings Division, 351 S. West Temple, Suite 6300, Salt Lake City, Utah, 84101, a motion to intervene in the appeal, together with the response, within 10 days of 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§4.471(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,

A handwritten signature in blue ink that reads "Jon D. Sherve for:".

Jon D. Sherve  
Field Manager  
Mount Lewis Field Office

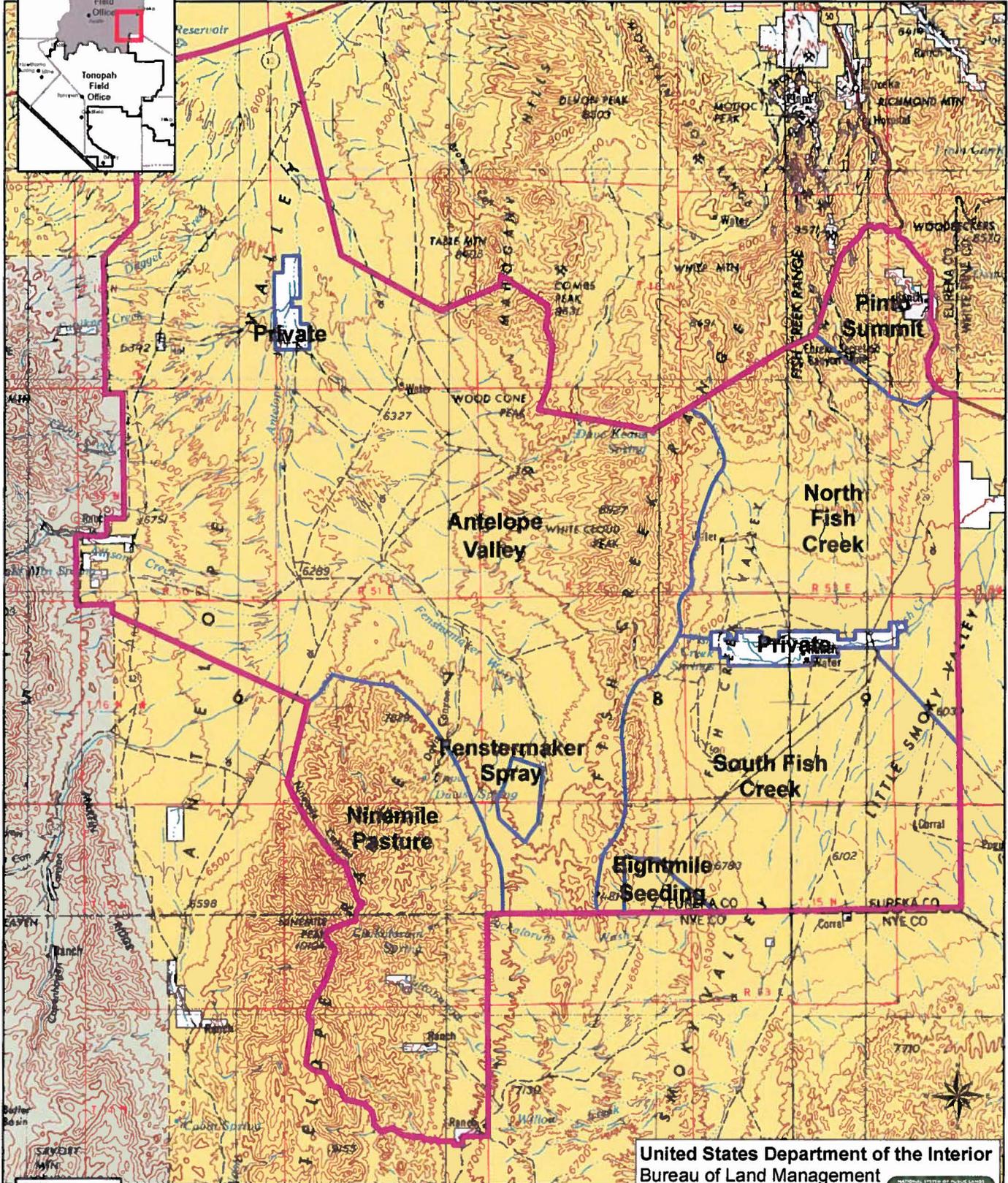
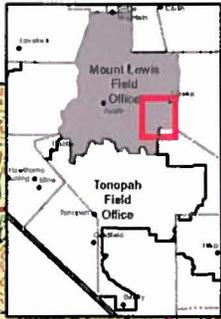
Enclosures

cc: State Director, Nevada (NV-930)  
Interested Public





# Fish Creek Ranch Allotment

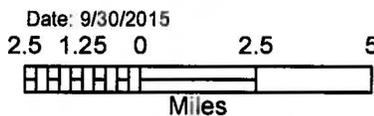


**Legend**

- Grazing Allotment Polygons
- Grazing Feature Polygons
- Land Status**
- BLM
- Private
- Private

No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual use or aggregate use with other data. Original data were compiled from various sources. This information may not meet National Map Accuracy Standards. This product was developed through digital means and may be updated without notification.

Map Produced by: RMDO (Staff)  
Date: 9/30/2015



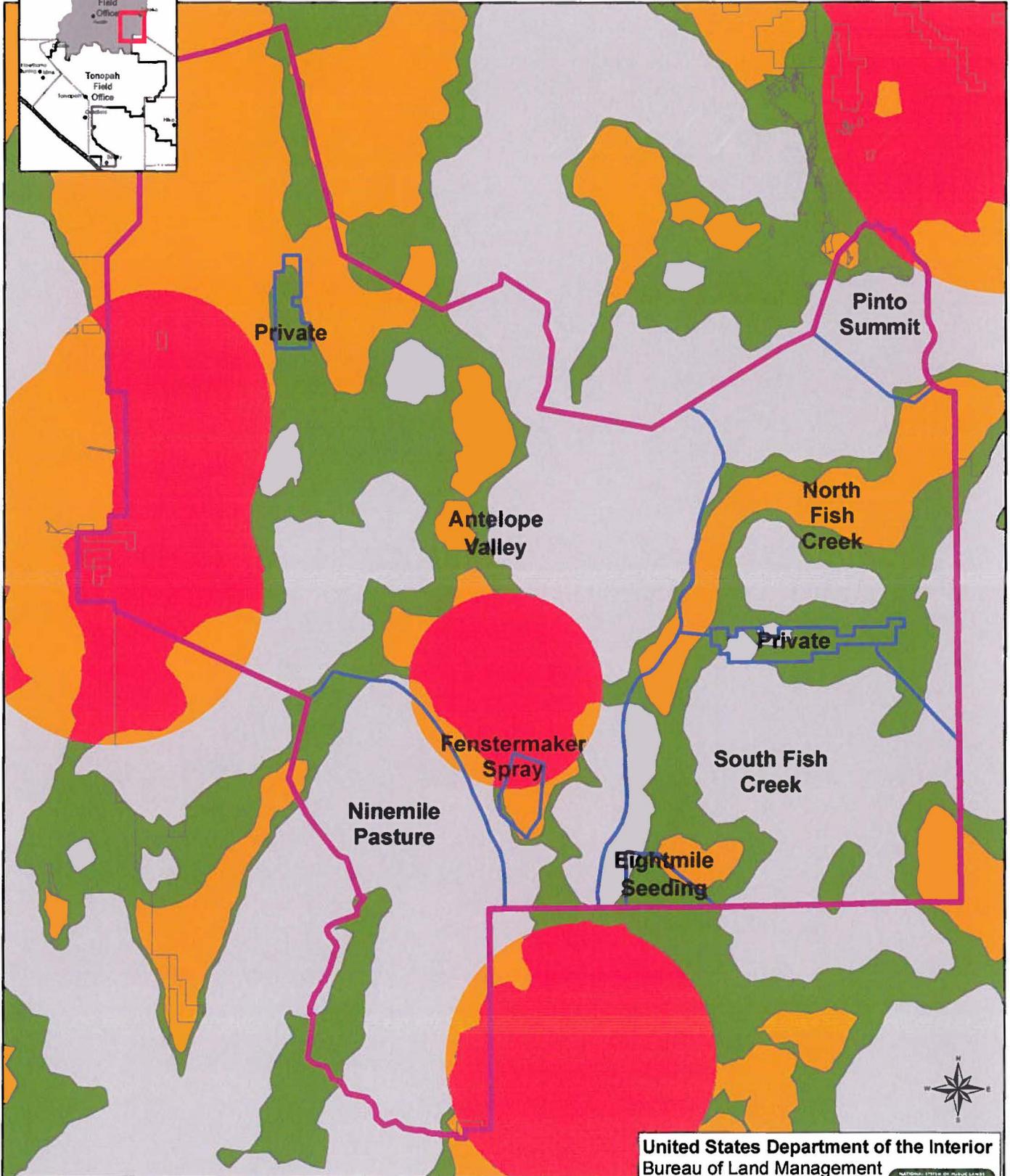
United States Department of the Interior  
Bureau of Land Management  
Battle Mountain District Office  
Mount Lewis Field Office  
50 Bastian Road  
Battle Mountain, NV 89820







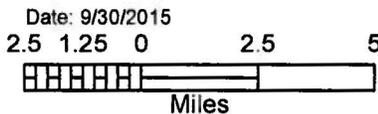
# Fish Creek Ranch Allotment Greater Sage-Grouse Habitat Map



United States Department of the Interior  
Bureau of Land Management  
Battle Mountain District Office  
Mount Lewis Field Office  
50 Bastian Road  
Battle Mountain, NV 89820



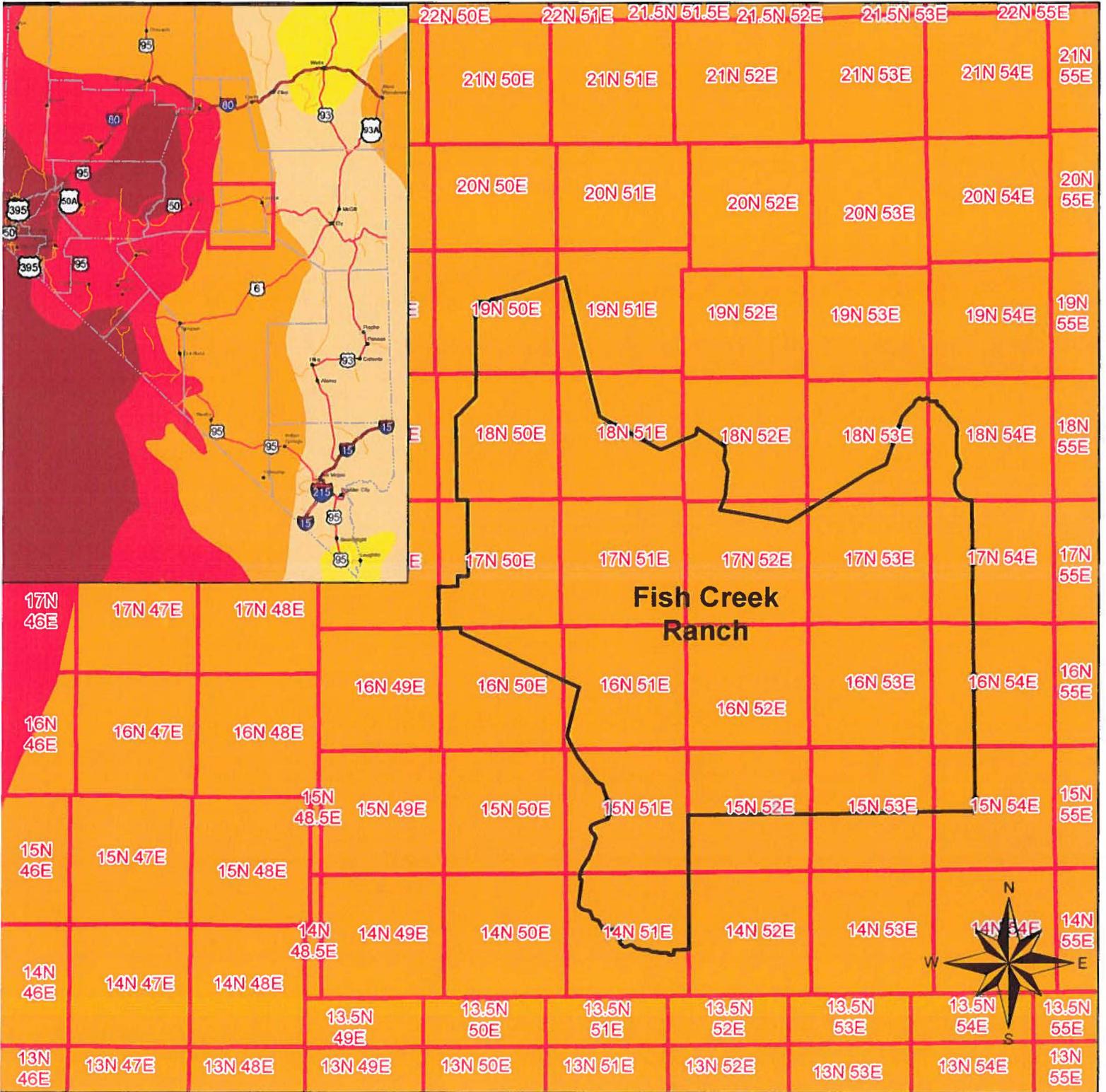
**Legend**  
 Grazing Allotment Polygons  
 Grazing Pasture Polygons  
 Priority Habitat Management Area  
 Other Habitat Management Area  
 General Habitat Management Area  
 Non-Habitat  
warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual use. Original data were compiled from various sources. Information may not meet National Map Accuracy Standards. This product was released through digital means and may be altered without notification.  
 Produced by: (BMDO Staff)  
 9/30/2015



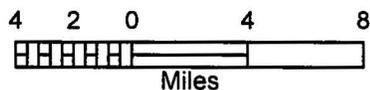




# December 15, 2015 U.S. Drought Monitor for Fish Creek Ranch Allotment



- Fish Creek Ranch Allotment
- Township
- U.S. Drought Monitor Intensity**
- D0 Abnormally Dry
- D1 Moderate Drought
- D2 Severe Drought
- D3 Extreme Drought
- D4 Exceptional Drought



Date: 12/18/2015

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Map Produced by (BMDO Staff) Date: 12/18/2015

**United States Department of the Interior**  
**Bureau of Land Management**  
 Battle Mountain District Office  
 Mount Lewis Field Office  
 50 Bastian Road  
 Battle Mountain, NV 89820





**Bob Edwards**

Bureau of Reclamation  
705 N. Plaza Street, Ste 320  
Carson City, NV 89701

**Jim Baumann**

Eureka County Department of Natural Resources  
P.O. Box 308  
Eureka, NV 89316

**Gary McCuin**

Eureka County Department of Natural Resources  
HC 65 Box 50  
Carlin, NV 89822

**Jim Wise**

Eureka County Department of Natural Resources  
P.O. Box 327  
Eureka, NV 89316

**Kathleen Oakes**

Lahontan Audubon Society  
PO Box 2304  
Reno, NV 89505

**Ray Williams Jr.**

Lander Co PLUAC  
PO Box 111  
Austin, NV 89310

**Alan Jenne**

Nevada Department of Wildlife  
1100 Valley Road  
Reno, NV 89512

**James Eason**

Town of Tonopah  
P.O. Box 151  
Tonopah, NV 89049

**Johnnie Bobb**

Western Shoshone National Council  
P.O. Box 252  
Austin, NV 89310

**Jon Marvel**

P.O. Box 1602  
Hailey, ID 83333

**Churchill County Commissioners**

155 N Taylor St., #110  
Fallon, NV 89406

**Ken Conley**

Eureka County Department of Natural Resources  
HC 62 Box 646  
Eureka, NV 89316

**Mike Protani**

Eureka County Department of Natural Resources  
P.O. Box 654  
Eureka, NV 89316

**John Hadder**

Great Basin Resource Watch  
P.O. Box 207  
Reno, NV 89504

**Lander Co Commissioners**

315 S. Humboldt Street  
Battle Mountain, NV 89820

**Steve Cooke**

Nevada Department of Transportation  
1263 S. Stewart Street  
Carson City, NV 89701

**Skip Canfield**

Nevada State Clearing House (ONLY SEND  
ELECTRONIC)  
901 S. Stewart Street, Suite 5003  
Carson City, NV 89701

**Felix Ike**

Western Shoshone Descendants of Big Smoky  
1949 Circle Way  
Elko, NV 89801

**Cliff Garner**

HC 60 Box 200  
Ruby Valley, NV 89833

**Clayton Kimball**

Novatek, Inc  
2185 Tracy Hall Parkway  
Provo, UT 84606

**Nancy Boland**

Esmeralda County Commissioners  
P.O. BOX 517  
Goldfield, NV 89013

**Leo Damele**

Eureka County Department of Natural Resources  
HC 62 Box 62310  
Eureka, NV 89316

**Carl Slagowski**

Eureka County Department of Natural Resources  
HC 65 Box 30  
Carlin, NV 89822

**Jim Kuipers**

Kuipers & Associates  
P.O. Box 937  
Anaconda, MT 59711

**Patsy Waits**

Lander Co PLUAC  
PO Box 10  
Austin, NV 89310

**Teri Slatauski**

Nevada Department of Wildlife  
P.O. BOX 1032  
Tonopah, NV 89049

**Nye County Commissioner**

PO BOX 153  
Tonopah, NV 89049

**Naomi Mason**

Western Shoshone Committee  
P.O. Box 1  
Owyhee, NV 89832

**Susan Jamerson**

P.O. Box 6  
Austin, NV 89310

**Moira Kolada**

Nevada Department of Wildlife  
1218 N. Alpha St.  
Ely, NV 89301

Katie Fite  
Wildlands Defense  
PO Box 125  
Boise, ID 83701

Tina Mudd  
NV Department of Agriculture (Grazing Allotment Data)  
405 S. 21st  
Sparks, NV 89431

Steven Carter  
PO Box 27  
Lund, NV 89317

Henry Filippini Jr.  
N-6 Grazing Board  
HC 61 Box 70  
Battle Mountain, NV 89820

Ellen Gardner  
Segura Ranch Holdings LLC  
13159 W. Hwy 56  
Cedar City, UT 84720

Tracy Kipke  
Nevada Department of Wildlife  
4747 Vegas Drive  
Las Vegas, NV 89108

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

Richard Orr  
Sustainable Grazing Coalition  
P.O. Box 145  
Caliente, NV 89008

Mike Stremmer  
P.O. Box 1098  
Winnemucca, NV 89446

Pat Rogers  
Eureka Moly  
2215 N. 5th Street  
Elko, NV 89801

Deniz Bolbol  
American Wild Horse Preservation Campaign  
1025 Alameda de las Pulgas # 633  
Belmont, CA 94002

Ken Cole  
Western Watersheds Project  
P.O. Box 2863  
Boise, ID 83701

Steve Foree  
Nevada Department of Wildlife  
60 Youth Center Road  
Elko, NV 89801

Kathy Gregg  
6145 Galena Drive  
El Dorado, CA 95623

Edward Koch  
US Fish and Wildlife Service  
1340 Financial Blvd, Suite 234  
Reno, NV 89502

Richard McKay  
P.O. Box 834  
Eureka, NV 89316

Mike Podborny  
Nevada Department of Wildlife  
PO Box 592  
Eureka, NV 89316

Jan Morrison  
Lander County Planning  
315 S. Humboldt Street  
Battle Mountain, NV 89820

Kevin Borba  
Borba Land and Cattle LLC  
P.O. Box 295  
Eureka, NV 89316

Krista Coulter  
Nevada State Clearing House  
901 S. Stewart Street, Suite 5003  
Carson City, NV 89701

John Fraser  
Wildhorse Ranching Company  
777 Mason Road  
Hazen, NV 89408

D. Bradford Hardenbrook  
Nevada Department of Wildlife  
4747 Vegas Drive  
Las Vegas, NV 89108

Laura Leigh  
216 Lemmon Drive #316  
Reno, NV 89506

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

June Sewing  
National Mustang Association  
PO Box 1367  
Cedar City, UT 84721