

IN THE OFFICE OF THE STATE ENGINEER OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATION NUMBER 81914  
FILED BY MICHAEL A. & CLAUDIA C. CASEY  
ON May 21, 20 12



PROTEST

**FILED**  
AUG 06 2012  
STATE ENGINEER'S OFFICE

Comes now ELLISON RANCHING COMPANY

Printed or typed name of protestant

whose post office address is c/o Gary E. Di Grazia, Esq., P.O. Box 1358, Elko, NV 89803

Street No. or PO Box, City, State and ZIP Code

whose occupation is rancher

and protests the granting

of Application Number 81914, filed on May 21, 20 12

by MICHAEL A. and CLAUDIA C. CASEY for the

waters of New Pass Well situated in Churchill

an underground source or name of stream, lake, spring or other source

County, State of Nevada, for the following reasons and on the following grounds, to wit:

As set forth in the attachment hereto.

THEREFORE the Protestant requests that the application be denied

Denied, issued subject to prior rights, etc., as the case may be

and that an order be entered for such relief as the State Engineer deems just and proper.

Signed

*Gary E. Di Grazia*

Agent or protestant

Gary E. Di Grazia, Attorney for Ellison Ranching Company

Address

P.O. Box 1358

Printed or typed name, if agent

Street No. or PO Box

Elko, NV 89803

City, State and ZIP Code

(775) 738-8091

Phone Number

gdclaws@frontiernet.net

E-mail

Subscribed and sworn to before me this 31<sup>st</sup> day of July, 20 12



Notary Public - State of Nevada  
County of Elko  
SHARON S. MATHIAS  
No. 99-4277-6 My Commission Expires October 05, 2015

*Sharon S. Mathias*

Notary Public

State of Nevada

County of Elko

† \$25 FILING FEE MUST ACCOMPANY PROTEST. PROTEST MUST BE FILED IN DUPLICATE.  
ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.

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2012 AUG 16 AM 11:07  
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**Attachment to  
Protest of Application 81914**

1. Ellison Ranching Company ("Ellison") is the holder of Stockwater Permit 17971, Certificate No. 5354 on the same source of the subject application.

2. Ellison's water permit is for 0.062 cfs to water 10,000 sheep with a period of use from January 1 to December 31 of each year. The subject application is 0.031 cfs for 927 cattle with a period of use from January 1 to December 31 of each year. The quantity of water produced by the well is approximately 16 gallons per minute which would not meet the combined demand of Ellison and the applicant for any sustained period in the event the applicant and Ellison were making use of the well at the same time. At the present time, the applicant does not make use of the well at the same time of the year as Ellison.

3. From information obtained from the files of Ellison, the well (New Pass Well) which is the source of the subject application was developed under a cooperative agreement with the Bureau of Land Management and W. W. Whitaker, a predecessor of the protestant. Under a permit issued by the State Engineer based on an application with a priority of May 4, 1959, the water right on the well was certificated to Ellison Ranching Company. Attached as Exhibit "A" hereto are a series of 8 letters between the protestant, the BLM and attorneys for the protestant regarding the origin of this well. Also attached as Exhibit "B" is a copy of the original cooperative agreement and project file for the development of the well and improvements. Exhibit "C" attached is a copy of the case summary from the files of the Battle Mountain BLM office which evidences the chain of title to the grazing preference from W.W. Whitaker to the protestant.

4. Applicant applies for an area of use within the Clan Alpine Allotment which is a common use allotment but divided into pastures. The protestant and applicant use the same pasture but during different seasons. However, pursuant to the past

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agreement, the applicant was not to make extensive use of the North and East portions of the pasture with cattle because such use would greatly decrease the forage available for the sheep operation of the protestant for its winter use. Conversely, the protestant was not to concentrate use of the South and West portion of the pasture to conserve forage for the cattle operation. A decision issued by the Carson City District manager of the BLM confirmed the above operation, said decision being dated April 17, 1964, a copy being attached hereto as Exhibit "D." Granting the application would appear to be contrary to NRS 533.495, NRS 533.503(1)(b) and NRS 568.230(1).

5. In 2012, Ellison found it necessary to perform major maintenance to ensure a reliable source of water. The pump on the well was pulled and replaced with a 1 hp pump and pipe was replaced at a cost of \$3,551.75 for labor and materials.

6. Granting the permit to the applicant would, in essence, grant permission to use improved facilities which have been entirely financed by Ellison.

7. Applicant applies for an area of use within the Clan Alpine Allotment which is a common use allotment but use of the New Pass Well would place the applicant in violation of NRS 568.240.

8. Granting the application would require applicant to obtain consent of the Bureau of Land Management to place any improvements upon the public lands, which would conflict, at least in part, with the rights previously granted Ellison. From information obtained from the Carson City BLM office, the cooperative agreement for the development was assigned to the applicant even though that office has no assignment of the cooperative agreement from W.W. Whitaker to the applicant. Attached is a copy of a letter to that office requesting the basis for this assignment as Exhibit "E." Protestant is of the opinion that applicant has no interest in the cooperative agreement and granting the water application would have the effect of giving permission by the land management agency to make improvements upon the public lands which would be in conflict with the present authorization.

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9. Historically, the grazing use in the area of the New Pass Well has been restricted to sheep winter use based on past customary use. Any extensive use by cattle has been continuously opposed by the protestant. See Exhibit "F" attached hereto which is a series of letters and documents relating to the use in the area. Concentrated cattle use in the area North and East of the dry lake bed in Edwards Creek Valley would seriously deplete the available forage to the protestant who is restricted to the area of use adjacent to the New Pass Well.

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EDWIN W. SENIOR  
(1901 - 1925)

CLAIR M. SENIOR  
RAYMOND T. SENIOR

FRANCIS M. GIBBONS  
EDWARD M. BOWN  
KLINE D. STRONG

SENIOR & SENIOR  
ATTORNEYS AT LAW  
10 EXCHANGE PLACE  
SALT LAKE CITY

December 23, 1958

Mr. Dante Solari  
District Manager  
United States Department of the Interior  
Bureau of Land Management  
P. O. Box 633  
Carson City, Nevada

Dear Mr. Solari:                      Re: Ellison Ranching Company

In behalf of Ellison Ranching Company, Tuscarora, Nevada, we would appreciate receiving from you a detailed map showing the New Pass-Horseshoe Sub-Unit and the Rawhide-Bell Flat Sub-Unit areas in the Fallon Range Unit in which said Ellison Ranching Company is licensed.

We understand that either Mr. W. W. Whitaker or J. & H. Livestock Company, predecessor in interest of said Ellison Ranching Company, drilled certain water wells in the Alpine Area of the Fallon Unit. We desire that said map above referred to show the location of said water wells in said Alpine Area in relation to the areas above referred to used by said Ellison Ranching Company.

We also understand that the Bureau of Land Management has drilled, or is planning to drill three water wells South of Highway 50 in the Fallon Unit, and we will also appreciate your advising us whether said wells have been drilled or will be drilled in the near future and the location thereof on said map in relation to the areas used by said Ellison Ranching Company, and what the Bureau's plans are for future water development in the area.

We also understand that in past years J. & H. Livestock Company made use of an area North of U. S. Highway 50 in what is called the Wonder (or Wunder) Area. Said area was not mentioned or described in the 1957 grazing license issued to said Ellison Ranching Company and we would appreciate your advising us as to the location of this area in relation to the areas used by said Ellison Ranching Company.

In connection with the water wells drilled by Mr. Whitaker or J. & H. Livestock Company in the Alpine Area, we desire any information you may have concerning the following:

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COPY

ESTD 1906  
EDWARD M. BOWN  
ATTORNEYS AT LAW  
GRAND RAPIDS  
MICHIGAN

DS--12-23-58--2

- (a) What permit, or permits, have been filed for the water and what, if any, water certificates have been issued?
- (b) In the event permit, or permits, have been filed and issued:
  - (1) The name of the party, or parties, to whom the permit, or permits are issued.
  - (2) The amount of water covered by any certificate, or certificates.
  - (3) The name, or names, of the present record owners of said permit, or certificates.
- (c) If said wells were drilled by the Bureau of Land Management and not by any particular individual, the present status thereof.

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In the event there are any charges for preparing said map and other information above referred to, we shall promptly forward our check upon receiving same from you.

Very truly yours,

SENIOR & SENIOR  
Attorneys for  
Ellison Ranching Company

By ORIGINAL SIGNED

Edward M. Bown

EMB:ES

cc: Ellison Ranching Company



IN REPLY REFER TO:

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
Carson City District Office  
Box 633, Carson City, Nevada

April 1, 1959

Ellison Ranching Company

Tuscarora, Nevada

Dear Mr. Ellison:

This is in reply to your inquiry to me at Battle Mountain at the District N-6 Board Meeting on March 13, 1959 about the Horse-shoe Well and the New Pors Well. I have checked our records on these wells and found that they were installed during 1942 and 1943 as cooperative projects. In other words these two wells had money spent on their development by this office and W. W. Whitaker as cooperator. Under these conditions they show on our records as Bureau projects and there is no need for you to make application for Section 4 permits.

Sincerely yours,

*Dante Solari*

Dante Solari  
District Manager

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April 4, 1959

Department of The Interior  
Bureau of Land Management  
Box 633,  
Carson City, Nevada

Attention; Mr. Dante Solari  
District Manager

Dear Mr. Solari;

We received your letter of April 1, in regards to the Horseshoe Well and the New Pass Well. It appears to me there still should be a filing at the State Engineers Water Office, and several months ago we made such a filing, as at that time we could not find where any had been made. Now that we find a cooperative agreement between The Bureau of Land Management and W. W. Whitaker or us as his successor, perhaps the filing should be in both our names. Kindly advise us of any information you have and what is the proper way of protecting these wells especially from these ~~Repeal~~ Homesteaders.

Yours Truly  
Ellison Ranching Co.  
By

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June 20, 1959

Bureau of Land Management  
District No. 3  
Box 633  
Carson City, Nevada

Attention/ Mr Daute Solari

Dear Sir:

In regards to the application for permit on the water wells in Alpine, which we have applied for. We are advised according to State Law that to protect our interest against other water permits which may come, we must obtain such permits.

In as much as this was a cooperative agreement between the district and W. W. Whitaker we are willing that your name, if you so choose, be placed on the permits along with ours. Kindly advise.

I am wondering if you have thought any more about wells on the lower county as yet. It is hard to haul water to the sheep on account of such sandy conditions, and believe wells are much better.

Sincerely Yours  
Ellison Ranching Co.  
By

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IN REPLY REFER TO:

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
Carson City District Office  
807 N. Plaza Street  
Carson City, Nevada

March 24, 1960

Mr. Stanley Ellison  
Ellison Ranching Company  
Spanish Road  
Tuscarora, Nevada

Dear Mr. Ellison:

In your letter of June 20, 1959, regarding your applications with the Nevada State Engineer's Office to appropriate the waters of the New Pass and Horseshoe Wells, you proposed that the Bureau of Land Management be made a party to the applications. I have not been able to determine if this would be proper or not and have forwarded it to our State Supervisor for consideration. As soon as I receive a decision on this proposal I will let you know.

Sincerely yours,

Dante Solari  
District Manager

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July 10, 1961

Mr. Dan Salari  
District Manager  
Bureau of Land Management  
District 3  
Carson City, Nevada

Dear Dan:

X  
In reference to the 2 wells which we purchased from J & H Livestock Company in Alpine Valley or Edwards Creek Valley you told me that the Bureau had put money into these wells. During our conversation you mentioned that it might be possible for the Bureau to sell these assets to us. As yet we have not received any definite advisement on this matter. I wish you would take this under consideration so we could get the title cleared with J & H and also with the State Water Engineer. If it is impossible for us to return the investment in the well can you tell us the amount you invested in these wells.

We have an approval of our application from the State Engineer subject to your interest and rights. We must now make proof of beneficial use which requires considerable information in order to get a water certificate.

Your information and thoughts on this matter will be appreciated.

Yours truly,

Stanley C. Ellison

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2012 AUG -6 AM 11:03  
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Oct. 12, 1961

Bureau of Land Management  
807 N. Plaza Street  
Carson City, Nevada

Attention; Dante Solari

Dear Sir;

On July 10th, 1961 we wrote you a letter about the wells in Alpine district but as yet we have not received an answer. We would like to get this matter cleared up and would appreciate you advising us as to what you are able to do.

Is there any feed and has there been any storm in the area we use this last summer or fall.

Yours Truly  
Ellison Ranching Co.  
By

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IN REPLY REFER TO:

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

District Office  
807 N. Plaza Street  
Carson City, Nevada

October 26, 1961

Ellison Ranching Company  
Spanish Ranch  
Tuscarora, Nevada

Attention: Stanley Ellison

Dear Mr. Ellison:

I apologize for the delay in replying to your letters regarding the wells in Alpine Valley Area. I discussed this question again with personnel from the State Office and was informed that it is not possible to sell the interest the Bureau of Land Management has in these wells. As I mentioned in talks with you in the past this was discussed as to the possibility to do this but it has not progressed beyond that point and the Bureau cannot dispose of its interests in these developments.

Sincerely yours,

Dante Solari  
District Manager

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STATE ENGINEERS OFFICE

August 24, 1962

Mr. Edward M. Bowen  
Senior & Senior  
Newhouse Building  
Salt Lake City, Utah

Dear Mr. Bowen:

Enclosed you will find three letters written to Mr. Dante Salari, District Manager of No. 3, regarding the problem of our obtaining title of the two wells which we have an agreement of purchase from the J & H Company

I think the letters are self-explanatory especially with the information that I gave you in our telephone conversation today.

After you have considered and studied this problem, maybe you will have some solution and could drop me a line as to your thinking.

Sincerely yours,

Stanley Ellison

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**EXHIBIT "B"**

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STATE ENGINEERS OFFICE



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
GRAZING SERVICE  
PROPOSED PROJECT REPORT

Construction   X    
Maintenance \_\_\_\_\_  
Operation \_\_\_\_\_

(a) Name of Project   New Pass Well   Region   3    
(b) Type of Project   Well   District   Virginia City    
(c) Class. No.   146-15   Unit   1   Amount   806.25   Grazing Unit   Edwards Creek    
(d) Land Status: Federal   X   State    County    Allotment   Walter W. Whitaker    
(e) If private land: Name of owner    S&M Area No.   None    
Can easement be secured   None needed.   State   Nevada    
County   Churchill  

(f) Location of Project   In approximately 82% of Section 35, T. 21 N., R. 39 E.    
(g) Description of Project   A well 275 ft. deep, with 8" casing and 2" pipe -- equipped with galvanized iron 10' sheep troughs, and pump jack and engine.  

(h) Justification for Project   To provide water for about 10,000 sheep, and open up a vast area for live stock grazing which otherwise could not be used.  

(i) Priority (fiscal year)   1943   Work Season   Summer and Fall.    
(Indicate summer, winter, or year-long)

(j) PRELIMINARY COST ESTIMATES

Labor <u>  (10.00) 30 men days  </u> (2.80) 14 man-days	335	00
Materials <u>  (277.00) (277.00) (277.00)  </u>	257	00
Equipment Operating Cost <u>  (20.00) (20.00) (20.00)  </u>	20	25
Materials furnished by cooperator <u>  </u>	194	00
Supervision & Engineering <u>  (included in labor cost)  </u>		
Total	806	25

(50% Controlling Interest)

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 STATE ENGINEERS OFFICE

Proposed by   Walter W. Whitaker   date   December 3, 1942.  

Recommended by Advisory Board:  
  L. B. [Signature]   date   December 3, 1942.  

date

number

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
GRAZING SERVICE  
APPROVED PROJECT REPORT

Construction   
Maintenance \_\_\_\_\_  
Operation \_\_\_\_\_

(a) Project No. 15 Camp No. NONE  
(b) Name of Project New Pass Well  
(c) Type of Project Well  
(d) Class. 146 Unit 1 Amount (806.25)

Region No. 3  
District No. 1  
Unit Edwards Creek  
Allotment Walter E. Whitaker  
S&M Area No. None  
State Nevada  
County Churchill

(e) Statistical / acct. title \_\_\_\_\_ Unit \_\_\_\_\_ Amount \_\_\_\_\_

(f) Cost Ledger / acct. No. (1-16) \_\_\_\_\_ Cost Ledger Acct. title \_\_\_\_\_

(g) Point location SE  $\frac{1}{4}$  of --- of Sec. 35 T. 21 N. R. 99 E.

Lineal location one end \_\_\_\_\_  $\frac{1}{4}$  of \_\_\_\_\_  $\frac{1}{4}$  of Sec. \_\_\_\_\_ T. \_\_\_\_\_ R. \_\_\_\_\_

Other end \_\_\_\_\_  $\frac{1}{4}$  of \_\_\_\_\_  $\frac{1}{4}$  of Sec. \_\_\_\_\_ T. \_\_\_\_\_ R. \_\_\_\_\_

(h) Land Status: Federal  State \_\_\_\_\_ County \_\_\_\_\_ Private \_\_\_\_\_  
(Name of owner) \_\_\_\_\_

(i) Accompanying this form are the documents and information pertaining to the project as indicated below:

(Indicate by "X") Form No.  
Form 1-372, Proposed Project X Forms GrS. 33-R,C,D,E,F,G,H,  
I,J,K, (Physical Data Sheets  
Form GrS. 33-A, Itemized Cost Est. X Agreements . . . . . X  
Plans \_\_\_\_\_ Maps \_\_\_\_\_ Lease . . . . . \_\_\_\_\_

Specifications 10 sheets on Form 1-372 Stock Plans (identify) Water 10,000 Sheep  
at \$10.00

(j) Estimated Labor (enrollee) NONE man-days. Fired at \$2.50 man-drys

(k) Project Cost Distribution by appropriations (1) Programmed for fiscal year  
(Information supplied by district office) 194 3.

Symbol - appropriation	Estimated Amount
A. CCC . . . . .	
B. Range Imp. (25%) . . . . .	
C. Contributed (50% and other) . . . . .	295 00
D. Soil & Moisture (S&M) . . . . .	
E. Salaries & Exp. (S&E) . . . . .	
F. Other Federal Funds:	
Title . . . . .	
Title . . . . .	
G. Donations . . . . .	551 25
Total Cost	846 25
Less Donations	551 25
Net Cost to Grazing Service	295 00

(10% Contributed Fund) (Fiscal year 1943)

Cost Ledger  
Posted  
By [Signature]  
Date \_\_\_\_\_

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STATE ENGINEERS OFFICE

Approved: [Signature] date 12/3/42 Approved: [Signature] date [Signature]  
District Grazier Regional Grazier

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
GRAZING SERVICE  
ITEMIZED COST ESTIMATE

Region No. 3  
Dist. No. 3  
Project No. 15  
Camp No. Hont

For Past Year

Materials, Supplies, Etc.

Quantity	Unit	Item	Unit Cost	Amount	Fund Symbol
200 ft.	foot	8" Well Casings	.80	160.00	C
200 ft.	foot	2" Galvanized Pipe	.20	40.00	C
50	ea.	Cedar Posts	.25	12.50	C
50 lbs.	lb.	Belts -- 4" to 10"	.10	7.50	C
400 bd.ft.	M/bd.ft.	133 ft. 3 x 12 Redwood Planks	50.00/M	20.00	C
3 Spools	Spool	Standard Barbed Wire	5.00	15.00	C
1	ea.	Jack Pump	25.00	25.00	C
1	ea.	Cylinder	20.00	20.00	C
1	ea.	Engine	125.00	125.00	C
500 bd.ft.	M/bd.ft.	500 ft. 2 x 6 Lumber	50.00/M	25.00	C
Materials and Supplies - Total				\$ 480.00	
Supervision and Engineering (included in labor cost)					
Equipment Operating Cost (included in labor cost)					
30	Men-days	Skilled Labor	\$ 10.00	\$ 300.00	C
12	Men-days	Common Labor	\$ 2.50	\$ 30.00	C
	Men-days	Enrollee Labor		X X X	X X
Rental, terms or equipment				\$	
Total Project Cost				\$ 810.25	

Submitted by William H. Decker

Fund Symbol: A-COC, B-Range Improvement (25%), C-Contributed (50% and other), D-Soil & Moisture (SM), E-Salaries & Expense, F-Other Federal Funds, G-Donations (items furnished that are not contributed to the Secretary of the Interior and handled by the Treasury of the United States).

Information in the fund symbol column will be supplied by office of district grazer.

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2012 APR -6 AM 10:00  
WATER ENGINEERING DIVISION

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
GRAZING SERVICE

This agreement and co-operative arrangement, made and entered into this  
day of December, A.D. 1942, by and between C. F. Dierker,  
Regional Grazier for Region No. 3, Grazing Service, Department of the Interior,  
party of the first part, and Walter W. Whitaker  
of Fallon, Nevada, party of the second part.

WITNESSETH:

For and in consideration of the covenants herein set forth to be made, kept,  
and performed by the parties hereto, it is hereby agreed that each of the parties  
hereto will furnish such labor and such materials as are listed on the reverse  
side of this form, which listing, when approved by the parties hereto, shall be-  
come a part of this agreement. It is also agreed that the following range im-  
provements, consisting of a well 275 ft. deep, with 8" casing and 2" pipe --

equipped with galvanized iron 10' sheep troughs, and pump jack and engine.

to be placed upon the following described lands: Approximately SE 1/4 of Section

35, Township 21 North, Range 39 East, M. D. S. & M.

of, Churchill Co., situated in Grazing District No. 3 Region No. 3

It is further agreed that for and in consideration of the benefit received  
from this range improvement, the party of the part agrees to maintain said  
improvement in good and serviceable condition, and that should the improvement to  
be constructed under this agreement be removed by common consent, or by direction  
of the United States of America, the salvage materials will revert to the parties  
contributing the same in proportion to their contribution. The party of the  
second part hereby agrees that, when the improvement contemplated under this agree-  
ment is completed, the title to the improvement, together with all labor and  
materials furnished by the party of the second part in constructing the improvement  
shall be in the United States of America; that, should the improvement be removed  
by agreement or consent of the parties hereto, or by the direction of the United  
States of America, the removal is to be made by the party of the second part, and  
all expenses incident thereto will be borne by the party of the second part.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands in \_\_\_\_\_

Walter W. Whitaker the day and year first above written.

C. F. Dierker  
Regional Grazier, Party of the first part  
Walter W. Whitaker  
Party of the second part.

\_\_\_\_\_  
Party of the second part.

\_\_\_\_\_  
Party of the second part.

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DEC 6 AM 11:00  
FEDERAL ENGINEERS OFFICE

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

CODE	NAME
1-2	State
3-4	District

PROJECT ABANDONMENT AND/OR LOCATION  
CORRECTION REPORT

1.	5	7	10	12	14	18	22	23	25	29	Project Name
	F.Y.	COUNTY	Sub-basin	Watershed	Planning Unit	Project No.	CTI RM	Program	PRACTICE	UNITS	

2a. Project is abandoned  in full  in part (If in part, attach completed Form 7220-1 for portion of project not abandoned) Give location by legal description. \*

b.  Correction of location.

From: Incorrect legal description shown on final project report (enter incorrect legal description)

To: Correct legal description (enter correct legal description):\*

3. Reason(s) for abandonment and/or for location correction:

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Signature of District Manager

Date

\* Use plot on reverse for areal or linear

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

CONSERVATION AND DEVELOPMENT REPORT

I - IDENTIFICATION

(1) <input type="checkbox"/> PROGRESS (2) <input type="checkbox"/> COMPLETION (3) <input checked="" type="checkbox"/> CORRECT (4) <input type="checkbox"/> ABANDON	STATE	DISTRICT	I.D. NO.	COMP. MO.	DAY	YR.	
	2/7 Nevada	0310 Carson City	015	DATE	10/50	54/3	
	PLANNING UNIT	COUNTY	RIVER BASIN				
	011 Clan Alpine	0101 Churchill	North 510531 Great Basin				
RESERVED FOR FUTURE USE		PROJECT NAME				SEC. 4/15	
		New Pass Well					
ALLOTMENT NAME		CONTRIBUTOR					
Clan Alpine							

II - REPORT DATA

LINE	SUB-ACTIVITY	PWE	W/L	UNITS ACCOMPLISHED		ADDITIONAL REPORTING ITEMS			SUBACTIVITY COST	DEPOSITED CONTRIBUTIONS	UNDE-POSITED CONTRIBUTIONS
				PRIMARY	SEC-ONDARY	A	B	C			
1											
2											
3											
4											
5											
6											

III - LOCATION DATA

LINE	STATUS	MERIDIAN	FRACTION	TOWNSHIP	RANGE	SECTION OR TRACT	SUB-DIVISION	SUB-DIVISION	SUB-DIVISION	SUB-DIVISION	SUB-DIVISION	SUB-DIVISION
						5002	NW4	SE4				
		MDM		021N	039E	SR35	SE4	SE4				

IV - OUTPUT DATA

ADDED LIVESTOCK FORAGE	ADDED GAME FORAGE	DOWNSIDE DAMAGE AVOIDED	SILT LOSS AVOIDED	VISITOR DAYS ADDED
AUMs	AUMs	\$	1000's Cu Yds.	Days
AREA STABILIZED BY TREATMENT	AREA STABILIZED BY MANAGEMENT	PERMANENT STORAGE	FLOOD STORAGE	AREA SERVICED BY NEW WATER
1000 Acres	1000 Acres	Ac. Ft	Ac Ft	1000 Acres

V - REMARKS

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 GPO 544-687

Ellison Ranching Company  
Case Summary

In 1957 the Ellison Ranching Company had acquired lands and their attached Class 1 grazing privileges amounting to 4476 AUMs for sheep use from J and H Livestock, W. W. Whitaker, and W. Packer (reference letter of 10/24/57, BLM, Division of Range Management).

November 1, 1957, Ellison Ranching Company submitted a Long Form Application for Grazing License or Permit. It was approved 11/13/57 and a license issued for:

6395 sheep 11/22/57 to 3/6/58 = 4476 AUMs.

The area of grazing use was in the New Pass - Horseshoe and the Rawhide - Bell Flat Sub Units of the Fallon Range Unit in the N-3 District.

In 1958, 273 AUMs were rejected by the N-3 District due to lack of a Section 7b transer from W. W. Whitaker resulting in a reduced total of 4203 AUMs. Ellison was then licensed for:

6005 sheep 11/22/58 to 3/6/59 = 4203 AUMs.

In 1959, a change in the period of use was granted by the N-3 District and Ellison was licensed for:

6005 sheep 12/1/59 to 3/15/60 = 4203 AUMs. Area of use to remain the same as in license of 1957-8.

February 14, 1964, by Notice of Allocation of Grazing Privileges and Allotment Boundary, determinations of qualified Federal range demand were made as follows:

New Pass Allotment - Fallon Unit; 1200 AUMs  
Bell Flat Allotment - Fallon Unit; 1920 AUMs  
Bench Creek Allotment - Fallon Unit; 600 AUMs (Wonder Sheep Area)  
Trail (between above Allotments); 480 AUMs

The total demand for Ellison Ranching Company was 4200 AUMs of sheep use with a grazing period of 12/1 to 3/15.

November 1, 1966 the Secretary's decision affirmed the BLM's Fallon Unit Adjudication. Ellison Ranching Company's sheep grazing use was recognized as follows (reference letter of November 14, 1966 to Ellison):

Clan Alpine Allotment -	1440 AUMs (240 were trail)
Bell Flat Allotment -	2160 AUMs (240 were trail)
Dixie Valley (Wonder) Allotment -	600 AUMs
TOTAL	<u>4200 AUMs</u>

Previous trail use of 480 AUMs was included equally in the Clan Alpine and Bell Flat Allotments. Period of use was 12/1 to 3/15.

*From Bureau of the RIM File*

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December 5, 1977, Ellison Ranching Company submitted a Section 7b Application transferring to Carpenter Ranches (reference memorandum to the files of Carpenter, Ellison, and Casey M.P. of March 2, 1978) the following grazing privileges:

480 AUMs - Trail (Part of Clan Alpine use)  
600 AUMs - Dixie Valley (Wonder) Allotment  
1920 AUMs - Bell Flat Allotment  
3000 AUMs Total

Ellison Ranching Company retained a Federal Range Class 1 demand of 1200 AUMs in the Clan Alpine Allotment with a period of use of 12/1 to 3/15.

*John H. Mabe*  
*L.R.C. Range Conventions*  
*11 Oct 1985*

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the "Notice of Allocation of Grazing Privileges and Allotment Boundary", for New Pass Allotment, dated February 20, 1964. This map is a copy of the official allotment map on file in the District Office. Also on file for your reference will be a narrative description of your allotment boundaries. The other inclosure is:

Name

Thomas Ormachea

5. Restrictions or conditions:

You are restricted to grazing your sheep in that part of the Clan Alpine Allotment that is east and north of the Edwards Creek Valley Dry Lake. You will not graze within one (1) mile of any of Ormachea's existing waters.

6. Reasons:

Neither you nor Ormachea want a fence between you, therefore you will be allowed to graze inclosure with the above listed restrictions. The Clan Alpine Allotment has been expanded to include your privileges previously included in the New Pass Allotment. The east boundary of the Clan Alpine Allotment represents a natural barrier along New Pass Mountain in the form of an inaccessible pinyon-juniper belt and it includes all the range previously grazed by livestock from the Edwards Creek Valley side.

The recommendation, together with information and data in possession of the Bureau of Land Management has been considered by me, and you are hereby notified that my decision is as follows:

I concur with the above recommendation.

This action is taken in accordance with 43 CFR 4111.2 and 4111.3.

If you wish to appeal this decision for the purpose of a hearing before an Examiner, in accordance with 43 CFR 4115.2-3, you are allowed thirty (30) days from receipt of this notice within which to file such appeal with the District Manager, Bureau of Land Management, 807 N. Plaza Street, Carson City, Nevada. The appeal should specify the reasons clearly and concisely why you think this decision is in error.

Very truly yours,

Val B. Richman  
District Manager

CRCleary:cls

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ROBERT B. GOICOECHEA  
rgoicoechea@frontiernet.net

GARY E. DI GRAZIA  
gdigrazia@frontiernet.net

—  
PARALEGAL  
WALTER I. LEBERSKI

LAW OFFICE OF  
**GOICOECHEA, DI GRAZIA,  
COYLE & STANTON, LTD.**  
A PROFESSIONAL CORPORATION

THOMAS J. COYLE, JR.  
tcoyle@frontiernet.net

DAVID M. STANTON  
davidstanton@frontiernet.net

July 31, 2012

Stillwater Field Office  
Carson City District Office  
Bureau of Land Management  
Attn: Linda J. Appel  
Range Mgt. Specialist  
5665 Morgan Mill Road  
Carson City, Nevada

RECEIVED  
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STATE ENGINEERS OFFICE

Dear Ms. Appel:

Walter Leberski of this office recently inquired about the status of the range improvement permit concerning the New Pass Well located in Section 2, T20N, R39E, MDM. You were able to locate the project file on that improvement and informed him that a cooperative agreement had been issued to Walt Whitaker on that well. Since the well is located in the Carson City District but administered in the Battle Mountain District there was not a full history of the transfers of the permit. However, the records in the Carson City office indicated that the cooperative agreement had been assigned to Michael Casey.

My client, Ellison Ranching Company, is a successor to Walt Whitaker and, based upon acquisition of the preference previously held by Mr. Whitaker, has maintained and been the exclusive user of that well with Permit No. 17971 granted to Ellison in 1959 by the State Water Engineer. Attached is a case summary received from the Battle Mountain District which outlines that chain of title of the grazing preference. We understand that the area of use of Ellison Ranching Company is in the Carson City District, but it is administered in Battle Mountain. A request was made to that district regarding the assignment of that cooperative agreement, but we were informed that there was no record of the assignments on this project. Casey Johnson of the Battle Mountain District recently contacted you regarding this.

This office is familiar with the procedures required in connection with the assignment of range improvements. We understand that to cause an assignment, the completion of Form 4120-8 (Assignment of Range Improvements) was required and 43 CFR 4120.3-3 and 4120.3-5 require compensation to the assignor of the agreement who holds the improvement permits. From available records, we have been unable to determine if either an appropriate assignment or compensation to the permittee was made.

Michael Casey has now applied for a water permit on the New Pass Well, which if granted, would mean that the use of equipment which has been installed and maintained by Ellison Ranching Company for some years would occur. As is customary, the Nevada State Engineer will make inquiry regarding the area of use of Mr. Casey. His area of use of record in the Carson City District consists of all of the Clan Alpine Allotment, in which the New Pass Well is located.

Any water permit issued includes the requirement that permission be granted by the land administrator to enter and make improvements on the land involved. A cooperative agreement would have the effect of granting access and, thus, it becomes important in any consideration by the Nevada State Engineer regarding the pending application.

Based on the foregoing, request is hereby respectfully made that the District provide this office with the documentation and the authority upon which that cooperative agreement was assigned to Mr. Casey. I recognize that in situations such as this, where land is in one district but administered in another district, there is a possibility that some of the matters considered in a grazing preference transfer may have been overlooked. However, due to the present circumstances, it appears appropriate to correct the record.

Thank you for your assistance in this matter.

With best regards,



GARY E. DI GRAZIA

GED/sm  
Enclosure

cc: Ellison Ranching Company

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# ELLISON RANCHING COMPANY

*Ranches Located in Elko, Humboldt and Lander Counties, Nevada*

SPANISH RANCH -:- TUSCARORA, NEVADA 89834

October 8, 1990

Bureau of Land Management  
Carson City District Office  
1535 Hot Springs Rd., Ste. 300  
Carson City, Nevada  
89706-0638

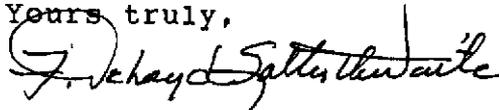
Attention: James M. Phillips

Dear Mr. Phillips:

Please find enclosed the comments from Ellison  
Ranching Company concerning the Clan Alpine Allotment evaluation.

We appreciate the opportunity to comment and hope  
that our suggestions will be helpful.

Yours truly,



Ellison Ranching Company  
By F. Deloyd Satterthwaite

Enc.

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After studying the Clan Alpine Allotment evaluation and after spending two separate days with Andrea Minor in the Clan Alpine area, it is very evident that the main concern here is the proper distribution of cattle.

A decision made by the District Manager on April 17, 1964 addressed the same issue that we're trying to solve here today. That decision made it very clear that the sheep were to use the part of Clan Alpine Allotment east and north of the Edwards Creek Valley Dry Lake and to stay one mile away from the wells used by cattle. This Ellison Ranching Company has done over the years but now due to water being used at the D. L. E. Farm, the cattle have moved onto sheep designated country. That area is now in bad shape because of the dual use plus the fact that it is located by Ellison Ranching Company's upper well.

We strongly recommend that the D. L. E. Farm water be shut down and that the cattle stay only around the existing waters. This would eliminate the cattle from coming onto sheep country.

Do not try to reinvent the wheel. Stay with the original decision and control cattle movement by water rather than trying to fence. To get away from fencing was the other factor mentioned in the decision.

The decision made in 1964 has worked for many years but now due to water development of which the B. L. M. was not aware of or paid no attention to, the problem has come up. Fencing is not the answer. The same results can be achieved by proper water use and development.

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# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

CARSON CITY DISTRICT OFFICE  
1535 HOT SPRINGS RD., STE. 300  
CARSON CITY, NV 89706-0638



IN REPLY REFER TO:

4130 CF  
(NV-03480)

JUN 23 1992

Ellison Ranching  
ATTN: Deloyd Satterthwaite  
Spanish Ranch  
Tuscarora, NV 89834

Dear Mr. Satterthwaite:

Enclosed is the final Clan Alpine Allotment Management Plan offered for your signature. Please sign the Grazing Agreement Acceptance and Approval (second sheet) and return to this office.

If you have any questions, please contact either Andrea Minor or Cub Wolfe at (702) 885-6000.

Sincerely yours,

James M. Phillips  
Area Manager  
Lahontan Resource Area

- 1 Enclosure:  
1. Clan Alpine AMP

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STATE ENGINEERS OFFICE

# ELLISON RANCHING COMPANY

*Ranches Located in Elko, Humboldt and Lander Counties, Nevada*

SPANISH RANCH :- TUSCARORA, NEVADA 89834

(702) 756-6542

FAX (702) 756-6570

July 10, 1992

U. S. Dept. of Interior  
B.L.M.  
Carson City District Office  
1535 Hot Springs Rd., Ste. 300  
Carson City, Nv. 89706-0638

To Whom It May Concern:

Ellison Ranching Company agrees to sign the Clan Alpine Allotment Management Plan with the following attachment which indicates the changes to be made on page 6, top paragraph.

This paragraph should indicate that cattle are not allowed to graze in common on the designated sheep area. This will be prevented by the cattle operator not pumping water at certain wells agreed upon at our last meeting.

This issue was discussed and agreed upon with Andrea Minor by telephone on or about July 6th, 1992.

Sincerely,



F. Deloyd Satterthwaite  
For Ellison Ranching Company

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# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

CARSON CITY DISTRICT OFFICE  
1535 HOT SPRINGS RD., STE. 300  
CARSON CITY, NV 89706-0638



IN REPLY REFER TO:

AUG 24 1992

4130  
(NV-03480)

Ellison Ranching Company  
% Deloyd Satterthwaite  
Spanish Ranch  
Tuscarora, NV 89834

Dear Mr. Satterthwaite:

Enclosed for your records is a copy of the approved Clan Alpine AMP.

In reference to your concern of cattle grazing in common in the sheep area, on page 6, top paragraph, this is part of the "Existing Information" section. As referred to in the AMP, by Advisory Board Recommendation and District Manager's Decision dated 4/17/64, cattle, at that time belonging to Ormachea, have historically been allowed to graze in common on the east side of the valley. Under Planned Actions, cattle will continue to be allowed to graze in common, but season of use will now be September 1 through October 31, as opposed to past use which was April 16 through December 15. We feel that two months use will have significantly less impact on the sheep area than eight months has, and that adequate forage will remain for your sheep when they enter the allotment in December.

The cattle permittee understands that the well on the Hudson's DLE is not to be used to water cattle at that location.

If you have any further questions, please contact either Andrea Minor or Cub Wolfe at (702) 885-6000. We appreciate your cooperation in the development of the AMP.

Sincerely yours,

James M. Phillips  
Area Manager  
Lahontan Resource Area

1 Enclosure:  
1. Approved Clan Alpine AMP

cc: Dennis Rechel

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# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Carson City District Office  
5665 Morgan Mill Rd.  
Carson City, NV 89701  
(702) 885-6000

In Reply Refer to:  
4130CF  
Nv030  
276008

Sign  
on  
4/13/98

Dear Mr. Satterthwaite:

Signing of this document signifies your acceptance of the new Terms and Conditions which will then become a permanent part of your Term Permit for the Clan Alpine allotment.

### Terms and Conditions

1. 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.
2. Pursuant 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.
3. 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 watering facilities, wet or dry meadows and aspen stands. Also salt should not be placed in known historic properties.
4. It is your responsibility to maintain all assigned range improvements in good working order and an aesthetic state.
5. Grazing use will be made east and north of the dry lake bed in Edwards Creek Valley, as stipulated in District Manager's Decision Dated 4/17/64.
6. Grazing use will be made accordantly based on the Clan Alpine Allotment Management Plan, 1992.

Based on numerous requests clarification of Stipulation Number 3 is in order. Stipulation Number 3 pertains only to salt/mineral supplements and must be strictly adhered to.

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The use of protein supplements is a separate issue and will be authorized only where a benefit to the public lands can be realized. Any use of protein supplements requires the prior approval of our office and will have strict guidelines attached.

---

Deloyd Satterthwaite  
Ellison Ranching Co.

---

Date

---

Dan L. Jacquet  
Assistant District Manager  
Division of Renewable Resources

---

Date

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United States Department of the Interior

BUREAU OF LAND MANAGEMENT

CARSON CITY DISTRICT OFFICE  
1535 HOT SPRINGS RD., STE. 300  
CARSON CITY, NV 89706-0638



4130 CF  
IN REPLY REFER TO:  
NV03480  
A:MUDCLALP

JUN 15 1992

Certified Mail  
Return Receipt Requested

Dennis L. Rechel  
P.O. Box 2544  
Fallon, NV 89407  
P 019 012 030

Ellison Ranching Company  
% Delloyd Satterthwaite  
Spanish Ranch  
Tuscarora, NV 89834  
P 680 472 190

Proposed Multiple Use Decision  
Clan Alpine Allotment

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The Record of Decision for the Lahontan Environmental Impact Statement and the Lahontan Resource Management Plan was completed September 3, 1985. These documents established the multiple use goals and objectives which guide management of the public land on the Clan Alpine Allotment. The Rangeland Program Summary (RPS) was issued in October of 1985 and updated in 1989, which further identified the specific allotment objectives for the Clan Alpine Allotment.

As identified in the RPS, monitoring was established on the Clan Alpine Allotment to determine if existing multiple uses for the allotment were consistent with attainment of the objectives established by the RPS. Since 1976, monitoring data has been collected. The data was analyzed in 1989 through the allotment evaluation process, to: 1) determine progress in meeting multiple use objectives for the Clan Alpine Allotment and 2) determine what changes in existing management are required in order to meet specific multiple use objectives for this allotment.

The specific multiple use objectives for the management of livestock, wild horses, wildlife and riparian areas are found in Appendix I. These objectives are in conformance with and formulated to accomplish the Lahontan Land Use Plan multiple use objectives as they relate to grazing use on the Clan Alpine Allotment.

Through the allotment evaluation process it was determined that a change in existing management is required, in order to meet multiple use objectives for this allotment.

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 RPS, the following decisions are necessary.

**LIVESTOCK GRAZING MANAGEMENT DECISION**

Changes in authorized use as identified below:

From:

Clan Alpine Allotment

Summer Use Area

995 Cattle	5/16 to 12/15	100% FR	6810 AUMs	Area-Allotment Wide
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Bell Flat Winter Use Area

854 Cattle	12/16 to 4/15	100% FR	3400 AUMs	Area-Pasture Wide
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Total			<u>10210</u>	
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Clan Alpine Winter Sheep

1737 Sheep	12/1 to 3/15	100% FR	1200 AUMs	Area-East and North of Edwards Creek Playa
------------	--------------	---------	-----------	--

Licensed cattle use is 11 months. Cattle use is not designated to areas or pastures, other than summer and winter use. Sheep use is limited to the area east and north of the dry lake bed in Edwards Creek Valley.

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To:

Clan Alpine Allotment

927 Cattle	5/1 to 6/30	100% FR	1859 AUMs	Area-Shoshone and Alpine Pastures -
927 Cattle	7/1 to 8/31	100% FR	1890 AUMs	Alternate years Area-Summer Pastures (Cherry Valley and Desatoya Pastures)
927 Cattle	9/1 to 10/31	100% FR	1859 AUMs	Area-Edwards Pasture
927 Cattle	11/1 to 11/30	100% FR	914 AUMs	Area-Cold Springs Pasture
927 Cattle	12/1 to 3/31	100% FR	<u>3688</u> AUMs	Area-Bell Flat
	Total		10210 AUMs	

Clan Alpine Winter Sheep

1737 Sheep	12/01 to 03/15	100% FR	1200 AUMs	Area-east and north of the playa in Edwards Creek Valley
------------	----------------	---------	-----------	--

Licensed cattle use is 11 months in designated pastures, with 927 cattle rotated between the pastures.

Sheep use will remain the same.

Terms and Conditions

Grazing will be based on the following grazing system which is also described in the Clan Alpine Allotment Management Plan.

Cherry Valley will be rested for two years beginning 1994 through 1995.

The Final grazing system describes a system where 927 head of cattle will be turned out in the Alpine and Shoshone Pastures, alternating years, from 5/1 to 6/30. These cattle are then moved into the summer pastures (Cherry Valley and Desatoyas) from 7/1 to 8/31, or until stubble height in the Cherry Valley meadows reaches 4-6". From 9/1 to 10/31, cattle use the Edwards Pasture. From 11/1 to 11/30, use is made in the Cold Springs Pasture.

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Winter use is made in the Bell Flat Pasture with 927 head of cattle from 12/1 until 3/31. Use areas will follow a rotation based on water hauls, beginning in the south end and working north as the season progresses:

December 1 through January 31: Hauls #6,7,8,11  
February 1 through February 28: Hauls #4,5,10,12,13  
March 1 through March 31: Hauls # 1,2,3,9

Locations:

#6: T 14 N, R 34 E, SE $\frac{1}{4}$ sec 25;	#7 :T 14 N, R 35 E, SW $\frac{1}{4}$ sec 8
#8: T 15 N, R 35 E, SE $\frac{1}{4}$ sec 21;	#11:T 14 N, R 34 E, NE $\frac{1}{4}$ sec 22
#4: T 16 N, R 34 E, NW $\frac{1}{4}$ sec 35;	#5 :T 15 N, R 34 E, NW $\frac{1}{4}$ sec 33
#10:T 14 N, R 34 E, NE $\frac{1}{4}$ sec 10;	#12:T 14 N, R 34 E, SW $\frac{1}{4}$ sec 8
#13:T 15 N, R 34 E, NE $\frac{1}{4}$ sec 23;	#1: T 16 N, R 35 E, NW $\frac{1}{4}$ sec 16
#2 :T 16 N, R 35 E, SW $\frac{1}{4}$ sec 17;	#3: T 16 N, R 34 E, SE $\frac{1}{4}$ sec 14
#9: T 16 N, R 35 E, SW $\frac{1}{4}$ sec 11	

Utilization for uplands will be limited to the moderate range (41-60%) of use on current year's growth of key species.

Utilization in riparian areas will be limited to four to six inches stubble height of key plants in the Cherry Valley meadow areas, and 30% on key species in the cold water fishery key area.

**RATIONALE:** The analysis and evaluation of available monitoring data indicates livestock use needs to be modified to meet the multiple use management objectives for the Clan Alpine Allotment and be in conformance with the Lahontan Resource Management Plan.

Balancing herd size between the summer and winter pastures will result in better management of livestock and reduce unauthorized use.

The division of the Clan Alpine Allotment into pastures will provide for better control and management of livestock and improve distribution. The pasture concept will result in more uniformity in use by cattle throughout the allotment, and will limit concentrations of cattle in certain areas.

The spring pastures, Shoshone and Alpine, will be used for two months from 5/1-6/30 in alternate years, allowing rest during the growing season for key perennial grass species in alternate years.

Use dates in the summer pasture coincide with range readiness of the key grass species. Turnout starting 7/1 will provide time for key plants to store carbohydrates in their roots and to produce seed. Removing cattle when stubble height reaches four to six

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inches will improve watershed conditions and provide adequate cover and food to meet wildlife objectives.

Use in the Edwards pasture begins 9/1, which will eliminate spring use by cattle, decrease overall utilization, and allow adequate forage for sheep in December. On November 1, the cattle are moved into the Cold Springs Pasture, where they remain until 11/30. This allows the cattle to be gathered with less difficulty and moved to the Bell Flat winter pasture.

Use dates in the winter pasture coincide with dormancy of key species. Rotating use by hauling water, in conjunction with herding, will improve livestock distribution, and keep overall utilization within the limits.

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

4100.0-8: "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 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: "The authorized officer shall periodically review the grazing preference specified in a grazing permit or 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."

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 4130.6-2 of this title.

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

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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 Sections 4110.3, 4110.3-1 and 4110.3-2."

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..."

4130.6-3: "Following careful and considered consultation, cooperation and coordination with the lessees, permittees, and other affected interests, the authorized officer may modify terms and conditions of the permit or lease of monitoring data shows that present grazing use is not meeting the land use plan or management objectives."

**PROTEST/APPEAL:** If you wish to protest this Livestock Grazing decision, in whole or in part, you are allowed fifteen (15) days from receipt of this notice within which to file a protest with the Lahontan Resource Area Manager, James M. Phillips, 1535 Hot Springs Rd., Suite 300, Carson City, NV 89706-0638. The protest should state the reasons, clearly and concisely, why you think the final decision is in error.(4160.2)

In the absence of a protest within the time allowed, the above proposed decision shall constitute my final decision. Should this notice become the final decision and you wish to appeal this decision for the purpose of a hearing before an Administrative Law Judge, in accordance with 43 CFR 4160.3 and 4160.4, you are allowed thirty (30) days within which to file such an appeal with the Lahontan Resource Area Manager, at the above address.

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STATE ENGINEERS OFFICE

WILD HORSE MANAGEMENT DECISION

Clan Alpine Herd Management Area:

It has been determined through monitoring and the allotment evaluation process that a thriving natural ecological balance can be obtained through an Appropriate Management Level (AML) of a maximum of 405 wild horses for that portion of the Clan Alpine Herd Management Area (HMA) which occurs in the Clan Alpine Allotment.

RATIONALE: Monitoring information indicates that approximately 4860 AUMs, or 405 wild horses, is the maximum proper stocking level within the Clan Alpine Allotment portion of the Clan Alpine HMA (49% of the HMA is within the Clan Alpine Allotment). This AML was based on actual numbers of wild horses and livestock during the evaluation period.

By maintaining the wild horses and livestock AUMs at this level it is anticipated that Land Use Plan objectives will be met including maintaining or improving current ecological condition and maintaining utilization at 55 percent or less on key species on upland areas.

In order to prevent resource damage, horse numbers will be limited to a maximum of 405 animals. To avoid annual removals and to minimize stresses and band disturbances associated with removals, removals will be conducted every three years. To avoid excessive vegetation utilization horses will be managed within a range of 253 to 405 animals. This will allow for a 17 percent rate of increase to a maximum of 405 head.

In accordance with 43 CFR 4720.1, all wild horses in excess of the appropriate management level of 405 will be removed.

New Pass Herd Management Area:

It has been determined through monitoring and the allotment evaluation process that a thriving natural ecological balance can be obtained through an Appropriate Management Level (AML) of a maximum of 90 wild horses for the New Pass HMA which occurs in the Clan Alpine Allotment.

RATIONALE: Monitoring information indicates that approximately 1,080 AUMs are being used by wild horses in that portion of the Clan Alpine Allotment which occurs in the New Pass HMA in combination

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with current livestock numbers. Actual counts and utilization records show that approximately 1,080 AUMs or 90 wild horses are the maximum stocking level within the Clan Alpine Allotment portion of the New Pass HMA (90% of the HMA is within the Clan Alpine Allotment). This AML was based on actual numbers of wild horses and livestock during the evaluation period.

By maintaining the wild horses and livestock AUMs at this level it is anticipated that Land Use Plan objectives will be met including maintaining or improving current ecological condition and maintaining utilization at 55 percent or less on key species on upland areas.

In order to prevent resource damage, horse numbers will be limited to a maximum of 90 animals. To avoid annual removals and to minimize stresses and band disturbances associated with removals, removals will be conducted every three years. To avoid excessive vegetation utilization horses will be managed within a range of 69 to 90 animals. This will allow for a 9 percent rate of increase to a maximum of 90 head. In accordance with 43 CFR 4720.1, all wild horses in excess of the appropriate management level of 90 will be removed.

Desatoya Herd Management Area:

It has been determined through monitoring and the allotment evaluation process that a thriving natural ecological balance can be obtained through an Appropriate Management Level (AML) of a maximum of 43 wild horses for that portion of the Desatoya HMA which occurs in the Clan Alpine Allotment.

RATIONALE: Monitoring information indicates that approximately 516 AUMs are being used by wild horses in the area of overlap between the Clan Alpine Allotment and the Desatoya HMA, in combination with current numbers of livestock. Actual counts and utilization records show that approximately 516 AUMs or 43 wild horses is the maximum stocking level within the area of overlap (39% of the HMA is within the Clan Alpine Allotment). This AML was based on actual numbers of wild horses and livestock during the evaluation period.

By maintaining the wild horses and livestock AUMs at this level it is anticipated that Land Use Plan objectives will be met including maintaining or improving current ecological condition and maintaining utilization at 55 percent or less on key species on upland areas.

In order to prevent resource damage, horse numbers will be limited to a maximum of 43 animals. To avoid annual removals and to minimize stresses and band disturbances associated with removals, removals will be conducted every three years. To avoid excessive vegetation utilization horses will be managed within a range of 32

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to 43 animals. This will allow for a 10 percent rate of increase to a maximum of 43 head. In accordance with 43 CFR 4720.1, all wild horses in excess of the appropriate management level of 43 head will be removed.

**AUTHORITY:** The authority for this decision is contained in Sec. 3(a) and (b) of the Wild-Free-Roaming 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-(a): "Wild horses and burros shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat."

4710.4: "Management of wild horses and burros shall be undertaken with the objective of limiting the animals' distribution to herd areas. Management shall be at the minimum level necessary to attain the objectives identified in approved land use plans and herd management area plans."

4720.1: "Upon examination of current information and a determination by the authorized officer that an excess of wild horses or burros exists, the authorized officer shall remove the excess animals immediately..."

**PROTEST/APPEAL:**

In accordance with 43 CFR 4770.3 which states in part:

...Any person adversely affected by a decision of the authorized officer in the administration of these regulations may file an appeal in accordance with 43 CFR 4.4 within 30 days of receipt of the written decision."

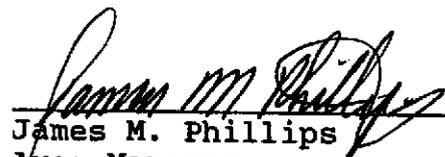
Although these regulations allow for an appeal with no mention of a protest, for the purpose of consistency the multiple use decision will be initially sent as a "Proposed" decision. If no protests are received within fifteen days, the proposed decision shall constitute the final decision, which may then be appealed.

Should you wish to appeal this decision as it pertains to wild horses to the Interior Board of Land Appeals, you are required to appeal in accordance with 43 CFR 4.400. An appeal should specify the reasons, clearly and concisely, as to why you think the decision is in error and a statement of standing, if necessary as per 43 CFR 4.400.

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WILDLIFE DECISION

Wildlife use in this allotment has been adjudicated in accordance with the Lahontan RMP - 1985, to meet the objectives outlined in Appendix 1.

  
James M. Phillips  
Area Manager  
Lahontan Resource Area

cc:

Michael P. Casey P 019 012 795  
American Horse Protection Association P 021 684 284  
National Mustang Association P 021 684 285  
Fund for Animals P 021 684 286  
L.I.F.E. Foundation P 021 684 287  
U.S. Humane Society P 021 684 288  
National Wild Horse Association P 021 684 289  
C. Jean Richards P 021 684 290  
American Bashkir Curley Registry P 021 684 291  
Nevada Humane Society P 021 684 292  
Humane Society of Southern Nevada P 021 684 293  
Dan Keiserman P 021 684 294  
Craig Downer P 021 684 295  
Michael Kirk, DVM P 021 684 296  
Ms. Debrorah Allard P 021 684 297  
Ms. Kathy McCovey P 021 684 227  
Ms. Nan Sherwood P 021 684 228  
Ms. Rebecca Kunow P 021 684 229  
Paula S. Askew P 021 684 230  
U.S. Wild Horse & Burro Foundation P 680 472 160  
Natural Resources Defense Council P 680 472 161  
Sierra Club - Toiyabe Chapter P 680 472 162  
Nevada Department of Wildlife P 680 472 163  
Clearinghouse for the State of Nevada P 680 472 164  
The Nature Conservancy P 680 472 165  
Nevada Cattlemen's Association P 680 472 166  
Resource Concepts, Inc. P 680 472 167  
The Wildlife Society - Nevada Chapter P 680 472 168  
Nevada Land Action Association P 680 472 169  
Commission for the Preservation of Wild Horses P 680 472 170  
Wild Horse Organized Assistance P 680 472 171  
Animal Protection Institute P 680 472 172  
Internat. Soc. for the Preserv. of Mustangs & Burros P 680 472 173

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U.S. Fish & Wildlife Service P 680 472 174  
The Wilderness Society P 680 472 175  
Nevada Wilderness Association P 680 472 176  
American Wilderness Alliance P 680 472 177  
Nevada Wildlife Federation/ Fred Wright P 680 472 178  
N-3 Grazing Board P 680 472 180  
Carson City District Grazing Advisory Board P 680 472 181  
Soil Conservation Service - Reno Office P 680 472 179  
Nevada Woolgrowers' Association P 680 472 182  
Honorable James H. Bilbray P 680 472 183  
Honorable Barbara Vucanovich P 680 472 184  
Honorable Richard Bryan P 680 472 185  
Honorable Harry M. Reid P 680 472 186  
Elsie Dupree P 680 472 187  
Nye County Board of Commissioners P 680 472 188  
Bobbi Royle P 680 472 189  
N.O.R.A. P 019 012 783  
Sierra Club - Toiyabe Chapter P 019 012 784  
The Wilderness Society - D.C. P 019 012 785  
National Wildlife Federation P 019 012 787  
Homestake Mining Co. P 019 012 789  
Joe Mc Gloin P 019 012 791  
Paul Clifford P 019 012 794  
Jan Nachlinger P 019 012  
Rose Strickland P 019 012  
EHNI Enterprises P 019 012 786  
Churchill County Board of Commissioners P 019 012 788  
Ann Kersten P 019 012 790  
Marge Sill P 019 012 792  
The Sierra Club - D.C P 019 012 793

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APPENDIX I.

I. Activity Plan Objectives

A. Range

- a. Improve ecological condition in the Clan Alpine pasture in twenty years by one class: early seral to mid seral 1,337 ac; mid seral to late seral 20,815 ac; late seral to PNC 4,226 ac.
- b. Maintain existing ecological condition and trend in the Bell Flat pasture.
- c. Maintain utilization not to exceed the moderate range (41-60%) on identified key species on upland key areas.
- d. Initially allow 12,600 AUMs (9,200 AUMs in the Clan Alpine pasture, 3400 in the Bell Flat pasture).
- e. Supply water by hauling to required locations.

B. Wildlife

- a. Manage identified mule deer habitat to maintain a fair rating or better to support 120 deer 5/1 to 10/31 and 200 deer yearlong in the Clan Alpine mountain range, and 16 deer 5/1 to 10/31 and 22 deer yearlong in the Desatoya Range, 870 AUMs reasonable numbers.
- b. Improve identified key deer summer range in the Clan Alpine range from fair to good.
- c. Manage identified bighorn sheep habitat to maintain a good condition to help support 300 sheep yearlong, 360 AUMs in the Clan Alpine HMP area, 360 AUMs in the Desatoya HMP area, reasonable numbers.
- d. Limit utilization to the moderate range (41-60%) in habitat areas for both species in both ranges.
- e. Limit utilization on meadows in identified sage grouse habitat to leave a minimum of 4" of growth by 9/15 yearly.

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C. Wild horses

- a. Maintain or improve wild horse habitat consistent with wildlife and livestock objectives.
- b. Maintain or improve free-roaming behavior of wild horses by protecting or enhancing wild horse home ranges.
- c. Maintain or improve wild horse habitat by assuring that all waters remain open to use by wild horses.
- d. Clan Alpine HMA: Initially provide approximately 8,508 AUMs of forage for approximately 709 head of horses. Maintain adjudicated forage of 1819 AUMs for 151 horses. Approximately 50% of the allotment is in the HMA.
- e. Desatoya HMA: Initially provide approximately 636 AUMs for approximately 53 head. Approximately 3% of the allotment is in the HMA.
- f. New Pass HMA: Initially provide approximately 2,100 AUMs for approximately 175 head. The HMA comprises approximately 7% of the allotment.
- g. Eliminate horse populations outside the HMAs.
- h. Reduce horse populations inside the HMAs to reduce total utilization levels to the moderate range (41-60%).

D. Riparian

- a. Manage riparian areas to achieve and maintain late seral ecological condition.
- b. Limit utilization to the moderate range (41-60%) on current year's growth in riparian areas. Riparian area key species not to exceed 30%.
- c. Maintain or improve willow, chokecherry, and aspen stands so at least 20% of all stems are young and over five feet tall (six feet for aspen).
- d. Reduce streambank damage on identified portions of Cherry Creek which maintain a fishery to less than 20% (based on Nevada State Office Manual Supplement 6-38, 1/25/78).

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- e. Develop and protect spring sources to provide adequate protection from trampling and to provide adequate water storage for livestock and wild horses.

## II. Key Area Objectives

The following are a refinement of the Activity Plan Objectives specific to each key area, based on current condition and site potential.

### A. Clan Alpine spring and summer pastures

1. Key Area #1: Located in range site 27-37, which has a low potential (300 lbs/ac in normal years) and will not respond quickly to changes in management. Therefore it is a poor representation of changes occurring in the allotment. It is recommended to drop this key area.
2. Key Area #2:  
Represents 2,430 acres; Range site 27-07; Key species is Indian ricegrass.  
Hold utilization to moderate (41-60%) on the key species.  
Within twenty years, move 2,160 acres from mid to late-seral ecological condition; maintain 270 acres at late-seral ecological condition.
3. Key area #3:  
Represents 2,480 acres; Range site 27-07; Key species is Thurber's needlegrass.  
Maintain utilization at moderate (41-60%).  
Within twenty years, move 2,070 acres from mid to late-seral ecological condition; maintain 410 acres at mid-seral ecological condition.
4. Key area #4:  
Represents 1,990 acres; Range site 27-08; Key species is Indian ricegrass, however Sandberg's bluegrass will be used for monitoring due to the low frequency of Indian ricegrass.  
Limit utilization to 40% on bluegrass.  
Maintain ecological condition at mid-seral.
5. Key area #5:  
Represents 7,180 acres; Range site is 24-21; Key species is Idaho fescue.  
Within five years, move 5,418 acres from late-seral ecological condition to Potential Native Community

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(PNC); move 1,762 acres from mid to late-seral ecological condition.

B. Bell Flat winter pasture

1. Key area #1:

Represents 10,647 acres; Range sites are 27-08 and 27-14; Key species are winterfat, bottlebrush squirreltail, and Indian ricegrass.

Maintain utilization at moderate (41-60%).

Within twenty years, move 1,917 acres from early to mid-seral; move 3,176 acres from mid to late-seral; maintain 3,908 acres at late-seral; maintain 1,646 acres at mid-seral ecological condition.

2. Key area #2:

Represents 3,444 acres; Range site is 27-08; Key species are winterfat and Indian ricegrass, however, Sandberg's bluegrass will be used to monitor utilization due to the low frequency of Indian ricegrass. Range site 27-08 is predominantly a big sagebrush type with Indian ricegrass as the major grass species. Winterfat should only make up 2-5% of the community, however, data from the frequency transect indicates this is a major shrub component. Visits to the area indicate that the transect was located in an inclusion not typical of the surrounding vegetation. Key area #1 adequately represents winterfat objectives on this allotment. This key area should be reevaluated, and if necessary the transect should be relocated in a site more representative of a 27-08 community. Limit utilization to 40% on bluegrass.

Within twenty years, move 3,444 acres from mid to late-seral ecological condition.

C. Riparian key areas

1. Cherry Valley #1: Key species is tufted hair-grass (Deschampsia caespitosa). Limit utilization to 4-6" stubble height by 9/15.

2. Cherry Valley #3: Key species is bluegrass. Limit utilization to 4-6" stubble height by 9/15.

3. Cold Springs Riparian Area: Key species are chokecherry (Prunus virginiana), and wild rose (Rosa sp.). Monitoring purpose is to document progress toward meeting the RPS objective of having at least 20% of stems young and over five feet tall.

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4. Cherry Creek Stream Habitat Survey: monitors streambank damage, measures stream vegetation, and changes in habitat condition. The transect was established in the upper end of Cherry Creek in 1991. Methodology follows that in the 6670 Manual.
5. Cold water fishery key area: key species include rose, sedge (Carex sp.), and willow (Salix sp.). The objective will be to limit utilization to 30%. Monitoring will be conducted in the lower public land reaches of Cherry Creek.

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