

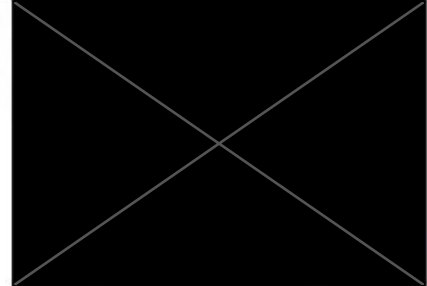
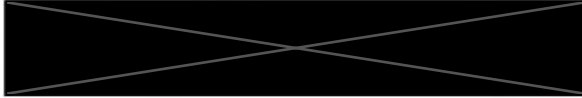


## United States Department of the Interior



BUREAU OF LAND MANAGEMENT  
Bristlecone Field Office  
702 North Industrial Way  
Ely, Nevada 89301  
<https://www.blm.gov/nevada>

11/23/2021



NEED MORE SHEEP CO.  
ATTN: VOGLER, HANK  
HC 33 BOX 33920  
ELY, NV 89301

### **NOTICE OF FINAL DECISION, DEMAND FOR PAYMENT, SUSPENSION OF GRAZING PERMIT FOR TIPPETT PASS ALLOTMENT**

Dear Mr. Vogler:

You are receiving this Final Decision because you have not followed the terms and conditions of your grazing permit for the Tippett Pass Allotment. You have been found to be in repeated willful trespass on the Glenco Pasture of the Tippett Pass Allotment because you are not authorized to graze in the Glenco Pasture, but the BLM observed and documented that your sheep were grazing on multiple occasions in the Glenco Pasture between February 4, 2021 and June 4, 2021. As set forth in detail below, the BLM sent you two Proposed Decisions regarding your trespass. You filed timely protests of both, and the BLM has thoroughly considered all your protest points. As a result of your repeated willful trespass, you have paid fees totaling \$28,155.36 and your grazing permit in the Tippett Pass Allotment is suspended for a period of one year from the date that this Final Decision is effective.

#### **BACKGROUND**

On February 4, 2021, BLM Range Management Specialists went out to the Tippett Pass Allotment, Glenco Pasture, because the BLM received information that your sheep were grazing in the pasture. The BLM Range Management Specialists confirmed that your sheep were grazing in the Glenco Pasture without any BLM authorization. The BLM counted 600 sheep at that time, as confirmed by a Certificate of Livestock Count.

On February 5, 2021, I contacted you by phone about your unauthorized sheep in the Glenco Pasture of the Tippett Pass Allotment. You informed me that you would not be removing your sheep.

On February 10, 2021, BLM Range Management Specialists again observed and counted your sheep in the Glenco Pasture of the Tippett Pass Allotment. The count at that time was 2,290 sheep, as confirmed by the Certificate of Livestock Count.

**INTERIOR REGION 10 • CALIFORNIA-GREAT BASIN**

CALIFORNIA\*, NEVADA\*, OREGON\*  
\* PARTIAL

On February 17, 2021, BLM Range Management Specialists again observed and counted your sheep in the Glenco Pasture of the Tippett Pass Allotment. The count at that time was 2,290 sheep, as confirmed by the Certificate of Livestock Count.

On February 24, 2021, BLM Range Management Specialists again observed and counted your sheep in the Glenco Pasture of the Tippett Pass Allotment. The count at that time was 2,290 sheep, as confirmed by the Certificate of Livestock Count.

On March 2, 2021, BLM mailed you Trespass Notice (NV-060-21-11-01) via certified mail (7019070010351801). According to USPS records, you received that notice on March 5, 2021.

On March 5, 2021, BLM Range Management Specialists again observed and counted your sheep in the Glenco Pasture of the Tippett Pass Allotment. The count at that time was 2,290 sheep, as confirmed by the Certificate of Livestock Count.

On March 8, 2021, you called me regarding Trespass Notice (NV-060-21-11-01). On that call, you did not offer to remove your livestock, nor did you offer to settle the trespass because you stated that you believe that you are authorized to graze sheep in all pastures of Tippett Pass Allotment rather than just the Spring Valley and the Dry Pastures as identified in your grazing permit. You claimed that you purchased the sheep AUMs for the Glenco Pasture in 2002, however the 2001 FMUD specifically changed the kind of animal to cattle within the Glenco pasture.

On March 11, 2021, BLM Range Management Specialists conducted another livestock count in the Glenco Pasture of the Tippett Pass Allotment because five days had passed from when you received the Trespass Notice. The count at that time was 2,290 sheep, as confirmed by the Certificate of Livestock Count.

On March 18, 2021, BLM Range Management Specialists observed your sheep in the Glenco Pasture of the Tippett Pass Allotment but did not conduct a livestock count.

On March 22, 2021, BLM Range Management Specialists again observed and counted your sheep in the Glenco Pasture of the Tippett Pass Allotment. The count at that time was 2,290 sheep, as confirmed by the Certificate of Livestock Count.

On March 26, 2021, BLM Range Management Specialists again observed and counted your sheep in the Glenco Pasture of the Tippett Pass Allotment. The count at that time was 2,290 sheep, as confirmed by the Certificate of Livestock Count.

On April 1, 2021, BLM Range Management Specialists again observed and counted your sheep in the Glenco Pasture of the Tippett Pass Allotment. The count at that time was 2,290 sheep, as confirmed by the Certificate of Livestock Count.

On April 6, 2021, BLM Range Management Specialists visited the Glenco Pasture of the Tippett Pass Allotment, but no sheep were present.

On April 13, 2021, you contacted me to schedule a settlement meeting.

On April 28, 2021, you and representatives from the N-4 Grazing Board met with BLM staff including me and Arthur Flint, Rangeland Management Specialist. In that meeting, you acknowledged that your permit does not identify that you are authorized to graze in the Glenco Pasture, but you argued that you should be authorized rather than the current permittee because you believe you purchased all the sheep AUMs for the Tippet Pass Allotment. At that time, you explained that you did not want to settle your alleged trespass. You did not dispute that your sheep were grazing in the Glenco Pasture or the accuracy of the BLM's livestock count.

On May 11, 2021, the BLM issued its first Proposed Decision, which found that your unauthorized grazing was a willful trespass since you were aware that you were not authorized to graze your sheep in the Glenco Pasture. That first Proposed Decision also demanded payment in the amount of \$19,711.60 for the willful trespass, including administrative costs.

On May 13, 2021 you received the first Proposed Decision for demand of payment. On that same day, BLM Range Management Specialists went out to the Tippet Pass Allotment, Glenco Pasture. The BLM Range Management Specialists observed that your sheep were again grazing in the Glenco Pasture without any BLM authorization. The BLM counted 2,200 sheep at that time, as confirmed by a Certificate of Livestock Count.

On May 19, 2021, BLM Range Management Specialists again observed and counted your sheep in the Glenco Pasture of the Tippet Pass Allotment. The count at that time was 900 sheep, as confirmed by the Certificate of Livestock Count.

On May 25, 2021, BLM Range Management Specialists again observed and counted your sheep in the Glenco Pasture of the Tippet Pass Allotment. The count at that time was 1,425 sheep, as confirmed by the Certificate of Livestock Count.

On May 26, 2021 BLM received your protest of the first Proposed Decision for demand of payment.

On June 4, 2021, BLM Range Management Specialists again observed and counted your sheep in the Glenco Pasture of the Tippet Pass Allotment. The count at that time was 800 sheep, as confirmed by the Certificate of Livestock Count.

On August 12, 2021, BLM mailed you Trespass Notice (NV-060-21-11-03) via certified mail (70190700000110290414). According to USPS records, you received that notice on August 16, 2021.

On October 23, 2021, you received the second Proposed Decision, which found that your second instance of unauthorized grazing was a repeated willful trespass, since you had previously trespassed and were aware that you were not authorized to graze your sheep in the Glenco Pasture. That second Proposed Decision also demanded payment of additional in the amount of \$8,443.76 for the repeated willful trespass, including administrative costs. It also set forth a penalty for the repeated willful trespass of suspension of your grazing authorization in the Tippet Pass Allotment for one year.

On November 2, 2021 BLM received your protest of the second Proposed Decision. On that date, you also submitted payment of \$28,155.36, which was the total of the fees demanded by both the first and second Proposed Decisions.

On November 19, 2021, a protest resolution meeting was held on the Tippet Pass Allotment that included yourself, your attorney, John Marvel, me and Robbie McAboy, District Manager. You lead a tour of the Tippet Pass Allotment with a stop in the Spring Valley Pasture on the west side of the allotment, where you outlined your concerns about Southern Nevada Water Authority's water rights filings on several springs. The next stop was in the Dry Pasture, where you expressed your concern about Southern Nevada Water Authority's cattle grazing that is occurring within the Dry Pasture. The final stop was in the Glenco Pasture, where you had again set up a sheep camp and you showed us your sheep band actively grazing without authorization. There, you discussed your concerns about Southern Nevada Water Authority shutting off the well and the Glenco pipeline. You asserted that you didn't feel like the BLM was appropriately dealing with Southern Nevada Water Authority and you argued that you owned all of the sheep AUMs in the Tippet Pass Allotment that you purchased from Vidler Water in 2004. At no time did you provide any offer to settle your protest, nor did you dispute the BLM's livestock count or that your sheep were grazing in the Glenco Pasture.

Summary of 2021 First Trespass			
Number of Sheep	Dates	% public land	AUMs
600	2/4 to 2/9	100	24
2290	2/10 to 2/28	100	286
2290	3/1 to 4/1	100	482
			Total 792 AUMs

Summary of 2021 Second Trespass			
Number of Sheep	Dates	% public land	AUMs
2200	5/13 to 5/18	100	87
900	5/19 to 5/24	100	36
1425	5/25 to 6/3	100	94
800	6/4 to 6/4	100	5
			Total 222 AUMs

As stated in the Trespass Notices, you have been found to be in violation of the following laws:

- Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. §§ 315 *et seq.*)
- Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. §§ 1733 and 1752)

And that you are in violation of the federal regulation:

43 C.F.R. § 4140.1: The following acts are prohibited on public lands and other lands administered by the Bureau of Land Management:

- (b) Persons performing the following prohibited acts on BLM-administered lands are subject to civil and criminal penalties set forth at §§ 4170.1 and 4170.2:

(1) Allowing livestock or other privately owned or controlled animals to graze or be driven across these lands:

(ii) In violation of the terms and conditions of a permit, lease, or other grazing use authorization including, but not limited to, livestock in excess of the number authorized;

(iii) In an area or at a time different from that authorized.

## PROTESTS

Following are the points that you raised in your protests:

Vogler Point 1: You claim that you have historic use in the Glenco Pasture under the existing permit and through acquisition of the Vidler Water/H Sheep Company. (5/24/2021 (first) protest at page 4; 11/2/2021 (second) protest at page 1).

BLM Response: The Final Multiple Use Decision dated November 15, 2001 for the Tippet Pass Allotment only authorized sheep to graze in the Dry and Spring Valley Pastures. You applied to transfer the grazing privileges for the Tippet Pass Allotment from CL Cattle Company on June 28, 2004 and at that time, you acknowledged and accepted that your permit would only allow you to graze on the Dry and Spring Valley Pastures of the Tippet Pass Allotment. The BLM's approval of that transfer, dated November 3, 2004, reiterates those terms and conditions. The BLM issued you a permit in 2004 that included those same terms and conditions. Your existing permit, issued in 2014, repeats those terms and conditions and does not authorize you to graze your sheep in the Glenco Pasture of the Tippet Pass Allotment. The specific grazing schedule is identified under the terms and conditions of your current permit for Dry Pasture and Spring Valley Pasture only.

Vogler Point 2: You argue that Spring Valley and Red Hills are actually within the Glenco Pasture (second protest at page 2).

BLM Response: The Spring Valley Watershed is within the very southern portion of the Glenco pasture. This should not be confused with the Spring Valley Pasture which is on the west side of the Tippet Pass Allotment, over which you have exclusive grazing use. Portions of the Red Hills are geographically within the Glenco Pasture of the Tippet Pass Allotment, but even if you were authorized to use the geographic portions of the Red Hills and Spring Valley areas of Glenco Pasture, your sheep were not observed grazing there but were instead observed within the Antelope Valley portion of the Glenco Pasture. Regardless, your permit clearly states that you are only authorized to graze in the Spring Valley Pasture and the Dry Pasture, and not the Glenco Pasture.

Vogler Point 3: You claim that you protested the 2014 grazing permit for the Tippet Pass Allotment (second protest at page 3) and hand wrote new terms in the margin of the permit (first protest at page 1-2).

BLM Response: The BLM's records show that you did not file a protest or appeal of the 2014 grazing permit. Your handwritten notes on the permit say, "Historical use is in Glenco Unit for sheep. Refer to HMA monitor 2001-2004 Red Hills Spring Valley." Your notes do not change

the terms and conditions of the permit, as authorized by the BLM. The permit clearly states that Mr. Vogler/Need More Sheep Company is authorized to graze only in the Dry (Middle) Pasture and the Spring Valley (West) Pasture of the Tippet Pass Allotment.

Vogler Point 4: You claimed that the BLM should have performed a three-year evaluation in 2001 and changed the livestock use/increased permitted use (first protest at page 2; second protest at page 2).

BLM Response: The 2001 "Agreement for changes in livestock grazing management and establishment of wild horse appropriate management level for the Tippet Pass Allotment" (2001 Agreement) sets forth the agreed-upon changes in livestock use. It authorizes 315 cattle to graze in the East (Glenco) Pasture from 11/1 to 5/31 for a permitted use of 2,196 AUMs with 3,080 AUMs in voluntary nonuse. The 2001 Agreement continues:

Permitted use of 3,080 AUMs will be placed in voluntary nonuse for conservation purposes. This applies to the East [Glenco] Pasture. Permitted use of 2,196 AUMs will be made for three consecutive years to establish a stable grazing operation. In addition, 137 AUMs of cattle use and 137 AUMs of sheep use will be placed in nonuse in the Middle [Dry] Pasture. 909 AUMs sheep use will be placed in nonuse in the West [Spring Valley] Pasture. Following the three year period, an evaluation will be completed to determine if management practices will allow permitted use to increase to 5,276 AUMs.

BLM Response: The 2001 Agreement was signed by Don Pattalock for Vidler Water Company. The BLM did not subsequently issue any decision to increase the permitted use in the Tippet Pass Allotment or change the kind of livestock in any of the pastures that is different than presently permitted.

Vogler Point 5: You argued that Southern Nevada Water Authority should not be able to hold a grazing permit (first protest at page 3; second protest at page 2).

BLM Response: SNWA's status as a permittee is not material to this issue. Mr. Vogler/Need More Sheep Company does not have a permit for and is not authorized to graze in the Glenco Pasture of the Tippet Pass Allotment.

Vogler Point 6: You claim that the 2001 Agreement provides that flexibility would be authorized annually, and temporary nonrenewable grazing might be issued on an annual basis when additional forage was available (first protest at page 3).

BLM Response: The 2001 Agreement does provide that the BLM might authorize additional use or temporary nonrenewable grazing, but the agency did not issue any such decision within the time period of the trespass.

BLM also received a protest from Western Watersheds Project (WWP) on November 16, 2021. While that protest was only sent by email and was not filed in accordance with the applicable regulations, the BLM has nevertheless considered it in making this decision.

WWP Point 1: WWP requests to be sent a copy of the Final Decision.

BLM Response: BLM will serve a copy of the Final Decision on WWP.

WWP Point 2: WWP asks the BLM to cancel Mr. Vogler's grazing privileges on the Tippet Pass Allotment and other BLM grazing allotments, rather than only suspend his grazing authorization as set forth in the second Proposed Decision.

BLM Response: The BLM has fully considered Mr. Vogler's history as a grazing permittee. BLM's records reflect that this is Mr. Vogler's first instance of repeated willful trespass on the Tippet Pass Allotment or any other grazing allotment managed by the BLM. While the record does not currently support cancellation of his permit as a penalty, additional instances of trespass may indicate that cancellation is appropriate.

### FINAL DECISION

I have carefully reviewed and considered the record in this case, including the protest that you filed. I find that you have allowed livestock to graze on public lands of the Glenco Pasture of the Tippet Pass Allotment without authorization and in a manner that is inconsistent with your grazing permit and furthermore, that the unauthorized grazing constitutes a repeated willful trespass. Based on these facts and in accordance with 43 C.F.R. §§ 4150.3(e) and 4170.1-4(b), I have collected payment of fees due the United States for the repeated willful grazing of livestock owned or controlled by you on public lands without authorization in the amount of \$28,155.36 (as detailed below). Furthermore, based on this determination of repeated willful trespass and consistent with 43 C.F.R. § 4170.1-1(b) requiring that I take action to address the repeated willful trespass, my decision is to suspend your grazing permit on the Tippet Pass Allotment for one year.

The breakdown of fees for the above referenced trespass, which you have already paid, is as follows:

***Willful trespass charges from 2/4/21 to 4/1/21:***

Trespass Fees	792 AUMs at willful rate of \$20.00/AUM	\$15,840.00
Service Charge		\$10.00
Administrative Fees*	140 miles round trip for 14 vehicles @ .31/mile -.68/ mile 88 hours @ 25.60/hr-35.11/hr	\$1,175.30 \$2,686.30
<b>Total Monetary Charges due the U.S. Government as of 4/06/2021</b>		<b>\$19,711.60</b>
*Employee wages and vehicle mileage, prorated among those trespassed on those days.		

***Repeated willful trespass charges from 5/13/21 to 6/4/21:***

Trespass Fees	222 AUMs at repeated willful rate of \$30.00/AUM	\$6,660.00
Service Charge		\$10.00
Administrative Fees*	140 miles round trip for 4 vehicles @ .68/ mile 48 hours @ 25.60/hr-32.01/hr	\$380.80 \$1,392.96

<b>Total Monetary Charges due the U.S. Government as of 10/05/2021</b>	<b>\$8,443.76</b>
*Employee wages and vehicle mileage, prorated among those trespassed on those days.	

**Total amount paid to BLM on 11/2/2021: \$28,155.36**

### RATIONALE

In your 10-year term grazing permit issued by the BLM for the period of November 20, 2014 to November 19, 2024, it clearly states under "Other Terms and Conditions" that your sheep can graze only in the Dry Pasture and the Spring Valley Pasture of the Tippet Pass Allotment. That permit was issued in accordance with Final Multiple Use Decision (FMUD) dated November 16, 2001 for the Becky Springs and Tippet Pass Allotments. The FMUD incorporated the October 11, 2001 "Agreement for Changes in Livestock Grazing Management and Establishment of Wild Horse Appropriate Management Level for the Tippet Pass Allotment," which clearly outlined that no sheep were permitted to graze in the Glenco Pasture (also known as the East Pasture) and that, instead, cattle historically grazed in that pasture. The 2001 Agreement also states that the Middle Pasture (also known as the Dry Pasture) and the West Pasture (also known as the Spring Valley Pasture) are the only pastures that the BLM has authorized for sheep grazing. As more fully explained in the Background section above, your sheep were found in the Glenco Pasture of the Tippet Pass Allotment on multiple occasions February 4, 2021 and June 4, 2021. You did not cease or address the ongoing trespass, despite several attempts by the BLM to inform you to do so. As a result of your trespass, you used 1,014 AUMs from the Glenco Pasture and your total authorized active AUMs for the Tippet Pass Allotment is 1,268 AUMs (451 AUMs in the Dry Pasture and 817 AUMs in the Spring Valley Pasture). The permittee who is authorized to graze in the Glenco Pasture chose to take non use due to the ongoing drought and limited forage within the pasture.

Your history of trespass in the Glenco Pasture, including your additional trespass after receipt of my first Proposed Decision, demonstrates that your trespass grazing is properly characterized as repeated willful. BLM regulations at 43 C.F.R. §§ 4140.1(b) and 4170.1-1(b) require that I suspend or cancel your grazing use in whole or in part for repeated willful trespass. Your previous communications and the record before me suggest that you do not intend to work with BLM to graze livestock on the Tippet Pass Allotment consistent with terms and conditions of your grazing permit to meet Resource Advisory Council standards and guidelines and to improve on-the-ground resources conditions as required by law and regulations. Furthermore, even if this trespass was not a repeated willful trespass and I was operating instead under BLM's regulations at 43 C.F.R. § 4170.1-1(a), these same factors would warrant application of my discretionary authority to suspend your grazing permit in whole or in part for violation of 43 C.F.R. § 4140.1(b). As outlined above, the record shows that the BLM has made considerable efforts to bring you into compliance with the terms and conditions of your grazing permit, but the agency has been unsuccessful. Given all these factors, I have determined that a one year suspension of your grazing permit for the Tippet Pass Allotment in whole under 43 C.F.R. §§ 4140.1(b) and 4170.1-1(b) is warranted. The suspension will begin when this Final Decision becomes effective.



## AUTHORITY

The authority for this decision is contained in 43 C.F.R. Subpart 4140 – Prohibited Acts, Subpart 4150 – Unauthorized Grazing Use, and 4170 – Civil Penalties, which state in pertinent parts:

§ 4140.1(b) Persons performing the following prohibited acts on BLM-administered lands are subject to civil and criminal penalties set forth at §§ 4170.1 and 4170.2:

Allowing livestock or privately owned or controlled animals to graze on or be driven across these lands:

- (ii) In violation of the terms and conditions of a permit, lease, or other grazing use authorization including, but not limited to, livestock in excess of the number authorized;
- (iii) In an area or at a time different from that authorized.

§ 4150.1 Violation of § 4140.1(b)(1) constitutes unauthorized grazing use.

(a) The authorized officer shall determine whether a violation is nonwillful, willful, or repeated willful.

(b) Violators shall be liable in damages to the United States for the forage consumed by their livestock, for injury to Federal property caused by their unauthorized grazing use, and for expenses incurred in impoundment and disposal of their livestock, and may be subject to civil penalties or criminal sanction for such unlawful acts.

§ 4150.2 (a) Whenever it appears that a violation exists and the owner of the unauthorized livestock is known, written notice of unauthorized use and order to remove livestock by a specified date shall be served upon the alleged violator or the agent of record, or both, by certified mail or personal delivery. The written notice shall also allow a specified time from receipt of notice for the alleged violator to show that there has been no violation or to make settlement under § 4150.3.

§ 4150.3 Settlement. Where violations are repeated willful, the authorized officer shall take action under § 4170.1–1(b) of this title. The amount due for settlement shall include the value of forage consumed as determined in accordance with paragraph (a), (b), or (c) of this section. Settlement for willful and repeated willful violations shall also include the full value for all damages to the public lands and other property of the United States; and all reasonable expenses incurred by the United States in detecting, investigating, resolving violations, and livestock impoundment costs.

(a) For nonwillful violations: The value of forage consumed as determined by the average monthly rate per AUM for pasturing livestock on privately owned land (excluding irrigated land) in each State as published annually by the Department of Agriculture.

(b) For willful violations: Twice the value of forage consumed as determined in paragraph (a) of this section.

(c) For repeated willful violations: Three times the value of the forage consumed as determined in paragraph (a) of this section.

(d) Payment made under this section does not relieve the alleged violator of any criminal liability under Federal or State law.

(e) Violators shall not be authorized to make grazing use on the public lands administered by the Bureau of Land Management until any amount found to be due the United States under this section has been paid. The authorized officer may take action under § 4160–1 of this title to

cancel or suspend grazing authorizations or to deny approval of applications for grazing use until such amounts have been paid. The proposed decision shall include a demand for payment.

§ 4170.1-1 Penalty for violations.

(a) The authorized officer may withhold issuance of a grazing permit or lease, or suspend the grazing use authorized under a grazing permit or lease, in whole or in part, or cancel a grazing permit or lease and grazing preference, or a free use grazing permit or other grazing authorization, in whole or in part, under subpart 4160 of this title, for violation by a permittee or lessee of any of the provisions of this part.

(b) The authorized officer shall suspend the grazing use authorized under a grazing permit, in whole or in part, or shall cancel a grazing permit or lease and grazing preference, in whole or in part, under subpart 4160 of this title for repeated willful violation by a permittee or lessee of § 4140.1(b)(1) of this title.

## RIGHT OF APPEAL

### Appeal

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

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

The appeal and any petition for stay must be filed at the office of the authorized officer Jared Bybee, Field Manager Bristlecone Field Office, 702 N Industrial Way, Ely, Nevada 89301. Within 15 days of filing the appeal and any petition for stay, the appellant also must serve a copy of the appeal and any petition for stay on any person named in the decision and listed at the end of the decision, and on the Office of the Solicitor, Regional Solicitor, Pacific Southwest Region, U.S. Department of the Interior, 2800 Cottage Way, Room E-1712, Sacramento, California 95825-1890.

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

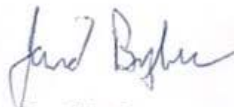
- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted; and,
- (4) Whether the public interest favors granting the stay.

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

Any person named in the decision from which an appeal is taken (other than the appellant) who wishes to file a response to the petition for a stay may file with the Hearings Division in Salt Lake City, Utah, a motion to intervene in the appeal, together with the response, within 10 days after receiving the petition. Within 15 days after filing the motion to intervene and response, the person must serve copies on the appellant, the Office of the Solicitor and any other person named in the decision (43 C.F.R. § 4.472(b)).

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

Sincerely,



Jared Bybee  
Field Manager  
Bristlecone Field Office

