

United States
Department of
Agriculture

Forest
Service

Humboldt-Toiyabe National
1200 Franklin Way
Sparks, NV

File Code: 1570
Date: October 21, 1996

RO Livestock
Stephen C. Wilmans, III
HCR 60, Box 62202
Round Mountain, NV 89045

CERTIFIED MAIL - RECEIPT
NO. P 689-827-719

RE: RO Livestock Appeal #96-04-17-003

Dear Mr. Wilmans:

Following is my decision concerning Your appeal of the August 7, 1996, decision by District Rangers Michael Valdes and Rene Crompton to suspend 25% of the term grazing privilege on the Cloverdale (winter) C&H Allotment for one year. This appeal was filed under 36 CFR 251, Subpart C. I make this decision BASED upon applicable laws, regulations, policies, and after reviewing the entire appeal record including the following documents:

- M.A. Valdes certified letter to Steve Wilmans dated July 22, 1996;
- RO Livestock certified letter to Michael A. Valdes dated July 31, 1996;
- Michael A. Valdes and Rene Crompton certified letter to Steve Wilmans dated August 7, 1996;
- RO Livestock certified letter to Steve Wilmans dated August 7, 1996;
- RO Livestock certified return receipt letter to R.M. "Jim" Nelson dated August 21, 1996;
- M.A. Valdes responsive statement concerning appeal dated September 20, 1996;
- RO Livestock certified letter to Deciding Officer dated September 30, 1996.

My decision is to affirm District Rangers Valdes and Crompton in your appeal. A more detailed response to the appeal points follows.

In my September 4, 1996, letter I stated that you had the opportunity to utilize a mediation process for resolving grazing disputes. Since you did not utilize this option I am proceeding with this appeal response.

BACKGROUND: In 1989 a Term Grazing Permit was issued to Store Safe Redlands Associates LTD; d.b.a. RO Livestock. The permit authorized cattle grazing on seven summer allotments and five winter allotments of the Tonopah and Austin Ranger Districts. From 1992 to 1994 RO Livestock requested 100%- non-use on the Tonopah Ranger District summer allotments. On December 1, 1995, personal non-use exceeded three years and the permit for

three allotments was canceled. one of the canceled allotments was the Cloverdale/Reese River C&H Allotment, which is adjacent to this Cloverdale (winter) C&H Allotment.

Lack of livestock accountability on the Cloverdale/Reese River C&H Allotment This 1. concern has been articulated in a series has been a concern since 1990. of telephone conversations and letters. Lack of livestock control has been a recurring and continuing problem for RO Livestock.

APPEAL POINT: Ranger Valdes suspended RO Livestock's permit without reading the contents of the reply submitted by RO Livestock.

RESPONSE: Although the contents of the reply submitted RO Livestock were not incorporated into the decision to suspend grazing privileges by 25% for one year, there was no information as part of this reply that would have changed the decision.

DECISION: I affirm Ranger Valdes on this appeal point.

APPEAL POINT: There have been extraordinary efforts to find and gather the drift cattle on the Cloverdale/Reese River C&H Allotment.

RESPONSE: Since 1990 there is a record of recurring (except for 1991) problems related to lack of livestock control and accountability. This record includes an Agreement For Disposition of The 1990 Proposed Administrative Actions On The Cloverdale/Reese River and Twin Rivers C&H Allotments.

DECISION: I affirm Ranger Valdes on this appeal point.

Through this letter I am asking that you and Rangers Valdes and Crompton work together to develop a method for assuring that the appropriate number of cattle graze on the Cloverdale (winter) Allotment. We both recognize that much of the area is not fenced and requires frequent riding to maintain appropriate grazing levels. Please understand that we want your grazing privilege to succeed and to continue. To this end we are willing to work with you to make it happen.

This decision is subject to administrative review, under 36 CFR 251, Subpart C. A notice of appeal of this decision must be filed with the Regional Forester, Dale N. Bosworth, USDA Forest Service, 324 25th Street, Ogden, Utah 84401, within 15 days of this decision. A copy must be sent simultaneously to R.M. "Jim" Nelson, Forest Supervisor, Humboldt-Toiyabe National Forests, 1200 Franklin Way, Sparks, Nevada 89431.

Sincerely,

/s/ Alan Pinkerton

ALAN PINKERTON
AFS Reviewing officer

