



# United States Department of the Interior



## BUREAU OF LAND MANAGEMENT

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[http://www.blm.gov/nv/st/en/fo/ely\\_field\\_office.html](http://www.blm.gov/nv/st/en/fo/ely_field_office.html)

In Reply Refer to:  
4160 (NVL0300)

DEC 02 2014

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### **Notice of Field Manager's Final Decision Effective Upon Issuance Crystal Springs Allotment (#21025)**

#### **Background Information**

This Final Decision addresses the authorization of three 30-day temporary water hauls on the Crystal Springs Allotment. Jerry Johnston (#2703530) and Janet Lind (#2703531) are the allotment's current permittees.

The water haul tanks will be placed in the following locations: one in the north-central portion of the allotment; one in the west-central portion of the allotment; and, one in the southwest portion of the allotment (Map #1). The water haul tanks will be placed in currently disturbed areas. No new ground disturbance will occur.

The Bureau of Land Management, Ely District, completed the Final Ely District Drought Management Environmental Assessment during July 2013 (DOI-BLM-NV-L000-2013-0002-EA). It addresses the potential environmental consequences associated with livestock management actions implemented during drought. This includes the use of temporary water hauls used in circumstances where: 1) adequate forage exists to support the existing permitted number of livestock, but existing water resources are insufficient or 2) to improve livestock distribution in areas located long distances from existing water sources, which have received limited use by livestock in previous years.

Furthermore, BLM Handbook H-1730-1 (Resource Management During Drought – BLM Nevada) lists actions available, in the face of drought, to mitigate impacts of public land uses and activities. Among the actions presented under *Range Management*, it lists, “Encouraging and authorizing water hauling to areas that have adequate forage.”

In addition, this decision is consistent with WO IM 2013-094 (Drought Management) which, in part, provides direction towards modifying grazing use through water hauling via a decision which may be put into immediate effect.

A Cultural Resources Inventory was completed on January 12, 2012, and determined that these specific water haul locations were exempt from further analysis under section 106 of the National Historic Preservation Act, because they are temporary in nature and are located within existing disturbance areas outside of known historic properties.

The Crystal Springs Allotment encompasses approximately 7,596 acres and currently has one permanent watering location (Map #1). Neither the allotment, nor any of its portions, are located within a Wild Horse Herd Management Area (HMA), Wilderness or Wilderness Study Area, or within designated habitat for any threatened or endangered species (including the federally threatened Agassiz’s desert tortoise (*Gopherus agassizii*)), or preliminary priority or general habitat for the Greater sage-grouse (*Centrocercus urophasianus*). The water hauls are scheduled for mid-winter use, and are outside of breeding bird seasons. Therefore, no impacts to migratory birds are anticipated. There are no riparian areas located within the allotment.

The Ely District weed inventory GIS database was reviewed for known noxious weed locations. The database indicates that there are no known noxious weeds either within or vicinal to the Crystal Springs Allotment.

### **Final Decision Effective Upon Issuance**

It is my decision to authorize the placement of three 30-day temporary water hauls on the Crystal Springs Allotment, in accordance with 43 CFR § 4110.3-2(b), § 4110.3-3(b), and § 4160.3(f). This decision remains in effect for the remainder of the 2014 grazing year (until 2/28/15).

Terms and conditions of the authorization are as follows:

1. You are authorized to place temporary troughs and haul water to Sites #1 and #2, as indicated on Map #1, beginning December 6, 2014. You must cease hauling water to both sites on January 5, 2014. Following the 30 day authorized use period, you have until January 10, 2014, to drain and remove the temporary troughs used at both sites. Both sites must be used simultaneously during the designated time period.
2. You are authorized to place temporary troughs and haul water to Site #3 beginning January 6, 2014. You must cease hauling water to this site on February 5, 2014. Following the 30 day authorized use period, you have until February 10, 2014, to drain and remove the temporary troughs used at this site

3. If the permittees elect to use all three watering sites, during the specified time periods in term and conditions #1 and #2 above, all livestock must be removed from the allotment by February 5, 2014.
4. Prior to the use of any of the 30-day temporary water haul sites, you must completely drain the trough at the well (existing permanent watering location). The existing permanent watering location must not be used at any time the temporary watering locations are in use.
5. If the permittees elect not to use any of the three designated temporary 30-day watering sites, all livestock must be removed from the allotment by December 20, 2014.
6. If the permittees elect to use sites #1 and #2 during the dates specified, but not site #3, all livestock must be removed from the allotment by January 10, 2014.
7. If the permittees elect to use site #3, but not sites #1 and #2, all livestock must be removed from the allotment by January 10, 2014.
8. All three designated watering sites are temporary. They cannot be used again without authorization from the Authorized Officer.
9. Wildlife escape ramps (bird ladders) will be installed in all watering troughs.
10. Salt will be placed at least 0.5 mile from any watering location.
11. Water hauling will be limited to existing roads. No new road construction, and no off-road travel, will be authorized. No roads or water trough locations will be bladed or improved in any way, with mechanical equipment, without the expressed consent of the authorized officer.

### **Rationale**

On October 23, 2014 and November 20, 2014, the permittees met with the BLM Range Management Specialist and Renewable Resource Manager on the Crystal Springs Allotment to review range conditions and to re-address the permittee's requests for temporary water hauling and to review BLM concerns regarding current drought-based forage conditions and livestock use patterns.

During the latter visit, professional field observations by BLM determined that livestock use on current year's growth of the key species, big galleta (*Pleuraphis rigida*), at the key area (KA-1) was approximately 35% to 40% (Figure 1). The Allowable Use Level for grasses, as noted in the terms and conditions of both grazing permits, is 45%.

According to the U.S. Drought Monitor (<http://droughtmonitor.unl.edu/>), Lincoln County, Nevada has been in drought conditions for the past several years. Fall 2014 precipitation provided late-season grass growth throughout the grass/shrub communities in the allotment, however, shrub growth was extremely limited. Long term forage responses (number of shoots, height of shoots, grass plant density, grass plant seed head production per shoot) is significantly better in lightly grazed areas at greater distances from the well. Grass plant vigor and density is reduced with ½ mile of the central watering location. Although this response would be expected

during average precipitation years with permitted livestock use, effects to long-term rangeland health are becoming more notable at greater distances with long-term drought and reduced forage response ability. Although cattle were spread to ¾ mile from the well location on November 20, 2014, they permittee described a typical cattle watering pattern whereby cattle walk in to water somewhat directly, but resume feeding as they work their way back out into the allotment to more abundant palatable forage.

An allotment forage reconnaissance, in conjunction with noted livestock sign, showed that the west half and northern portions of the allotment were receiving little to no livestock use. It was determined that lack of water was the limiting factor. The BLM and permittees jointly concluded that ample forage exists, in the western and northern portions of the allotment, to sustain livestock grazing for an additional 60 days if three 30-day temporary watering locations were authorized

The use of the three temporary 30-day water hauls would relieve grazing pressure in the central and eastern portions of the allotment serviced by the existing permanent watering location; and, attract livestock into areas not frequently visited due to lack of water, while maintaining achievement of the Standards for Rangeland Health within the allotment.

The action is consistent with DOI-BLM-NV-L000-2013-0002-EA, Handbook H-1730-1, and WO IM 2013-094.

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

§4110.3-2 Decreasing permitted use

- (b) *“When monitoring or field observations show grazing use or patterns of use are not consistent with the provisions of subpart 4180, or grazing use is otherwise causing an unacceptable level or pattern of utilization, or when use exceeds the livestock carrying capacity as determined through monitoring, ecological site inventory or other acceptable methods, the authorized officer shall reduce permitted grazing use or otherwise modify management practices.”*

§4110.3-3 Implementing reductions in permitted use.

- (b) *“When the authorized officer determines that the soil, vegetation, or other resources on the public lands require immediate protection because of conditions such as drought, fire, flood, insect infestation, or when continued grazing use poses an imminent likelihood of significant resource damage, after consultation with, or a reasonable attempt to consult with, affected permittees or lessees, the interested public, and the State having lands or responsible for managing resources within the area, the authorized officer shall close allotments or portions of allotments to grazing by any kind of livestock or modify authorized grazing use notwithstanding the provisions of paragraph (a) of this section. Notices of closure and decisions requiring modification of authorized grazing use may be issued as final decisions effective upon issuance or on the date specified*

*in the decision. Such decisions shall remain in effect pending the decision on appeal unless a stay is granted by the Office of Hearings and Appeals in accordance with 43 CFR 4.21.”*

§4160.3 Final decisions.

- (f) *“Notwithstanding the provisions of § 4.21(a) of this title pertaining to the period during which a final decision will not be in effect, the authorized officer may provide that the final decision shall be effective upon issuance or on a date established in the decision and shall remain in effect pending the decision on appeal unless a stay is granted by the Office of Hearings and Appeals when the authorized officer has made a determination in accordance with §4110.3–3(b) or § 4150.2(d). Nothing in this section shall affect the authority of the Director of the Office of Hearings and Appeals or the Interior Board of Land Appeals to place decisions in full force and effect as provided in § 4.21(a)(1) of this title.”*

## APPEAL

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

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

Kenneth J. Crane  
Acting Field Manager  
Caliente Field Office  
1400 S. Front Street  
Caliente, NV 89008

Within 15 days of filing the appeal and any petition for stay, the appellant also must serve a copy of the appeal and any petition for stay on any person named in the decision and listed at the end of the decision, and on the Office of the Solicitor, Regional Solicitor, Pacific Southwest Region, U.S. Department of the Interior, 2800 Cottage Way, Room E-1712, Sacramento, California 95825-1890.

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

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

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

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

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

Sincerely,



Kenneth J. Crane  
Field Manager (Acting)  
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cc:

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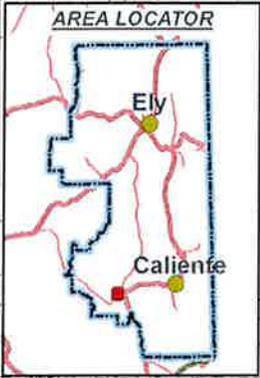
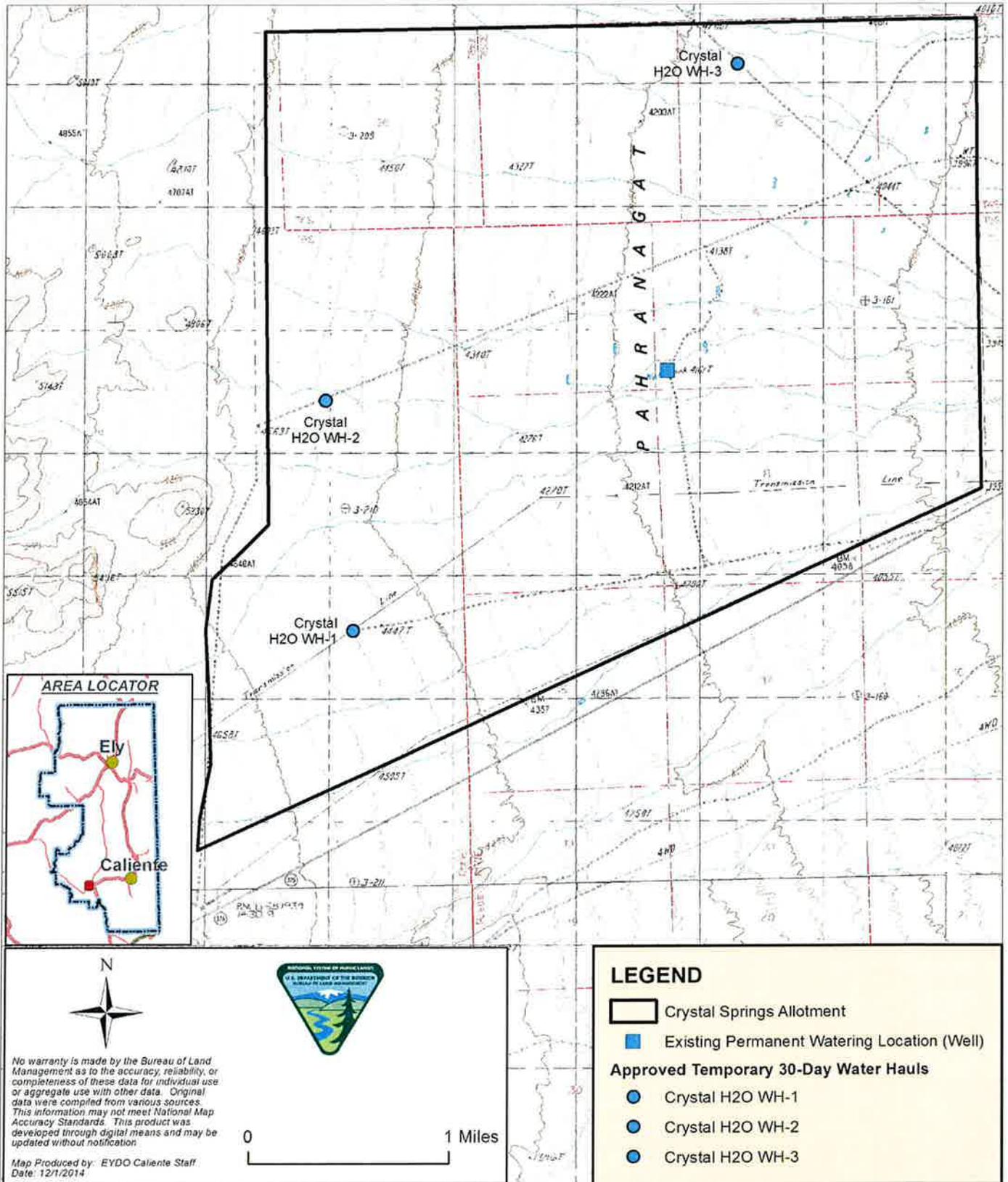
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Location of Three Authorized 30-Day Temporary Waterhails, within the Crystal Springs Allotment, with Respect to the Existing Permanent Watering Location.



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Map Produced by: EYDO Caliente Staff  
Date: 12/1/2014



**LEGEND**

- Crystal Springs Allotment
- Existing Permanent Watering Location (Well)
- Approved Temporary 30-Day Water Hails**
- Crystal H2O WH-1
- Crystal H2O WH-2
- Crystal H2O WH-3



Figure 1. Showing livestock grazing use at Key Area #1 on the Crystal Springs Allotment.